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# **Report on Occupational Safety and Health Inspections**

**Conducted Under**

**The Congressional Accountability Act**

**November 2002**

**General Counsel  
Office of Compliance  
—  
United States Congress**

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# **Report on Occupational Safety and Health Inspections**

**Conducted Under Section 215 of**

## **The Congressional Accountability Act**

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—  
**United States Congress**

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November 19, 2002

The Honorable J. Dennis Hastert  
Speaker  
U.S. House of Representatives  
H-232, The Capitol Building  
Washington, D.C. 20515

The Honorable Robert C. Byrd  
President Pro Tempore of the Senate  
United States Senate  
S-311, The Capitol Building  
Washington, D.C. 20510

Dear Mr. Speaker and Senator Byrd:

Section 215(e) of the Congressional Accountability Act of 1995, 2 U.S.C. 1314(e), requires the General Counsel of the Office of Compliance to conduct periodic inspections, at least once each Congress, of all Legislative Branch facilities for compliance with employee health and safety standards. On the basis of such inspection, the General Counsel is directed to prepare and submit a report identifying the violations uncovered, describing the steps necessary to achieve their abatement, and assessing the associated risks to employee health and safety. The inspection of facilities during the One Hundred Seventh Congress has been conducted, the results have been compiled, and the mandated Report is herewith delivered.

The events of September 11, 2001, have influenced the focus of this Report. As we show, many occupational safety and health standards deal directly with the planning, training, operations and equipment necessary to minimize the casualties of terrorism. Subjects like emergency evacuation, fire suppression, emergency communication methods, and

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chemical/biological response plans are regulated in detail. These regulations, promulgated at a time when most fire, explosions and toxic releases were considered accidental, will serve both employers and employees well in an age when such hazards are often inflicted deliberately.

Respectfully submitted,

Gary Green  
General Counsel

Enclosure

## **I. EXECUTIVE SUMMARY**

The focus of this Report is emergency preparedness. Several Occupational Safety and Health Act (“OSHA”) standards bear directly on this issue. This Report describes those standards and the state of compliance by the Legislative Branch. We have found significant improvement in this area since our first Report in 1996, and particularly since the terrorist attacks of September 11, 2001. There are still, however, some important deficiencies, specifically in matters such as emergency action plans, evacuation plans, chemical/biological response, communications, and fire safety systems, which we discuss in detail in this Report.

There has also been an overall improvement in workplace safety during the 107<sup>th</sup> Congress. Our inspectors found that most House and Senate offices had an effective emergency plan which was well communicated to employees. Of particular note were the actions of the Capitol Police in coordinating the individual office plans with overall evacuation plans for Capitol Hill. There remain deficiencies in the audibility of fire alarm systems, primarily in the Capitol, in communication systems for both employees and responders and in fire and life safety systems.

In our inspections of non-office facilities, we found significant safety issues relating to blockage of fire extinguishers and sprinklers, inadequate fire alarm systems, blockage of egress routes, inadequate exit signs and emergency lighting, failure to inspect fire extinguishers and electrical hazards.

Our Report also notes the markedly improved safety record of the Architect of the Capitol (“AOC”). In our 1998 Report to the Congress, we stated that the AOC had the highest accident rate among all federal government agencies. That rate has been reduced in the most recent two-year period. This improvement is due, we believe, to the Architect’s commitment to improving the safety of working conditions on Capitol Hill and to the recruitment of competent and motivated professional safety staff.

For the reasons elaborated in this Report, we believe that the Congress and its agencies must, particularly in light of the continuing threat to our institutions, devote increased oversight and resources to occupational safety and health issues.

## **I. INTRODUCTION**

The Congressional Accountability Act of 1995 (“CAA”) requires the General Counsel of the Office of Compliance to inspect facilities in the Legislative Branch for compliance with occupational safety and health standards at least once each Congress. The General Counsel is required to report the results to the Speaker of the House, President Pro Tempore of the Senate, and employing offices responsible for correcting violations.

Safety and health inspections for the 107<sup>th</sup> Congress were conducted between April and July 2002, and at other times during this Congress. They included all Legislative Branch buildings and other facilities in the Washington, D.C. area which serve as places of employment covered by the Act. Approximately 30,000 employees work in the covered facilities. These facilities encompass about 20 million square feet of space, including the Capitol, the House and Senate chambers and office buildings, the Library of Congress, and the power plant that provides heating and air conditioning for the Capitol complex. In addition to office space, the facilities contain warehouses, workshops, storage facilities, electrical and mechanical equipment. The inspections and other investigations which form the basis for this Report were performed by the staff of the General Counsel of the Office of Compliance, assisted by leading fire and life safety consultants.

All of the employing offices mentioned in this Report were given an advance opportunity to comment on the draft. Their comments were carefully considered and, where appropriate, adopted, before the draft was approved for publication.

This Report is being released in two different formats. First, a detailed confidential version has been prepared which is intended as a basis for action by the responsible management officials, and to inform interested Committees and Members of the Congress. The second format, intended for public consideration, omits some detail in the interest of security, but still seeks to convey a fair characterization of the results of the General Counsel’s inspections.

All of the citations issued during the two year period covered are summarized in Appendix A. In Appendix B, we list all of the deficiencies noted during our inspections which were not the subject of citations, usually because the responsible employing office immediately effected or initiated an appropriate abatement of the hazard. Appendix C summarizes the pertinent OSHA regulations which governed our safety determinations. Appendix D shows the schedule of inspections upon which this report is based. Appendix E identifies the investigators

and their methods. Appendix F incorporates employing office comments.

### **III. EMERGENCY PREPAREDNESS IN THE LEGISLATIVE BRANCH**

The events of September 11, 2001, brought emergency preparedness to the forefront in workplaces throughout the country. The terrorist attacks on the World Trade Center and the Pentagon in September were followed by the release of anthrax spores, by as yet unknown persons, in 16 congressional offices in October 2001. These events dramatically altered attitudes and safety margins in the Legislative Branch. The risk of future attacks makes it essential that all Legislative Branch employers promptly and effectively implement comprehensive emergency action and emergency response plans for chemical and biological threats, and achieve full compliance with related occupational safety and health standards.

The Congressional Accountability Act made workplace health and safety requirements -- including the regulations governing emergency evacuation procedures and emergency response training and equipment -- fully applicable to the Legislative Branch. While the relevance of these regulations may have been less apparent when the Act was first passed by Congress, their importance cannot be overstated in the current climate.

**A. OSHA**  
**Relating to**



*Emergency response vehicle near U.S. Capitol during Anthrax incidents October 2001*

**Standards**  
**Emergency**



## **Planning And Preparedness**

The primary OSHA standards applicable to emergency preparedness are:

- 29 CFR 1910.38 - Employee Emergency and Fire Prevention Plans  
(“Emergency Action Plans”)
- 29 CFR 1910.120(q) - Hazardous Waste Operations and Emergency Response  
(“Chemical/Biological Response”)
- 29 CFR 1910.134 - Respiratory Protection

The Emergency Action regulations require Legislative Branch employers to develop and implement plans to ensure that all employees know what to do in an emergency. The Chemical/Biological<sup>1</sup> Response regulations require employers charged with the duty of actually responding to emergencies, such as the Capitol Police, to develop and implement plans informing their employees of assigned responsibilities and how to effectively perform them, and to provide adequate protective equipment. The respiratory protection standard mandates that all employees required to wear respiratory protection be equipped with National Institute of Occupational Safety and Health (“NIOSH”)-certified respirators appropriate for their intended use. A written respiratory protection program, including adequate training in the use of respirators, is also required. Employees given respirators for optional use must also be given appropriate training, and be covered by a less extensive respiratory protection program.

Compliance with fire and life safety standards is essential to emergency preparedness. The standards require employee emergency and fire prevention plans; adequate means of egress; fire suppression systems; fire detection and employee alarm systems, and proper storage of flammable and combustible materials. The status of Legislative Branch compliance with the fire and life safety standards is addressed in Chapter V of this Report.

Our emphasis on the need for effective emergency planning and response is not a recent development. The first Biennial Occupational Health and Safety Report of the General Counsel, issued in June 1996, recommended that a comprehensive fire and emergency action plan be developed for the Legislative Branch, and that coordinated plans be developed for each

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<sup>1</sup> “Chemical/Biological” is a shorthand term used to collectively describe potentially hazardous chemical, biological, radiological, explosive and industrial substances.

employing office as quickly as possible:

The most significant finding of the inspections was the fragmented, largely uncoordinated and insufficient planning for a fire or bomb emergency. As this is the most likely type of hazard to be faced by all employees and by the public, improvements in this area should be made as quickly as possible. (1996 Report at p.10.)

The importance of emergency planning was emphasized in subsequent reports. The General Counsel's November 1998 Biennial Report stated:

The steps taken by the Capitol Police and other employing offices have resulted in notable improvements in emergency planning in the Capitol Hill complex. Nevertheless, the inspections conducted during this Congress revealed that there are still serious and widespread problems. (1998 Report at p.14.)

Our most recent Biennial Report, issued in December 2000, focused on fire safety, largely based on deficient fire protection systems and emergency procedures brought to light by a series of fires in the Capitol complex during 1998 -1999. Now, an even more forceful response to these critical needs is required.

### **B. Emergency Action and Evacuation Plans**

OSHA regulations governing the development and implementation of employee emergency plans, made applicable to Congress by Section 215 of the CAA and codified at 29 CFR 1910.38, require each employer to have an Emergency Action Plan, and communicate it to employees. Employers with more than 10 employees must provide a written plan to their employees. The plan must establish the procedures to be used in case of an emergency and must include the following items at minimum:

- Emergency escape procedures and emergency escape route assignments;
- Procedures for employees who remain to operate critical operations before evacuation;
- Procedures to account for all employees after emergency evacuation is completed;
- Rescue and medical duties for employees who are to perform them;
- Means of reporting fires and other emergencies to responsible officials; and
- Names or job titles of persons or departments to be contacted for further information.

Equally important, the employer must provide training on the Plan to all employees to help ensure its effectiveness in the event of an actual emergency. This would normally include unannounced evacuation drills conducted on a regular basis. In addition, the Plan must designate an individual within each office as the emergency coordinator.

The regulations addressing emergency action plans also require employers to establish and maintain an employee alarm system that promptly and reliably alerts all employees of the need to evacuate in an emergency, in accordance with the requirements found in the OSHA fire protection regulations, 29 CFR 1910.165.

The importance of emergency evacuation plans and training cannot be overstated. Two large employers at the World Trade Center in New York, Morgan Stanley and the U.S. Customs Service, were able to get most of their employees to safety before the towers collapsed. Both employers attribute their success to the time and effort they invested in improving their emergency evacuation planning and training after the 1993 World Trade Center bombing. The likelihood of saving lives in an emergency evacuation is greatly increased by thorough and comprehensive planning for all possible contingencies, including attempting to plan for the unexpected (*e.g.*, blocked doors, no lights); updating the evacuation plan as needed; providing training to all employees, including new and part-time employees; and conducting frequent practice drills.

In November 2001, the Office of Compliance (“OOC”) issued a Bulletin providing guidance on emergency evacuation planning and a model for individual office evacuation plans. Both were utilized by most Congressional offices, and are posted on the OOC web site at [www.compliance.gov](http://www.compliance.gov).

During the current OSHA inspections, we assisted Capitol Police and AOC officials responsible for fire safety in revising the existing emergency evacuation brochures for the Capitol and each of the House and Senate office buildings. We also helped develop and distribute a model for individual office plans to supplement the building plans that had previously been distributed.

One of our particular concerns was the designation of exit routes for each Congressional office. Fire drills had shown that certain exits were overtaxed. We had previously identified inadequate exit capacity as one of the major fire safety problems in many Capitol Hill Buildings.

See 2000 Biennial Occupational Health and Safety Report, at p. 6. Working with the Capitol Police, we coordinated the designation of exit routes to avoid or minimize this problem in the future.

During our congressional office-by-office inspections, we found a high level of compliance. Virtually every office had an emergency evacuation plan containing the elements required by the standard, and the plans were well communicated to employees. These plans, coupled with more frequent and unannounced evacuation drills now being conducted by the Capitol Police, will reduce the dangers to employees in actual emergencies.

In contrast, we found that the Library of Congress (“LOC”) Police management has failed to play a significant role in coordinating emergency evacuation plans in the LOC buildings. We discovered during our inspection that the vast majority of LOC offices still had outdated and incomplete emergency evacuation plans. The most common date shown on individual office evacuation postings was 1996, and many of them listed as key emergency response staff employees who had already retired or transferred to other LOC divisions. Many employees we interviewed stated that they had never seen the plan for their office. This situation was unacceptable even before September 11, 2001. It must be remedied promptly.

We intend aggressively to pursue compliance with OSHA standards relating to Emergency Action and Evacuation. We urge LOC officials to correct existing hazards and complete and adopt a comprehensive emergency evacuation plan, integrating the responsibilities of the LOC Police, as soon as possible.

#### **Emergency Action and Evacuation Training –Library of Congress Police**

On October 5, 2001, we received 43 individual Requests for Inspection from LOC Police officers complaining about the lack of training in emergency action and evacuation procedures. Following an investigation, the General Counsel concluded that, at a time when other law enforcement organizations were strengthening their security procedures and their emergency preparedness, the LOC Police management had yet to meet the basic requirements. While LOC Police officers have significant responsibilities in connection with emergency evacuations, management has failed to develop written procedures describing many of their duties or how they are to perform them. Accordingly, the General Counsel issued a citation alleging that, in

violation of OSHA Emergency Action standards, the LOC lacked written emergency action procedures covering the designated responsibilities that LOC Police officers are expected to perform in an emergency, and had failed to review their assigned responsibilities with them.

The LOC was required to provide a certificate of abatement demonstrating that management had developed and implemented the requisite written emergency procedures and review the procedures relevant to each officer's duties with the officer initially when the procedures are developed, and whenever duties are changed. LOC management provided a certificate of abatement on August 16, 2002, and copies of revised General Orders. The General Counsel has noted some apparent deficiencies in these plans, however, and has requested additional information in order to assess compliance before this case can be closed.

The case also raises questions about the adequacy of training and protective equipment for LOC police during emergency response involving possible exposure to chemical or biological toxins. The General Counsel is currently monitoring LOC Police compliance with the relevant OSHA standards.

### **Emergency Evacuation-Jefferson Building Fire**

The General Counsel issued a citation involving a failure by the LOC Police to evacuate the Jefferson Building when a fire occurred there on April 3, 2002. Following a Request for Inspection filed by the LOC Professional Guild, we conducted an investigation and determined that the LOC Police officials on duty had summoned the D.C. Fire Department, but failed to evacuate the building, in response to reports of the fire. This action directly contravenes the management procedures for both the Jefferson and Adams buildings, which mandate immediate evacuation whenever there is a report of fire. Accordingly, the General Counsel cited the LOC for a violation of the OSHA regulation requiring notification to employees as called for in the employer's emergency action plan, or as required for sufficient reaction time to allow for safe evacuation. See 29 CFR 1910.165(b)(1). LOC management responded to the citation with a

certificate of abatement reporting that police officers had been given written notification of these requirements, and that future reminders would be provided at police roll calls.

During 2002, a number of other Requests for Inspection were filed by LOC employees and the Professional Guild. The number (12) is a sharp increase over previously filed requests. Many of the Requests alleged serious fire or life safety deficiencies and are under investigation.

### **Effective Alarm and Communications Systems**

OSHA regulations require that employee alarms be capable of being perceived above ambient noise levels, and recognizable as a signal to evacuate. See 29 CFR 1910.165(b)(2), (3). Nonetheless, LOC management has acknowledged that, a year after the terrorist attacks, employees continue routinely to report that alarms and public address messages are inaudible in various work spaces throughout the LOC buildings. Problems with the audibility of alarms are reported by employees throughout the Capitol complex. An engineering firm has completed a study for AOC assessing the audibility and intelligibility of fire alarm systems throughout the Capitol complex. AOC has begun designing a complex-wide fire detection and monitoring system which will report all alarms directly to the Capitol Police and the appropriate building superintendent, and will activate the public address system.

### **C. Emergency Response to Suspected Chemical and Biological Attacks**

Regulations governing the development and implementation of Chemical/Biological Response Plans, codified at 29 CFR 1910.120, require employers who provide or assist emergency response services to develop and implement a written Emergency Response Plan. While Emergency Action Plans are used to ensure that all employees know what to do in an emergency, Emergency Response Plans are directed at employees actually required to identify, respond to, and control emergencies, such as designated Capitol Police and LOC Police officers. The Emergency Response Plan must be made available for inspection and copying by all employees assigned to respond in such an emergency.

Such plans must include, at minimum, the following items:

- Pre-emergency planning and coordination with outside parties
- A description of personnel roles
- Lines of authority and communication procedures
- Emergency recognition and prevention
- Site security and control
- Safe distances and places of refuge
- Evacuation routes and procedures
- Decontamination procedures
- Emergency medical treatment and first aid
- Emergency alert and response procedures
- Personal protective and emergency equipment
- Critique of actual response incidents and follow-up

Designated employees must be given the level of training and equipment required to perform their assigned roles in the event of an emergency, such as a suspected hazardous chemical or biological release. Annual refresher training is also required.

The OSHA Emergency Response regulations also require establishment of a site-specific Incident Command System (“ICS”) to be headed by the most senior emergency response official at the scene. All emergency responders and their communications must be “coordinated and controlled through the individual in charge of the ICS . . .” See 29 CFR 1910.120(q)(3)(i).

Recent analysis of the events at the World Trade Center indicates that inadequate communications equipment and training may have been responsible for slowed evacuation and increased loss of life when the towers collapsed. Communications were adversely affected by inadequate equipment, conflicting radio traffic and an inability to reach units positioned in remote locations. See McKinsey and Company Report Concerning the New York Fire Department’s Response on September 11 (August 15, 2002), at pages 7-8, 18-19, 85-97. Investigation by our office, particularly in the cases described here, indicates that the communications requirements of 29 CFR 1910.120(q)(3)(i) should be carefully reviewed by Legislative Branch employers and police officials.



*Decontamination After Exiting the Hot Zone*

**Anthrax -**

**Emergency**

### **Response Training & Procedures**

The Fraternal Order of Police Labor Committee filed a request for inspection relating to the October 2001 discovery of anthrax spores in Senator Daschle's and other offices. The Union alleged that the U.S. Capitol Police management had:

- Failed to take measures to secure the site and control access to Senator Daschle's office and other areas after determining that anthrax was present;
- Permitted officers to enter the Senator's office and other areas without the requisite personal protective equipment, including positive-pressure self-contained breathing apparatus; and
- Failed to implement appropriate decontamination procedures for individuals who had been exposed to the anthrax release.

The allegations were also reported in the press. See *e.g.* "Police Union Charges That Leaders Endangered Them," The Hill (October 31, 2001).

U.S. Capitol Police management ("USCP") did not cooperate in the General Counsel's ensuing investigation. According to the USCP, the needs of Capitol Hill security dictated that no information be shared with investigators unless the General Counsel first executed an agreement that would give absolute and unreviewable authority to the USCP to determine what information is "confidential" and who is entitled to receive it. The General Counsel concluded that under such conditions his statutory authority to investigate and disclose alleged safety and health hazards would be fatally compromised. Accordingly, he declined to execute the USCP proposal, sought to negotiate alternative arrangements, and continued the investigation without USCP's



cooperation.

Eventually, we concluded that Capitol Police management had failed to follow appropriate procedures to protect emergency response personnel during the anthrax attacks, exposing officers and others to the danger of anthrax contamination. Moreover, we concluded that the actions of the Capitol Police during these incidents were the predictable result of the lack of an appropriate Emergency Response Plan governing training, equipment and procedures. Accordingly, the General Counsel issued citations, alleging that the Capitol Police Board had violated the OSHA standard at 29 CFR 1910.120(q). This standard requires employers to develop and implement a Chemical/Biological Emergency Response Plan addressing site security and control, the provision of personal protective equipment, and decontamination procedures.

Thereafter, following extensive discussions with our staff, with OSHA, and with other experts, USCP under new leadership, certified that it has implemented a comprehensive Emergency Response Plan for dealing with hazardous substance releases, and, as this Report goes to press, is apparently implementing the plan as required by law. The General Counsel has met with new Chief Terrance W. Gainer, and has recently requested and received additional information regarding implementation of the plan. Whether or not any further enforcement proceedings are warranted is now under evaluation by the General Counsel's staff.

In addition, discussions with Chief Gainer have resulted in informal agreement on a method for protecting confidential information without impairing Office of Compliance investigations.

#### **D. Respiratory Protection Programs**

Regulations addressing the use of respiratory protection are found at 29 CFR 1910.134(d)(1). All employees required to wear respiratory protection must be equipped with a NIOSH - certified respirator that is appropriate for the intended use. The regulations also state

that employees required to wear respirators must be covered by a written respiratory protection program detailing workplace-specific procedures. Key items to be included in the program are:

- Proper selection of respirators
- Medical evaluation of employees required to wear respirators
- Testing for proper fit
- Use and maintenance
- Training
- Annual evaluation of the program.

All employees given respirators for optional use also must be given appropriate training. In addition, the employer must implement those elements of a respiratory protection program necessary to ensure that any employee given a respirator for optional use is medically able to use the respirator, and that the respirator is properly cleaned, stored and maintained.

In early 2002 the Capitol Police Board purchased emergency negative pressure respirators (“escape masks”). The Capitol Police have distributed them to their officers, with some training at roll call sessions, and to Congressional staff members in the Capitol, House and Senate office buildings. LOC management has announced that it will purchase the escape masks for all LOC employees. A Capitol Police officer has filed a Request for Inspection regarding the safety and effectiveness of the escape masks.

The Senate Sergeant at Arms informs us that these masks have been tested by the U.S. Army’s Soldier and Biological Chemical Command (“SBCCOM”) and have been found by SBCCOM to meet its own performance criteria. According to NIOSH, however, the proper criteria and testing have not yet been established for these devices, especially for use in a civilian or indoor environment.

Based on our preliminary review of the escape masks, including consultation with OSHA experts, we have identified several issues of concern. First, the masks have not been approved by NIOSH, and in fact, NIOSH does not have test criteria in place for this type of respirator. As noted above, the respiratory protection standard requires that respirators that employees must wear on the job are approved for their intended use. NIOSH is planning to have certification test criteria in place in 2003.

Second, as the name implies, the masks must be used *solely* for emergency escape from a contaminated area. They are unsuitable for use by employees responding to an attack, such as the Capitol and LOC Police officers, and it would therefore be a violation of the regulations to require the officers to wear them while performing emergency response duties. Further, care must be taken to prevent the mask from being prematurely opened and exposed to air, since even the ingredients in a normal room environment will degrade the filtration mechanism in the mask. Periodic inspection of the masks is important to assure that they will function if needed. In addition, no tests have been conducted to evaluate the mask's effectiveness against a large number of potential toxins. Moreover, the escape mask does not allow wearers to speak, since users must keep both a nose clip and mouth bit on to ensure the limited protection the mask offers. (During an emergency, communication between emergency response workers is essential.) Finally, the escape mask does not offer skin protection, so that employees entering or required to remain on the scene of a chemical attack would require full body chemical protection in addition to proper respiratory protection.

If employers wish to limit use of the escape mask to use by staff and visitors during an emergency evacuation, the respirators would not be required to meet all elements of the respiratory protection standard. Employers must, however, determine that use of the respirator will not in itself create a hazard, and must implement the necessary elements of a respiratory protection program, including ensuring that any employee using the respirator is medically able to do so, and that the respirator is properly cleaned, stored and maintained. See 29 CFR 1910.134(c)(2).

The escape masks, properly used, may furnish effective, if limited, protection during an emergency evacuation. But employers and employees must be properly trained in their use and be aware of the inherent limitations of the masks.

#### **E. Interaction of Security and Safety**

As a society, Americans expect that their political and military leadership will seek to limit the dissemination of certain kinds of information in times of crisis. It is, of course, in our own interest to avoid disclosure of our vulnerabilities in a way that stimulates or enables aggressors. We also expect, as Americans, to be warned by the proper authorities about the risks

they know we will face as individuals: storms, epidemics, war. Sometimes these two expectations conflict with each other. One illustration of that conflict is a case that arose under the OSHA provisions of the CAA this year involving the Capitol Police Board (“CPB”).

After the General Counsel issued citations against the CPB for failing to establish an Emergency Response Plan, CPB filed a special motion with the Office of Compliance’s Board of Directors requesting permission to deviate from the explicit requirement of the CAA that every citation be prominently posted so that employees affected would be aware of the hazard. CPB argued to the Board that the substance of the citations was “sensitive law enforcement and security information” and that the citations should, in the interests of security, neither be posted nor even divulged to any CPB employees. The General Counsel opposed the CPB insofar as it sought to deny affected employees the opportunity to read the citations. The Board noted that the CAA provided no explicit guidance on the question of how to handle issues affected by security concerns, and proceeded to decide the case by striking a balance between the competing considerations:

Both of these responsibilities [the CPB’s and the General Counsel’s] have been rendered more urgent by the events of the past six months. Indeed, in the ill-defined area of ‘environmental terrorism’, the two agencies’ duties overlap. However, these responsibilities are also characterized by well-founded countervailing policies that simultaneously urge confidentiality and broad dissemination of the same information, when such information is ‘law enforcement security sensitive’ and related to health and safety issues.

That [appropriate] balance of competing statutes, policies, and interests is best attained in this case by the adoption of a process which ensures, to the greatest extent possible, that the substance of the citations at issue remains confidential while, at the same time, it is disseminated to responsible representatives of the Capitol Police Officers whose health and safety is allegedly at risk. U.S. Capitol Police Board, Case No. OSH-1017, Decision and Order at p. 4 (April 29, 2002).

The balance struck by the Board resolved the case in the manner sought by the General Counsel; but it must be noted that the underlying problems remain very much alive. How will the appropriate balance between disclosure and confidentiality be struck the next time an employing office concludes that the imperatives of security override the employees' right to be informed? In our view, indiscriminate suppression of sensitive information about imminent hazards or vulnerabilities can be counter-productive. An informed and alerted community may better protect itself against the risks of illness and injury, even when terrorism is the source.

#### **IV. SAFETY OF IRRADIATED MAIL--A SECOND LOOK**

The irradiation of Congressional mail represents the first use of this process to eradicate anthrax spores from the mail delivery system. Since January 2002, when the United States Postal Service began delivering irradiated mail to Congressional offices, numerous employees complained of adverse health symptoms apparently caused by contact with irradiated mail, including headaches, nausea, nose bleeds, rashes, eye and skin irritation and similar symptoms.

On February 6 and 26, 2002, we received requests for inspection from two House of Representatives employees concerned about the health effects of handling irradiated mail. On February 11, we received a request for inspection from Senator Charles E. Grassley regarding the health effects of irradiated mail and of the Hart building decontamination process.<sup>2</sup> In response to these requests, we initiated an investigation, as required by the Congressional Accountability Act.

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<sup>2</sup> Neither air sampling in the Hart Building nor employee survey data provided any indication of possible adverse health risks associated with the decontamination process. Accordingly, the General Counsel closed the Hart Building investigation on September 16, 2002.



*Hart Building Anthrax Response Workers*

### **Report of the General Counsel**

On July 2, 2002, we issued a Report of Investigation of the Health Effects of Irradiated Mail. The report described our investigation in detail, and summarized our findings as follows:

Handling irradiated mail for substantial periods of time may be the cause of adverse health symptoms in a significant number of Legislative Branch employees. These symptoms have continued to be evident in a recent re-survey by the Office of Compliance, although the number of affected employees and the severity of symptoms has declined. We do not currently have enough information to reach any final conclusion on whether there is any *serious* health risk from *extended* periods of mail handling under existing working conditions. We do recommend that additional studies . . . be undertaken in order to attempt to reach a firm conclusion on any health risks to which employees may be exposed. We believe these studies are essential to safeguard the right of covered employees to work in a place free from recognized hazards that are causing or are likely to cause serious physical harm.

See General Counsel's Report, at p. 14. The full text of the Report is available on the Office of Compliance web site at [www.compliance.gov](http://www.compliance.gov).

Pending completion of these additional studies, we recommended that health officials monitor on a regular basis those employees who report symptoms which they believe are based on handling irradiated mail. We requested that employees experiencing symptoms see a physician and also advise OOC. We also recommended that several interim steps be taken, including making gloves (preferably non-latex) available to employees; airing out mail prior to delivery; and, in general, considering reduced exposure when symptoms are present by limiting the amount of time individual employees spend in mail handling.

In recommending follow-up study, our July report differed from a report on irradiated mail symptoms prepared earlier by NIOSH, and released on April 23, 2002, by the Legislative Mail Task Force. NIOSH concluded that “multiple factors” were the likely cause of employee symptoms, including damage to the paper resulting from the irradiation process; odors which can trigger symptoms in some individuals; humidity levels in some areas, and heightened awareness and resultant employee stress from the terrorist attacks. See NIOSH Health Hazard Evaluation - Irradiated Mail Handling (April 2, 2002), at p. 34. The NIOSH Report summary stated that, “We did not find evidence suggesting the potential for long-term health effects from handling irradiated mail”, and did not recommend any additional safety and health studies relating to potential exposure of employees chemical by-products in irradiated mail.

### **Recent Developments Regarding Irradiated Mail**

We have obtained copies of two investigative reports which were not available to us when we released our July 2002 Report. Both reports substantially confirm our findings that low levels of known chemical irritants are present in irradiated mail. The first, prepared by the National Oceanic and Atmospheric Administration’s Hazardous Materials Response Division (“NOAA/HMRD”), represents the results of a January 2002 investigation into reported allergic reactions to irradiated mail at the Commerce Department’s Herbert C. Hoover Building.

The NOAA/HMRD team concluded that low levels of volatile organic compounds were present in irradiated mail, and that it was possible that a small number of individuals could be sensitive to these compounds at the low levels detected. The compounds detected were the same in many cases as those we found. See NOAA's Report on the Scientific Investigations Into Reported Allergic Reactions to Irradiated Mail at the Herbert C. Hoover Building on January 10, 2002, at p. 3 (Executive Summary). In language similar to that found in our own Report, the NOAA Report proceeds to state that:

Given all the data generated and obtained by this and other teams, it remains impossible to establish a firm causal connection between the chemical compounds found in the irradiated mail and the symptoms and complaints of (DOC) employees . . . While the authors of this report cannot definitively say that chemicals generated in the irradiation process caused allergic reactions, neither can we say they did not. There is, however, ample chemical and circumstantial evidence to suggest a connection between the mail and some of the symptoms reported.

See NOAA Report, at p. 3.

We also received a draft report prepared by the Defense Advanced Research Projects Agency ("DARPA"), which presents an analysis of mail samples taken from various Postal Service facilities during February - March 2002. This report also was not available to us when we released our July 2002 Report. DARPA found that most of the chemical compounds identified in the facilities are regularly observed in other office settings. However, the chemicals identified from samples taken in early February in mail sorting areas contained an unusual amount of known chemical irritants and corrosives. DARPA also found several of the chemical irritants which we found in our study.

The Office of Attending Physician ("OAP") also reportedly performed a follow-up survey in May and June 2002 of 131 employees who had originally complained to OAP of symptoms. The survey found that 15 per cent of the employees had returned to the office for a follow-up visit, or reported that they were continuing to experience symptoms, and that an unspecified number of staffers with persistent or severe cases were sent to their own physicians for follow-up care. See "Hill Mail Getting Less Radiation", Roll Call, (August 15, 2002).

Since the publication of our July report, we solicited and obtained a proposal for a



follow-up employee exposure study. The proposal was submitted by Dr. Clifford Mitchell and Dr. Timothy Buckley of the Johns Hopkins Bloomberg School of Public Health. The proposal submitted a design for a workplace exposure assessment which is intended to better understand the exposures employees may face when handling irradiated mail.

Following the publication of our Report, we also met with members of the Legislative Mail Task Force, and have provided them with the detailed scientific evidence upon which our Report was based. We are encouraged to learn that, as recommended in our Report, the Armed Forces Radiobiology Research Institute (“AFFRI”) and DARPA will continue to study, on an ongoing basis, the handling of irradiated mail. We have provided the Johns Hopkins proposal to members of the Task Force and sought their comments. The General Counsel and the Task Force have established a joint subcommittee of technical and scientific experts which will study all of the available data and provide objective evaluation of the feasibility and proper design of a further workplace exposure assessment.

Another significant development appears to be the Postal Service’s decision to stop bagging mail destined for Congressional offices. Instead, mail is placed in open boxes, thus allowing it to air out, presumably accelerating dissipation of chemical irritants before delivery to staff members. Consideration is now also being given to irradiating the mail by means of X-ray technology, rather than the e-beam process currently used for Congressional mail. X-ray technology is believed to be less damaging to the mail, and therefore less likely to produce chemical irritants.

We will continue to monitor scientific data and employee symptoms associated with irradiated mail handling, and will report on the results of further study of this novel issue.

## **V. FIRE AND LIFE SAFETY–CURRENT STATUS OF LEGISLATIVE BRANCH COMPLIANCE**

Since 1996, the General Counsel’s reports to the Congress have stressed that fire and bomb emergencies were the most likely hazard facing the Legislative Branch.

Our 1998 biennial Report on Occupational Safety and Health Inspections, emphasized:

Several fires that occurred during 1998 highlighted the need for review of fire protection and life safety systems and firefighting procedures in Capitol Hill buildings... NFPA codes contain criteria for the manner and frequency of testing, inspecting and maintaining fire protection and life safety equipment of systems. A testing and maintenance program that closely adheres to these criteria should be established. In addition, projects to update fire protection systems, including sprinkler and alarm systems should be accelerated. Additional staffing may be needed to accomplish these objectives. (1998 Report at p. 16)

In the 2000 biennial Report on Occupational Safety and Health Inspections, fire safety was again highlighted. That report summarized our comprehensive fire and emergency response inspection of the primary Legislative Branch buildings: the U.S. Capitol, the Russell, Dirksen and Hart Senate Office Buildings and the Cannon, Longworth and Rayburn House Office Buildings:

These buildings which together contain over 7 million square feet of space, serve as the place of employment of over 12,000 employees covered by the Congressional Accountability Act and are visited daily by tens of thousands of members of the public.

...

The inspectors found that while there was some difference in safety from one building to another, *the overall level of fire safety was far below that of most other American office buildings of similar size and age*. Most of the problems found in the buildings have existed for many years. The most significant deficiencies include: lack of fire barriers to retard the spread of fire and smoke, inadequate exit signs and exit capacity, deficient emergency lighting, limited sprinkler coverage, and dangerous storage of flammable or (and) toxic materials. There was a regrettable consistency throughout the complex in a lack of proper testing and maintenance of major electrical system and of fire safety systems such as sprinklers, suppression systems and emergency preparedness (2000 Report at pp. 5-6) (emphasis added).

The original decision by our office to undertake a comprehensive assessment of fire and

bomb safety in Capitol Hill buildings was prompted by several factors, including employee Requests for Inspection under Section 215(c) of the Congressional Accountability Act, and a series of fires in 1998 which had demonstrated deficiencies in the capacity to prevent and cope with such emergencies.

Comprehensive fire and safety inspections were conducted primarily in three phases resulting in separate reports:

- Fire Safety Inspections of Congressional buildings–January 2000
- Fire Safety Inspections–Library of Congress buildings–January 2001
- Fire Safety Inspection–Capitol Power Plant–July 2001.

Each of these reports is available in a public version through the Office of Compliance. In addition, detailed confidential analyses of specific fire and life safety defects were furnished to each employing office of the legislative branch and to Congressional Oversight Committees. During the 107<sup>th</sup> Congress, the two final reports in this series were issued. These are discussed below.

### **Fire and Life Safety in the Library of Congress–January 2001**

This Report was based on comprehensive inspections of all Library of Congress buildings. The Report noted that the historical and cultural significance of LOC buildings should -- and can -- be taken into account in implementing necessary fire and life safety measures.

The primary occupational safety and health standards applicable to fire and life safety, which form the basis for the General Counsel’s inspection and report on the LOC buildings, are summarized in Appendix C to this Report. They include adequate means of egress in the event of fire or other catastrophe; employee emergency plans and fire prevention plans; appropriate storage of flammable and combustible materials, availability of fire extinguishers; automatic sprinkler systems; fire detection, and employee alarm systems. In addition, the National Fire Protection Association (“NFPA”) has issued guidance specifically addressing the problems of retrofitting historic structures to meet modern safety standards. See NFPA 914-2001 Code of Fire



*Old Edison phonographic cylinders made of highly flammable cellulose nitrate*

Protection for Historic Structures. This standard allows for flexible application of fire safety principles and requirements using performance-based options.

The most significant deficiencies found in our inspection of the Library of Congress buildings were:

Inadequate or ineffective fire barriers to retard the spread of fire and smoke, inadequate exit signs, deficient smoke detection and emergency lighting, inadequate sprinkler coverage, dangerous storage of flammable and toxic materials...lack of proper testing and maintenance of major electrical systems and fire safety systems, such as fire alarms, smoke detectors, sprinklers, suppression systems and emergency generators.

In March 2001, the General Counsel issued seven (7) citations based on the fire safety inspection of the LOC buildings, requiring the AOC and the LOC to jointly initiate programs to abate the following violations:

- Storage of flammable materials without following recognized precautions
- Exit enclosures which fail to provide adequate fire resistance because of penetrations made for pipes, ducts, and cables.
- Fire doors not maintained to avoid undue danger to occupants.
- Fire extinguishing systems not in proper operating condition.
- Unprotected openings and inadequate fire resistance in book conveyor systems, creating a danger to occupants from smoke or toxic fumes.
- Inadequate energy isolating safety devices.
- Vertical openings between tiers of book stacks creating danger to occupants from smoke or toxic fumes.
- Exit stairwell and pathways not constructed to avoid spread of toxic fumes and fire.

The AOC and the LOC subsequently initiated programs and sought funding to eliminate some of these hazards or substitute reasonably safe alternatives. It is appropriate to note that the AOC and LOC staff have worked cooperatively with us to abate some of the hazards we observed, and to provide improved safety systems and planning in LOC buildings, but that abatement is not yet completed.

A recent organizational change has, however, come to our attention that could adversely impact the LOC's progress toward addressing fire and life safety deficiencies. An announced reorganization would subordinate the Safety Office so that it reports to Facilities Service and

Management, effectively downgrading the Safety Services Officer's position. It could, we believe, prove counterproductive. The LOC's safety mission should not compete with, or be subordinated to, such priorities as maximizing the use of space or completing facilities projects as quickly and inexpensively as possible. See 29 CFR 1960.6 ("The head of each agency shall designate an official with sufficient authority and responsibility to represent effectively the interest and support of the agency head in the management and administration of the agency occupational safety and health program. This designated Agency Safety and Health Official should be of the rank of Assistant Secretary or of equivalent rank, or equivalent degree of responsibility, and shall have sufficient headquarters staff with the necessary training and experience." *(Emphasis added)*)

The LOC General Counsel responds that 29 CFR 1960.6 is not violated because the Director of Integrated Support Services, a high LOC official, has been designated as the agency's primary safety official. But this dual designation is, itself, problematic because of the Director's potentially conflicting responsibilities. Besides, the LOC staff with necessary safety training and experience will not, under the announced reorganization, have direct access to the Director but will report through another LOC official.

Progress in improving the fire and life safety status of LOC Buildings is continuing, but final completion of necessary improvements is expected to take several years and additional funding from Congress. We are compelled to express grave concern over these delays.

## **Fire and Life Safety–Capitol Power Plant–July 2001**

As part of the General Counsel’s three-part investigation of fire and life safety in Legislative Branch buildings, our office conducted an inspection of the operations of the Capitol Power Plant. The Plant produces steam and chilled water that provide heating and air conditioning to over 15 million square feet of space in and around Capitol Hill. Failure of the Capitol Power Plant to operate safely, or a shutdown due to fire or other emergency, could seriously impair the functioning of Congress and the Supreme Court.

Our report on the Capitol Power Plant was issued in July 2001. It found major hazards threatening the life and safety of employees and the functioning of Congress. These included dangerous operations being conducted with antiquated equipment lacking adequate safety features; inadequate or non-existent fire protection systems such as alarms, extinguishers and emergency generators; improper electrical equipment and other ignition sources in hazardous areas; deficiencies in inspection and maintenance of boilers; inadequate emergency lighting systems, and improper storage of flammable gas.



*Lightning protection systems at the plant were upgraded in response to an OOC citation.*

Most of the problems found at the Capitol Power Plant have existed for many years. Some of the hazards identified by our inspectors were promptly corrected by the Architect of the Capitol. Work orders have been written to correct other hazards that can be remedied with existing resources and personnel. Our Report notes, however, that there are a number of serious life and fire safety hazards remaining that will require additional funds and major construction to remedy, in some cases over a number of years.

The General Counsel issued a series of six (6) citations in September 2001 for violations of OSHA standards relating to the Capitol Power Plant. The office has been monitoring abatement by the AOC regarding the plant since that time. Significant progress has been made by the staff of the AOC in improving safety conditions at the Capitol Power Plant.

## **VI. REQUESTS FOR INSPECTION–BIENNIAL REVIEW**

The periodic inspection mandated by statute is not the sole basis for the detection and remedy of employment hazards. Section 215(c)(1) of the CAA directs the General Counsel to conduct an investigation whenever any employee or employer makes a valid request, and it allows employees to maintain anonymity. In the past two years, the General Counsel has opened thirty-eight (38) such employee-initiated investigations. Typically, such investigations are preceded by an opening conference with the employer, and conclude with a written report of the General Counsel's findings and recommendations. When necessary, the General Counsel's staff is assisted in the investigation by outside experts.

Most health and safety issues are voluntarily abated in response to the General Counsel's report; occasionally, issuance of a citation has been required as well. But in no cases to date has the General Counsel been required to resort to litigation in order to achieve compliance.

Employee Requests for Inspection have proven an invaluable procedure for uncovering hazards that might otherwise have gone unnoticed until a person was injured. All of the investigations described in this chapter, and many mentioned elsewhere in this report, resulted from employee Requests for Inspection.

Regrettably, as a consequence of severe budgetary limitations, the backlog of Requests awaiting official action by the General Counsel has grown in recent years. A larger budget and a larger staff will be needed to keep pace with the widening concern over occupational safety and health on Capitol Hill and the increasing complexity of the issues raised.

### **Investigations Resolved During the 107<sup>th</sup> Congress**

About half of the employee Requests filed in this time period involved familiar workplace hazards such as exposure to lead paint dust, asbestos, arsenic treated wood dust, blood-borne pathogens, pesticides and herbicides. In most cases our investigators did uncover unsafe conditions. The principal standards relevant to these investigations are summarized in

Appendix C. The responsible employing offices usually responded promptly to abate the hazards that were found. For example:

- **Pesticides and Herbicides** – Several employees of the U.S. Botanic Gardens developed fungal lung infections or other respiratory diseases which they attributed to their workplace use of herbicides, pesticides and other hazardous chemicals. Following OOC investigations, the Botanic Gardens discontinued the use of many hazardous chemicals and hired a full-time safety specialist. AOC also instituted a comprehensive respirator and approved personal protective equipment program in all facilities.



*Working in wet locations with pesticides*

- **Lead Dust** – Employees repairing the pedestrian tunnel between the Cannon Building and the Capitol Building filed a Request for Inspection concerning potential exposure to lead paint dust. OSHA standards limit employee exposure to lead. As a result of our investigation, the AOC implemented comprehensive lead paint abatement procedures. This included purchasing equipment to detect lead in old layers of paint, training specialized teams of employees on the OSHA requirements and proper removal of lead paint, and offering these employees regular blood-lead screening.
- **Exposure to Blood-Borne Diseases** – Union officials for the Library of Congress Police filed a Request regarding the use of a disinfectant at police inspection stations. Officers required to touch the personal belongings of members of the public were concerned about the possible spread of viruses. Following our investigation, the inspection stations are now supplied with a type of disinfectant that officers can use if contaminated from blood. The disinfectant kills most bacteria and provides protection from blood-borne pathogens. In addition, as a consequence of the inspection, Library management has instituted a comprehensive blood-borne pathogens program for LOC police officers.



- **Fire Safety in Library of Congress Storage Facilities** – A recently built Library of Congress storage building in Fort Meade, Maryland, did not meet current fire safety regulations. The building was designed before the enactment of the CAA, and many fire-safety devices were not installed properly even though the building was constructed after the law was in force. During our investigation, the AOC made significant fire safety renovations to the facility. We then approved a plan of abatement allowing the AOC to continue to correct existing deficiencies and, in the meantime, permitting the LOC partial use of the facility for book storage.
- **Anthrax** - In response to the anthrax release, decontamination procedures were instituted by the National Institute for Occupational Safety and Health, the Environmental Protection Agency and others. An Office of Compliance industrial hygienist assisted by providing detailed descriptions of the interiors of the quarantined buildings, and by conducting test-sampling of air and dust in the Jefferson, Madison, and Adams buildings.

### **Unresolved Investigations**

Other employee Requests filed in this time period have yet to be satisfactorily resolved. Many of the Requests relate to employees' heightened safety concerns following the terrorist attacks. For example:

- **Overcrowding of Capitol Building** – Employees of the Capitol Guide Service submitted several Requests to us about overcrowding, noise and fire safety in the Capitol Building. Following our investigation, the Capitol Police Board implemented a plan limiting the number of tourists allowed in the building. However, many other fire safety issues in the Capitol Building, such as the audibility of fire alarms, and exit capacity, have not yet been resolved. We are advised that it may be five years



*Crowding in the U.S. Capitol Rotunda*

before these problems can be remedied because the AOC is required to follow a lengthy design, funding and approval process, even for serious fire safety issues violations. This

protracted schedule is troublesome.

- **Evacuation** – Employees in several buildings on Capitol Hill filed Requests regarding evacuation procedures and malfunctioning fire alarms. There has, generally, been good progress on emergency evacuation issues. As previously indicated, Congressional offices now have adequate evacuation plans. Many hazards relating to exit doors and egress routes persist, however, awaiting construction and design work. Until these acknowledged hazards are abated, Capitol Hill buildings will continue to undermine the safety of occupants in violation of important life safety codes. Other problems remain: the LOC personal alarm system for deaf employees was unreliable; one test of evacuation for night-time workers in the Hart Building created confusion among employees; and a potentially dangerous stairwell gridlock developed during a recent fire alarm evacuation of the Madison Building. The increased risks of a terrorist attack intensify the urgency of prompt action on all these problems.

## **VII. ARCHITECT OF THE CAPITOL—AN IMPROVING SAFETY RECORD**

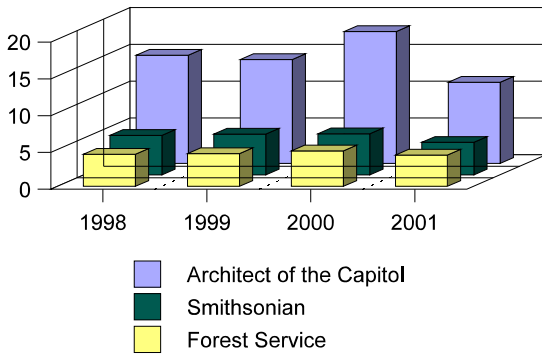
In our 1998 Report to the 105<sup>th</sup> Congress, we pointed out that the Architect of the Capitol (“AOC”) had the highest accident rate in the Federal government. In this Report, we are pleased to announce that AOC has effected a dramatic improvement in its employee accident and injury rate over the past four years.

We rely here for our information upon the Department of Labor’s Occupational Safety And Health Administration (“OSHA”), which compiles and publishes safety statistics for about 130 Federal agencies and entities. According to the latest OSHA reports, the AOC has reduced its total injury rate from a high of 17.90 in FY 2000 to 11.02 in FY 2001. In addition, AOC’s lost-time injury rate – a measure of the more serious employee injuries – declined by almost 80% from 10.35 in FY 1998 to 2.07 in FY 2001. AOC’s lost-time injury rate is therefore now very close to those experienced at the Smithsonian Institution and the U.S. Forest Service, two

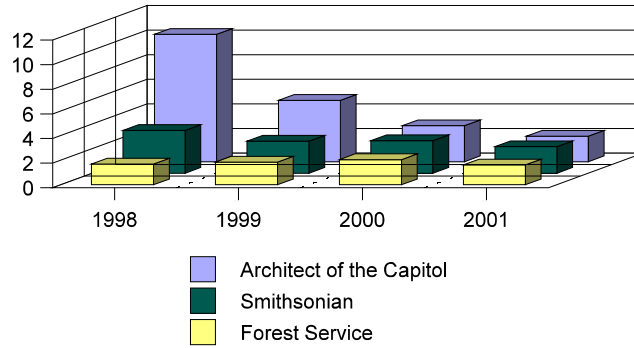
organizations whose employees engage in comparable work and with whom we have previously compared AOC's rates.

These statistics represent a substantial

Comparison of Similar Agencies  
Illness & Injury Total Rate



Comparison of Similar Agencies  
Injury & Illness Lost Time Rate



reduction in employer costs as well as a marked improvement in employee welfare; they also correspond with a striking change in AOC safety attitudes which our investigators have noticed during all recent inspections. We believe that the two phenomena are related: management and employees alike have demonstrated a change in priorities which begins to give safety considerations the place they deserve. This change in attitude, if it lasts, promises major economic benefits and, of course, a reduction in human suffering and disability. In our view, credit is due to Architect Alan Hantman himself, as well as to the interest in improved workplace safety manifested by both the House and Senate Committees on Appropriations. See H.R. Rep. No. 107-169, at 15 (July 2001); S. Rep. No. 107-37, at 28 (July 2001).

We also believe that further reductions in AOC's injury rates can be achieved. The Occupational Safety and Health Administration has expressed a willingness to enter into a cooperative arrangement with OOC and AOC to develop and implement management techniques at AOC which OSHA has successfully utilized in the private sector and in various Federal agencies to improve workplace safety. As we understand the discussions, the parties are to close to an agreement, subject only to resolution of questions of confidentiality. The General Counsel has agreed to participate in this arrangement.

As this Report goes to press, however, we are informed that the Architect has determined that there is now a "diminished need" for OSHA's services, largely because of technical

assistance provided during 2002 by OSHA's Executive Leadership Program, Dupont Safety Resources, and the U.S. Public Health Service.

A proposed organizational change currently under review by AOC will bear careful scrutiny. According to Mr. Hantman, the reorganization would place AOC's principal safety officer within the organization of the Office of Facilities Manager; in his view, this reorganization will improve the safety program, not detract from it. But if the highest ranking safety officer is formally subordinated to the official in charge of facilities management, the practical consequences may well be that the occasionally competing interests of facilities management - such as deadlines and budget - will prevail over the objectives of safety. See 29 CFR 1960.6: "The head of each agency shall designate an official with sufficient authority and responsibility to represent effectively the interest and support of the agency head in the management and administration of the agency occupational safety and health program. This designated Agency Safety and Health Official should be of the rank of Assistant Secretary or of equivalent rank, or equivalent degree of responsibility, and shall have sufficient headquarters staff with the necessary training and experience" (emphasis added). AOC may wish to reconsider the reclassification of its principal safety officer in light of the important policy expressed in this regulation, even though the regulation is not legally binding upon AOC.

#### **VIII. CONGRESSIONAL OFFICE INSPECTIONS– EMERGENCY ACTION PLANS AND OTHER SAFETY ISSUES**

All Congressional offices in the Capitol, Rayburn, Longworth, Cannon, Dirksen, Hart and Russell buildings were inspected between April and July 2002. Inspections of these and other Legislative Branch facilities are discussed in this Chapter, Chapter IX and Appendix B. The primary focus of the inspections of the office spaces on Capitol Hill was to assess the status of emergency preparedness and compliance with 29 CFR 1910.38 regarding Employee Emergency Action and Fire Prevention Plans. In addition, other typical office-space deficiencies were noted and are

discussed below. The responsible employing office has been notified of the specific location of each violation found.

### **Emergency Action Plans and Emergency Preparedness.**

The initial inspections conducted during the 104<sup>th</sup> Congress revealed that planning for fire or other emergencies was “fragmented, largely uncoordinated, and insufficient.” That 1996 Report recommended that a comprehensive fire and emergency plan be developed for the Legislative Branch and that coordinated plans be developed for each employing office as quickly as possible, since a fire or bomb emergency was the most likely type of hazard to be faced by all employees and the public. Each subsequent inspection has found improvements but also significant and widespread problems.

As noted in Chapter III of this Report, our current office inspections disclosed that significant improvement in Emergency Action planning has taken place during this Congress. The majority of the Congressional offices had floor plans and exit routes posted in prominent locations and emergency numbers posted near each phone. Of particular note were the actions and efforts of the Capitol Police to coordinate, monitor and administer the overall plans for the majority of the buildings on Capitol Hill. With the support of the AOC they have developed building evacuation plans for each of the buildings within their jurisdiction. The plans were printed and distributed to each office within each building. The printed plans show building evacuation routes, emergency telephone numbers and locations for persons who cannot use the stairs to gather to await rescue assistance.

In contrast, the LOC Police management has not become involved to the same extent, making the Library’s overall Emergency Action Plan less effective. The limited role of the LOC Police officers in the Plan presents a problem. When we interviewed officers, they stated that their primary duty in an emergency was to assist people out of the building. However, these same people are likely to be assisting any outside responder, such as the D.C. Fire Department or a Hazardous Materials team. Since they have not been appropriately trained in the Emergency Action Plan, the officers could only provide limited assistance to the outside responders.

Further, the LOC relies entirely on individual offices or divisions to prepare plans and train employees, with no apparent oversight to ensure that required actions have been completed. A few of the LOC divisions had completed all the required elements of an effective plan and appeared to be working to keep their plans current. But the majority were out of date. Because the plans are outdated and uncoordinated, many LOC employees and police officers do not know the proper procedure to follow in an emergency evacuation.

### **Other Deficiencies**

#### **Improper Exit Signs**

In the LOC's Madison Building, a large number of the exit signs located within the Library's offices were improper and misleading. Apparently, this office space had been reconfigured after these exit signs were installed and many did not lead directly to the shortest and most direct route of exit. The exit signs for the public portions of the building generally appeared to be adequate.



*Conflicting Exit Signs for Doorway*

#### **Blocked Access to Electrical Breaker Boxes**

The older House Buildings are configured with electrical breaker boxes located in the occupied office space. Access to the boxes was often blocked by desks, computers, bookcases and other heavy objects. In an emergency, quick unobstructed access to these boxes may be essential, in order to minimize the danger of electrocution or fire. Labeling the boxes "Electrical Box-Do Not Block" would help to minimize these blockages.



*Blocked Electrical Cabinets Prevent Access in Case of an Emergency*

### **Ground-Fault Circuit Interrupters**

Most of the House Members' offices have bathrooms and kitchen areas that are supplied with water. The National Electrical Code requires that any electrical receptacles located in such areas be equipped with ground-fault circuit interrupters. Almost none of these offices were so equipped. Accordingly, employees, Members and others in these rooms are exposed to electrical shock hazards. AOC has advised us that they are aware of this shortcoming, and have planned a major effort to install the required safety devices as soon as possible.

### **Fire Sprinklers Blocked**

In all inspected buildings we noted varying degrees of deficiencies in storage of materials. Storage is not permitted within eighteen (18) inches of the bottom of a sprinkler head. Such storage tends to disrupt the intended sprinkler flow, making it less effective in suppressing fires. Additionally, in most noted instances, there was no safe access to retrieve the stored materials without climbing onto furniture. This type of deficiency was noted in varying degrees in all inspected buildings.

### **Uninspected Fire Extinguishers**

In the LOC buildings, the required monthly inspection of fire extinguishers is performed by two different entities, depending on the location of the extinguisher. Those located in public and shop space are inspected by AOC. No problems were noted with these devices. Those located within the Library's offices are expected to be inspected by the occupants. Approximately half of these were past due for inspection. Although most were only a month or two out of date for inspection, the number is indicative of a need for change in inspection procedure or oversight.

### **Improper Use of Electrical Extension Cords**

Electrical extension cords are permitted only for temporary situations and may not be used in place of permanent wiring. In most cases where extension cords were found, they were being used in place of permanent wiring and additional electrical receptacles could have been installed instead. This type of deficiency was noted in varying degrees in almost all of the buildings except the LOC buildings. The LOC employee safety committee has identified and eliminated this condition in their buildings and should be commended for their efforts.

## **IX. NON-OFFICE INSPECTIONS—SIGNIFICANT SAFETY ISSUES**

As required by the CAA, we inspected non-office work areas in most facilities of the Legislative Branch. These inspections were conducted by OOC staff, together with outside fire and life safety consultants, between April and July 2002. A schedule of the dates and locations of each inspection, including office and non-office space appears in Appendix D to this report. A detailed listing of all violations of OSHA standards which our inspectors found during evaluation of non-office, as well as office space, is found in Appendices A and B. In many cases, violations were corrected immediately by AOC staff. In these cases the Appendices reflect that the violation has been abated, with the date of repair and responsible agency noted.

The responsible employing office has been notified of the specific location of each violation found. A summary of the most significant violations in terms of their potential effect on the health and safety of Legislative Branch employees and members of the House and Senate follows:

### **Malfunctioning Fire Alarm Systems**

Fire alarm systems either were not functioning, or were missing pull stations, or were not monitored and connected to a twenty-four (24) hour monitored station in eight (8) locations. These locations were in warehouses and other non-office facilities. Fires in workshops, garages or other non-office spaces can expose all employees in the Legislative Branch office buildings to the danger of serious injury or death.



*Fire Alarm Electrical Panel Requiring Repairs*

### **Egress Routes/Exit Doors Blocked**

In twelve (12) locations including the Russell and Hart Senate Office Buildings and Capitol Police Headquarters, we found the exit routes contained doors or doors that did not close automatically to create a fire barrier and in one instance a padlocked exit door.



*Emergency Exit from Projection Room Blocked*



### **Exit Sign Hazards**

Exit signs in nineteen (19) locations had burned out lights, gave incorrect directions, or were entirely lacking. Only one (1) involved a Congressional office building - the Dirksen Building. Others involved the GAO building, warehouses and Capitol Police buildings.

### **Exit Lighting Hazards**

In thirteen (13) locations exit lighting was insufficient or non-existent. In some cases, battery operated emergency lights needed new batteries. Locations included the Russell and Rayburn Buildings and the LOC Jefferson Building.

### **Fire Sprinklers Blocked**

In thirteen (13) locations, we found that fire sprinkler heads were blocked by either stored materials or ceiling tiles. Some heads had been damaged and required repair or replacement. The buildings involved were Dirksen, Cannon, Rayburn, Capitol Police Headquarters and, several other facilities.



*Stored materials prevent proper operation of fire sprinklers*

### **Fire Extinguishers Blocked**

In nine (9) situations, we found that fire extinguishers were blocked by stored materials or would otherwise be inaccessible if a situation arose requiring their use. The locations included non-office spaces in the Russell, Dirksen, Cannon and Rayburn Buildings.

### **Fire Extinguishers Not Inspected**

In twenty-eight (28) locations we found that fire extinguishers had not been regularly inspected or that they were not tagged to reflect inspection as required by the OSHA standard, as incorporated in 29 CFR 1910.157.

### **Storage of Flammable or Pressurized Materials**

In thirteen (13) locations, including House and Senate Office Buildings, we found chemicals improperly stored, creating the potential for fire and explosion.



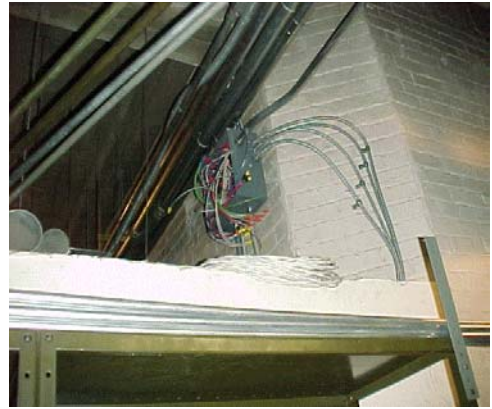
*Unsecured Compressed Gas Cylinders*

### **Electrical Hazard/Ground Fault Circuit Interrupters Not Provided**

In fifty (50) non-office locations and many offices, we found power outlets near sinks, or in wet locations, which presented the serious potential for electrical shock. The National Electrical Code, as incorporated in OSHA standards, requires ground fault circuit interrupters in these areas as protection against electrical shock hazards to employees, Members and others. Locations included the Capitol, House and Senate Office Buildings, the Supreme Court, Capitol Police Headquarters and the Botanic Gardens.

### **Missing Covers for Electrical Junction/Switch Boxes**

In thirty-three (33) locations we found electrical junction and switch boxes that were not fully enclosed in order to contain live wires, hot materials or sparks. This is a violation of the National Electrical Code and OSHA regulations, 29 CFR 1910.305(i)(3)(iv).



*Electrical Junction Box with no Cover and Energized Wires*

### **Violations Unabated–Unassigned AOC Responsibility**

During our periodic inspection, OOC inspectors discovered a number of facilities where on site personnel did not appear to know who had responsibility to maintain the facilities or assure compliance with OSHA regulations. Some of the facilities are off-site and away from Capitol Hill. They are used by a number of organizations including the Chief Administrative Office of the House, the Senate Sergeant at Arms, the Library of Congress, Architect of the Capitol and the Capitol Police. All users of these facilities believe that the Architect of the Capitol should be responsible for maintaining safety systems and correcting any health hazards. The facilities include the Fort Meade Warehouses and the Vehicle Repair Facility. In addition, the AOC's Construction Management Division ("CMD") has a facility at Blue Plains where many safety hazards were identified. The CMD representatives informed OOC inspectors that they had no budget and, therefore, did not have the funds to make needed repairs at the facility. The AOC has subsequently advised us that site maintenance and safety officials are designated for these facilities and that on-site personnel will be informed of which officials have these responsibilities. In addition, materials have been purchased to abate the violations of CMD's Blue Plains Division.

## **X. CONCLUSION**

There has clearly been significant improvement in occupational safety and health since our first Report in 1996. This improvement has assuredly been fostered by increased funding from the Congressional Committees of jurisdiction, continuing enforcement of the CAA's provisions, and improved high - level safety staffing by the AOC. In spite of this improvement, expedited additional efforts are required. The anthrax attack of October revealed inadequate compliance with the standards designed to protect those employees who must respond to such incidents. Emergency Action Plans remain incomplete in some locations. Studies of the safety of irradiated mail indicate that low levels of chemical irritants are present in the mail as a by-product of the irradiation process, and suggest the need for further investigation of potential effects on employee health. And the risk of future terrorist action emphasizes the importance of promptly completing all fire and life safety abatement projects that were initiated in more peaceful times. All of our apparent vulnerabilities -- inadequate building exit capacity, inaudible alarms, missing fire barriers -- loom much larger now as the prospect of an emergency has become more imminent.