



*Office of Compliance*  
**Report on Occupational Safety  
and Health Inspections**

Conducted in the Legislative Branch during the 108th  
Congress pursuant to the Congressional  
Accountability Act

*advancing safety, health, and workplace rights in the legislative branch*

*October 2005*





---

## Table of Contents

Highlights.....	1
I. Executive Summary.....	3
A. Statutory Basis.....	3
B. Introduction.....	3
C. 10th Anniversary of the Congressional Accountability Act.....	5
D. Changing Focus of the New General Counsel.....	6
E. Scope of the Report.....	11
II. Safety Hazards and Compliance.....	12
A. Emergency Evacuation.....	12
B. Alarm and Communication Systems.....	18
C. Evacuation of Employees and Visitors with Disabilities.....	22
D. Fire Sprinkler Systems.....	26
E. Electrical Hazards.....	28
III. Health Hazards and Compliance.....	32
A. Events Involving Chemical and Biological Agents.....	32
B. Methylene Chloride.....	34
C. Hazard Communication.....	35
D. Asbestos.....	36
E. Lead.....	39
IV. Periodic Inspections.....	41
A. The Capitol Building.....	43
B. Dirksen Senate Office Building.....	47
C. Hart Senate Office Building.....	52
D. Russell Senate Office Building.....	56
E. Cannon House Office Building.....	61
F. Longworth House Office Building.....	64
G. Rayburn House Office Building.....	67
V. Requestor-Initiated Inspections.....	72
A. Contractor Compliance.....	72
B. Alarms and Evacuation.....	75
C. Emergency Action Plans.....	76
D. Evacuation of Persons with Disabilities.....	77
E. Police Communications Centers.....	77
F. Chemical and Biological Hazards.....	78
G. Asbestos.....	78
H. Potable Water.....	79
VI. Challenges and Initiatives.....	79
A. Increasing Awareness of Safety and Health Issues.....	80
B. Advance Notification of Proposed Findings.....	80
C. Reducing Fluctuations in Biennial Inspections.....	81
D. Training Outreach.....	81
E. Monitoring Abatement of Citations and Violation Findings.....	82
F. Self-Monitoring of Safety Conditions and Maintenance Programs.....	83



---

G. Development of Employing Office Health and Safety Programs....84

VII. Recommendations.....85

    A. Enforcement Authority - Temporary Restraining Orders.....85

    B. Enforcement Authority - Environmental Statutes Protection.....86

    C. Enforcement Authority - § 207 Retaliation Protections.....86

VIII. Inspection Methodology and Acknowledgements.....87

Staff of the Office of Compliance.....90

Inspection Team.....90

Contact Information.....91

Appendices.....\*\*\*\*\*

\*\*\*\*\* .....

\*\*\*\*\* .....

\*\*\*\*\* .....

Appendix D.....Guidelines for Risk Assessment Codes

Appendix E.....Buildings Inspected in 2004 vs 2002

Appendix F.....Responsible Offices Comments to Report

*~Note to Reader*

*Appendices A, B, and C are not included in this version of the Public Report because of their volume, and the United States Capitol Police has determined that significant portions contain security sensitive information. Accordingly, all references to Appendices A, B, and C have been redacted from the Report. Appendices D, E, and F are included.*



---

This page is intentionally left blank.



## Biennial OSHA Report for the 108<sup>th</sup> Congress

### Highlights:

- The Congressional Accountability Act (CAA) requires the General Counsel of the Office of Compliance (OOC) to conduct a comprehensive health and safety inspection of all Legislative Branch facilities at least once each Congress. The covered facilities encompass more than 17 million square feet, plus miles of steam, subway, pedestrian and other tunnels. During its 2002 Biennial Inspection, the inspection covered approximately 50% of the space within these facilities. In March 2004, the new General Counsel initiated a far more detailed and comprehensive “baseline” biennial inspection than in past years in order to complete a full and accurate assessment of each covered facility. As a result, seven times as many violations were identified during the 2004 inspection as compared to the 2002 inspection. However, because of the greater time required to conduct more thorough inspections and limited inspector resources, the Office of the General Counsel (OGC) was able to inspect only 25% of covered Legislative Branch space.
- Finding that the OOC is “facing an increasing workload and scarce resources,” the Government Accountability Office (GAO), in a 2004 Report concerning OOC operations, recommended that the agency “work with the Congress to develop a strategy to ensure that all facilities under OOC’s jurisdiction and located in the Capitol Hill complex and the surrounding Washington, D.C. area ... are covered as part of the biennial safety inspections required by the CAA.” Subsequently, Congress approved additional resources to enable the OGC to conduct the biennial inspection of all covered Legislative Branch facilities in the Washington, DC metropolitan area during the 109<sup>th</sup> Congress.
- During the 108<sup>th</sup> Congress inspection cycle, the inspection team from the Office of the General Counsel developed and implemented a new Risk Assessment Code (RAC). The RAC system enables the inspection team to ascertain the risks to employee health and safety by classifying the severity and probability of occurrence of the hazards identified and thus bring its risk assessment approach into alignment with general industry practice. This, in turn, helps determine priorities for their abatement. Because the OOC lacked an electronic storage and retrieval system for recording inspection findings and monitoring employing office abatement of identified hazards, Congress recently funded the OOC’s acquisition of a new relational database case tracking system designed specifically for Legislative Branch Occupational Safety and Health (OSH) and Americans with Disabilities Act (ADA) inspections. The OOC is in the process of inputting inspection data from all previous inspections into the new case tracking system.



- While substantial progress has been made in improving health and safety conditions on Capitol Hill since the adoption of the CAA in 1995, many of the most significant hazards identified in past Biennial Reports remain uncorrected, particularly those related to fire protection and the evacuation of facilities in the event of emergencies. In addition to specific hazards, the inspection team identified significant program deficiencies. The 108th Biennial Inspection identified 2,666 hazardous conditions of which approximately 1,500 were electrical, 700 were fire and emergency response, 200 were machinery and equipment, 80 were chemical-related, 40 were fall-related, and a number were associated with confined spaces. Moreover, many of the violations were ranked as RAC 1 (“imminent risk of death or life-threatening injury”) and RAC 2 (“probable occurrence of severe injury”). Of the hazards identified during the 2004 Biennial Inspection, 45 were identified as RAC 1 and 950 as RAC 2. This number is disproportionately high when compared with inspections conducted in comparable federal facilities by the Government Services Administration.
- Following the inspection of each facility, the OGC provided a detailed description of the hazards found to the Architect of the Capitol and the employing offices. Unlike prior inspections, this information was provided as soon as possible after the completion of each building’s inspection rather than upon distribution of the Biennial Report.
- The new approach to inspections employed in 2004 was also more collaborative. The OGC inspection team conducted periodic briefings in advance of and during the course of the inspection. Representatives of the Architect of the Capitol and of the employing offices ordinarily accompanied the inspection team and promptly corrected many hazards on the spot. As a result, the offices responsible for correcting violations reported that 91% of the hazards were abated by the end of 2004.
- The General Counsel is also responsible for conducting health and safety inspections upon the request of covered employees and employing offices. The number of such cases nearly doubled between the 106<sup>th</sup> Congress (34) and the 108th Congress (63). The GAO noted the “increasing demands for safety and health inspections, and the very small number of staff



to conduct those inspections.”<sup>1</sup> As a consequence, and because OOC safety specialists have been concentrating on conducting more thorough biennial inspections, the backlog of open cases increased from 27 to 61 between FY 2002 and FY 2004. Additional resources have been provided by Congress for FY 2006 for the purpose of conducting Requestor-initiated inspections.

## **I. Executive Summary**

### **A. Statutory Basis**

The General Counsel of the Office of Compliance is required by the Congressional Accountability Act of 1995 (the CAA or the Act) to conduct an inspection of all Legislative Branch facilities at least once each Congress in order to evaluate compliance with the occupational safety and health standards established by the Department of Labor. See Section 215(e)(1), 2 U.S.C. §1341(e)(1). The General Counsel also conducts inspections, upon request, of specific health and safety hazards identified by employing offices, covered employees, and labor organizations. See Section 215(c)(1), 2 U.S.C. §1341(c)(1).

Following completion of the biennial inspection, the General Counsel is further required to report the results of the periodic inspection to the Speaker of the House, the President Pro Tempore of the Senate, and all employing offices responsible for correcting violations. The Act requires that this Report describe any steps necessary to correct violations uncovered by the inspection and assess any risks to employee health and safety associated with any violation. See Section 215(e)(2), 2 U.S.C. §1341(e)(2).

This Report is respectfully submitted pursuant to that mandate.

### **B. Introduction**

The biennial safety and health Inspection for the 108<sup>th</sup> Congress was conducted in covered Legislative Branch facilities and buildings in the Washington D.C. area during 2004. Under the direction of the General Counsel, this inspection was carried out by a highly experienced health and safety expert detailed from the Occupational Safety and Health Administration, assisted by health and safety contractors retained by the General Counsel, and student interns. Over 4 million square feet of office space, work centers, warehouses, workshops, storage facilities, as well as electrical and mechanical plants were inspected in 2004. See \*\*\*\*\*

---

1 In this regard, the GAO found that “the number of full-time staff assigned to conduct the actual workplace health and safety investigations [has] remained steady at a single individual, an OSHA workplace safety specialist assigned to OOC from the Department of Labor on a long-term detail, with the assistance of part-time contractors on a limited basis.” While the annual workload of such cases has “risen dramatically,” the General Counsel’s resources “have not kept pace with this growth.”



\*\*\*\*: OOC OSH Inspections - Buildings Inspected in 2004 and 2002. Approximately 30,000 employees work in covered Legislative Branch facilities on Capitol Hill.

In order to provide a comprehensive picture of health and safety conditions in the Legislative Branch, the OGC requested at the inception of the 2004 Biennial Inspection that employing offices provide, for inclusion in the Biennial Report, information concerning the progress made in enhancing safety and health within their respective offices since the last periodic inspection in 2002. This and other information made available to the OGC reflects that significant steps are being taken to improve the overall level of health and safety on Capitol Hill. Additional health and safety personnel have been hired by the Office of the Architect of the Capitol (AOC), Library of Congress (LOC), the Senate Sergeant at Arms, the Office of the Chief Administrative Officer of the House of Representatives, and the United States Capitol Police (USCP); the Senate Office of Emergency Preparedness conducted training seminars regarding OSHA and ADA safety and compliance, the avoidance of common hazards, and emergency evacuation procedures, including planning for the evacuation of staffers and visitors with disabilities; the House Employment Counsel reports that the Office of Emergency Preparedness and Operations (OEPPPO) conducted training on the use of personal protective equipment and emergency evacuation procedures and developed training plans to the House Staff on evacuation procedures for employees and visitors with disabilities; Employee Emergency Action Guide revisions have been developed by the LOC; and the U.S. Capitol Master Plan recommendations outline proposals for complete sprinkler coverage, compartmentalization barriers and horizontal exits, stairwell enclosures, smoke control systems, and other life safety upgrades within the Capitol Building.

Copies of the charts listing the 2,666 individual violations and information regarding the status of abatement of each violation that were prepared following the inspections are set forth in \*\*\*\*\* of this Report. The abatement information contained in \*\*\*\*\* is current as of February 2004.<sup>2</sup> The charts and the Draft Report were provided to all employing offices in order to provide an opportunity for comment prior to the formal

---

<sup>2</sup> Several employing offices have commented that more hazards have been abated than is reflected in the \*\*\*\*\* charts. However, office resources and logistical considerations related to the drafting and printing of this Report prevented the OGC from updating charts with information supplied since that date. The OGC will update its newly acquired case tracking database as subsequent abatement information is received.





---

publication of this Report. All comments were carefully considered,<sup>3</sup> and appropriate changes have been incorporated into this final Report prior to its release.

This Report has been prepared in two formats. A detailed and comprehensive confidential version is intended solely for release to Members of the House of Representatives, Members of the Senate, interested Committees, and senior management officials of covered employing offices. The other is a public version that has been screened and from which security-sensitive information has been redacted by the OGC and the United States Capitol Police.

### **C. 10th Anniversary of the Congressional Accountability Act**

January 2005 marked the 10th anniversary of the passage of the Congressional Accountability Act. The CAA has provided Congressional and Legislative Branch employees an independent and neutral process to resolve workplace disputes, including the correction of safety and health hazards and the protections of the other eleven other labor and employment laws extended to covered employees under the CAA. During the decade following the passage of the CAA, thousands of safety and health hazards have been identified and abated as a direct result of the periodic and requested inspections conducted by the Office of General Counsel. As Susan S. Robfogel, Chairman of the Board, Office of Compliance stated in her plenary remarks to the 2004 OOC Legislative Branch Health and Safety Conference:

Since the passage of the Act I think we can say with confidence that we are seeing continuing improvement in health and safety throughout the Legislative Branch of the Government...but despite the progress of which we all can be proud, there is certainly a lot more that has to be done.

All Legislative Branch employees and the general public have significantly benefitted from these actions that have resulted in safer work areas and public spaces.

This Report is the fifth submitted to Congress by the OGC of the Office of Compliance since its inception in 1995. The first Report submitted in June 1996 was conducted pursuant to Section 215(f) of the CAA and served as an initial barometer of the Legislative Branch's compliance with the safety and health standards established by Section 6 of the Occupational Safety and Health Act (OSHA), 29 U.S.C. §654. See 2 U.S.C. §1341(f). Reports of subsequent biennial inspections were prepared in 1998, 2000,

---

<sup>3</sup> Comments were provided by the Office of the Architect of the Capitol, the Library of Congress, the Office of the Chief Administrative Officer of the House of Representatives, the Office of House Employment Counsel, the Senate Employment Counsel, and the Government Accountability Office. The employing offices were also invited to submit responses to the Final Report. Those responses are included in Appendix F.



and 2002 as mandated by Section 215(e). Each Report focused on a particular matter of concern – the 1998 and 2002 Reports on emergency preparedness and the 2000 Report on fire safety.

In light of the tenth anniversary of the CAA, this Report addresses the progress that has been achieved in improving the health and safety on Capitol Hill as well as newly identified and prior longstanding unsafe conditions that remain uncorrected. As this Report documents, since the Office of Compliance was established in 1995, the record reflects both significant advances and persistent deficiencies in workplace health and safety within the Legislative Branch.

#### **D. Changing Focus of the New General Counsel**

The Biennial Inspection conducted during the 108th Congress was the most thorough examination of facilities inspected since the adoption of the CAA in 1995. The seven-fold increase in the number of violations identified during this inspection over the number found in 2002 was a direct result of the far more comprehensive inspection regimen initiated by the General Counsel in March 2004. While more time-consuming and resource-intensive than prior inspections, it reflects a new policy designed to assure full compliance with CAA mandates and recommendations issued by the Government Accountability Office (GAO) in its 2004 study of OOC operations.<sup>4</sup>

Accordingly, at the inception of the Biennial Inspection for the 108th Congress, the General Counsel determined that it was necessary to create a complete “baseline” assessment of existing health and safety conditions in the Legislative Branch through detailed “wall to wall” examinations of all covered facilities. The General Counsel also decided that the inspections would be more consultive with affected agencies, and that the inspection team would conduct periodic briefings of employing offices in advance of and during the course of the inspection. This resulted in inspections that were much more intensive and time-consuming. As a consequence, the OGC was unable to conduct a complete its inspection of all covered facilities during the 108th Congress. The OGC inspection team examined approximately 25% of the more than 17 million square feet comprising covered facilities in the Washington, DC metropolitan

---

<sup>4</sup> The GAO study (GAO-04-400) was mandated by the Consolidated Appropriations Resolution of 2003 Conference Report. Congress had requested GAO to “assess the overall effectiveness and efficiency of the Office of Compliance in fulfilling its responsibilities and role in achieving the overall intent and purposes of the Congressional Accountability Act.” House Report 108-10, February 13, 2003.



area.<sup>5</sup> These facilities included the Government Accountability Office, the United States Capitol Police Headquarters and Annex, the Botanic Gardens Buildings, portions of the Senate and the House (not including Ford) Office Buildings, excepting Member offices, Committee spaces, and non-AOC spaces, those portions of the Supreme Court under the jurisdiction of the Architect of the Capitol, and other facilities that were not inspected in 2002. See Appendix E: OOC OSH Inspections - Buildings Inspected in 2004 and 2002.

Prior inspections, while covering more square footage, were less comprehensive. For instance, in the 107th Congress Biennial Inspection in 2002, seventy-five percent of Legislative Branch facilities comprising about 50% of the covered square footage were inspected.<sup>6</sup> In some of these facilities, only limited portions of the buildings were inspected. See 2002 Report, Appendix D and Appendix E; see also, 2000 Report, p. 26.<sup>7</sup> In its February 2004 Report on the OOC, the GAO noted that despite the CAA mandate that all covered Legislative Branch facilities be inspected at least once each Congress, not all of the Capitol Hill campus was inspected during the 2002 inspection, as noted above. See “Office of Compliance: Status of Management Control Efforts to Improve Effectiveness”, GAO-04-400, February 2004, p. 25. GAO found that the OOC faces “an increasing workload and scarce resources.”<sup>8</sup> GAO further recommended that the OOC “work with Congress to ensure that all facilities under its jurisdiction and located in the Capitol Hill complex and the surrounding Washington, D.C. area are covered as part of the biennial safety inspections required by the CAA....” GAO Report, pp. 28, 31.<sup>9</sup>

---

5 Between 2002 and 2004 the OOC gained jurisdiction over a number of additional facilities that were not previously covered in the earlier inspection, including the HDU (Hazardous Devices Unit) facility of the United States Capitol Police, the Fort Meade Library of Congress (LOC) Book Storage Module No.1, and the Cheltenham Police Training Annex.

6 In addition, Legislative Branch facilities include more than 1000 State and District Offices that are subject to OSH inspection coverage under the CAA. None of these facilities has been physically visited by OGC inspectors to conduct a biennial inspection, although where an inspection has been specifically requested by an employee or employing office, the OGC has obtained the assistance of the Occupational Safety and Health Administration (OSHA) to conduct an inspection.

7 This citation references the *General Counsel's 2000 Report on Occupational Safety and Health Inspections Conducted Under the Congressional Accountability Act*. Unless otherwise noted, any references herein to an *Office of General Counsel Biennial Report* will be similarly cited as either the “1996 Report”, “1998 Report”, or “2002 Report”.

8 Other than a single OSHA detailee and limited part-time contractors, the Office of General Counsel presently has no additional safety and health professional employees on staff.

9 Recently, Congress approved an increased appropriation for the OOC for FY 2006 to enable the OGC to conduct a biennial inspection of all covered facilities in the Washington, DC metropolitan area during the 109<sup>th</sup> Congress.

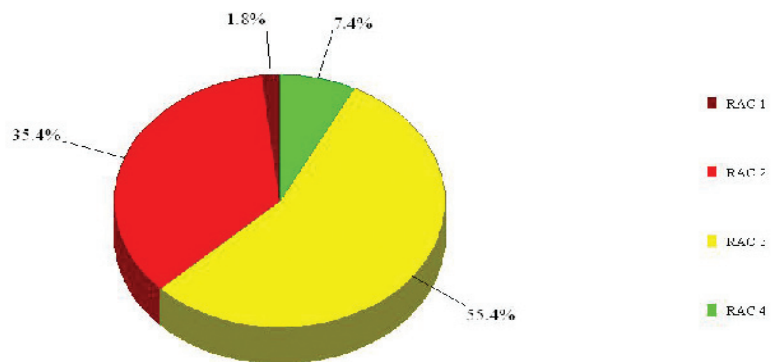


Against this backdrop, the General Counsel gave first priority to those facilities that were not inspected during the prior inspection cycle.<sup>10</sup>

The OGC also developed and implemented a Risk Assessment Code (RAC) system to classify the severity and probability of occurrence of identified hazards and thus bring its assessment approach into alignment with industry-wide standards. See Appendix D, OOC Guidelines for Risk Assessment Codes (RACs). The RAC system standardizes the evaluation of hundreds of different conditions so that each inspector applies the same standards. The subjective nature of the inspection process is thereby minimized. Consequently, during the 108th inspection cycle, the RAC ratings assigned by OGC investigators to particular hazards were rarely challenged by the responsible employing office.

RACs are classified in descending order of severity and need of attention. For example, a RAC 1 violation involves a hazard of the most serious nature, and requires immediate attention in that it poses an imminent risk of death or life-threatening injury; a RAC 2 poses a probable occurrence of severe injury. The new RAC system will assist employing offices in establishing priorities for the abatement of hazards considered to be most dangerous and those that require extensive planning, coordination, and time to correct. An added benefit of the RAC system is the ability to compare conditions in the Legislative Branch with those in other entities in the Federal Government and the private sector.

**Proportion of Findings by Risk Assessment Code**



Another recognized methodology employed to measure fire safety protection, the National Fire Protection Association (NFPA) 101 Life Safety Code worksheet, was used by the General Counsel to provide comparison between Legislative and Executive Branch buildings. In assessing overall fire safety conditions within a building, the NFPA 101 rating assigns specific numerical values to general building conditions

<sup>10</sup> These included the Senate and House Page Dormitories, the Senate, House and Library of Congress (LOC) Day Care Centers, and the LOC National Library Service for the Blind and Physically Handicapped. See Appendix E to the 2004 *Report*.



such as the presence or absence of preventive fire safety measures including sprinklers,<sup>11</sup> fire doors, and emergency lights. If a building has enclosed stairwells, no penetrations through fire barriers, a code-compliant fire alarm system, and a fully operational and compliant sprinkler system throughout the building, a positive value is assessed. Conversely, if the building provides no, or only a partial, sprinkler system, or has openings in fire barriers, a negative value is assessed. The General Services Administration (GSA) utilizes the NFPA 101 system to rate buildings under its jurisdiction. As applied by GSA, a rating below “0” is considered to be unacceptable, a “-20” rating is “high risk”, and a “+20” is “very good”. Several of the Legislative Branch facilities were found to be in the “high risk” category.

This comprehensive inspection approach yielded significant results. Within the same facilities inspected in 2002, the 2004 inspection identified over 2,300 safety and health violations, compared to the 360 that were identified during the 2002 inspection within the same facilities.<sup>12</sup> Furthermore, the OGC inspectors discovered a surprising number of the highest risk RAC 1 and 2 violations. Health and safety inspectors routinely expect to find a large number of RAC 4s, a smaller number of RAC 3s, and even fewer RAC 2s and 1s during a typical inspection. However, the 2004 inspection of Legislative Branch facilities identified a relatively small number of RAC 4 violations, with a large number of RAC 3s and 2s.

Finally, as discussed below, it was disturbing to find that a substantial number of very serious violations found during the 2004 inspection had been previously identified in earlier biennial inspections but remain unabated.

To meet its expanding challenge, the Office of General Counsel adopted a multi-pronged approach to identify and correct the numerous hazards identified during the inspection. Voluntary, collaborative means were utilized whenever possible, balanced with the enforcement options of Section 215 in order to ensure prompt compliance with the law. The OGC’s collaborative efforts have proved to be effective and well-received by the covered employing offices. In advance of the inspections, the OGC conducted opening conferences for employing offices to brief them on the scope of the inspections. In periodic meetings conducted by the OGC, employing offices were briefed regarding common violations identified by the OGC during the inspections, and were encouraged to conduct pre-

---

11 In comments to the Draft Report, the AOC questioned “the specific rating values assigned by the [OGC] because there was no credit given for sprinkler systems in a number of many buildings” [sic]. In a number of inspected buildings, the sprinkler systems did not provide complete coverage or did not trigger the building evacuation alarm. The OGC strictly followed the NPFA Guide on Alternative Approaches to Life Safety 2001. That Guide specifies the conditions under which, and to what extent, credit may be given to buildings that have complete, or only partial, coverage. Assessments that did not apply these standards would be subjective.

12 As previously mentioned, overall, 2,666 violations were found during the 2004 inspections.



inspections of their facilities prior to the OGC inspection. The AOC established “Tiger Teams” – consisting of electricians, plumbers, elevator mechanics, etc. – to accompany OGC inspectors or to be “on call” to immediately abate serious hazards as they were discovered. This approach permitted a large number of deficiencies identified during the inspection process to be immediately corrected. Draft findings of identified hazards were issued by the OGC to the AOC and other responsible employing offices as each facility was inspected rather than awaiting issuance of the Biennial Report. As a result of these collaborative efforts, the responsible employing offices reported that 91% (2,433) of the 2,666 hazards identified during the 108th inspections have been reported as being abated as of the printing of this Report.<sup>13</sup> See Footnote 2 above.

Unlike the Occupational Safety and Health Administration, the General Counsel does not routinely issue citations with respect to each serious hazard identified during an inspection. OSHA officials typically issue numerous citations, along with proposed penalties, upon completion of an inspection. Reports are rarely developed that describe the inspection findings. By contrast, the OGC traditionally has viewed the routine issuance of citations as counter-productive to the goal of achieving, prompt, voluntary, and collaborative abatement. Instead, in the exercise of his prosecutorial discretion, the General Counsel has most often pursued less formal means of achieving abatement of identified hazards. That said, the relatively small number of citations issued as a result of the 108th Biennial Inspection should not be taken to indicate that the hazards discussed are insignificant or do not violate law or regulation.<sup>14</sup> As indicated herein, this inspection identified a significant number of high-risk RAC 1 and RAC 2 violations.

After completing a Biennial or Requestor-Initiated Inspection, the OGC inspector prepares a memorandum to the General Counsel that discusses the inspector’s findings and makes recommendations for correcting any hazards found during the inspection. The General Counsel may forward the memoranda to the responsible employing office to request its comments and ascertain when the identified hazards will be abated. If voluntary compliance is not promptly initiated or other reasons require a more formal resolution, the General Counsel may exercise discretion and issue a complaint. Since 1996, the General Counsel has issued 57 citations.

Once a citation is issued, formal procedures must be followed. Such processes can pre-empt more informal means of achieving prompt

<sup>13</sup> Additional OGC initiatives are discussed in Section VI of this Report.

<sup>14</sup> In response to the Draft Report, the LOC erroneously claims that the lack of formal citations equates to a finding that no violations have occurred.



---

resolution and may foster a confrontational relationship. At times the complaint process can be time-consuming and drains resources away from both the OGC and the employing office. Moreover, the citation, unlike the more detailed memoranda prepared by OGC inspectors, does not necessarily explain the finding and how other contributing factors could aggravate the conditions. Finally, memoranda on inspection findings are easier to understand than formal citations by those who are not experts in the safety and health field but who may be required to participate in abatement efforts.

The decision to issue a formal citation or follow a more informal process lies within the statutory discretion of the General Counsel. The General Counsel has issued citations in instances where the identified hazard is particularly serious or creates an imminent risk to Legislative Branch employees or the public; when the hazard constitutes a “repeat” or similar or related violation of the type found in past inspections or which a broad, systemic remedy may be required; when an employing office fails to cooperate in an investigation or fails to cooperate in an investigation or fails to take appropriate and timely steps to correct a hazard; or when he determines it is otherwise necessary to effectuate the purposes of occupational safety and health laws.

## **E. Scope of the Report**

This Report is intended to summarize the general findings and issues identified in the OGC’s inspections. Particular emphasis is placed on continuing hazards that are systemic or remain uncorrected. Technical materials, including a detailed explanation of each violation found, the RAC assigned to it, the applicable safety code sections, and the status of abatement as reported by the responsible employing offices, are included in the appendices to the Report.

Parts II and III, respectively, address broad Safety Compliance and Health Compliance issues that were either identified during the periodic inspection (Section 215(e)(1) of the CAA) or raised by an employing office, employee, or labor organization pursuant to Section 215(c). Part IV discusses the results of the periodic inspection at specific Legislative Branch facilities. Part V summarizes specific concerns raised by requesting parties. Part VI outlines the initiatives already implemented and plans the General Counsel intends to implement in order to increase efficiency and comply with the recommendations contained within the GAO Report. Part VII discusses specific recommendations that will enhance the overall safety and health for the Legislative Branch, and Part VIII explains the methodology of the inspections and acknowledgments.



## II. Safety Hazards and Compliance

### A. Emergency Evacuation

The General Counsel has reported in each Biennial Report since 1996 that fire and suspicious package/potential bomb emergencies, both of which require rapid police response and potential building evacuation, are hazards most likely to be encountered by employees of the Legislative Branch. See 2002 Report, p. 22. Few hazards have the potential to adversely affect personal safety as much as ineffective emergency response and evacuation procedures or unsafe emergency routes of egress.

The General Counsel reported in 2000 that 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 – alone, serve as the work site for over 12,000 employees and are visited by thousands of visitors each day. Unfortunately, the overall level of fire safety remains far below that of most other office buildings of similar size and age. See 2000 Report, pp. 5-6. Each Report issued since 1996 has noted similar deficiencies in fire safety and emergency preparedness. Compounding the problem is the extended schedule for proposed abatement. The AOC has indicated that many remaining fire safety hazards will not be abated for many years, some as long as 2011.

We noted in the 2002 Report that “the risk of future terrorist action emphasizes the importance of completing all fire and safety abatement projects that were initiated in more peaceful times. All 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.” 2002 Report, p. 39.

According to the U.S. Capitol Police, the potential for terrorist activity in and around the Capitol Hill area remains high and reinforces the need for safe, effective, and protected evacuation routes. As USCP Chief Terrance W. Gainer indicated in a prepared statement to the House Subcommittee on Legislative Committee on Appropriations in April 2004,

It is human nature to be optimistic, but recent events have reinforced what intelligence information has told us for years, that terrorist organizations have the means and the methods to strike whenever and wherever. Intelligence and Security experts both inside and outside government have stated, the U.S. Capitol remains a primary target. It is really not a question of but when the United States Capitol Police will again be called to respond to another terrorist attack.

Prepared Statement, Hearings, Legislative Branch Appropriations for 2005, p. 203, April 28, 2004. See also, The 9/11 Commission Report (2004).



Given the potential that Capitol Hill continues to be a prime target for terrorist attacks, it is essential that all necessary steps be taken to provide for the safe and prompt evacuation of employees and visitors. In prior reports the OGC identified serious deficiencies that significantly impact emergency response procedures. The 2004 inspection once again found the same or other serious unabated deficiencies.

- Ineffective fire barriers

Fire barriers serve to retard the spread of fire and smoke in order to allow the safe egress of employees and visitors during an emergency evacuation; two means of emergency egress must be provided; and emergency exits must not be blocked or locked. 29 C.F.R. §§1910.36 - 1910.37.<sup>15</sup> In March of 2000, the General Counsel cited the AOC for exit stairwells that did not provide

\*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\* See 2000 Report, pp. 7-8.

The five (5) citations required the AOC to install protective barriers and fire-rated doors around the exit stairways.

The 2004 inspection noted some improvement in the Capitol. As recommended by the OGC inspectors, two exit stairways from the fourth to the first floors of the Capitol building were fully enclosed and protected. Exit capacity was enhanced by installing side-swing doors in place of revolving doors. However, a recent on-site inspection noted that the enclosure of the stairwells was compromised. In one instance the door latch had been disabled; in another, the door was blocked open with a brass stanchion.



*Non-fire doors in a Legislative Branch Building offer no protection during a fire; doors are also held open by brass pegs allowing toxic smoke to flow freely.*

However, as noted, many of the deficiencies in the House and some Senate Office Buildings have not been corrected by the AOC. The General

---

<sup>15</sup> Examples of inadequate fire barriers identified during the 2004 inspection include the following: fire barrier penetration (113); bad fire door closures (103); fire doors improperly held open (24); damaged or lacking fire doors (21); improper locking mechanism on fire doors (7); open exit stairwell (7); lack of a viable fire barrier (6). See \*\*\*\*\*: 2004 Biennial Safety & Health Inspections: Hazard and Abatement Tally.



Counsel issued citations to the AOC in March 2000 for deficiencies in the exit stairwells of the Capitol, the Longworth, Cannon, and Rayburn House Office Buildings, and the Russell Senate Office Building. In 2004, the inspectors specifically noted that none of the door hazards in those buildings have been corrected. Furthermore, the buildings lack sufficient exit discharge capacity to allow employees and visitors to promptly and safely exit in the event of an emergency. Most of the pedestrian and subway tunnels between the buildings also lack effective fire barriers.

As a result of fire safety inspections conducted in 2001, seven citations were issued in March 2001 to the LOC and AOC for deficiencies in the Jefferson, Adams, and Madison Buildings. See 2002 Report, pp. 23-24. The AOC has made significant progress in several areas such as the repair of penetrations in fire walls and barriers between floors. However, similar to the deficiencies found in the House and Senate buildings, the OGC found that the stairwells in the Jefferson and Adams buildings still have not been properly enclosed and lack protective barriers and fire-rated doors. Vertical openings between book stacks create a danger from smoke and toxic fumes. The book conveyor system used in all three LOC buildings compromises the effectiveness of existing fire barriers by leaving openings unprotected, as well as leaving pipes, ducts, and cables unprotected and penetrating into exit routes and fire barriers.

In order to gauge the reasonableness of the delays in abatement of these deficiencies, representatives of the General Services Administration were consulted. GSA monitors and maintains most facilities for Executive Branch agencies. With the exception of the Old Executive Office Building, the GSA reported that such deficiencies are no longer found in buildings of similar condition and age in the Executive Branch in the Washington DC area, and that all substandard fire barrier and exit conditions have been corrected. The OGC recognizes that the age and historic nature of Legislative Branch buildings is a substantial impediment to prompt abatement. Nevertheless, the AOC was issued citations in 2000 for the lack of enclosed stairwells. These conditions remain unabated today.

History has demonstrated that the existence of open exit stairways presents a serious hazard with great potential for fire fatalities. Many Legislative Branch buildings such as the Capitol, Russell and Cannon buildings were constructed before 1911. The infamous Triangle Shirtwaist Factory fire in 1911, which resulted in the deaths of 145 persons as a result of open stairways that could not retard the spread of fire and smoke, led to the development of standards for the construction of stairways, exits, and other features to prevent the loss of life in fires. The death of 84 persons and injury of 679 during a fire at the MGM Grand Hotel in Las Vegas, Nevada, in November 1980 further demonstrates the dangers of open stairwells and breached exits even in buildings of newer construction. Accordingly, Legislative Branch employees and visitors continue to remain

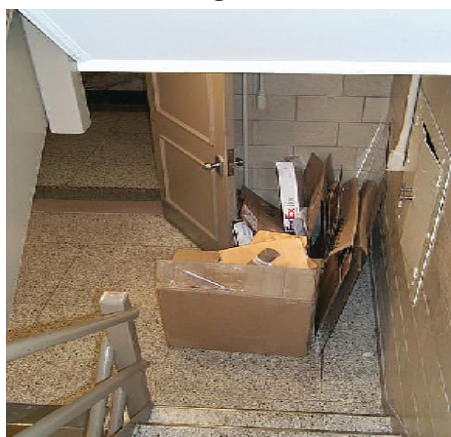
at significant risk to exposure during a fire or toxic gas emergency because of these long-standing deficiencies.

- Ineffective fire doors

Several citations have been issued by the OGC for doors that are not properly fire-rated. As a result of the 2004 inspection, the Government Accountability Office was cited for having fire doors that did not function properly and for not having fire-rated doors on emergency exit stairwells. Following issuance of this citation, the GAO abated these conditions. Exit stairwells with non-fire-rated doors were also found in the recently renovated United States Capitol Police Cheltenham Training Center and the Cannon and Rayburn House Office Buildings. The Longworth House Office Building stairwells have no doors at all and are in need of proper protection including fire-rated doors. The AOC was cited for these violations following the 2000 inspection. At that time, the AOC represented the installation would occur in 2004. The 2004 inspection revealed that this did not occur. Additionally, an emergency exit door in the Rayburn Building required extensive force and repeated attempts to open. The General Counsel issued a Notice of Serious Deficiency Needing Prompt Attention. The AOC repaired this deficiency and has instituted an inspection regimen requiring the inspection of and testing of all emergency exit doors.

- Blocked stairways and exit corridors

The inspectors found that stairwells in the Supreme Court Building that serve as emergency exit routes for AOC employees were partially blocked by cardboard boxes and paper files stored within a metal file cabinet. This created a dual hazard - blockage and combustible materials.<sup>16</sup>



*Combustible materials being stored in an exit stairwell.*

Similar to others in the building, this stairway is open and does not have

---

<sup>16</sup> During the 2004 inspection, inspectors discovered 11 instances of blocked exit pathways and 16 instances of combustibles stored improperly in egress paths in covered inspected facilities. See \*\*\*\*\*



fire-rated doors to create an effective fire barrier. The AOC advised the OGC that Supreme Court officials did not agree to AOC's suggested renovation.

Many corridors used as evacuation routes by employees in House Office Buildings are also partially, and in some cases nearly totally, blocked by furniture and other obstructions. Furniture stored in this manner is often left to block any path to the exit. In other instances, staff members failed to re-stack the furniture and clear the hallways after they had used the corridors as meeting rooms.

- Emergency lighting and standby power

Standby power and emergency lighting are integral to a number of safety systems, including safe building evacuation, shelter-in-place staging areas, fire alarm systems, fire pump operations, and lighted exit directional signs. In both its 2000 and 2002 Reports, the General Counsel urged design upgrades and increased standby generator capacity in the Capitol Power Plant. See 2000 Report, p. 12; 2002 Report, pp. 23-24. Specifically, the 2004 inspections underscore the need to improve electrical stand-by power to operate fire pumps, fire alarms, public address systems, emergency lighting and alerting network systems, and the operation of elevators to evacuate employees and visitors who are mobility-impaired. Adequate emergency power sources will become even more critical with the opening of the Capitol Visitors Center to the public.<sup>17</sup>

The 2004 Inspection demonstrates that significant improvement is needed in the maintenance and capability of emergency lighting sources and standby power capacity throughout the Legislative Branch. The 2000 Fire Safety Report issued by the General Counsel documented the problems of inadequate lighting. Nevertheless, thirteen locations were identified in this inspection as having insufficient or non-existent emergency exit lighting. The battery-operated lighting units in the USCP Headquarters Building, the K Street Garage, the E Street S.E. Garage, the Longworth House Office Building and the National Library Service for the Blind and Physically Handicapped were found to have burned-out lights or uncharged batteries that needed to be replaced. Due to the lack of adequate maintenance, emergency lighting installations were rendered useless for their intended purpose.

GAO was cited for a lack of emergency lighting in 2002 when it received a Notice of Deficiency from the General Counsel to correct these deficiencies. When no progress was noted during the 2004 inspection, a citation was issued. The GAO has since abated these hazards.

---

<sup>17</sup> The AOC reports in comments to the Draft Report that "the Library Building and Grounds is not included in emergency lighting or emergency power upgrade construction funding in the FY 2006 budget request."



---

- Respirators

In response to a Request for Inspection filed by the USCP Fraternal Order of Police, the OGC continues to study the efficacy of respiratory protection equipment for escape and evacuation during emergency situations. An escape mask is intended only to be used to exit an area in the event of an emergency and, unlike a self-contained breathing apparatus (SCBA),<sup>18</sup> it is not to be utilized in effecting a rescue in a contaminated environment. A mass procurement of the \*\*\*\*\*<sup>19</sup> emergency escape mask was made for most Legislative Branch employees in 2002. After consultation with experts in this field, the OGC made recommendations to the USCP regarding training of employees in the use of such equipment which have been adopted. Within the last year, the Senate Sergeant at Arms has procured a number of \*\*\*\*\*. These devices have been made available to employees with mobility impairment and to U.S. Capitol Police Officers who are assigned to evacuate them during emergencies.<sup>20</sup> Such devices are not meant to be used to rescue people. NIOSH, OSHA, and the U.S. Army Edgewood Chemical Biological Center have raised concerns regarding the suitability of \*\*\*\*\* , and in some tests it was reported that the actual use of the model indicated a shorter operating time than stated by the manufacturer.<sup>21</sup> A multi-agency group composed of NIOSH, OSHA and the OGC are looking into issues concerning the \*\*\*\*\* and its intended use.

The development of emergency escape respirators effective for all chemical, biological, radiological, and nuclear (CBRN) hazards is ongoing and major improvements are anticipated during the next several years. The National

---

18 There are a number of SCBA models that have been approved by NIOSH. Certain designated USCP officers have been trained in the use of SCBA's that were acquired by the USCP in 2004 for use in providing emergency rescue assistance.

19 The \*\*\*\*\* emergency escape mask is considered by experts to be an early version of escape masks for areas potentially contaminated with chemical, biological, radiological or nuclear materials. The \*\*\*\*\* lacks an exhalation valve and people with diminished lung capacities may experience difficulty breathing when wearing one. See "OSHA CBRN Escape Respirators Safety and Health Information Bulletin" (August 2003) and "NIOSH Interim Guidance" (July 2003). After this was discovered, the OGC advised the USCP and training for users was modified to require the donning of the respirator to assure that the user can tolerate wearing it.

20 In comments provided to the Draft Report, the House Employment Counsel represents that \*\*\*\*\* are being distributed to individuals who have voluntarily identified themselves as mobility impaired. Training on the use of VRUs is an ongoing process.

21 In comments provided to the Draft Report, the Senate Employment Counsel disagrees with the Report's conclusions regarding the suitability of \*\*\*\*\*. The SEC contends that \*\*\*\*\* have been "extensively tested" and have been purchased by all branches of the armed forces, many city and state police forces, the President of the U.S., and many Federal agencies including the ATF, CIA, FBI, Secret Service, and State Department. The OGC, however, is concerned about the use of this device because no tests have been conducted with respect to toxic industrial chemicals nor the usual range of human factors such as ease in donning the mask, duration of use, etc.



Institute for Occupational Safety and Health (NIOSH) tests, approves, and establishes minimum quality standards for respirator equipment for use in the workplace. Other governmental entities, such as the U.S. Armed Forces, continue to conduct joint testing with NIOSH in search of more effective masks and respirators. \*\*\*\*\*

The Office of General Counsel will continue to consult with experts in the field and monitor new developments in the manufacture and use of respirators to ensure that employing offices are afforded the best information available.

- Summary

As stated in the introduction to this Section on fire safety, the level of fire safety in Legislative Branch buildings remains far below that of comparable federal and private sector office buildings. According to a Fire Safety Engineer working with the General Services Administration, National Capital Region, Legislative Branch buildings “are where [other Washington-area Federal Buildings] were 25 years ago” in terms of overall fire safety. Conditions attributable to the age, historicity, and construction of a building cannot, of course, be abated without adequate time for planning and execution. Nevertheless, when the GAO was cited for a lack of fire doors in 2004, they abated the violations by March 31, 2005. Current proffers of abatement by the AOC, however, do not anticipate the correction of many similar hazards for many years, some not until 2011.<sup>22</sup>

## **B. Alarm and Communication Systems**

The Life Safety Code and OSHA fire regulations require that workplace alarms “must be capable of being perceived above ambient noise or light levels” and alternatives must be made available for those employees who cannot otherwise recognize audible or visual alarms. 29 C.F.R. §1910.165. Prior Reports have identified systemic problems with Legislative Branch facility alarm systems, including lack of knowledge of operational steps to activate building-wide alarms (1998 Report, p. 17); lack of inspection and testing procedures (1998 Report, p. 17); failure to inspect and test alarm systems (2000 Report, p. 7); and the audibility quality of public address systems (2002 Report, p. 9-10). The 2004 inspection revealed that many of these deficiencies still remain.

---

<sup>22</sup> In comments to the Draft Report, the AOC challenges the comparison with GAO regarding the installation of fire doors. Although different conditions may exist in their respective facilities, it appears to the OGC that GAO addressed this problem with more alacrity than the AOC. Thus, GAO reports that it installed 14 fire doors between 2004-2005. The AOC reports that only one fire door was installed in the Longworth, Cannon, and Rayburn House Office and Russell Senate Buildings since the AOC was cited for this violation in 2000.



---

- Pre-signal sequencing

Under the Fire Code, a fire alarm system is required that activates a general alarm throughout the building to alert occupants of fire or other emergencies in Legislative Branch facilities. OSHA 29 CFR § 1910.165; NFPA 101 Life Safety Code 2000 Edition, §§ 39.3.4.3(a), 9.6.3.<sup>23</sup> There are, however, two exceptions to this requirement. First, a positive alarm sequence is permitted that complies with Section 9.6.3.4; this Section, in turn, references NFPA 72, National Fire Alarm Code, 1999 Edition. NFPA 72, Section 1-5.4.11, allows a three-minute delay in the activation of the general alarm. Trained personnel are allowed up to 180 seconds to investigate and evaluate the fire condition; if the system is not reset by the expiration of this period, all alarms are activated immediately and automatically. The three-minute delay provided by the Life Safety Code is considered a reasonable amount of time before sounding the building-wide alarm in order to permit an investigation to determine whether there is a false alarm.<sup>24</sup>

The second exception permits a pre-signal system in accordance with the Life Safety Code Section 9.6.3.3; that Section, in turn, requires that the initial fire alarm system be automatically transmitted without delay to a municipal fire department and an on-site person trained to respond to a fire emergency.

In December 2004, the U.S. Capitol Police Board decided to put smoke detector and water flow sprinkler alarms<sup>25</sup> in pre-signal alarm status in the Capitol and in all Senate and House Office Buildings with alarm pull stations to remain in pre-alarm status in the Capitol. Alarm pull stations that had previously been put in pre-signal status in all Senate and House buildings were restored to general alarm upon activation. Accordingly, the AOC has reactivated pull stations in the Senate and House Office Buildings,

---

23 In response to the Draft Report, the AOC challenges reliance on the Life Safety Code because it is not an OSHA standard. The AOC claims that the OGC is limited to enforcing OSHA standards. The OGC disagrees with that assessment. In the absence of specific OSHA standards, OSHA itself looks to “consensus” standards, such as the Life Safety Code, to be enforced through the “General Duty Clause”. See Section 5(a)(1) of the OSH Act. More specifically, in regard to fire safety standards, OSHA applies the Life Safety Code to interpret its own performance-oriented standards.

24 The use of a pre-signal procedure was initially approved with respect to smoke detector devices that could be very sensitive and set off even with cigar smoke. See the NFPA 72 code, p. 72-13 of the 1999 edition, and p. 72-15 of the 2002 edition. Typically, however, there should be no similar need to delay fire sprinkler water flow alarms since they are designed to activate when the presence of substantial heat or fire is sensed. While in the past there have been very limited occasions when water pressure surges may have caused water flow alarm activation in Legislative Branch buildings, this condition could be obviated by the installation of proper check valves to minimize these water surges.

25 Water flow alarms detect the movement of water inside the sprinkler system’s pipes, thereby triggering an alarm signal.



but left them on pre-signal in the Capitol. The Office of Compliance was not consulted concerning the foregoing changes.

Under a pre-alarm sequence, all alarm activations, whether from a smoke detector or water flow alarm, first show up at the fire alarm panel and then are directed to the USCP Police Communications Center (PCC) instead of triggering a general alarm. The PCC dispatches officers to investigate the source of the alarm to determine whether there is a need to sound a building-wide alarm. This process delays the initiation of several significant preventive measures - the closing of fire doors, the notification of the District of Columbia Fire Department, and, most important, the notification to employees and visitors through the sounding of a general alarm to promptly vacate the building. These delays typically exceed the three (3) minute delay permissible under the Fire and Safety Standards established by OSHA, as discussed above. The National Association of Fire Protection reports that fires can double in size per minute. NFPA Fire Protection Handbook (18th Edition), pp. 1-85 -1-86.

The procedures followed in the House and Senate Office Buildings do not comply with either exception to the Fire Code requirement (discussed above) that a fire alarm system automatically activate a general alarm throughout the building to alert occupants of fire or other emergencies in Legislative Branch facilities. The systems do not provide a positive alarm sequence because the alarms are not immediately and automatically activated upon the expiration of 180 seconds. NFPA 72, National Fire Alarm Code, 1999 Edition, Section 1-5.4.11. Rather, the current procedure requires human intervention to activate the general building-wide alarm. Nor does it constitute a compliant pre-signal system since the initial fire alarm signal is not “automatically transmitted without delay” to the DC Fire Department. NFPA 101 Life Safety Code, Section 9.6.3.3.

Moreover, in practice, the use of pre-alarm procedures in the Senate and House Office Buildings in some instances causes increased and unacceptable delays in notifying building occupants of potential dangers and the need to evacuate. During the 2004 inspection, USCP officers estimated that in some Senate Office Buildings it would take up to 15-20 minutes for them to be able to locate the smoke detector, water flow alarm, or pull station and ascertain whether a condition existed that warranted sounding a general alarm in order to evacuate the building. Given the larger size of the House Office Buildings, the time needed to investigate in those facilities could take at least as much time as that required in the Senate Office Buildings.

While the restoration of pull alarms in the Senate and House Office Buildings to general alarm status is a positive step, the continuation of sprinkler water flow alarms and smoke detectors on pre-signal in the Senate



and House Office Buildings is of great concern.<sup>26</sup> The delays created by the pre-signal sequence pose particular dangers to employees and visitors with physical impairments. Because of the large crowds of visitors, many of whom are students and families with young children and are unfamiliar with exit pathways and evacuation procedures, undue delay in signaling the existence of a potential fire emergency appears unwarranted. This is particularly true given the dearth of evidence of a history of intentional false alarms in these facilities.

The conditions that exist in several of these buildings bring added urgency to prompt notification to building occupants. The Russell Senate Office Building, the Longworth House Office Building, and the Capitol all are essentially one fire zone buildings, a structural condition that allows the spread of smoke and toxic gases to easily travel from one floor to another. There are no effective fire barriers to block or retard the growth and spread of fire and associated toxic gases and smoke. Employees on the upper floors and those who are disabled will be at the greatest risk as the heat from a fire will drive these gases and smoke into the top levels via open exit stairways and other vertical openings within these buildings. Even in buildings with partial fire sprinkler coverage large quantities of smoke and gases can be generated from a moderate sized fire; while the sprinklers may retard the growth of the fire they may be unable to extinguish it. The situation may also be exacerbated by the presence of large quantities of paper and other combustibles within these buildings. In sum, the earliest possible notification to building occupants of a potential fire emergency is essential if they are to have sufficient time to promptly and safely evacuate these facilities.

- Covered smoke detectors

The dangers associated with the pre-signal sequencing described above are compounded by the continuing problem of covered smoke detectors. The inspection team found that at least seven smoke detectors throughout Legislative Branch facilities were covered at some time in the past for construction work and the covers were not removed when the work was completed. These failures rendered the detectors ineffective as an early warning system.



*Capped smoke detector.*

<sup>26</sup> The AOC Fire Marshall has endorsed the use of the pre-signal sequence in the Capitol where there is a larger number of trained officers on duty to enable them to complete an investigation within 3-4 minutes.



- Visual alarm systems

The 2004 inspection team found that some Legislative Branch fire alarm systems have been modified to install visual alarm devices to aid in the emergency warning of the hearing-impaired as required by the Life Safety Code. Several buildings, including the Construction Management Division Building at Blue Plains, the Russell and Hart Senate Office Buildings Garage, and the Supreme Court Building, have not yet upgraded their audible alarm systems. A partial installation now exists in the Capitol Building.

- Lack of fire alarm systems

Following the 2002 inspection, the General Counsel issued a Notice of Deficiency to the AOC for the lack of any fire alarm system in the Construction Management Division Building. The 2004 inspection revealed that an audible-only alarm system has since been installed. The AOC has been advised that the lack of any alarm system in the E Street Garage constitutes a violation of the Life Safety Code.

The Director of the Office of Security and Emergency Preparedness for the LOC recently reported that an updated public address system is scheduled to be installed in LOC buildings by 2006. See “LOC Unveils Revised Evacuation Plan,” Roll Call, June 15, 2005: p. 3.

### **C. Evacuation of Employees and Visitors with Disabilities**

The public services and accommodations provisions of the ADA, OSHA, and NFPA provide equal access rights to employees and visitors with disabilities. See Section 210 of the CAA, 2 U.S.C. §1331.<sup>27</sup> These rights relate, in part, to health and safety matters, including equal access to safe evacuation procedures during emergencies. Thus, if provision is made for the evacuation of visitors without disabilities in the event of an emergency, evacuation plans must also be developed to assure the prompt evacuation of visitors with disabilities as well.

While there are elements in common between OSHA and ADA requirements with respect to the safe evacuation of both visitors and employees with disabilities, the following discussion focuses on Legislative Branch employees.

---

<sup>27</sup> The General Counsel reports to Congress on the status of compliance with these provisions of the ADA in a separate Biennial Report.



---

- Emergency egress of persons with disabilities

Several deficiencies were identified during the 2004 inspection that adversely affect the ability of employees with mobility-impairments to safely and promptly evacuate Legislative Branch buildings. These deficiencies include the lack of fire barriers in stairwells and the absence of adequate fire-rated doors, pre-signal sequencing of alarm systems,<sup>28</sup> limited accessible egress points, inappropriately situated staging areas, absence of accurate wall maps displaying emergency information, and lack of communication capabilities to notify the PCC of employees with disabilities requiring assistance at staging areas.

The lack of fire barriers and adequate fire doors poses a unique risk for the mobility-impaired since they frequently require longer periods to evacuate during an emergency evacuation, or must wait for assistance from co-workers or emergency responders. Therefore, any delay in sounding a building-wide alarm creates a substantially greater risk for these employees; these dangers are not merely hypothetical. Since January 2003, fifty actual penetrations of prohibited airspace over the Capitol and White House have occurred. See Submitted Testimony of Wilson Livingood, House Sergeant at Arms Before the Committee on House Administration, United States House of Representatives (June 9, 2005). Any one of these penetrations could have led to an evacuation of Capitol Hill buildings such as that prompted during the State Funeral for former President Reagan and during the recent evacuation on May 11, 2005.

Many employees with mobility impairments have the ability to move themselves to safety when faced with a situation requiring evacuation. However, several impediments to safe and prompt egress were found by the inspection team. One is the lack of accessible egress discharge points. OSHA regulations require that at least two separate exits must be available for emergency evacuation of employees. 29 C.F.R. §1910.36(b)(1). These routes must assure the safe evacuation of each employee. Since employees with disabilities, such as those in wheelchairs, may require special accommodation in order to safely evacuate a facility, the exit route must be configured to meet their particular needs. OSHA requirements for accessible egress routes are specified in the National Life Safety Code and are the same as provided in the ADA regulations.<sup>29</sup>

Deficiencies in the provision of safe evacuation routes for employees with disabilities were identified during the 2004 inspection. For example, \*\*\*\*\*

---

<sup>28</sup> Discussion of these issues is addressed in greater detail in other Sections of this Report. Please see Section II.A for a discussion on stairwells and fire doors, and Section II.B regarding pre-signal sequencing.

<sup>29</sup> See 29 C.F.R. §1910.35 - "an accessible means of egress should comply with the accessible route requirements of CABO/ANSI A 117.1, *American National Standard for Accessible and Usable Buildings and Facilities*; see also NFPA 101 Life Safety Code 2000 §A.7.5.4.1.



\*\*\*\*\*  
\*\*\*\*\* A number of areas could be modified to create additional accessible discharge points from the building. \*\*\*\*\*

\*\*\*\*\* Another ramp on Constitution Avenue is too steep and does not have compliant handrails that are designed to allow employees in wheelchairs to grasp the handbars. This design flaw could easily create a backup for those attempting to escape or injury to wheelchair users in the event they should use this ramp as an escape route in an emergency. Accordingly, this exit should be posted with signage warning that the exit should not be used by employees in wheelchairs in the event of an evacuation.<sup>30</sup> The curb cuts on the North side of the Dirksen Senate Office Building also are too steep and create a similar hazard for wheelchair users. In a recent interview with *The Hill*, Representative Jim Langevin of Rhode Island expressed concern about the lack of accessible ramps from the House Chambers in the Capitol Building that limits the number of exits for individuals who are mobility-impaired. See “People with Disabilities Told to Wait at Stairs in an Evacuation,” *The Hill*, June 1, 2005.

The absence of wall maps is another significant impediment that may hinder the evacuation of employees with mobility-impairments. Wall maps provide necessary emergency information such as directions and accessible exits for an evacuation. The failure to post and communicate emergency exit routes was noted in the first Biennial Report issued in 1996. See 1996 Report, p. 11. In several buildings, wall maps are available, but are not current.

- Staging areas

Employees awaiting assistance to leave the building during an evacuation must be provided safe assembly areas until help arrives. While not compliant with the Life Safety Code provisions that require protected

---

30 In existing facilities, the removal of structural barriers to access is required under Title III of the ADA when their removal is “readily achievable”. Examples of barrier removal considered to be “readily achievable” includes the construction of compliant curb cuts at sidewalks and entrances, installing ramps, widening doors, and installing accessible door hardware.



areas of refuge”,<sup>31</sup> certain assembly areas in Capitol Hill buildings have been designated as “staging areas” for employees with mobility-impairments. In order to serve their intended purposes, these staging areas should, to the extent possible, provide protection from smoke and toxic gases, emergency lighting that will operate during a power outage, and modified communications systems that allow use by employees who are vision, hearing, or speaking impaired to call for assistance. See NFPA 101-2000, Life Safety Code §7.2.12.3.4, §7.9.2.1, §7.2.12.2.5. In the Capitol and Longworth House Office Buildings, landings near open stairways have been designated as staging areas. These locations carry greater risk than areas that are more protected because the chimney effect of heat and toxic gases could rapidly overwhelm employees waiting for assistance. The landings also are part of the evacuation route for the vast majority of employees in these buildings. During an emergency the increased traffic could overwhelm these areas and create an additional hazard for employees waiting for needed assistance.

The age and design of the House and Senate Office Buildings do not afford many options for safe and effective staging areas. Some buildings, however, do have properly located staging areas. For example, the Russell Senate Office Building provides two designated areas - one as the primary and the other as the backup if the first location is compromised. They are located close to freight elevators that will be operated by USCP Officers with a key during an emergency in order to control access. However, the Russell staging areas still would allow smoke and toxic gases to easily rise from floor to floor.

- Communication systems

In order to assure safe rescue, staging areas must provide a means of communication so that employees with disabilities can be made aware of the need to evacuate or for the employees to notify emergency responders that they are in need of assistance. NFPA 101-2000, Life Safety Code § 7.2.12.2.5; See also, 28 CFR Pt. 36 App. A §4.3.11.4. Communications systems must be within reach of those in wheelchairs and must signal the

---

<sup>31</sup> The Life Safety Code provides for “areas of refuge” as part of a required accessible means of egress from buildings during a fire emergency. NFPA 101-2000, Life Safety Code § 7.2.12. An area of refuge is defined by the Code as “a space located in a path of travel leading to a public way that is protected from the effects of fire, either by means of separation from other spaces in the same building or by virtue of location, thereby permitting a delay in egress travel from any level.” Life Safety Code §3.3.14(2). The Code sets forth certain requirements for an area within a building to constitute a Code-compliant area of refuge. See Code § 7.2.12. Because many of the buildings on Capitol Hill do not meet the requirements necessary to provide adequate areas of refuge, the USCP has designated areas within these buildings where individuals with mobility-impairments go to await the arrival of officers or other rescuers to assist in evacuating them as “staging areas” rather than areas of refuge. Most Capitol Hill buildings are not protected throughout by an approved, supervised automatic sprinkler system, and buildings, such as the Capitol, and the Longworth and Russell office buildings do not meet basic Life Safety Code requirements, such as enclosed stairwells. Accordingly, every effort should be made to promptly upgrade existing conditions in staging areas to meet, to the extent possible, the standards required for areas of refuge, and to minimize time spent in these areas by individuals with mobility-impairments to assure that they are evacuated as soon as possible.



location to the responders for those employees who are unable to speak. Most designated staging areas currently do not provide these capabilities.

Problems of this nature are not isolated to the Legislative Branch, however. In a report released on April 15, 2005, the National Organization on Disability (NOD) noted that employees with disabilities are routinely left out of emergency preparedness and evacuation planning. The NOD also reported that nationwide only 16 percent of employers provide information in a format that is usable by those employees with vision or hearing impairments. To this end, the AOC has made some progress installing visual strobe alarms to accommodate the hearing-impaired, and the LOC is providing vibrating pagers to employees with vision and hearing impairments.

- Training

Employing offices are responsible to appropriately train those individuals who alert and assist persons with disabilities. Specific training is needed in the proper operation of special equipment and how to communicate instructions to employees with vision and hearing impairments during an evacuation. Recent fire drills in the Senate Office Buildings, for example, have included practice in the use of freight elevators to assist in the evacuation of employees with disabilities.

During an evacuation of Library of Congress buildings on May 11, 2005 (that post-dates the 108th Congress but is indicative of problems identified by the OGC inspection team), employees who had volunteered to evacuate other employees requiring assistance were directed to evacuate the building ten minutes after an alarm was sounded. This action had the effect of stranding employees who required assistance. Union representatives alleged in a Request for Inspection that elevators that could have been used by employees with mobility-impairments for evacuation were taken out of service by the emergency personnel and sent to the exit level. This matter is currently under investigation by the OGC.

#### **D. Fire Sprinkler Systems**

Next to early warning alarms, the most important means of protecting the lives of Legislative Branch employees from the hazards of fire, smoke, and toxic gases is the presence of an effective fire sprinkler system. As already noted, effective systems contain a water flow alarm that detects the movement of water inside the system's pipes, thereby triggering an alarm signal. 29 C.F.R. §1910.37(a)(4).

- Lack of sprinkler systems

A continuing problem, mentioned by the General Counsel in the initial *advancing safety, health, and workplace rights in the legislative branch*



1996 and subsequent Reports, is that many Legislative Branch buildings are not protected by fire sprinkler systems. 1996 Report, pp. 11-12. The 2004 inspection revealed significant improvements in this regard. The AOC has expanded fire sprinkler coverage to the Rayburn HOB, parts of the Capitol, and the Power Plant Administration Building, and has installed new fire pumps to enhance the effectiveness of existing sprinkler systems. However, as discussed in Section II.B. above, the inspection team was particularly concerned about the delays occasioned by the pre-signal features of the House and Senate Office Buildings water flow sprinkler and smoke detector alarm systems.

In other facilities, the deficiencies are more pronounced. Sprinkler systems have not been installed in at least one new building, the USCP Cheltenham Training Center, and one existing building, the E Street Garage. Other buildings, such as the National Library Service for the Blind and Physically Handicapped, garages, and the loading dock areas have only partial coverage. \*\*\*\*\*

\*\*\*\*\* Many Capitol Hill buildings have some or most of their areas covered by a sprinkler system. However, most still have areas that are not covered. To encourage building owners to install sprinkler systems, the Life Safety Code exempts from certain safety requirements when a building is fully sprinklered. For example, existing business buildings with complete sprinkler coverage may increase their common path of travel from 75 feet to 100 feet and the acceptable exit travel distance is increased to 300 feet rather than 200 feet.<sup>32</sup> Buildings that have complete sprinkler coverage are also exempted from having to provide areas of refuge. However, buildings lacking complete sprinkler coverage or basic Life Safety Code compliant conditions are not entitled to any of these exemptions.

- Blocked sprinklers

The 2002 Report expressed concern that instances of blocked and obstructed sprinkler heads were found in all inspected Legislative Branch facilities. 2002 Report, pp. 34 - 36. While some progress has been made in complying with the OSHA and NFPA standards, the inspection team found 86 instances of obstruction and failure to maintain the required eighteen inches of separation between the sprinkler heads and obstructions. See 29 C.F.R. §1910.159(c)(10); NFPA #25, §2-2.1.2. Most of these obstructions provided no clearance whatsoever.

---

<sup>32</sup> Most Congressional office buildings serve a dual purpose. They contain both offices and hearing and committee rooms. When hearings occur and large numbers of people are present, the fire zone within which the hearing room is located is considered an assembly area under Fire Code requirements. In buildings like the Longworth HOB that lack fire barriers, the entire building is considered to be a single fire zone. Therefore, the Longworth HOB (and other buildings used in the same manner) must meet the requirements for an existing assembly occupancy rather than the less stringent requirements for a business occupancy. The Life Safety Code requirements are more stringent for assembly occupancies (Section 6.1.13.2). For example, the travel distance for assembly occupancies decreases to 150 feet. In any event, the Longworth HOB does not meet travel distances for either business or assembly occupancies.



*Combustible materials stored above sprinkler heads.*



### **E. Electrical Hazards**

Electrical hazards have been identified by each OGC inspection team dating back to the initial Report in 1996. Using a more comprehensive approach, the 2004 inspection team tested nearly every accessible electrical outlet in the areas inspected. The electrical deficiencies identified were systemic and serious. Workplace electrical hazards are identified in the National Electrical Code and OSHA Regulations at 29 C.F.R. §1910.301 et seq. Unabated electrical hazards pose a direct physical danger to individual employees and a general fire danger to Legislative Branch facilities.

Of particular note is the fact that the General Counsel issued 17 Notices of Serious Deficiency Needing Prompt Attention as a result of the 2004 inspection. Nine of those were for electrical-related hazards. Several of these problem areas are discussed below.

- Electrical boxes, outlets, and switches

The inspection team identified 170 hazardous electrical boxes, outlets, and switches with exposed, energized wires. Many of these wires were within employee reach. A majority of these hazards qualified as RAC 2 in severity requiring prompt correction. Several qualified for RAC 1 in severity requiring immediate attention. As discussed in the Executive Summary of this Report, the number of high RAC ratings is surprising. See Section I.D. A Notice of Serious Deficiency Needing Prompt Attention was issued to the AOC for an open electrical box inside a dark area with exposed and energized wires hanging from a low ceiling in the E Street Building. This hazard was promptly abated by the AOC.





*Blanks missing in electrical panel exposes employees to live contacts.*

Hazards of this type were specifically noted in the 1998 and 2002 Reports. 1998 Report, p. 21; 2002 Report, pp. 39-40. Many remain unabated.

- Impeded access to electrical panelboards

In the event of emergency, it is imperative that electricians and other authorized individuals be able to identify where electrical panels are located and to access them quickly. The panelboard itself must provide an accurate, current directory of its circuits. Earlier Reports identified numerous instances where access to electrical panelboards was impeded by the inappropriate placement of furniture. 1998 Report, p. 24. In 2004, the inspection team still found instances where stored materials, equipment, or furniture blocked the front of electrical panels. More widespread, however, was the finding that the circuit breaker directories in most panelboards were not current in identifying newly-added circuit breakers, while others had no directory at all. Violations of this nature were found at 123 different locations. Significant improvement is necessary to ensure access to the panelboards and to maintain the circuit directories.

- Ground fault circuit interrupters

Ground fault circuit interrupters (GFCI) protect employees from electrical shock hazards when working around or near wet or damp locations. Without a GFCI, a faulty electrical appliance could deliver a fatal shock. The installation of GFCIs on outlets is relatively simple and inexpensive. However, the 2004 inspections found that 120 locations needed the installation or replacement of faulty ground fault circuit interrupters. Three Serious Deficiency Needing Prompt Attention Notices were issued to the AOC in this regard.

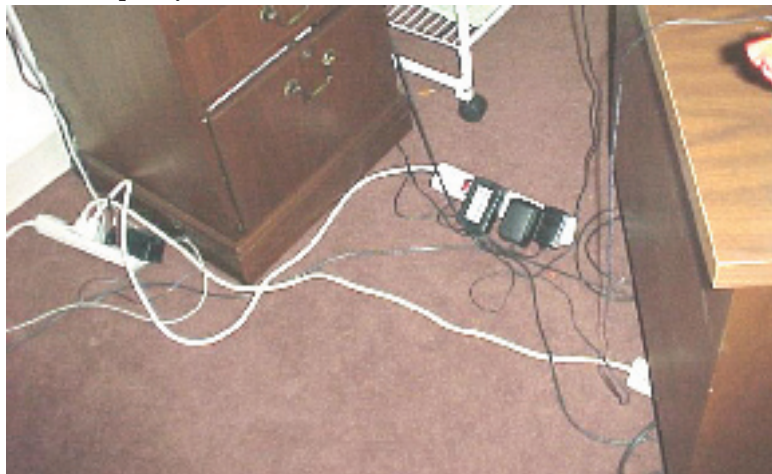


*Electric outlet near sink is not a ground fault circuit interrupter (GFCI).*

The 2002 Report addressed the importance of installing GFCIs throughout Legislative Branch buildings. The 2004 inspection revealed an overall increase in their number. However, the number of hazard findings indicates that further improvement is necessary. In particular, all employing offices must incorporate periodic inspection and maintenance of these important safety devices.

- Extension cords, power cords, and plugs

The 2004 inspection revealed a continuing practice in all inspected facilities that creates a significant fire hazard. A total of 450 locations were found to be using extension cords as permanent wiring or creating a “daisy chain” wherein power strips or surge protectors were linked to extend their reach or increase capacity.



*Daisy chain of power strips to create additional outlets.*

Both of these conditions violate the National Electrical Code and OSHA requirements. 29 C.F.R. §1910.303 and NFPA 70-1999, §305-3. These *advancing safety, health, and workplace rights in the legislative branch*



standards establish that extension cords may not be used as permanent wiring and their use may not exceed a 90-day period. According to the National Fire Protection Association, electrical distribution equipment, such as extension cords, was the second leading cause of fire deaths in the U.S. between 1994 and 1998, causing 91 deaths and \$116 million in direct property damage.

Specific situations appear to lend themselves to the misuse of extension cords. For example, obsolete modular workstations are used in many areas of the USCP Headquarters Building. These workstations no longer contain the original electrical fixtures. Therefore, power was provided to these modular units by an array of extension cords. Such use of extension cords as permanent wiring is improper. The Government Accountability Office also had an excessive number of extension cord violations. Of the 373 instances of improper use of extension cords, 137 occurred in GAO offices. As a result, a Serious Deficiency Needing Prompt Attention Notice was issued to the GAO for its excessive use of extension cords as permanent wiring. GAO has since abated this deficiency and made major efforts towards procuring power strips and surge protectors to replace extension cords. The Chief Administrative Officer (CAO) of the House and the AOC have committed to procuring longer power strips and surge protectors to obviate the need to create unsafe chain extensions in other facilities.

The large number of violations regarding power cords is significant. The 2004 inspection covered only 25% of the square footage of Legislative Branch facilities, and did not include the offices or hearing rooms in the House and Senate. Violations of this nature are typically found in such office settings.

Similar to the problems noted with extension cords, the 2004 inspection team found a continuing problem with electrical powered equipment having damaged power cords or three-prong plugs missing the third ground prong. Both of these conditions create a significant risk of electrical shock. Most electrical devices are designed so that when a fault or short occurs, the current is carried back to the breaker box through the safety ground wire, the third prong. If the ground wire is missing, the current grounds through another source - typically the user of the device. One or both of these hazards were found in 190 pieces of electrical equipment. The risk from these hazards is not insignificant, but the correction is typically simple. In most cases where a deficiency was noted in the plug or cord, the employing office representative voluntarily corrected it promptly during or immediately after the inspection.

- Portable space heaters

The 2004 inspection team noted a widespread problem regarding the use of portable space heaters in a variety of Legislative Branch buildings. Prior



Reports did not specifically address this issue. In 2004, the General Counsel noted 82 violations regarding the use of heaters that were either not certified or defective. Typically, the OGC inspection team found portable heaters in use under desks in close proximity to or touching paper files and other combustible materials. Some were found with metal sides rusted through, others with defective electrical cords that had been taped, and still others were plugged into unapproved extension cords. Several were found abutting melted plastic wastebaskets.

Approved commercial portable space heaters are equipped with a “tip-over” switch that shuts off electrical current to the device when it falls over, thereby preventing carpet and paper fires. Portable heaters without this feature have caused many fires in homes and businesses. For example, at the time of the drafting of this Report, a George Washington University student apartment suffered a devastating and fatal dormitory fire that was caused by a defective portable space heater.

- Desk fans

Prior inspection teams and Reports also did not address the appropriate use of smaller electrical equipment, such as portable desk fans. The use of small electric devices create a significant hazard in the workplace when not properly maintained. Many of these are older models with wide openings that can significantly injure the fingers and toes of employees. The 2004 inspection team found five defective portable fans with face-guards that were either substandard, damaged, or removed.<sup>33</sup>

One of the primary purposes of the Occupational Safety and Health Act is to limit the exposure of employees in the workplace to controllable health hazards. 29 C.F.R. §1910, Subpart Z (Toxic and Hazardous Substances). To this end, the Office of General Counsel monitors these conditions in its periodic inspections pursuant to Section 215(e) of the Congressional Accountability Act and through investigations initiated upon the written request of a covered employee pursuant to Section 215(c). 2 U.S.C. §1341(c),(e).

### **III. Health Hazards and Compliance**

#### **A. Events Involving Chemical and Biological Agents**

The 2001 terrorist attacks on New York, Washington, D.C., and Pennsylvania brought emergency preparedness to the forefront of Capitol Hill and Legislative Branch realities. 2002 Report, p. 3. The threats posed by chemical and biological terrorism continue to pose a significant potential health hazard to all employees of the Legislative Branch. It is

---

<sup>33</sup> OSHA mandates that the openings in workplace fans may not exceed 1/2 inch in diameter or width. 29 C.F.R. §1910.212(a)(5).



therefore necessary for all employing offices to achieve full compliance with the requirements for written procedures, training and personal protection equipment (PPE) established by OSHA to protect emergency responders and employees in the event of any incident involving the release of chemical and biological agents. 29 C.F.R. §1910.120(q). These requirements were established in 1989 by Congressional mandate.

In 2004, the Department of Homeland Security mandated that all emergency responders be trained in the National Incident Management System (NIMS). The goal of the NIMS is to foster communication and coordination between separate emergency response agencies. For Capitol Hill, the Unified Command Group includes the United States Capitol Police, the Federal Bureau of Investigation, the Senate Sergeant at Arms, the House Sergeant at Arms, and the District of Columbia Emergency Preparedness Director.

The General Counsel has issued several citations to address deficiencies in the actions and procedures employed by the USCP in its response to and procedures regarding chemical and biological incidents. The USCP was cited in 2002 for exposing its officers and others to potential anthrax contamination during the response to the anthrax incidents of 2002. See 2002 Report, p. 12. The Report noted, however, that the OGC and the USCP had not reached an understanding regarding the conditions under which the USCP would provide information deemed to be security-sensitive by the USCP. The parties recently entered into a memorandum of understanding that defines the conditions under which the USCP will provide access to USCP information that the USCP asserts is security-sensitive.

Four Requests for Inspection were filed in 2003 and 2004 by the USCP Fraternal Order of Police, on behalf of its bargaining unit members regarding chemical or biological emergencies. One Request alleged confusion of roles between the USCP and LOC Police in responding to emergencies of this nature. The General Counsel's investigation outlined the apparent deficiencies in the coordination efforts between the two agencies. Most suggestions offered by the General Counsel were adopted. The most significant improvement resulted from an agreement between the USCP and LOC Police that the USCP Hazardous Devices Unit (HDU) will respond to any suspicious package emergencies within any LOC building.

Other Requests filed by the LOC's FOP focused on the LOC Police's response to the release of unknown chemical substances. In some incidents, LOC Police Officers were sent as escorts of contaminated victims to the health unit without protective equipment to protect them from contamination. In other incidents, the Police Officers were ineffective in controlling the spread of contamination when exposed victims left the contamination scene to proceed to the Health Unit without assistance or containment. In others, areas where suspect substances were released were



cleaned before samples could be saved and evaluated to determine their nature in order to develop an appropriate response plan.

The extent to which the USCP has made improvements for the protection of its officers and to its procedures for responding to such emergencies is presently unknown to the General Counsel. Because it views such information to be security sensitive, the USCP denied OGC access to its abatement schedules and emergency plan procedures for responding to chemical and biological incidents. However, as noted, the parties have recently agreed upon procedures whereby the USCP will provide the OGC with access to security sensitive documents.

## **B. Methylene Chloride**

Methylene chloride is a volatile chemical that has been used as a stripping agent and industrial lubricant. Since 1998, its use has been strictly regulated by OSHA because of its carcinogenic nature and the knowledge that it causes respiratory distress, depresses the nervous and cardiovascular systems, damage to the liver and kidneys, and eye irritation. For this reason, the use of and exposure to methylene chloride is subject to strict monitoring and exposure control requirements. See 29 C.F.R. §1910.1052.

As part of the 1998 Report, the OGC inspection team recommended that the AOC and the Senate Sergeant at Arms furniture refinishing shops substitute non-toxic furniture strippers in place of the methylene chloride-based agents used at that time. See 1998 Report, p. 35. If methylene chloride is used, the specific procedures established by OSHA must be strictly followed. The AOC committed to phasing out all use of this chemical.

During the 2004 inspections, the inspection team found methylene chloride still in use in four AOC work areas and being used improperly. The AOC's Construction Management Division (CMD) was found to be using a furniture stripper containing large amounts of methylene chloride for the purpose of stripping old paint and varnish from large doors. The OGC team identified several additional problems: employees were unaware of the hazardous nature of the chemical and had not been advised to wear protective equipment to prevent inhalation or skin absorption; the AOC safety manager was unaware that the chemical was being used within the CMD; and the ceiling exhaust vents to the ventilation system located over the work area resulted in the chemical vapors being pulled from the work table, directly past the employees' breathing zone.

The inspection team also found methylene chloride still being used as a carpet softener in the Senate AOC carpet shop and as a lubricant in the E Street Garage. Employees in both of these work areas were not aware of the serious health hazards associated with the chemical. No Material Data Safety Sheet (MSDS) as required by 29 C.F.R. §1910.1200



was available for the methylene chloride lubricant in the E Street garage. Additional containers of chemicals containing 90% methylene chloride were found in the U.S. Capitol Building paint storage area. The Senate's chemical supplier had twice been requested to send a correct MSDS; an incorrect one was sent on both occasions. This hazard is significant because the MSDS informs employees of what chemicals are present, how they should be handled, and what precautions to employ should a cleanup be required.

The General Counsel determined that these deficiencies warranted a RAC 1 rating requiring immediate abatement. Two Notices of Serious Deficiency Needing Prompt Attention were issued to the AOC. As a result, the AOC has represented that it removed all methylene chloride-based chemicals from its inventory and switched to the use of safer substitutes.

### **C. Hazard Communication**

The General Counsel's inspection team found as part of the 2004 inspection that many work areas and employing offices throughout the Legislative Branch continue to use hazardous chemicals. Many of these work areas did not have any, and most did not have all, material safety data sheets required by 29 C.F.R. §1910.1200. Absent readily accessible MSDS sheets, employees working in these areas may not be aware of the hazards posed by the chemicals and the means they can and should employ to protect their health and physical well-being.

The MSDS is one of the most effective and efficient preventative measures available to protect employees from the hazards that these chemicals pose. For the most part, the MSDS is available for viewing on and downloading from the manufacturer's website. Under OSHA standards, an MSDS must provide a minimum set of information for each chemical, such as maximum allowable health exposure levels, the specific hazards associated with exposure to the chemical, and the types of protective clothing and equipment that should be used when handling or using the chemical. Typically, an MSDS recommends methods for the clean-up of releases or spills, as well as instructions regarding how to store and transport the chemical.

Both the 1996 and 1998 Reports identified serious deficiencies in employing offices communicating adequate information with regard to hazardous chemicals being used by employees. These failures were found to be widespread and significant. See 1996 Report, pp. 18-19; 1998 Report, p. 33. The 1998 Report specifically criticized employing offices for making little improvement in the training of their employees regarding the identification and use of hazardous chemicals. The Report noted in particular that employees exposed to hazardous chemicals in the work environment exhibited little knowledge of the hazards of the chemicals



they used. 1998 Report, p. 34. A citation was issued to the AOC in March 2000.

The current periodic inspection identified 34 documented violations of the requirement to communicate hazards to employees. Even where MSDS sheets were found, many were out of date. Such violations constitute a RAC 2 hazard. As discussed above, a RAC 2 hazard is one in which a serious illness is likely to occur, resulting in a permanent partial or temporary total disability injury if not promptly abated. See Appendix D, OOC Guidelines for Risk Assessment Codes (RACs).

The first step in abating these hazards is to assure that current MSDSs are made available wherever hazardous chemicals are used. Interviews with employing office representatives revealed that MSDS's were typically not available because the representative had failed to print or update the current sheet. The second step is to ensure that employees are made aware of the existence of the MSDS and to provide training in the specific hazards posed by the chemicals they use.

#### **D. Asbestos**

Most Legislative Branch buildings on Capitol Hill were constructed during a time when asbestos was used in construction to enhance fire safety. Asbestos was used in floor tiles, ceiling tiles, pipe lagging, insulation for large boilers, sheet rock embedded plaster, and mixed into concrete and flooring materials. As a consequence, materials used in buildings constructed during this period are presumed to contain asbestos unless they are sampled and proven to be free from asbestos or within permissible limits. 29 C.F.R. §1910.1001(b).

During the 108th Congress, the General Counsel identified a number of instances of non-compliance regarding the identification and control of asbestos and protective steps required for the removal of asbestos materials. Most of these instances came to the attention of the General Counsel as a result of employee and labor organization Requests for Inspection pursuant to Section 215(c) of the Congressional Accountability Act. 2 U.S.C. §1341(c). Several others were also discovered during the periodic inspection.

- Identification and control of asbestos

One Request for Inspection was filed regarding deteriorating floor tiles in the LOC photo-duplication facility. An OGC safety and health inspector sampled the tiles and discovered that they were asbestos containing materials (ACM). Other materials in the work area were considered to be "presumed asbestos containing materials" (PACM) as defined in 29 C.F.R. §1910.1001(b). Fortunately, testing of the air





samples indicated that the ambient exposures from these materials did not exceed permissible limits. However, the LOC and AOC were notified that they had failed to “exercise due diligence in informing employers and employees about the presence and location of asbestos containing materials and PACMs”. 29 C.F.R. §1910.1001(j)(2)(I). The United States Public Health Service Federal Occupational Health Agency under contract with the AOC completed a comprehensive asbestos survey throughout the Jefferson and Adams LOC Buildings, including the Photo-Duplication Shop. The Public Health Service advised AOC officials that asbestos was present in the tiles. This information was not provided to employees in the Photo-Duplication Shop.<sup>34</sup> OSHA regulations require that such notices be clearly posted and specifically inform employees which materials are ACM or PACM. 29 C.F.R. §1910.1001(j)(2)(I), §1910.1001(j)(2)(iii).<sup>35</sup> Employees who perform housekeeping and routine maintenance duties have a particularized need for this information. In this particular case, the employees performing these duties suspected that the tiles might contain asbestos and employed the only preventive measures available to them, such as using wet mops rather than sweeping to clean the floor.<sup>36</sup>

As part of another employee-requested inspection, an OGC industrial hygienist discovered a serious health hazard in the AOC’s asbestos program procedures. Under the AOC’s procedures, any samples containing less than one percent asbestos were declared to be “asbestos free” and thereby exempted from the use of any special precautions during removal operations. OSHA has issued public notices advising that even materials containing less than one percent asbestos will still produce dangerous levels of airborne levels of asbestos fibers during certain removal operations. As a result, the General Counsel directed the AOC, and the AOC agreed to revise its program directives and retrain any employees who perform duties relating to or involving asbestos removal.

During periodic inspection of the hazardous materials area of the Capitol Building, an OGC inspector discovered an air mover fan connected to an air duct by a suspicious white cloth material. Analysis of the material revealed that the material was comprised of 100% asbestos. The inspector was concerned that these fibers could be released into the hazardous materials

---

34 In response to the Draft Report, the AOC asserts that AOC officials provided a copy of the asbestos survey to LOC officials and thereby fulfilled its obligations. However, pursuant to 29 C.F.R. § 1910.1001(j)(2), the AOC as a “facility owner” is specifically required to inform both employers and employees about the presence of ACM and PACM.

35 In response to the Draft Report, the LOC asserts that “no fibers were detected”. Even if no fibers were detected, the employing office is not relieved from its obligations to minimize the potential exposure to employees regarding the presence of “presumed” asbestos containing materials.

36 In response to the Draft Report, the LOC asserts that its cleaning contractors were aware of the presence of asbestos floor tiles. However, in this case, the work was performed by LOC employees, not contractors.



area. The AOC promptly replaced the connector with a non-asbestos material upon notification of this condition by the General Counsel.

- Asbestos removal operations

Employees involved in construction projects are frequently concerned about the presence of asbestos in floor tiles that are to be removed. In many such situations, hazardous levels of asbestos are released when tiles are broken. It is not surprising, therefore, that the OGC received six Requests for Inspection regarding operations where material suspected of containing asbestos was being removed. The timely assessment of the presence of asbestos is necessary in order that required precautions may be employed. Such precautions include taking bulk samples to determine the level of asbestos and the use of wet methods during cleanup and High Efficiency Particulate Air (HEPA) filters.

One Request for Inspection arose as the result of a project to remove a false floor in the Cannon House Office Building. Prior to and during the first two days of the project, the AOC told employees that the tiles had been tested and did not contain asbestos. Therefore, no air samples were taken and no protective equipment was provided. The AOC later discovered that the tiles did contain asbestos. The OGC inspection report noted that the AOC failed to monitor the ambient level of asbestos around the construction site; had not established a regulated area for the work; had not used HEPA-equipped vacuum cleaners, had not used wet method removal or leak-tight containers in disposal operations; had not used appropriate protective equipment; and had not employed an appropriate level of supervision. 29 C.F.R. §1926.1101(c)(2), (e)(1), (g)(1), and (g)(7)(I).<sup>37</sup> The AOC reports that this condition has been corrected.

Additional Requests for Inspection focused on the removal of asbestos wall panels in the LOC Jefferson Building and Madison Building loading dock. The Jefferson Building complaint arose when the lack of communication between the AOC and LOC resulted in a failure to ensure that LOC employees were apprised of the status of the project.<sup>38</sup> Specific violations included gaps in the records that document monitoring results, the physician's written opinion, and the training of abatement workers.

A Madison loading dock inspection Request focused on the alleged failure of the AOC to follow its abatement plan. In that case, the OGC investigation revealed that the project construction team significantly

---

<sup>37</sup> In comments to the Draft Report, the AOC reports that the asbestos removal project has been completed and that procedures have been modified so that unsafe processes will not be repeated.

<sup>38</sup> The LOC reports in comments to the Draft Report that AOC officials failed to inform the LOC that an asbestos removal operation was being conducted.



---

altered the abatement plan and relocated an exhaust duct to expel air inside of the garage rather than to the outside. That change did not conform with the established abatement plan.<sup>39</sup>

Inspectors from the OGC will continue to monitor these conditions in the Jefferson and Madison Buildings to ensure that they conform to the established abatement plans and regulatory requirements established by OSHA for the safe removal and handling of materials containing asbestos.

### **E. Lead**

A number of employee Requests for Inspection pertaining to lead exposure were filed during the 108th Congress. The exposures arose from three primary sources - lead-based paints, lead particles in the Rayburn House Office Building, and elevated lead levels in drinking water systems in the three primary LOC buildings.

- Lead paint

Many Legislative Branch buildings were constructed at a time when the use of lead-based paint was quite common. Some older buildings have received multiple layers of lead-based paints. As the use of these paints was curtailed, many of these buildings have received additional coats of paint that did not contain lead. Lead paint becomes a problem when the paint begins to peel or blister or the paint is disturbed during renovation. For the most part, the AOC has implemented an effective containment program that seeks to contain lead at its source, such as by use of a plastic containment area that is kept under negative pressure during renovation operations. Any such containment program must comply with 29 C.F.R. §1926.62(e)(2) and §1910.1025.

Frequently, flaking particles fall on desks and other work surfaces. While the particles are typically too large to inhale, the residue may come into contact with an employee's hands and is subsequently ingested. The problem becomes more pronounced in cramped work areas that are common in older Capitol Hill buildings. In many of these buildings, closets and bathrooms have been converted into employee workstations. Under these conditions, flaking paint particles pose a more serious health hazard because the employee is more likely to come into physical contact with the particles.

---

<sup>39</sup> In comments to the Draft Report, the AOC asserts that it had authority to deviate from the abatement plan. However, OSHA regulations require evaluations and planned control methods by a certified industrial hygienist or licensed professional engineer who is also qualified as a project designer. See 29 C.F.R. §1926.1101(g)(6)(ii). The AOC does not assert that such a professional approved this change in the abatement plan.



One of the older Capitol Hill buildings, the Jefferson LOC Building, has a similar problem - lead flaking from the walls and ceilings that accumulates on flat surfaces over time. The AOC has effectively addressed this problem by cleaning residual dust both prior to commencing and after completing any work project. When followed, this process allows the AOC to achieve acceptable sample results while facilitating a prompt release of space back to the LOC. Another effective preventive measure to minimize lead levels in office settings is simply to promptly report peeling paint conditions to the AOC for repair.

- Rayburn House Office Building ventilation system

In 2002, significant quantities of lead were discovered in the ventilation system of the Rayburn House Office Building. Several Congressional staff employees filed a Request for Inspection after dark particles were observed coming from overhead air vents. The resulting investigation continued through 2004 and is therefore discussed as part of this Report. A sample of the material collected from the employees' desktops was sent for lead analysis. The results indicated that the sampled material contained over 50% lead. Lead particles were found throughout the ventilation system, including the area above the desk of one of the requesting employees. Both large and small lead particles had become imbedded in the system. Particles were found, in particular, in the air mixer boxes and in the ventilation system where outside air is blended with inside air and re-circulated. An industrial hygienist from the OGC concluded that the lead particles had been present in the ventilation system for some time. This poses a continuing risk to employees.

A comprehensive inspection was subsequently conducted by AOC contractors who took numerous air and wipe samples throughout other parts of the building.<sup>40</sup>

- Lead in drinking water

In January 2004, the Library of Congress AFSCME Professional Guild, Local 2910, filed several Requests for Inspection concerning low water pressure and poor water quality in the Adams and Jefferson LOC Buildings. Water samples were taken by the OGC inspection team from multiple locations and analyzed for lead content. The results of these tests indicated elevated lead levels in both buildings. Further testing by the LOC and AOC representatives in other LOC buildings revealed

---

<sup>40</sup> In comments to the Draft Report, the AOC and House Employment Counsel state that these subsequent samples did not reveal levels that exceeded OSHA and HUD/EPA acceptable levels. However, the AOC does not deny that lead particles were present in the ventilation system. When disturbed, these particles can be released through the ducts and pose a potential danger to employees. For this reason, Dr. Laura Welch, a leading Occupational Physician and consultant to the OGC, recommended that the potential exposure continue to be monitored.



additional contaminated sites. The General Counsel issued a citation to the AOC on January 3, 2005, for failing to provide potable water to employees. See 29 C.F.R. §1910.141(b)(1). After conducting independent tests, the AOC abated these conditions by shutting down all drinking fountains in the Adams Building and specific fountains in the Jefferson, Madison, and other Capitol Hill Buildings that tested above the EPA limit for lead. As a partial remedial measure, the AOC is providing bottled water in the Adams Building where the fountains have been disabled. The AOC has also hired a consultant to study the problem and to propose a long-term solution.

Problems with elevated lead levels in the Capitol Hill drinking water predate the enactment of the Congressional Accountability Act. In 1992, the AOC shut down the drinking water system in the Dirksen Senate Office Building. At that time, the chiller units and water pipes connecting to the fountain system were ultimately replaced to achieve acceptable results.

During the course of the 2004 investigation, the General Counsel's safety and health specialist consulted with representatives from the General Services Administration and the Environmental Protection Agency. GSA also has had to shut down drinking fountains and provide bottled water in some Federal buildings until the sources of elevated lead exposures were identified and abated. As a routine matter, the EPA advises against drinking from certain types of bathroom fixtures<sup>41</sup> since those fixtures are not regulated and frequently contain high levels of lead.

In summary, exposure to lead is more pronounced on Capitol Hill than one would presume. The General Counsel recommends that ongoing monitoring be conducted by the AOC to minimize future exposure to the conditions in the Rayburn House Office Building. The present condition of the drinking water in the LOC buildings must be regularly monitored after a fix is implemented to determine that lead levels were effectively abated.

## V. Periodic Inspections

The Congressional Accountability Act of 1995 requires the General Counsel of the Office of Compliance to conduct inspections of all Legislative Branch facilities at least once each Congress to enforce compliance with the occupational safety and health standards established by the Department of Labor. Section 215(e)(1), 2 U.S.C. §1341(e)(1).

Over 4.1 million square feet were inspected during the 108th Congress. Over twenty-six hundred (2,666) hazards and serious program deficiencies were identified during the inspections. As previously indicated, the number of hazards discovered in 2004 was more than seven times higher than the

---

<sup>41</sup> Examples of such bathroom fixtures include faucets used in utility closets, in laundry rooms, threaded faucets, and self closing faucets.



360 identified during the 2002 inspection for the 107th Congress. The General Counsel attributes the difference to the comprehensive nature of the inspection conducted by the inspection team. As explained in the Executive Summary of this Report, the inspection team conducted a wall-to-wall inspection in order to create a baseline of the existing health and safety conditions in Legislative Branch facilities. See Section I.D.

The nature of the hazards identified are serious and in some instances pose a significant risk to employees of the Legislative Branch. As previously discussed in the Executive Summary of this Report, Section I.D, the General Counsel implemented a risk assessment code for this inspection cycle based on definitions and categories established by the Department of Defense in order to evaluate the severity of the hazards encountered during the inspection. See Appendix D, Guidelines for Risk Assessment Codes. The RAC describes the relative risk of injury (for safety hazards) or illness (for health hazards) by combining the probability that an employee could be injured with the severity of the potential injury or illness. Typically RACs are scored on a scale of RAC 1 (imminent risk of death or life-threatening injury), RAC 2 (probable occurrence of severe injury), to RAC 5 (de minimis risk of injury and not imminent). The OGC does not collect data or report on RAC 5 findings since they pose little risk or hazard to employees. Using this standard, nearly 40% of the hazards were ranked as RAC 1 or RAC 2.

The General Counsel also utilized the same NFPA 101 rating system used by the GSA to evaluate the overall fire safety of other Federal Government buildings. As discussed in the Executive Summary above (see Section I.D), a rating below “0” is considered to be unacceptable, while a rating of “-20” is “high risk”, and a rating of “+20” is “very good”. The inspection team anticipated that the ratings would have a wide variance. As discussed below in the summary of each building, this prediction was correct. The inspection data revealed a “-28” rating for the Longworth House Office Building, which contains significant aggravating factors, such as a lack of protected stairwells, to a “+14” rating for the USCP Headquarters and the Postal Square buildings which are newer and have more safety features.

When the inspection of each facility was completed, a chart detailing each hazard was prepared and provided to the responsible employing office. In addition to assigning a RAC code, the chart identified the locations where the hazards were found, the statutory or regulatory provisions that were violated, and what corrective actions were required to abate the hazard. The employing office was provided thirty days to respond regarding the status of abatement or anticipated abatement date, and to provide comments concerning the violations. The employing offices responsible for correcting violations reported that ninety-one percent of the hazards identified by the inspection team were corrected during the course of, or following, the inspection. Of particular note, the GAO reported that

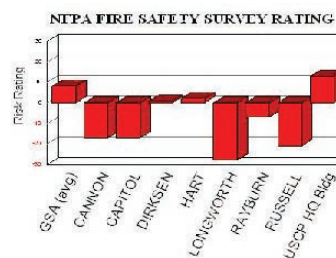


it had abated all but eleven of the 559 hazards identified in its facilities during the inspection. Nine of those unabated hazards are scheduled to be abated by December 2005, and the remaining two in FY 2006.

A narrative summary of the partial inspections of the United States Capitol Building and the Senate and House Office Buildings is detailed below.<sup>42</sup> Other findings of the periodic inspection are detailed in \*\*\*\*\*. \*\*\*\*\* , 2004 Biennial Safety and Health Inspections: Hazard and Abatement Tally identifies the total number of hazards found, by type, in each building or facility.

### A. The Capitol Building

U.S. Capitol Building	
RAC 1	4
RAC 2	44
RAC 3	67
RAC 4	5
TOTALS	120



The United States Capitol Building presents a unique challenge to the Architect of the Capitol and others responsible for assuring that it is in compliance with safety and health requirements.<sup>43</sup> In large part, this challenge is due to the age, construction, high occupancy, and the need to preserve the historical integrity of the Capitol. Susan S. Robfogel, Chair of the Board of the Office of Compliance, stated in her opening plenary remarks to the 2004 OOC Legislative Branch Health and Safety Conference that:

We all have a tremendous responsibility not only to protect the safety and integrity and grandeur of these buildings...it's a very difficult task to meld the grandeur of the buildings with the need for health and safety inside these buildings.

The inspection team conducted a limited inspection during the 108th Congress. Member offices, hearing rooms, and committee rooms were not inspected but will be subject to inspection during the 109th Congress.

<sup>42</sup> Committee spaces, Members' offices, and non-AOC spaces were not inspected during the 2004 inspections but were inspected in the 2002 inspections.

<sup>43</sup> "The Architect of the Capitol shall have the care and superintendence of the Capitol...." "All improvements, alterations, additions, and repairs to the Capitol Building shall hereafter be made under the direction and under the supervision of the Architect of the Capitol." 2 U.S.C. §§ 1812, 1814.



A number of the hazards identified in 2004 were identified in previous Reports, some of which were the subject of citations, but remain uncorrected. The OGC team inspected approximately 24,000 of 843,000 square feet, identifying 119 violations, of which five were ranked as RAC 1s and 44 were ranked as RAC 2s.

- Egress

The Capitol Building was constructed long before the adoption of fire safety codes. Therefore, many stairways, including those that are used as emergency exits, are not enclosed. \*\*\*\*\*

\*\*\*\*\* The inspection team noted that progress has been made with the replacement of some revolving doors with side swing doors that enhanced egress capacity, thereby allowing more people to evacuate in a short time. However, that action does not begin to resolve the underlying deficiency in egress capacity, especially during peak tourist periods, such as the late spring and early summer when approximately eight thousand tourists tour the Capitol daily. See “Capitol Tour Overhaul Could Include Ending Staff-Led Visits,” *Roll Call*, April 28, 2005: p. 3. Gage-Babcock also indicated in a report released on May 17, 2000, that the Capitol Building had a deficient capacity of negative 2076 on the first floor and negative 516 on the third floor.

- Alarm systems

The Capitol Building’s fire alarm system operates exclusively on a pre-signal sequence.<sup>44</sup> All alarm notices are forwarded to the USCP Communications Center (PCC). Only officers on duty at the PCC can activate the building-wide alarm after investigating the source of the alarm signal. USCP officers interviewed by the inspection team assert that they can investigate and respond to emergency calls within three to five minutes. Some of these officers, however, have never had training, or been recently trained, in the use of portable fire extinguishers even though their emergency duties include extinguishing small fires.

The Capitol Building lacks a sufficient number of pull stations located near exits, alarm horns, and strobe lights. Additional horns in and around the Rotunda, Crypt, and National Statuary Hall were installed by the AOC in 2004. While this is a significant improvement, the number of signaling devices available is still inadequate in many parts of the building where ambient noise levels rise with high numbers of visitors. To accommodate this deficiency and to meet the needs of the hearing-impaired, the AOC

44 See discussion in Section II.B of this Report for details regarding pre-signal sequencing.





has installed visual alarms in many public places where tourists visit. None, however, have been installed in the office and non-public areas.

- Fire barriers

The Capitol Building is currently considered to be one fire zone. \*\*\*\*\*

\*\*\*\*\*  
\*\*\*\*\* Unenclosed stairways pose a significant problem because of their tendency to act as chimneys in the event of fire. These stairways are the primary route of escape for many employees. \*\*\*\*\*  
\*\*\*\*\*

These deficiencies prompted the General Counsel to issue a citation to the AOC in March 2000. Since that time, the AOC has begun to address this significant hazard. Fire doors have been installed in the entrance ways to the tunnel that leads to the Cannon House Office Building and the subway to the Dirksen Senate Office Building. However, hold-open devices that automatically close when an alarm is sounded have not been installed in the two East front exit stairwells. The installation of these devices would stop the dangerous practice of blocking these doors open. The Senate stairway is used as a tourist route and is blocked open by guides and Member staffers with a metal stanchion. On the House side, the latch on the first floor fire door was found to be disabled.

Many fire doors and barriers in the Capitol still do not meet basic fire safety standards. The switchgear and two emergency generator rooms have no fire barriers. In the food service area of the basement, metal fire doors were installed with regular glass instead of fire-safe wire glass. This modification effectively negates the fire barrier qualities of the doors. Two other fire doors in the central corridor would not close automatically.

- Smoke detectors

Significant progress has been made in the installation of effective smoke detection devices within the Capitol Building. Detectors have been placed throughout the building in individual locations and in the return air duct system.

During the inspection, it was noted that a smoke detector in the AOC manager's office was in alarm mode. Even though the alerting signal was sent to the fire alarm panel approximately fifty feet from the PCC, no emergency response was activated as would be expected with a pre-signal system. This deficiency further supports the concerns raised by the inspection team regarding the effectiveness of the pre-signal system and whether the system is inspected by the USCP. It is unknown whether this was an isolated problem or one that is systemic to the entire alarm system.



- Fire suppression

\*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*

- Electrical hazards

Hazards of an electrical nature constituted 65 of the total 120 violations found in the Capitol. Many of these hazards were of a RAC 1 and 2 level that could cause electrocution or start a fire. The General Counsel issued a Notice of Serious Deficiency Needing Prompt Attention to the AOC on November 18, 2004, regarding a metal pedestal fan that was plugged into a malfunctioning ground fault circuit interruption (GFCI) outlet that would not trip. The floor area surrounding the fan was wet from water running from a nearby pipe. If the fan were to short under these conditions, a potentially fatal shock could electrocute an employee standing on the damp floor. A similar situation was discovered in a food preparation area. Both of these conditions were promptly corrected with the installation of new GFCIs by the AOC. These deficiencies underscore the necessity for the AOC and employing offices to regularly inspect GFCI electrical outlets.

- Hazard communication

The OGC inspection team discovered containers of methylene chloride paint stripper.<sup>45</sup> Neither the AOC representative, nor employees using the material, were aware that the stripping chemical was carcinogenic. Problems with chemicals of this nature are largely avoided by a good hazard communication program and full use of the appropriate Material

45 The risks associated with methylene chloride are discussed in this Report in Section III. B.



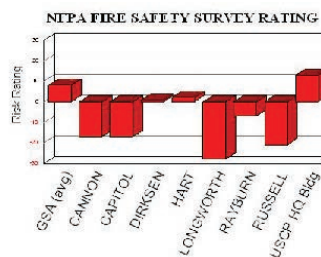
Safety Data Sheets. A citation was issued in 2000 by the General Counsel to the AOC for this serious non-compliance.<sup>46</sup>

- Summary

As noted in the 2002 Report, the Capitol Building has very serious problems with regard to fire safety due to its lack of exit capacity, many open stairwells, and lack of fire doors. While progress has been made in some areas, the structure and frequently overcrowded conditions present a high risk for both employees and visitors during emergencies. The AOC has developed plans to correct these problems, but many of the projected abatement dates are more than five years in the future.

### B. Dirksen Senate Office Building<sup>47</sup>

Dirksen Senate Office Building RAC/Hazard	
RAC 1	4
RAC 2	102
RAC 3	82
RAC 4	5
TOTALS	193



Inspectors from the Office of General Counsel could only conduct a limited inspection of the Dirksen Building within the time and resources available. The inspection was primarily limited to the attic area, basement and sub-basement levels, and a small number of offices on the ground floor. Even so, a significant number of hazards were discovered in the inspected areas. The inspection team inspected approximately 7,000 of 706,603 square feet, identifying 191 violations, of which four were ranked as RAC 1 and 101 were ranked as RAC 2.

- Alarm systems

The OGC inspection team is also concerned about the pre-signal sequencing utilized by the alarm system. This concern is addressed in detail in Section II.B. of this Report. The primary concern in this regard is that the delays

<sup>46</sup> In comments to the Draft Report, the AOC states that it is working to improve its hazard communication program and acknowledges that the OGC has identified specific deficiencies.

<sup>47</sup> "... [T]he Senate Office Building[s], and the employment of all services (other than for officers and privates of the Capitol Police) necessary for its protection, care, and occupancy, ... shall be under the control and supervision of the Architect of the Capitol, subject to the approval of the Senate Committee on Rules [and Administration] as to matters of general policy..." 2 U.S.C. §2023.



created by the investigations far exceed the three-minute window permitted by the Life Safety Code and the National Fire Alarm Code. NFPA 72-1999, § 1-5.4.11. At the time of the inspection most employees in the Dirksen Building, as well as AOC representatives, were unaware that pull station alarms were tied into the pre-signal sequence, even though most emergency action plans incorporate activating a pull station as a first step. A fire drill in the Ford House Office Building in 2004 demonstrated this danger. During that drill, the individual responsible for activating the pull station activated multiple stations because successive attempts failed to sound the general alarm. In an actual emergency, such confusion could cause further delays since the emergency responders sent to investigate the source of the alarm would not know which location to inspect to determine the extent and nature of the emergency prior to sounding the building-wide alarm. However, as discussed above, the USCP Board has since directed that these pull stations be reconnected to the main alarm. See Section II.B.

The inspection team also documented a significant number of capped smoke detectors located in the sub-basement where AOC workshops are located. None of the AOC employees interviewed could explain why this had occurred. The capping of smoke detectors prevents them from working and is a specific violation of OSHA regulations and the Life Safety Code. 29 C.F.R. §1910.164(c); NFPA 101.2000, §4.6.

- Fire doors

The inspection team documented twelve violations regarding non-compliant fire doors in the Dirksen Building. These deficiencies stemmed from blocking fire door exits, propping open fire doors that are designed to be self-closing, and self-closing doors that required maintenance in order to close and latch properly. A Notice of Serious Deficiency Requiring Immediate Attention was issued to the AOC on October 13, 2004, for a blocked exit off of the Senate Dining Room. The rear exit doors, which serve as an alternate emergency exit for large numbers of building occupants, were blocked in order to create a space to store paper records.



*Exit door is blocked by combustible materials.*

The inspection team also noted that the exit signs were covered with cardboard and that the exit doors in an adjacent kitchen area had flooring materials piled against the fire door so that it could not open. These doors serve as an alternate exit for the kitchen staff. These hazards created a situation where only one exit was available from the entire dining room area.

- Penetrations into fire walls

Breaches into fire walls negate the efficacy of the protection afforded by the barrier by allowing smoke and toxic gases to pass through the holes. On the positive side, the number of penetrations decreased substantially from the time the last comprehensive fire safety inspection was conducted in the Dirksen Building in 1999. However, the OGC inspection team discovered eight holes and penetrations in various fire walls throughout the building that were apparently caused by contractors installing security or other devices, such as cable, and then failing to fire-stop the openings when the project was completed.



*Holes or penetrations through fire wall.*



- Fire suppression

Several deficiencies were noted in the Dirksen Building's sprinkler system. The building itself has extensive coverage, but several areas, including the cafeteria, emergency generator room, and several sub-basement shop areas, lack any coverage. The sprinkler heads in another area, the Southside Sundae Shop, were found to be non-functional because they were located above a false ceiling. In eight other locations throughout the building, the sprinkler heads were found to be blocked by the storage of cardboard boxes and other combustible materials stored too close to the heads. The OSHA standards require a minimum clearance of eighteen inches between the sprinkler head and any other object. See 29 C.F.R. §1910.159(c)(10); NFPA #25, §2-2.1.2.



*Missing ceiling tiles interfere with activation of sprinkler heads.*

The kitchen of the Senate Chef is protected by an Ansul Fire Protection system that operates by spraying extinguishing liquids on cooking and grease fires. The system is effective in preventing the spread of fires that are difficult to extinguish. These systems must be periodically inspected by the manufacturer to ensure that they are operational. However, the inspection team noted that the system lacked current proof of inspection.

- Electrical hazards

The number of electrical hazards documented in the Dirksen Building is exceptionally high as compared to other buildings. Hazards of an electrical nature constituted 116 of the 193 total violations documented in the Dirksen Building. The most serious resulted in the General Counsel issuing a Serious Deficiency Needing Prompt Attention Notice to the AOC on October 17, 2004, due to an undersink outlet lacking a ground fault circuit interrupter. The damp surfaces surrounding the sink area created a significant risk of electrical shock for employees working in this area.



*Outlet below sink without GFCI protection.*

The team noted multiple instances of power strips and extension cords being inter-connected to create additional outlets for a work area; outlets requiring installation of GFCIs; broken outlets and receptacle covers; electrical devices with broken ground prongs; outlets with no ground protection; and exposed electrical contacts. In one instance, when the OGC inspector plugged a testing device into a regular wall outlet in the sub-basement, sparks flew out of the outlet, causing the circuit breaker to trip. When an AOC electrician examined the outlet, the contents fell out in pieces when the cover of the receptacle was removed.



*Contents of electrical outlet that fell out in pieces during inspection.*

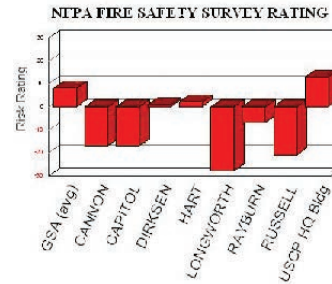
- Unsecured containers

Several instances of compressed gas containers and an unsecured cylinder containing acetylene were identified by the inspection team. The cylinder of acetylene was found laying on its side on a cart in a busy walkway and was susceptible to being bumped off of the cart. Valves of pressurized cylinders are easily damaged during a fall. In such case, a serious flash fire or explosion could occur that would be fatal to any person located nearby. Cylinders containing acetylene require particular care since acetylene is shock-sensitive and can therefore ignite without a source of ignition. As a result of this finding, the AOC moved and properly secured the cylinder.



### C. Hart Senate Office Building

Hart Senate Office Building RAC/Hazard	
RAC 1	1
RAC 2	63
RAC 3	55
RAC 4	8
TOTALS	127



Only a limited inspection was conducted of the Hart Senate Office Building. The inspection team inspected approximately 95,000 of 1,094,805 square feet, identifying 125 hazards, of which one was ranked as RAC 1 and 62 were ranked as RAC 2.

- Chemical hazards

As previously noted, methylene chloride is a volatile chemical that has been used as a stripping agent and industrial lubricant. See Section III. B. Since 1998, its use has been strictly regulated by OSHA because of its carcinogenic nature. Methylene chloride causes respiratory distress, depresses the nervous and cardiovascular systems, damages the liver and kidneys, and causes eye irritation. For this reason, the use of and exposure to methylene chloride is subjected to strict monitoring and exposure control requirements. See 29 C.F.R. §1910.1052.

In its 1998 Report, the OGC inspection team recommended that non-toxic agents be used in place of any product containing methylene chloride because of the significant health problems associated with the chemical. The General Counsel issued a Notice of Serious Deficiency Needing Prompt Attention to the AOC on October 19, 2004, for the continued use of sewing softener on carpeting in the Senate Upholstery Shop<sup>48</sup>. This deficiency qualified as a RAC 1 hazard. The Material Safety Data Sheets were not the correct ones for the methylene chloride product being used, and the product labels failed to provide adequate warnings. The shop's employees were therefore unaware of the dangers associated with this chemical, and the protective measures required to protect themselves.

- Egress

The 2002 Report noted that no handrails had been installed on the

<sup>48</sup> Prior and subsequent Notices of Serious Deficiency Needing Prompt Attention were issued to the AOC on May 20, 2004 and December 5, 2004 for the improper use of methylene chloride in the Construction Management Division at D.C. Village and the U.S. Capitol Building. See further discussion in Section III.B. of this Report.





main stairwells on the 3<sup>rd</sup> through 6<sup>th</sup> floors even though flights of stairs with four or more risers must be equipped with standard railings. This deficiency remains uncorrected. The inspectors also discovered that the outside balcony perimeter railing is too low and fails to comply with even the greater grandfathered allowances permitted under OSHA's standards for existing systems. 29 C.F.R. §1910.23(c).

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

\*\*\*\*\* However, since the freight elevator does not service the top (9<sup>th</sup>) floor, only one staging area near the passenger elevator is available on that floor. None of the elevator shafts contain smoke detectors, therefore, once an alarm has been activated, the elevators should be operated only under the control of a trained officer or firefighter. This hazard is particularly serious for employees with mobility impairments. \*\*\*\*\*

\*\*\*\*\*

In addition, the exterior wheelchair ramps on Constitution Avenue are too steep and do not have compliant handrails. These deficiencies have been noted in previous inspections and continue to create a hazard for employees with mobility-impairments.

Two shop areas containing a motor controller and fire pump controls were found to lack needed emergency lighting. Emergency lighting is necessary to both direct employees and to illuminate critical mechanical systems should the building's main energy supply fail.

Directional and exit signage was also found to be inadequate. Wall maps are outdated and fail to designate either exit routes that are wheelchair accessible or emergency staging areas. This deficiency was also noted in the 2002 inspection.

- Fire barriers and alarms

The effectiveness of the fire barriers in the Hart Building is of particular concern to the OGC. The Hart Building is one of two on Capitol Hill with atriums.<sup>49</sup> \*\*\*\*\*

\*\*\*\*\* The atrium in this building, as with most, is too high to activate a sprinkler head in order to extinguish a fire. Therefore, sprinkler systems are not required in such areas by the Life Safety Code. \*\*\*\*\*

\*\*\*\*\* The AOC is considering the installation of such a system. A smoke control system would help protect employees if

<sup>49</sup> The other is the Madison Library of Congress Building.



it were tied into the fire alarm system. Without a smoke control system, the delays occasioned by the use of the pre-signal sequencing, discussed previously in Section II.B., increase the risk to employees and visitors on the upper floors.

Some stairwells in the Hart Building are enclosed and these are intended to be used as exits in the event of a fire emergency. \*\*\*\*\*

\*\*\*\*\*

\*\*\*\*\* This deficiency was noted in the 2000 Report but remains uncorrected. One horizontal fire door did not fully close and latch while other fire doors were found to either not close on their own, to have faulty latches, or to not be properly sealed. All of these defects are significant because in the Hart Building most stairways are part of exit routes that lead to exit doors in other parts of the building.

Other barriers were found to be similarly compromised by holes and unprotected penetrations. Several holes were found in the fire wall that isolates an electrical switchgear room from exit corridors. Several fire doors between a large mechanical room and the garage were significantly damaged when the AOC cut openings to accommodate filters. A double set of fire doors providing fire barrier protection between the loading dock and the building were found to be so severely damaged that they were blocked open by a wooden wedge and concrete block, even though the doors were equipped with an electronic hold-open device.

Some stairway fire doors are equipped with electronic hold-open devices. The presence of such devices is normally considered to be a positive feature because they prevent the doors from being propped open. However, where the alarm system is tied into a pre-signal sequence, as is the case in the Hart Building, the hold-open feature becomes a hazard in the event of a fire because the delay in sounding the alarm prevents the doors from closing, thereby allowing fire and smoke to overwhelm the stairwells and rise to other floors. See Section II.B. Any protection afforded by the door at the subway entrance was effectively negated by a metal stanchion used to block it open.

- Fire suppression

The Hart Building still lacks complete sprinkler coverage, such as in one work area of the Construction Management Division. In several locations, combustible materials were also found to be stored closer than eighteen inches from the sprinkler heads. As previously noted, OSHA standards require a minimum clearance of eighteen inches between the sprinkler head and any other objects.

*Unstable stacking of items on shelf and there is no sprinkler coverage in area.*



In one inspected area, a false ceiling had been removed without repositioning the sprinkler heads to the appropriate level in relationship to the new ceiling. Sprinkler heads are heat-activated because hot air rises to the highest level. In the event of a fire, hot air would initially bypass these sprinkler heads, thereby creating a delay in activating the sprinkler.

Two other upright sprinkler heads were found to be installed in a sidewall position near the north wall of the loading dock in the compactor area. The incorrect installation of sprinkler heads significantly limits their effectiveness especially in areas, such as the compactor area, where combustible materials accumulate.

In two separate areas, access to fire extinguishers was blocked by large rolls of wiring. Smoke detectors are not provided in most areas, and a plastic cover was found covering an existing smoke detector inlet in an elevator machinery room.

- Mechanical hazards

Any mechanical equipment that utilizes pressure relief valves requires periodic inspection and testing to ensure that the valves are capable of releasing excessive pressure. Any rupture in the equipment can be catastrophic, including injury or death to employees, damage to a building's mechanical systems, and possible fire. In the Hart Building, three air compressors and two hot water heaters had not been recently inspected and tested.

Equipment that has moving parts capable of causing serious injury or amputation must provide adequate guarding to prevent contact with the dangerous components. See 29 C.F.R. §1910.212(a)(5). The guards on the fans in two elevator machinery rooms had inadequate protection to prevent contact with the blades. No protective guards were found on large fans in two other locations - on an air handler and an emergency generator.

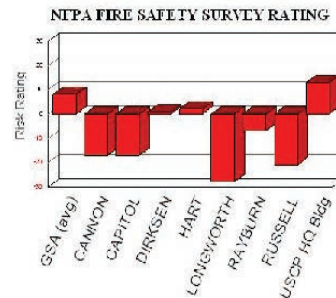


- Electrical hazards

The electrical panelboards in six locations failed to properly identify the location of the areas controlled by the individual circuit breakers. The hazards associated with this deficiency was discussed in detail previously in this Report. See Section II.E. Front panel covers were also found to be missing from several electrical panel boards. Such panel boards pose a significant risk of fire and electrocution when employees inadvertently come into contact with the live components.

#### D. Russell Senate Office Building

Russell Senate Office Building RAC/Hazard	
RAC 1	5
RAC 2	31
RAC 3	60
RAC 4	5
TOTALS	101



The Russell Senate Office Building was constructed in 1908 and 1909, long before most Fire and Safety Codes existed. Therefore, it, like the Capitol Building, presents a unique challenge. As with the other Senate Office Buildings, only a partial inspection could be conducted. No office space was inspected. The inspection team inspected approximately 161,000 square feet of the total 661,000 square feet in the building. One hundred one hazards were identified. Five were rated as RAC 1 and 31 were rated as RAC 2.

- Fire barriers

The Russell Building, like the Capitol, constitutes one large fire zone. \*\*\*\*\* As noted in the 2000 Fire Safety Report, exit stairways remain unenclosed and lack properly rated fire doors, even though these conditions have been noted in prior Reports and inspections. \*\*\*\*\*

\*\*\*\*\* It is particularly hazardous for employees with disabilities who must gather at designated staging areas for assistance. Furthermore, physical barriers, such as fire doors and enclosed exit stairwells are needed to give employees and visitors adequate time to safely evacuate in the event of a fire.



For example, two exit stairways extend from the basement level to the attic level. The stairways are entirely open and lack any fire barriers in the event of an emergency. The double doors at the top of these stairs and at the basement level are not rated fire doors and have no automatic closure mechanisms. They are routinely blocked open. If a need exists for these doors to be held open, they should be replaced with fire doors and equipped with electronic hold-open devices enabling them to be closed whenever a fire alarm is sounded.

A fire door in the Masonry Shop did not provide adequate protection. Its metal panel moved below the correct position, which would allow fire, smoke and toxic gases to pass through. In other locations, the walls that are intended to serve as a fire barrier around Electric Substation B and that between the Plumbing and Storage Pipe Shop and the public corridor, had holes that would also allow significant penetration of fire, smoke, and toxic gas in the event of a fire. All three of these deficiencies should be restored by being sealed with fire stopping materials.

However, several improvements were noted by the inspection team, such as the posting of proper signage.

- Alarms

The fire alarm system in the Russell Building utilizes a pre-signal sequence. At the time of the inspection, none of the signaling devices including the smoke detectors, water flow detectors, and manual pull stations immediately sounded a building-wide alarm. Instead, signals were sent to the central alarm station and communicated to the PCC in order that officers from the USCP can investigate whether a building-wide alarm is necessary. The Life Safety Code permits a three (3) minute delay. However, AOC and USCP employees in the Senate Office Buildings informed the inspection team that such investigations may take up to fifteen minutes. Since the inspection by the OGC team, the AOC, at the direction of the USCP Board, has restored manual pull stations to general alarm status in all Senate and House Office Buildings.

Interviews conducted by the OGC inspection team revealed that employees were unaware of how the pre-signal sequence works. Employees need to be trained regarding the alarm system. First, employees need to know that when an alarm does sound, it is not likely to be a false alarm. Experience indicates a low number of intentional false alarms. Second, employees must be made aware of primary and alternate evacuation routes. Finally, employees need to be made aware that calling the USCP emergency number may be the most effective means to report a fire.



- Fire suppression

The AOC has procured a new fire pump to enhance the effectiveness of the existing sprinkler system. Fire sprinkler coverage is provided throughout most of the Russell Building, \*\*\*\*\*

\*\*\*\*\* The inspection team recommends that an assessment be made to determine the necessary coverage.

Despite the extensive coverage of the sprinkler system, the inspection team noted that the effectiveness of the system was compromised in several areas. In the Attic Locker Area, shelving was installed between two sprinkler heads creating a wall of stored material. In another Locker Storage Area, the Paint Shop, and in two sections of the Electrical Shop, combustible materials were found within eighteen inches of the sprinkler head plane. Materials were also stored on top of the fire sprinkler piping in the Electrical Shop. Loading sprinkler pipes in this manner can bend the pipes and interfere with the spray pattern when in use.

- Egress

OSHA requires that workplace buildings provide at least two accessible emergency exits for employees. 29 C.F.R. § 1910.36(b)(1). \*\*\*\*\*

\*\*\*\*\* However, both the carriage entrance on the second floor and the Northeast Corner exit to the First Street sidewalk could be easily modified to provide emergency exit accessibility.

\*\*\*\*\* These elevators and the internal telephones are on an emergency standby power system enabling their operation if primary electrical power is interrupted. These telephones have the capability of signaling to a central location, such as the PCC, and identifying the exact location of the telephone initiating the call. This feature would aid both firefighters and employees with mobility impairments who have staged by the elevators waiting for assistance. To serve this purpose, the telephones must be located with 54 inches of the floor and kept unlocked.

The inspectors also noted that additional smoke detectors are required in the elevator lobbies, shafts, and machinery rooms and that the existing detectors were not operational. Further, the elevators should be equipped with a firefighter recall function in order to allow for manual key operation. None of the elevators should continue to operate automatically once the fire alarm has been activated. In the event of an emergency requiring evacuation, USCP officers must be available to aid employees and visitors



who require assistance. It is imperative, therefore, that the officers are aware of these responsibilities and how to manually operate the elevators in order to reach the staging area on each floor. The inspectors discovered, however, through interviews with USCP officers, that not all had been trained in procedures as to how to evacuate employees requiring assistance or in the manual operation of the elevators.

Self-illuminated exit signs were provided for most exit routes. However, the main exit from the Day Laborer's Shop, which has multiple rooms, did not have an exit sign designating it as the exit to the main corridor. Another door from the Women's Massage Room in the Health Center can only be opened with a key from the inside. This locking mechanism needs to be changed to allow the door to be readily opened without a key from the inside but still control entry from the outside.

Wall maps need to be updated throughout the Russell Building. In particular, the wall maps should provide necessary egress information for employees with mobility impairments, such as designations of exit discharge points that are wheelchair-accessible, staging areas, and ADA-compliant restrooms.

- Electrical hazards

Sixty-three of the 101 violations identified in the Russell Building were related to electrical hazards. When electricity must be shut off during an emergency or for scheduled maintenance, it is imperative that the circuit directories on the panelboards accurately label the service provided by each circuit. As in other Legislative Branch buildings, the panel directories are rarely current or accurate in the Russell Building. Access to one of these improperly maintained panelboards was also obstructed in the Plumbing Storage and Pipe Shop. Another panel in the Electrical Shop had a broken part in front of the panel creating an opening that permitted contact with live components. Another in the Refinishing Area had openings that exposed energized wires.

Five instances were found where ground fault circuit interrupters (GFCIs) were defective or had not been installed in locations where electrical outlets were dangerously close to sources of water. Six instances of damaged power cords were also discovered. While only two instances of daisy-chained power strips were found, one was particularly egregious in that twenty-one different battery charges were being run off of a single electrical outlet. A number of two-prong outlet receptacles were found lacking a safety ground.

- Confined spaces

Ventilation is provided throughout the Russell Building by a number of large air handler units. Four of these areas were large enough to allow entry



by employees where the fan blades rotate. No protective guards were installed. These areas are considered to be “confined spaces”. Confined spaces are areas that have limited or restricted entry and exit. While they are not designed for continuous occupancy, they are large enough and configured to allow an employee to enter with his or her entire body in order to perform work. OSHA standards require specific signage be posted at the entry points for confined spaces. See 29 C.F.R. §1910.146. When the confined space area exposes the occupant to specific hazards, such as fan blades unprotected by fan guards, high voltage, or other hazards, entry may require a specific permit. See 29 C.F.R. §1910.146(f). These areas must be marked as confined spaces, access must be limited, and be subject to a comprehensive confined space program.

- Unsecured compressed gas cylinders

The significant risks associated with unsecured compressed cylinders is discussed in detail below. See Section V.A. The OGC inspection team found three instances in which compressed gas cylinders were not secured.



*Cylinders are not secured and will fall over easily.*

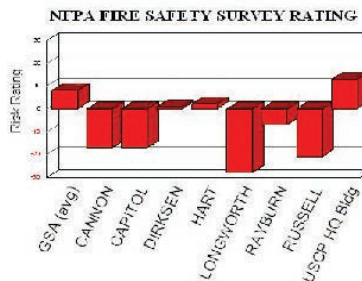
One cylinder contained acetylene, which is a highly volatile chemical. Another had its regulator attached which adds to the risk of valve damage should the cylinder fall. When valves are damaged, they frequently begin to leak. Damaged cylinders have been known to explode or to become missiles causing extensive damage and physical injury.





## E. Cannon House Office Building

Cannon House Office Building	
RAC 1	9
RAC 2	22
RAC 3	45
RAC 4	3
TOTALS	79



As with the Capitol and Senate Office Buildings, only limited inspection of the Cannon House Office Building could be conducted by the OGC inspection team due to time and resource constraints. The inspection team inspected approximately 76,000 square feet of the total 776,000 square feet in the building. Seventy-nine hazards were identified. Nine were rated as RAC 1 and twenty-two were rated as RAC 2.

- Fire barriers

The Cannon Building constitutes one fire zone. \*\*\*\*\*  
 \*\*\*\*\* Deficiencies with the emergency exit routes, exit stairways, and fire doors pose serious risks to employees. \*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\* To date, this deficiency remains unabated. Stairwells with non-compliant doors create a significant risk for employees, especially those who are mobility-impaired and those who may work on the upper floors of the building. During an emergency, employees who require assistance must report to a staging area to await help. Frequently, these staging areas are located inside the stairwells on floor landings.

The inspection team found that many doors within the building intended to serve as fire barriers are not compliant fire doors. To qualify as a fire door, the door must have been evaluated by a testing laboratory and provide protection against smoke and fire for a specified period of time. In the Cannon Building, doors must be effective for two hours since the building is not fully protected by a sprinkler system. 29 C.F.R. §1910.36(a)(2); NFPA 101-2000, §7.1.3.2.1. Doors on the 5<sup>th</sup> floor Southeast and Southwest exit stairways, which enclose the Southwest exit stairway at the basement level, and doors at the Northeast basement stairway, are not fire-rated and would not latch. The building also has two circular stairs. These stairs have, on various levels, either no doors, old wooden doors that are not fire doors, or doors that are propped open and, therefore, cannot automatically close in the event of a fire. Glass panels in several other doors were either missing



or were not fire-resistant.

The North basement corridor is frequently occupied by hundreds of tourists waiting to tour the Capitol Building. A 2002 Gage-Babcock Report identified serious exit capacity problems associated with the main exit floor. Adding additional tourists to the basement corridor only exacerbates this problem.

Electrical substation B in the Cannon Garage houses high voltage equipment and the trash baling room houses waste material and debris. Both of these areas are considered to be highly combustible. However, the inspection team found the fire barriers to be deficient. The perimeter walls of the substation have not been sealed with fire-stopping material, and the fire barrier above the \*\*\*\*\*  
\*\*\*\*\* 29 C.F.R. §1910.36(a)(2).

- Fire suppression

Fire extinguishers are considered to be the first line of defense in containing small fires before a fire is large enough or hot enough to trigger activation of the sprinkler system. However, to be effective, fire extinguishers must be maintained in serviceable condition. 29 C.F.R. §1910.157(c). Typically, craftsmen from the AOC inspect extinguishers on a monthly basis. However, in twelve locations in the Cannon Building, the inspection team found that the fire extinguishers were not being properly maintained. Some of the extinguishers had not been inspected since 2002. \*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

- Electrical hazards

Hazards of an electrical nature constituted 35 of the 79 hazards identified by the OGC inspection team. Approximately, one-third of the electrical hazards involved missing cover plates.



*Faceplate missing off electrical junction box exposing energized wires.*

A missing cover plate represents a significant hazard because live parts are exposed and can result in electrical shock to employees who come into contact with the wires. Another risk is fire resulting when sparks and molten metal are not contained during a short-circuit or other electrical failure.

The electrical panels in three locations, Room B-37, Room B-24, and the Compressor Room, failed to have current circuit breaker directories.



*Circuit breaker panel is missing its directory/index.*

As was discussed in Section II.E. of this Report, it is imperative that electricians and emergency responders be able to quickly access the panel and access the location of the circuits in the event of emergency.

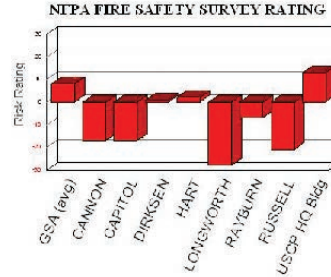
- Continuing deficiencies

Several deficiencies that were cited in the 2002 Report have not been corrected by the AOC and continue to create significant hazards. The guardrail in Room 5N overlooking the Rotunda is of an inadequate height. OSHA standards require such a railing to be 42 inches high to prevent a fall over the top. With a drop of more than four feet, this low railing poses a real and present danger to employees working in the area. The Cannon Carry Out food preparation area continues to store unsecured cylinders of compressed carbon dioxide. These cylinders are susceptible to being knocked over. Unfortunately if pressurized tanks fall, a sudden release of pressure can cause the cylinder to project forward at high speeds, with the potential of serious physical injury to employees and physical damage to the building structure.



## F. Longworth House Office Building

Longworth House Office Building RAC/Hazard	
RAC 1	6
RAC 2	41
RAC 3	80
RAC 4	9
TOTALS	136



As with the Cannon House Office Building, only a limited inspection was conducted of the Longworth House Office Building. The inspection team inspected approximately 37,000 of 637,000 square feet, identifying 136 violations, of which six were ranked as RAC 1 and 41 were ranked as RAC 2.

- Fire barriers

\*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*<sup>50</sup> The exit stairways in the Longworth Building lack protective enclosures and doors to the floors they service. No upper floor stairwells are enclosed. Some stairwells such as those in the Southeast (ground floor) and Southwest corners (sub-basement to basement levels) are only partially enclosed. None provide any protection to the upper floors in the event of a fire in the lower floors. The AOC was issued a citation in March 2000 for this very serious deficiency. The AOC has not scheduled abatement of this hazard until after 2008.



Open stairwells in Longworth House Office Building.

<sup>50</sup> The danger of open stairwells is discussed in Sections II.A. and IV.A. of this Report.



As in the other House and Senate building areas inspected, the Longworth Building was found to have significant holes in fire barrier walls throughout its structure.<sup>51</sup> Penetrations were also found by the OGC inspection team between the Food Court and Locker Rooms and in Rooms SB-213, SB-213A, Room SB 242, and the sub-basement electrical closet. These penetrations not only reduce the effectiveness of the barriers but also aggravate the problems created by the presence of open stairwells.

- Emergency exits

The OGC inspectors found that the Longworth Building lacks adequate directional signage to enable employees and visitors to rapidly exit the building. For example, both the Southwest corner stairway and mid-landing between the sub-basement and basement at the Southeast corner lack signage and a gate or other barrier indicating the level at which to exit the stairwell to the outside. This same deficiency was noted in the 1999 Fire Safety Report. No “Not an Exit” signs are posted in the sub-basement mid-landing that leads to the Cannon and Longworth tunnel. The absence of such signage fails to advise employees and visitors that the closest exit is up one level. The General Counsel also advised the AOC that the attic area lacks any lighted signage indicating exit routes.

In the Food Court Catering area, a telephone cable wire had fallen across the exit route to a height of five to six feet off of the floor. This low-hanging cable created a hazard to most employees, and would have proved to be especially dangerous during a drill or actual evacuation.

Since none of the exits are fully protected and the exit travel distances are unusually long for many areas of the building, effective emergency lighting along exit routes is essential to better ensure the safety of employees working in the Longworth Building. Battery-operated emergency lighting units have been installed in some areas of the building. However, a test on each unit demonstrated that the units in Room B-217, B-218, and the Gift Shop did not work. The AOC was advised as part of the 2002 inspection that battery-operated lights must be tested monthly. See 29 C.F.R. §1910.35; NFPA 101-2000, §7.9.3. This failure highlights the need for improvement in the AOC’s testing programs.<sup>52</sup>

---

51 In comments to the Draft Report, the AOC reports that these hazards have been abated.

52 In comments to the Draft Report, the AOC reports that a testing plan for all emergency lights has been implemented. However, during the 2004 inspection, as in prior inspections, OGC inspectors found many emergency lights to be non-operational. Accordingly, AOC should reexamine the adequacy of its current monitoring program.



- Fire suppression

The Longworth Building was the site of a grease fire in May 1998 that caused extensive damage and injured three employees who required hospitalization. However, the inspection team in 2004 found several deficiencies still remaining in the fire suppression systems. First, in ten locations, stored materials were found to be blocking the sprinkler heads. A distance of less than eighteen inches significantly reduces the effectiveness of the sprinkler. In the Food Court dining area, emergency lights, smoke detectors, and sprinklers were found to be taped over. The automatic fire suppression system in the Food Court kitchen area offers a trip device to manually activate the system. The assigned managers and employees were unaware of the location or purpose of the manual trip feature. In at least three locations, access to the fire extinguishers was obstructed.

- Electrical hazards

Two significant hazards were found in the dishwashing area of the Food Court. One breaker box did not have an enclosed panel on its five-foot front. This condition exposed employees to contact live components when they open the door. The hazard was further aggravated by the fact that the surrounding floor area was wet. A slip in this area could result in contact with the breaker box. Contact with the live components under these conditions could result in serious injury or death. This condition was noted in the 2002 Report, but still remains uncorrected. Another significant hazard in the Food Court area was found in an electrical switch box where the wires were pulled out from the box onto the floor, and the floor was covered with approximately one-eighth inch of water.

Hazards of an electrical nature that could cause electric shock or fire constituted 80 of 136 documented deficiencies. A number of renovation projects that have been undertaken in the Longworth Building over the course of years have involved rewiring and the installation of new circuits and electrical panelboards throughout the building. However, the electrical panels in at least eight locations have not been properly updated to label the directory of circuit breakers. As discussed in Section II.E. of this Report, it is imperative that electricians and emergency responders be able to quickly locate and identify circuits that may need to be de-energized. A ninth electrical panel in a training room, Room B-245, was obstructed by the recent installation of electrical components. The deficiencies with these panel boards were noted in the 2002 Report and remain uncorrected.

- Confined spaces

Confined spaces are areas that have limited or restricted entry and exit. While they are not designed for continuous occupancy, they are large



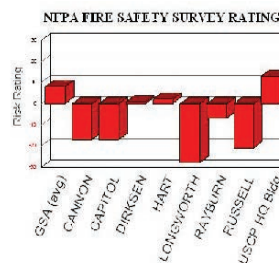
enough and configured to allow an employee to enter with his or her entire body in order to perform work. OSHA standards require specific signage to be posted at the entry points for confined spaces. See 29 C.F.R. §1910.146. When the confined space area exposes the occupant to specific hazards entry may require a specific permit. Air handler units, such as those found in the attic area Room SB-204, and Room SB-229 require appropriate signage identifying them as confined spaces. The AOC must further investigate to determine whether these areas also qualify as a permit-entry required space.

- Mechanical hazards

The inspection team found several examples of ineffective or nonexistent machine guarding. All power transmission equipment, such as V-belt pulley drives that are found on air handlers, are required to have protective guards to prevent contact if they are located within seven feet of a working surface. See 29 C.F.R. §1910.219. Without guards, these devices may pull an employee into a nip point at a pulley, causing serious injury such as amputation. Less serious injuries, such as abrasions, may occur if an employee comes into contact with moving objects. More effective guarding is needed at the air handlers in the attic in B-97 and near Control panel ACP-17; in the sub-basement at the West wall Fan Room and Room SB-229; and also at the compressor belt drive in Room SB-204.

### G. Rayburn House Office Building

Rayburn House Office Building RAC/Hazard	
RAC 1	2
RAC 2	165
RAC 3	212
RAC 4	27
TOTALS	406



The Rayburn House Office Building was the site of the greatest number of safety violations of any Capitol Hill building identified during this biennial inspection. As with the Cannon and Longworth House Office Buildings, only a limited inspection could be conducted of the Rayburn Building. The inspection team inspected approximately 732,000 of 2.4 million square feet. The inspection included the Capitol’s Subway and Carpentry Division Shops because the Architect of the Capitol’s House of Representatives jurisdiction includes these areas. The inspection team identified a total of 406 hazards. Two were ranked as RAC 1 and 212 were ranked as RAC 2 in severity.



- Fire barriers

The AOC was cited in March 2000 because the four central stairways, which serve as emergency exits, did not have fire-rated fire doors and the existing fire doors were not maintained in proper operating condition. The 2004 inspection revealed that little progress has been made in these deficiencies. Except for the installation of appropriate fire doors at the penthouse level and one set of double fire doors at the basement level, no fire doors have been installed at any floor level in the three remaining stairwells. The non-compliant doors are not designed to withstand the heat of fire and they lack the required tight clearances, latches, or astragals. 29 C.F.R. §1910.36(a)(3) and (d).

The Office of General Counsel has previously recommended the institution of a comprehensive program of fire barrier maintenance in order to ensure the effectiveness of the fire barriers in Legislative Branch buildings. The lack of such a program in the Rayburn Building has resulted in conditions that have compromised the effectiveness of its fire barriers. The OGC inspectors discovered that the wire glass in three fire doors had been replaced with standard plate glass. The pane in another fire door contained a hole. Another 17 doors were not able to close or latch. All of these deficiencies significantly reduce the protection that these doors are intended to provide against the spread of fire, smoke, and toxic gases. The inspectors also found that the fire doors in a main corridor and the primary access door to the Members Storage Area were manually blocked open, rendering them ineffective against stopping fire and smoke.

Holes were also found in nineteen fire barrier walls throughout the Rayburn Building. The locations include the Penthouse, basement garage, sub-basement, and three levels of the Rayburn Garage.



*Hole in fire wall allows penetration of toxic smoke.*





---

- Egress

A Notice of Serious Deficiency Needing Prompt Attention was issued on June 8, 2004, because the exit discharge door at the top of the stairs leading from the Swimming Pool area required excessive force to open. It would not open until a USCP officer kicked it multiple times. Particularly troubling is that this condition had been known by the USCP for many months prior to the inspection. The AOC promptly repaired this deficiency on June 9, 2004. Conflicting instructions were posted on this exit door. One sign indicated a 15-second delay and the other a 30-second delay, which can result in confusion and panic during an emergency situation. All discharge doors with delayed-opening devices must have appropriate signs indicating proper procedure for opening the door in the event of an emergency. 29 C.F.R. §1910.35; NFPA 101-2000 §7.2.1.6.

As one of the largest buildings on Capitol Hill, the Rayburn Building houses a large number of employees. Renovation projects frequently occur, during which the corridors often serve as make-shift storage areas for furniture that is moved into and out of offices. OGC inspectors observed significant obstruction of the corridors making movement through the corridors difficult for employees, especially those with mobility impairments. On other occasions, tables set up by camera crews for their equipment create a significant restriction on passage through the corridors.

Another deficiency directly affecting employees with mobility impairments is the requirement for two accessible and compliant exits. Currently, only one compliant and accessible exit is provided.

Many other violations in the emergency lighting and illuminated signs were found by the inspection team. The Subway Division shop in the Capitol Building (which falls under the AOC's House of Representatives jurisdiction) is a large, multi-room area. The one and only emergency light was identified in a prior Report as being inoperable. During this inspection, it was again found to be inoperable, resulting from a dead battery. No emergency lighting was found in the Members' Locker Area in the Swimming Pool complex. Even though that area provides an illuminated exit sign, one of the two bulbs was not functioning. Bulbs in the exit signage of the Members' Gym was not functioning. In addition, the exit route was obstructed by furniture. The exit route from the Exercise Room in the Northeast corner of the Gym, the Women's Fitness Center, the Recording Studio, the Building Engineer's Area of the Air Conditioning Division, and all lacked emergency lighting. The Women's Fitness Center and the Recording Studio also lacked approved exit signs.

- Fire suppression

One area of improvement noted by the inspection team in the Rayburn Building was that during the past three years, a fire sprinkler and smoke



detection system has been installed in most of the occupied areas of the building. During this same time period, the fire alarm system was extensively upgraded. These devices remain two of the most effective measures against fire.

Even with these improvements, significant hazards were identified. The 2000 inspection found that the Halon fire suppression system, used in several computer rooms, had not received its annual inspection. While it was inspected since the 2000 inspection, it was again found to be overdue for its annual inspection. The fire sprinkler valve in the closet area near Lobby Number 6 was last inspected in November 2000.

Thirteen specific violations of materials being stored less than 18 inches below the plane of fire sprinkler heads were found. Two of the locations where stored materials obstructed the fire sprinkler plane were in the USCP Pistol Range where ammunition is stored and in the Members' Storage Room. It is important to note that only several dozen storage areas were inspected. Therefore, it is anticipated that many more similar violations exist throughout the building.

Deficiencies were also noted with the frequency of inspection of the building's fire extinguishers. Fire extinguishers are to be visually examined on a monthly basis to ensure that they are fully charged and operable. One extinguisher in the Trash Baling Room had not been inspected since 2000. Of particular concern was the fact that it had previously been discharged and returned to its normal position. It is therefore impossible to determine how long this problem existed. Twenty-five other units had verification tags indicating inspections in excess of one month. Twelve had not been inspected since 2003, and of those one had not been inspected since 1974 and two others not since 1984.

- Safety hazards

The inspection team found four instances of pressurized cylinders that were unsecured.



*Unsecured pressurized gas cylinders.*



As discussed previously in this Report, the valves of pressurized cylinders are easily damaged during a fall. Serious flash fires or explosions may occur, as well as the cylinder may become a missile-like projectile capable of inflicting serious injury to employees and physical damage in its path.

Deficiencies were also found in the protective guards of mechanical equipment such as a power saw, rotating water pump shaft, two grinders, seven fans, the trash baling machine, and twenty-seven air handlers.

Many of the air handler units in the Rayburn Building were found to not have appropriate warning signs posted at the entry points for confined spaces.

Lead-acid batteries emit hydrogen gas which is highly flammable. Therefore, OSHA requires the posting of “No Smoking” warning signs where such batteries are recharged. 29 C.F.R. §1910.178(g)(10). The charging stations for electrical storage batteries outside the Sheet Metal Division Shop, the Air Conditioning Division Shop, and in a parking area failed to post such warning signage. One room with similar batteries failed to provide a required eyewash station. 29 C.F.R. §1910.151(c). Three other locations, including the Trash Baling Room and the High Voltage Room, provided eyewash stations, but access to them was obstructed.

Material safety data sheets were found to be missing or unavailable in at least eight (8) areas. The significance of the MSDS was discussed previously in Section III.C. of this Report. See Section III.C.

- Electrical hazards

The improper use of extension cords was prevalent throughout the Rayburn Building. The OGC inspection team found 63 specific violations of this nature. A lack of available electrical outlets appeared to be the leading cause of the improper use of extension cords. For example, several rooms with only two electrical outlets were found to house five work stations. In one work area, alone, five power strips were plugged into a single power strip to expand the number of outlets to 25.

The inspection team also found 25 instances of exposed, energized wiring, 20 locations where ground fault circuit interrupters (GFCIs) were required but had not been installed, and eight instances of missing electrical grounds.

As in other buildings in the Legislative Branch, the electrical panelboards housing circuit breakers in the Rayburn Building were either incomplete or outdated. Extensive rewiring and expansion of electrical service occurs on an on-going basis throughout the building. However, at least 13 panelboards had directories and indexes that failed to properly identify the function of all circuit breakers.



## V. Requestor-Initiated Inspections

Section 215(c) of the Congressional Accountability Act allows covered employees, employing offices, and bargaining units representing covered employees to file Requests for Inspection alleging violations of the Occupational Safety and Health Act. 2 U.S.C. §1341(c). Pursuant to this authority, the Office of the General Counsel investigates such allegations and makes a determination as to appropriate action. Since these issues are often raised by employees most intimately exposed to the daily working conditions in the Legislative Branch, they warrant serious attention. The ultimate goal in these circumstances is to identify and facilitate an appropriate abatement or corrective action where serious hazards are identified by the OGC. As part of this function, the General Counsel may issue a citation and, when necessary to enforce corrective action, a formal complaint.

The OGC experienced a 55% increase in the number of Requests for Inspection filed during the 108<sup>th</sup> Congress over the number filed during the 107<sup>th</sup>. Sixty-five Requests were filed during the 108<sup>th</sup> Congress, compared to 42 in 2001-2002. The vast majority of Requests continue to be filed by individual employees or Union representatives. Several Requests raised significant legal issues that have broad implications regarding the jurisdiction and scope of the CAA and the liability of employing offices.

The discussion below highlights the Requests for Inspection initiated from 2003-2004 that raise the most significant issues and those matters that have been raised several times in separate Requests. Some attention is focused on issues that arose during the 107<sup>th</sup> Congress, but were investigated or resolved during the 108<sup>th</sup> Congress. The matters addressed include contractor compliance, alarms and evacuation, Police Communications Centers, chemical and biological hazards, asbestos, and lead in water.

### A. Contractor Compliance

Three incidents during the 108<sup>th</sup> Congress focused on injuries caused by contractors retained by the AOC. Two incidents caused actual physical injury to Legislative Branch employees. Another incident potentially exposed employees to significant risk of injury and the Cannon House Office Building to significant risk of property damage.

In the first incident, OGC inspectors investigated a complaint filed by a Member of the House of Representatives regarding debris and furniture stored in the hallways of the Cannon House Office Building that created a fire and evacuation hazard. During the course of that investigation, the inspection team became concerned when they noted unsecured, pressurized cylinders of acetylene and oxygen. The acetylene cylinder and an unsecured oxygen cylinder were standing upright on an elevated concrete platform. The inspectors took immediate action regarding the unsecured cylinders because pressurized cylinders easily become missile-



like projectiles when they are damaged in a fall, thereby creating a risk of fire and explosion. Acetylene explosions have been known to blow out entire building sections. These cylinders had been left unsecured by an AOC contractor hired to modernize the elevators.

The other two incidents involved temporary security barriers surrounding a construction site at the Adams Library of Congress Building. Installing the security barriers around the building required the contractor to construct a temporary chain link fence around the construction area and the sidewalk along the edge of Second Street S.E. The first incident occurred in late October 2004. The fence blew over on an LOC employee who received cuts, abrasions, and torn clothing as a result of the accident.



*Temporary fence that fell over and injured people held up by cement block.*

The other incident occurred in early November 2004 along the same temporary sidewalk. Another LOC employee fell after she stepped into a dip located near the intersection of Pennsylvania Avenue and Second Street, S.E. The failure to provide lighting in this area either apparently caused, or significantly contributed, to this accident. The employee's injuries included cuts and bruises to her legs and arms. Both of these conditions were promptly remedied upon notice to the AOC. The AOC modified the contract to provide additional safety precautions to secure the temporary fencing and to install temporary lighting.

The General Counsel issued a citation to the AOC for the unsafe conditions created by the contractor who had failed to properly secure an acetylene cylinder, thus endangering Legislative Branch employees in the Cannon Office Building . The citation focuses on the degree of oversight and responsibility the AOC is required to provide over contractor work being executed in Legislative Branch facilities. The AOC conducts much of its construction and repair work through the use of contractors; these contractors are also used to monitor the work of other contractors, including their safety practices. The AOC has contested this citation, asserting that it has limited, if any, responsibility to ensure compliance with OSHA and safety standards whenever work, including that of monitoring the work of



contractors, is performed by its contractors.<sup>53</sup>

The General Counsel contends that the OGC's jurisdiction to hold the AOC accountable for complying with safety standards does not turn on whether the AOC performs its work directly or through the use of contractors. Were it otherwise, maintenance of health and safety in much of the Legislative Branch would depend on the diligence and skill of independent contractors rather than that of the Architect of the Capitol. However, by statute, the Architect of the Capitol is specifically charged with responsibility for the supervision and control of all services necessary for the protection and care of the Capitol and the Senate and House Office Buildings.<sup>54</sup> Moreover, under OSHA's Multi-Employer Citation Policy (CPL 02-00-124, Dec. 10, 1999, Sections X(c) and X(e)), the AOC, as both a controlling and exposing employer engaged in construction and repair work in these facilities, is accountable for safety violations.<sup>55</sup> Accordingly, the General Counsel charged that the AOC was responsible for preventing, identifying, and ensuring abatement of safety hazards at its construction sites whether those hazards were created by the AOC directly or through contractors it selected to carry out its work.

It is the position of the General Counsel that in adopting the CAA, Congress, rather than delegating to the Executive Branch the authority to enforce OSH standards on Capitol Hill, created an entity within the Legislative Branch to assure compliance with the OSH Act with respect to covered employing offices. This statutory scheme provides a uniform pattern of enforcement throughout the Legislative Branch by the Office of Compliance. Under the AOC's approach, however, OSHA, rather than the Office of Compliance, would be responsible for enforcement of

---

53 In comments to the Draft Report, the AOC objects to this characterization of its position. However, the AOC elected not to provide an alternative statement of its position.

54 See 2 U.S.C. §2001 ("The House of Representatives Office Building ... and the employment of all service, other than officers and privates of the Capitol police, that may be appropriated for by Congress, necessary for its protection, care, and occupancy, shall be under the control and supervision of the Architect of the Capitol, subject to the approval and direction of a commission consisting of the Speaker of the House of Representatives and two Representatives in Congress, to be appointed by the Speaker."); 2 U.S.C. §1833 ("The electrician, together with everything pertaining to the electrical machinery and apparatus, and the ventilation and heating of the House of Representatives, and all laborers and others connected with the lighting, heating, and ventilating thereof, shall be subject exclusively to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker .... And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the Architect of the Capitol, subject to the control of the Speaker...").

55 The AOC is not relieved of its statutory responsibilities by contracting out to other entities any of its obligations for assuring safety on the jobsite. Cf. Brock v. City Oil Well Service Co., 795 F.2d 507, 512 (5<sup>th</sup> Cir. 1986); Central of Georgia Railroad Company v. OSHRC, 576 F.2d 620, 624 (5<sup>th</sup> Cir. 1978)("[A]n employer may not contract out its statutory responsibilities under OSHA..").



---

health and safety standards on Capitol Hill to the extent the AOC delegated its safety responsibilities to employers not directly subject to the CAA.

The AOC's position in this matter is not dissimilar to that taken in another context that was the subject of a recent testimony before the Subcommittee on the Legislative Branch by David M. Walker, Comptroller General of the United States concerning the AOC's failure to provide adequate safety oversight of the work performed by contractors and safety risks in its management of the Capitol Visitor Center project. See "Testimony Before the Subcommittee on the Legislative Branch, Committee on Appropriations, U.S. Senate", May 17, 2005, Capitol Visitor Center: Priority Attention Needed to Manage Schedules and Contracts, p. 9 ("AOC had not fully exercised its authority to have the contractors take corrective actions to address recurring safety concerns.").

The General Counsel continues negotiation with the AOC in an effort to achieve an appropriate resolution of this matter.

## **B. Alarms and Evacuation**

Employees and union representatives filed fourteen Requests for Inspection during 2003-2004 concerning alarms and evacuations. These Requests concerned the effective functioning of alarms and the impact on the evacuation of Legislative Branch facilities.

At least eight of those Requests focused on delays that occurred in activating the building-wide alarm systems in the Madison and Adams LOC Buildings. These systems use a pre-signal sequence whereby a signal is sent to the LOC Police Communications Center when a smoke alarm is activated. Upon receiving the signal, an officer is dispatched to inspect the location to determine whether the building-wide alarm for evacuation should be activated. A fifteen minute delay occurred during one response, in part as a result of the AOC failing to notify the LOC about the system change and in part as a result of the inadequate training of LOC Police Officers and insufficient staffing of the PCC. The lack of training has been corrected but the adequacy of staffing is still under review. Since the inspection, the LOC Police have instituted a change in policy to activate a building evacuation within three minutes of the initial signal as required by the 2000 Life Safety Code, Section 9.6.3.4.

In several other incidents, alarms could not be heard in parts of the buildings or were only activated in parts of the Madison LOC Building. One deficiency was remedied by replacing an amplifier and the addition of an alarm horn. Another deficiency was remedied by replacing a faulty smoke detector.



Two Requests focused on the concern raised by the General Counsel in the 2002 Report that the audibility of the alarm system in the Capitol Building is inadequate. The Requests alleged that the evacuation alarms were not audible when the Capitol Building is crowded. Tests conducted by the OGC inspection team supported the allegations. No alarms were present in the immediate area and distant alarms could not be heard above the ambient noise, in the Rotunda, Crypt area, or Statuary Hall. This constitutes a violation of the Life Safety Code of the National Fire Protection Association. Section 13.3.4.3.3; 29 C.F.R. §1910.165(b)(2). The AOC has undertaken equipment upgrades to partially correct these conditions. Fire alarms have been installed in the three areas, but as was recommended in the 2002 Report, a comprehensive survey regarding the audibility of the alarms in the public areas of the Capitol is still needed.

Other violations of the Life Safety Code were raised in four Requests for Inspection. Employees complained that doors of LOC Buildings were being closed during times the buildings were open to the public. These matters were resolved when the LOC Police issued a corrective order requiring that doors be open and staffed during all times when the buildings were regularly open to the public. In several other union Requests, it was alleged that LOC Police Officers were unable to open a revolving door at the Adams Building during an emergency evacuation, thereby limiting egress through one doorway. The allegations further allege that the officers delayed employees from crossing the street to report to designated assembly points. This matter is currently under investigation.

### **C. Emergency Action Plans**

Union representatives have filed a total of eight Requests for Inspection, citing deficiencies in the execution of the LOC's Emergency Action Plans (EAPs) for building evacuation. One Request was filed after only one LOC building was evacuated when an unauthorized airplane entered restricted air space above Capitol Hill. Another Request questioned a substantial gridlock that occurred in the Madison Building during a fire evacuation. Employees were required to exit through a book detection gate instead of being directed to exit through all available doors. These complaints have been resolved by providing refresher training on evacuation procedures to LOC Police Officers and improving internal LOC communication regarding the scheduling of evacuation drills. The LOC also developed an Employee Emergency Action Guide that addresses shelter-in-place procedures and office emergency plans.

Four additional Requests resulted from a welding fire in the Madison LOC Building. Those Requests were consolidated for investigation. In one, the welders did not follow Hot Work Permit procedures and attempted to extinguish the fire themselves instead of immediately sounding the fire alarm. Other employees suffered smoke and contaminant inhalation when





---

they were allowed to reenter the Madison Building too soon following the fire. These hazards have been partially abated.

In another Request, LOC Police Officers were unable to direct District of Columbia firefighters to containers (Knox Boxes) that house building and elevator keys during an evacuation. Such training was provided to the Officers in November 2004.

#### **D. Evacuation of Persons with Disabilities**

A number of Requests for Inspection filed with the Office of General Counsel during the 108<sup>th</sup> Congress raise serious and complex concerns regarding the evacuation procedures for persons with disabilities. In January 2003, a fire evacuation occurred in the LOC Madison Building. During this evacuation, employees with mobility impairments gathered in designated staging areas for rescue assistance but were then directed to exit via the stairwells. Other employees became ill from lingering smoke when they were permitted to return before the building was cleared for a safe return. This incident also resulted in Requests questioning whether the staging areas in the Madison Building meet all fire safety standards, whether the pre-signal sequencing feature is effective, why elevators continued to operate after the alarms sounded, and should elevators be used to evacuate employees with disabilities under specific conditions.<sup>56</sup>

#### **E. Police Communications Centers**

As noted above, both the USCP and LOC Police forces operate communications centers. Two Requests for Inspection were filed regarding PCC understaffing and untrained and undertrained officers operating the LOC's PCC. An initial investigation by the OGC determined that PCC technician training manuals needed to be updated with current information to allow the Police Technicians to properly perform their duties. Instead, the manuals only provided information on equipment that was no longer used. A union-initiated Request alleged that LOC Police radios were improperly shut down in October 2004 for repair purposes when the Library was open to the public. These matters are currently under investigation.

Two separate Requests for Inspection alleging health violations arose in both the USCP and LOC. An officer employed in the LOC alleged she was exposed to toxic fumes and a USCP officer alleged that she was exposed to heavy second-hand smoke from co-workers during her duty shift. An investigation of the LOC matter revealed that the fumes emanated from cutting pressure-treated wood and resin board, but the exposure level was far below that considered to be permissible by OSHA. The General

---

<sup>56</sup> The LOC reports in comments to the Draft Report that vibrating pagers have been provided to the hearing-impaired, areas of rescue assistance established, and stair chairs and monitors provided for the mobility-impaired to assist in evacuation efforts.



Counsel closed the case from the USCP because OSHA has adopted no enforceable standard regarding indoor air quality.

## **F. Chemical and Biological Hazards**

The General Counsel issued five citations to the LOC regarding Requests filed in 2001 by the LOC Fraternal Order of Police officers after the LOC failed to provide written chemical and biological emergency response procedures; failed to provide written procedures regarding the wearing of personal protection equipment; and failed to provide training in those procedures. The violations have been partially, but not completely, abated.

Several union-initiated Requests for Inspection, similar to those filed in the LOC, alleged that the USCP did not provide its officers with adequate personal protection equipment to respond to possible anthrax incidents; adequate training on how to respond to chemical and biological threats; adequate training on how to examine suspicious packages; and respirator masks failed to provide adequate protection.<sup>57</sup> These deficiencies remain unabated, and in large part uninvestigated, because the OGC has not been provided requested documents related to the USCP's emergency planning steps and procedures. The USCP's position is that the documents are security-sensitive. Since this Report was prepared, the parties have negotiated an agreement governing the release of security-sensitive documents to address this and similar situations. See Section III.A.

## **G. Asbestos**

At least seven employee and union Requests were filed regarding possible exposure to asbestos. The Requests arose from various sectors - the LOC Madison Building, the Capitol, and the Ford House Office Building.

In one, LOC employees were exposed to asbestos after the basement in the Madison Building flooded. During removal of the carpet, floor tiles containing asbestos were loosened thereby releasing particles of asbestos into the air. Testing by an OGC industrial hygienist revealed that the glue and tiles were in fact asbestos containing materials (ACM). Later testing found that the airborne fibers were within the safety limits established by OSHA.<sup>58</sup> The inspection determined that LOC employees had not been timely notified that floor tiles contained ACM, a violation of the OSHA

---

<sup>57</sup> The background information regarding the acquisition of \*\*\*\*\* emergency escape masks is discussed in greater detail in Section II.A.

<sup>58</sup> In comments to the Draft Report, the AOC asserts that no exposure occurred and that all tests returned negative. However, any exposure in this case occurred at the time the tiles were disturbed. Testing performing at a later date or time would not indicate this condition.



standards. However, the tiles have now been properly removed, disposed of, and replaced.

In the Senate Recording Studio, an employee reported that an AOC contractor had cut into wall boards containing asbestos, releasing asbestos particles into the air. As a result of this incident, the AOC and the Senate Sergeant at Arms evacuated all employees in the vicinity and cleaned the area according to OSHA guidelines. After the cleanup, an inspector from the OGC tested and verified that the airborne levels of asbestos were within acceptable limits.

Two Requests were filed by employees in the Ford House Office Building. Both alleged that during roof construction in 2004, asbestos dust had settled in their work areas. Testing by inspectors from the Office of the General Counsel showed that the dust present, while containing traces of asbestos, was well below levels considered to be permissible.

## **H. Potable Water**

Issues regarding the access to and quality of drinking water within Legislative Branch buildings was raised again during the 108<sup>th</sup> Congress. The Library of Congress Professional Guild filed several Requests for Inspection concerning low water pressure and water quality in the Jefferson and Adams LOC Buildings. Water samples, taken from both sources, indicated the presence of elevated lead levels. The General Counsel issued a citation in January 2005. Following the issuance of the citation, the AOC is temporarily providing bottled water at those sites where elevated levels of lead were found and where the fountains have been disabled. A consultant has been retained to propose a long-term solution.

The Russell Senate Office Building was the focus of two separate union-initiated Requests alleging that night employees did not have access to potable water one night when water was temporarily shut off and that personal protection equipment was not provided to clean up feces in restroom water. This matter remains under investigation.

## **VI. Challenges and Initiatives**

The statutory duties of the Office of General Counsel related to safety and health extend beyond the duty to inspect Legislative Branch buildings for violations and upon the request of individual employees. The Office of Compliance is also tasked to

...carry out a program of education for Members of Congress and other employing authorities of the Legislative Branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the Legislative Branch of the Federal Government.



See 2 U.S.C. §1381(h)(1). To this end, the General Counsel, in cooperation with the Executive Director of the OOC, has pursued several initiatives to foster a more interactive and collaborative approach to preventing and abating safety and health violations. These initiatives include increasing awareness of health and safety issues, providing advance notice of findings to employing offices following inspections, and conducting quarterly safety and health conferences for employing offices, unions, and employees.

### **A. Increasing Awareness of Safety and Health Issues**

During the 108<sup>th</sup> Congress, the Office began to publish web-based information sheets known as “Fast Facts”, which cover a broad range of topics and provide Legislative Branch employees and employing offices a brief summary of how to avoid common workplace hazards. To date, six “Fast Facts” have been published addressing such topics as obstruction of fire sprinklers, fire door safety, space heaters, damaged power cords, electrical panel accessibility, and extension cords and power strips. The “Fast Facts” are an effective tool because they are simple, easily distributed, and contribute to awareness of hazards that otherwise may go unnoticed and uncorrected.

“Bulletins” are now published quarterly, and occasionally in special editions, by the Office of Compliance. These publications address the broader scope of protections provided by the Congressional Accountability Act, including health and safety issues. Several “Bulletins” have covered these issues including such topics as public access and accommodation rights, common office hazards, workplace safety, office emergency action plans, safe mail handling procedures, preparing for an emergency, and stress and anxiety in the workplace. The “Bulletins” themselves are generally two pages and address both employer obligations and employee rights and how the Office of the General Counsel may assist in enforcing these rights. They also direct readers to additional sources for information and/or assistance.

### **B. Advance Notification of Proposed Findings**

The General Counsel determined that the inspections conducted pursuant to the Congressional Accountability Act during the 108<sup>th</sup> Congress would not only be more comprehensive but would also be conducted using a more collaborative approach than employed in prior years. Before the inspections commenced, the General Counsel conducted opening conferences for employing offices; parties were notified of the scope of the investigations; and periodically during the course of the inspections, employing offices were briefed by the OGC inspection team regarding violations identified thus far so that they could correct conditions before their buildings were inspected. Employing offices were provided with a



---

copy of the inspection findings as each facility was inspected rather than having to await the completion of the biennial inspection. This allowed employing offices ample opportunity to comment on the findings before they were finalized by the General Counsel and submitted to Congress as part of the Biennial Report.

### **C. Reducing Fluctuations in Biennial Inspections**

In order to provide more time for inspections and reduce the inspection schedule compression, the Biennial Inspection for the 109th Congress is being commenced early in the new session. In the past, the biennial inspection was often not conducted until the second year of each session of Congress. This severely limited the time available for staff to conduct Requestor-Initiated Inspections during the same period. As a result, these inspections were deferred and backlogs grew. The delay in disposing of this growing backlog of open cases deservedly drew criticism from labor organizations and employing offices alike. By conducting inspections over a two-year period, the overall quality of all inspections should be enhanced, and the ability to inspect all covered facilities during the term of each Congress and to be more timely in conducting Requestor-Initiated Inspections should be improved.

In its FY 2004 Annual Report, p. 11, the OOC noted that "even with the greater efficiency derived from the longer inspection cycle, the General Counsel will be unable to conduct all periodic and Requestor-Initiated Inspections on a timely basis until adequate additional staff and resources become available. This problem is expected to worsen as the AOC brings under its jurisdiction additional facilities, such as the Capitol Visitors Center." Accordingly, the OOC submitted an amended budget request for FY 2006 seeking additional resources to enable the OGC to conduct complete and timely health and safety inspections. This request was approved by both the House and the Senate.

### **D. Training Outreach**

As part of its mission to educate Legislative Branch employing offices and employees, the Office of Compliance conducted the first-ever Capitol Hill-wide conference on workplace safety and health in Congress. Moderated by the Congressional Management Foundation, the conference included panel discussions, featuring Jay Eagen, Chief Administrative Officer, U.S. House of Representatives and Susan P. Adams, Director of Safety, Fire, and Environmental Programs, Office of the Architect of the Capitol, as well as expert speakers, including Assistant Secretary of Labor for Occupational Safety and Health, John L. Henshaw, and Alan C. McMillan, President and Chief Executive Officer, National Safety Council. Representative Christopher Shays (R-CT) and Representative John Larson (D-CT) also addressed the conference. The conference program focused on creating



and implementing health and safety programs in employing offices, with emphasis on resources available to assist employing offices through the Voluntary Protection Programs Participants' Association and coordinating program information with other Hill offices.

One outgrowth of the conference was the creation of the Legislative Branch Health and Safety Group. Open to all interested Legislative Branch staff having safety and health responsibilities, the Health and Safety Group was initiated by the Office of Compliance in order to provide a forum to relay information to employing offices "at the front end" concerning significant activities and initiatives," as suggested by the GAO. (GAO Report, pp. 33-34). The Health and Safety Group generally meets on a quarterly basis allowing the OGC to share information with employing offices on the progress of periodic inspections, OSH and ADA deficiencies discovered during inspections, and other items of common interest. It also serves as an outlet for providing educational information, such as presentations by the Library of Congress and the Architect of the Capitol regarding the role played by Jurisdictional Occupational Safety and Health (JOSH) Committees in addressing health and safety concerns. As noted in the OOC's FY 2004 Annual Report, p. 12, the General Counsel will also be exploring the formation of a safety management group within Congress, composed of senior level staff from employing offices, to focus on the sharing of best practices and achieving greater coordination of safety and health efforts at the management level.

### **E. Monitoring Abatement of Citations and Violation Findings**

Following the completion of both periodic and Requestor-Initiated Inspections and the notification the existence of violations, the responsible employing offices submit abatement plans to the OGC that may be either short or long-term in duration. The CAA contemplates prompt abatement of all identified violations. In particular, §1341 (c)(6) of the CAA directs that "if new appropriations are necessary to correct a violation... correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued ...."

Employing offices report that the vast majority of violations are corrected during or shortly after the inspection. However, because of the time and cost involved and the need for new appropriations, certain violations may require more extended time to abate. It has become apparent to the General Counsel during the 108th Biennial Inspection that there has been little progress in abating many serious violations. Moreover, responsible employing offices often do not apprise the General Counsel of the status of abatement efforts or of changes in abatement schedules that have further extended the estimated completion dates. In other instances, abatement has been partial or ineffective. In the past, because of limited



resources, the OGC has placed insufficient emphasis on abatement and has relied too much on voluntary action by employing offices to follow through on meeting their abatement obligations.

During the course of the 109th Congress, the General Counsel will place special emphasis on monitoring and assuring compliance by responsible employing offices with outstanding unabated citations and other uncorrected violations. The implementation of a new case tracking system in 2005 significantly enhances the OGC's ability to increase this oversight and monitoring function. We also intend to work with the employing offices to explore ways to assist them in addressing any systemic problems that may contribute to delayed or inadequate abatement, and the recurrence of repeat violations.

#### **F. Self-Monitoring of Safety Conditions and Maintenance Programs**

From its initial Report to Congress in June of 1996, the OGC has emphasized that one of the most significant obstacles to the prevention of and prompt correction of safety and health hazards in the Legislative Branch is the lack of self-monitoring and self-compliance by employing offices through effective safety and health programs. The General Counsel noted that while many larger organizations, such as the AOC, LOC, and GAO, have formal, written safety policies, the programs lack essential elements to serve as preventive safeguards. See 1996 Report, pp. 5-6.

Closely related to the failure of some employing offices to timely comply with established abatement plans is the failure to develop and implement effective monitoring and maintenance programs to assure against a recurrence of the same or similar types of violations. It goes without saying that employing offices are responsible for assuring that adequate health and safety conditions exist for their respective own employees; the Office of Compliance was not created to function in their stead as the safety office for Legislative Branch instrumentalities. Rather, the OOC serves both an enforcement and educative function: to assure compliance with applicable safety and health code requirements and to inform and assist employing offices in carrying out their respective safety and health responsibilities. Accordingly, it is essential that employing offices continuously operate pro-actively with respect to the health and safety environments within their own offices, and not rely excessively on OGC biennial inspections to identify all hazardous conditions.

Employing offices have enhanced their efforts at self-policing since 1996, and as discussed earlier in this Report, they have augmented safety and health professionals on their respective staffs to this end. See pp. 3-4, above. However, given the number of violations identified during the 108th Biennial Inspection, much work in this area remains to be done. For



example, this inspection team, and those during past periodic inspections, have frequently cited employing offices for violations that were ultimately abated. However, in subsequent inspections, they have found numerous instances where the same types of hazards were discovered in the same or different locations, leading to findings of new violations. This would suggest either a failure of adequate abatement in the first place or a failure to adequately examine and address identified violations throughout the organization on a systemic basis and to “look for patterns and identify possible common or underlying causes of potential workplace hazards.” See GAO Report, p. 29.

### **G. Development of Employing Office Health and Safety Programs**

Substantial progress has been made by some employing offices in the development of safety and health programs. Due to time and resource constraints, a thorough examination of these programs by the OGC was not possible during the 2004 inspection. During the 109th Biennial Inspection, however, the General Counsel intends to begin a comprehensive review of these programs. One noted deficiency observed in the 108th Biennial Inspection was in the area of employee training programs. These programs should be designed to ensure that all employees understand and are aware of the hazards to which they may be exposed and the proper methods for avoiding such hazards. Where the nature of the job requires it, specialized training must be provided. While significant training protocols have been developed by some employing offices, such as the AOC for its construction workers, the Senate, through its Office of Security and Emergency Preparedness, and the House, through its Office of Emergency Planning and Preparedness, and Operations,<sup>59</sup> there were other areas observed where the lack of adequate training was noted during the 2004 Biennial Inspection. For example, as discussed in Section III. C, the inspection team found that in four work sites employees were not adequately notified of the dangers of the chemicals they were using, such as methylene chloride. In that case, the safety programs did not provide procedures for the timely and accurate updating of MSDS information or employees were unable to recognize the chemical hazards on the identified on the MSDSs due to a lack of adequate training. Other areas where there were observed deficiencies included insufficient training in confined space standards and in recognizing electrical hazards..

The General Counsel again recommends that all employing offices self-evaluate the effectiveness of their safety and health programs on an ongoing basis.

---

<sup>59</sup> The House Employment Counsel reported this information in comments to the Draft Report.





## VII. Recommendations

As stated at the outset of this Report, Section 215(e)(1) of the CAA requires the General Counsel to provide a comprehensive assessment of the health and safety conditions within the Legislative Branch. In addition to identifying specific hazards, the General Counsel has the correlative responsibility “to look for patterns and identify possible common or underlying causes of potential workplace hazards.” See GAO Report, p. 29. An essential element of this responsibility is to suggest recommendations that will further enhance the health and safety of all employees of the Legislative Branch.

This Report has previously identified specific hazards that require correction by the responsible employing offices. There is no need to restate these findings here. See Sections II through VI. However, some of the hazards identified by this Report do suggest programmatic and systemic problems that are worthy addressing, both because of their nature and their longstanding duration. In addition, this Section will discuss specific legislative issues encountered by the General Counsel that affect his ability to enforce compliance with health and safety laws and regulations, some of which have previously addressed in prior Reports.

### A. Enforcement Authority - Temporary Restraining Orders

Since 1998, the Board of the Office of Compliance has recommended that Congress grant specific authority to the General Counsel to seek a restraining order in Federal District Court in the case of imminent danger from violations of the OSHA. See OOC, Section 102(b) Report, p. 2 and \*\*\*\*\*, p. B2 (December 2004). Section 215(b) of the CAA provides remedies for violations of substantive provisions of the OSHA. Under Section 215(b), the remedy for a violation of the CAA is a corrective order, “including such order as would be appropriate if issued under Section 13(a)” of the OSHA. OSHA authorizes the Secretary of Labor authority to seek a temporary restraining order in District Court in the case of imminent danger. The General Counsel takes the position that Section 13(b) of the OSHA, by application, gives the OGC the same authority to petition for injunctive relief. See 29 C.F.R. §662(a).

Nevertheless, the OOC Board and the General Counsel believe that express authority to seek preliminary injunction relief should be made explicit since it is essential to the OGC’s ability to promptly eliminate potential hazards that pose imminent threats. In these cases, corrective action must be swift and sure. Accordingly, the General Counsel reiterates the Board’s recommendation that Congress amend the CAA to clarify the General Counsel’s standing to seek, and federal district courts to enter, temporary restraining orders.



---

## **B. Enforcement Authority - Environmental Statutes Protections**

A fundamental rationale for the passage of the CAA was to safeguard the Constitutional principle of separation of powers, precluding Executive Branch agencies from exercising administrative enforcement and jurisdiction over the Legislative Branch. Accordingly, many Members supported Congressional exemption from regulatory statutes, such as those enforcing compliance with environmental protections.

With regard to these environmental statutes<sup>60</sup>, the Executive Branch still exercises administrative and enforcement authority over the Legislative Branch. As the Board of the OOC recommended in its 2004 Section 102(b) Report, p.3, Congress should amend the CAA to transfer enforcement authority from the Department of Labor to the Office of Compliance to eliminate the separation of powers conflict that currently exists. See OOC Section 102(b) Report, p. 3 and \*\*\*\*\* (December 2004).

## **C. Enforcement Authority - §207 Retaliation Protections**

Over the years, Legislative Branch employees have effectively served as the “eyes and ears” of the General Counsel in informing him of the possible existence of serious hazards that may affect their safety and health and that of many other employees, including management representatives, that would not otherwise come to his attention. In order to assure the free flow of this information to the General Counsel, it is essential to protect from intimidation and retaliation Legislative Branch employees who exercise their rights to report and allege violations of safety and health violations. Section 207 of the CAA affords that right to employees. However, to assure that this right is effectively vindicated, the OOC Board has recommended that the General Counsel be granted the authority to investigate and prosecute violations of the anti-retaliation requirements of Section 207 of the CAA. OOC Section 102(b) Report, p.2 and \*\*\*\*\*  
\*\*\*, p. B1 (December 2004).

Covered employees who have sought information from the Office of Compliance respecting their substantive rights under the safety and health provisions of the CAA have expressed concern about their exposure in coming forward to bring a claim. They have also indicated their reluctance to shoulder the litigation burden without the support of OGC investigation or prosecution. Investigation and prosecution by the OGC would effectively insulate employees from these burdens.

---

<sup>60</sup> The subject statutes include the Toxic Substances Control Act, Clean Water Act, Safe Drinking Water Act, Energy Reorganization Act, Solid Waste Disposal / Resource Conservation Recovery Act, Air Pollution Prevention and Control Act, and Comprehensive Environmental Response, Compensation, and Liability Act of 1980.



This step is important to preserve confidence in the CAA and to avoid discouraging Legislative Branch employees from exercising their rights or supporting employees who do. Whenever a violation of safety and health is not brought to the attention of the OOC or the employing office due to employee fears of retaliation, the efficacy of the CAA is undermined.

## **VIII. Inspection Methodology and Acknowledgments**

The 2004 Biennial Inspection was commenced in March 2004. The inspection was led by Stephen Mallinger, Certified Industrial Hygienist and Special Assistant to the General Counsel since November 1997 on long-term detail from the Occupational Safety and Health Administration. Mr. Mallinger's substantial contributions to the advancement of health and safety on Capitol Hill deserve particular recognition. Mr. Mallinger was principally assisted in the inspection by Thomas H. Seymour, a part-time consultant to the General Counsel since 1999 and registered Professional Safety and Fire Protection Engineer, David Thompson, a safety consultant retained for the 2004 Biennial Inspection, and Jessica Hubert, a student intern from the University of Maryland School of Engineering. Mr. Thompson was principally responsible for scheduling inspections and preparing charts of violations and abatement information. Requestor-Initiated Inspections were conducted by Messrs. Mallinger, Seymour and Henry C. Woodcock, a health and safety consultant retained by the OGC since 1999.

The dates for OGC inspections were scheduled after prior consultation with representatives of the Architect of the Capitol and the employing offices, and adjustments in scheduling were often made to minimize any interference with employing office operations. In advance of the inspection of each facility, an opening conference was held for interested participants, advising of the content and procedures that would be followed. As with OSHA inspections, management representatives designated by the employing offices and AOC representatives accompanied the OGC inspection team. Representatives of affected employees were also invited to participate and frequently did so. Inspectors discussed violations of OSHA standards with representatives of the employing offices and the AOC, and offered technical advice on how to eliminate the identified hazards. Photographs were taken of many of the conditions observed. Early on, briefings were held to provide employing offices with "heads up" about violations commonly identified during the first inspections so that these hazards could be corrected in advance of the inspections in their facilities. As with OSHA inspections, the General Counsel's goal in these inspections has been to help employing offices and employees to reduce on-the-job hazards. Frequently AOC personnel were able to correct hazards "on the spot."

Since the 2004 Biennial Inspection was much more detailed and thorough than in past years, the Architect of the Capitol and employing offices were



---

required to devote more extensive staff time in accompanying the OGC inspection team and in providing information necessary to the completion of the Report and associated appendices. Throughout this inspection process, this Office has received excellent cooperation from the employing offices and the Architect of the Capitol. In this regard, particular thanks is extended to Pennie Hardesty, Susan Adams and other AOC personnel for their generous assistance in aiding this Office to accomplish this important task.

James Abbott, Deputy General Counsel of the Office of Compliance, was the primary author of the Report and had overall responsibility for its preparation. Major portions of the Report were prepared by Mr. Mallinger and Mr. Seymour as well as Senior Attorney Kate Tapley and Attorney Eilin Chiang. Carol Griffith, Paralegal/Administrative Assistant, Sarah Buckbee, Assistant Systems Administrator, Kisha Harley, Legal Technician, and Jonathan Orr, OOC Communications Director, assisted in the production of the Report.

Peter Ames Eveleth  
General Counsel



---

This page is intentionally left blank.



---

## **Staff of the Office of Compliance**

Peter Ames Eveleth  
General Counsel

James Abbott  
Deputy General Counsel

Sarah Buckbee  
Assistant Systems Administrator

Carol Griffith  
Paralegal/Administrative Assistant to the General Counsel

Kisha Harley  
Legal Technician

Stephen Mallinger  
Special Assistant to the General Counsel,  
Lead Safety and Health Inspector

Kate Tapley  
Senior Attorney

David K. Young  
Management/Program Analyst

## **Inspection Team**

Tom Seymour  
Fire, Safety, and Health Inspector

David Thompson  
Safety and Health Inspector

Henry Woodcock  
Certified Industrial Hygienist

Jessica Hubert  
Student Intern



---

**Contact Information:**

Office of Compliance  
Room LA 200, John Adams  
Building  
110 Second Street, SE  
Washington, DC 20540-1999

t/ 202-724-9250

tdd/ 202-426-1912

f/ 202-426-1663

Recorded Information Line/ 202-  
724-9260

*[www.compliance.gov](http://www.compliance.gov)*

This page is intentionally left blank.



# Appendices

Appendix A .....	*****
Appendix B .....	*****
Appendix C .....	*****
Appendix D .....	Guidelines for Risk Assessment Code
Appendix E .....	Buildings Inspected in 2004 vs 2002
Appendix F ..	Responsible Offices Comments to Report

*~Note to Reader*

*Appendices A, B, and C are not included in this version of the Public Report because of their volume and the United States Capitol Police has determined that significant portions contain security sensitive information. Accordingly, all references to Appendices A, B, and C have been redacted from the Report. Appendices D, E, and F are included.*

This page is intentionally left blank.

# Appendix D - Guidelines for Risk Assessment

## Office of Compliance Guidelines for Risk Assessment Codes (RACs) - July 29, 2004

Office of Compliance (OOC) inspectors assign a risk assessment code (RAC) to each hazard encountered during routine inspections. The RAC describes the relative risk of injury, illness or premature death that could result from exposure to a hazard. RACs vary between a RAC 1 for a relatively high risk and a RAC 5 for an insignificant risk. Because the OOC does not identify hazards that have insignificant risks (*de minimis* violations), we do not have RAC 5 findings.

A RAC uses a combination of the *probability* that an employee could be hurt and the *severity* of the illness or injury. The tables below outline the definitions of these elements and the process for combining the elements to determine a RAC. We use two methods: one for *safety* hazards, which could result in injuring an employee, and another for *health* hazards, which are conditions that could cause an occupational illness.

Table 1 shows the matrix used to determine RACs for safety hazards. The inspector finds the RAC by selecting the probability category from the first column and the worst-case severity category from the next four columns. The cell where the severity and probability descriptions intersect contains the appropriate RAC.

Probability Categories	Hazard Severity Categories			
	I	II	III	IV
Likely to occur immediately (A)	RAC 1	RAC 1	RAC 2	RAC 3
Probably will occur in time (B)	RAC 1	RAC 2	RAC 3	RAC 4
Possible to occur in time (C)	RAC 2	RAC 3	RAC 4	
Unlikely to occur (D)	RAC 3	RAC 4		

OOC has based the structure of the RAC tables (Tables 1 and 2) on information from John Zoldak of The Zoldak Group, Inc., and the definitions of the classifications and categories on the Department of Defense Instruction 6055.1, <http://www.dtic.mil/whs/directives/corres/pd2/i60551p.pdf>. The definitions of the Hazard Severity categories from the DOD Instruction are as follows:

- *Severity Category I:* Death or permanent total disability.
- *Severity Category II:* Permanent partial or temporary total disability; off work more than 3 months.
- *Severity Category III:* Lost-workday or compensable injury.
- *Severity Category IV:* First aid or minor supportive medical treatment.

RACs for health hazards require a more complex approach. Health RACs include factors such as exposure conditions, routes of entry, medical effects, exposure duration, and the number of employees exposed. Table 2 below outlines the RAC categories for health hazards and Tables 3 through 8 give the process for calculating the probability and severity categories for Table 2.

Probability Categories	Hazard Severity Categories			
	I	II	III	IV
Likely (A)	RAC 1	RAC 1	RAC 2	RAC 3
Probable (B)	RAC 1	RAC 2	RAC 3	RAC 4
Possible (C)	RAC 2	RAC 3	RAC 4	
Unlikely (D)	RAC 3	RAC 4		

To determine the Hazard Severity for Table 2, add the factors in Tables 3 and 4, then use Table 5 to select the category.

Is an exposure route other than inhalation possible?	Exposure Conditions			
	< AL	Intermittently ≥ AL, but < OEL	≥ AL, but < OEL	≥ OEL
No	0 points	3 points	5 points	7 points
Yes	2 points	4 points	6 points	9 points

“AL” is the action level, which usually requires training, medical monitoring, records, and other measures. “OEL” is the occupational exposure limit that applies to the situation. These limits include OSHA permissible exposure limits (PELs), threshold limit values (TLV®s) from the American Conference of Governmental Industrial Hygienists (ACGIH), and short-term exposure limits (STELs) and ceiling limits from either OSHA or ACGIH.

Condition	Points
No medical effects (could include nuisance odors)	0
Temporary reversible illness requiring supportive treatment (e.g. eye irritation, sore throat)	1 to 2
Temporary reversible illness with limited period of disability (e.g., metal fume fever)	3 to 4
Permanent illness or loss of capacity (e.g., permanent hearing loss)	5 to 6
Severe disabling and irreversible illness or premature death (e.g., asbestosis)	7 to 8

Note: Be sure to use the correct medical effects for exposure conditions. Use acute effects for exposures > STELs and chronic effects for exposures > time-weighted average OELs.

*Table 5. Health Hazard Severity Category (for use in Table 2)*

<b>Health Hazard Severity Category</b>	<b>Total points from Tables 3 and 4</b>
I	13 to 17 points
II	9 to 12 points
III	5 to 8 points
IV	1 to 4 points

To determine the Health Hazard Probability for Table 2, add the factors in Tables 6 and 7, then use Table 8 to select the category.

*Table 6. Number of Exposed Employees (for use in Table 8)*

<b>Number of Exposed Employees</b>	<b>Points</b>
< 5 exposed employees	1 to 2 points
5 to 9 exposed employees	3 to 4 points
10 to 49 exposed employees	5 to 6 points
> 49 exposed employees	7 to 8 points

*Table 7. Exposure Duration (for use in Table 8)*

<b>Exposure Frequency (during the year)</b>	<b>Exposure Duration (during a week)</b>		
	<b>1 to 8 hours/week</b>	<b>&gt; 8 but &lt; 30 hours/week</b>	<b>≥ 30 hours/week</b>
Irregular, intermittent	1 to 2 points	4 to 6 points	8 points
Regular, periodic	2 to 3 points	5 to 7 points	8 points

*Table 8. Health Hazard Probability Category (for use in Table 2)*

<b>Health Hazard Probability Category</b>	<b>Total points from Tables 6 and 7</b>
Likely	14 to 16 points
Probable	10 to 13 points
Possible	5 to 9 points
Unlikely	1 to 4 points

## Guidance for Applying Risk Assessment Codes (RACs)

### *Apply RACs to Hazardous Conditions, Not to Generic Violation Categories*

Inspectors should not attempt to match a RAC with a specific description of a violation without considering the conditions in which the violation exists. In other words, they should make no attempt to be consistent in assigning the same RAC to the same violation, unless the conditions involved in the violation are also consistent.

Example: A violation for exposure to asbestos in the air could result in a RAC 1, 2, 3, 4 or 5, depending on the conditions. Exposure to asbestos below the action level with no other contamination would have 8 medical-effects points and, therefore, a Severity Category of III. If a maintenance worker enters a closet with that level of asbestos for a couple of hours a month, the total Health Hazard Probability points would be 4, which would equate to “Unlikely.” The resulting RAC would be 5, which would be *de minimis*.

On the other hand, if a group of 6 people has that same asbestos exposure (below the AL with no other contamination) every workday, then the Health Hazard Probability points would be 11, which would equate to “Probable.” The resulting RAC would be 3.

### *Apply RACs to “Covered Employees”*

Because the scope of OOC’s occupational safety and health inspections is limited to hazards to employees covered under the Congressional Accountability Act, our RACs are based only on those hazards. While other organizations might use RACs to track risks for the public or for potential facility damage, OOC RACs will not cover those types of hazards.

Example: A guardrail does not meet either the OSHA criteria to protect employees or the building code requirements to protect the general public. If the spacing between the railings poses a low risk for employees but a high risk for children, our RAC would be based on the low employee risk rather than the higher risk for members of the public.

### *Applying RACs for Unknown Exposure Conditions*

When employees use substances that could expose them to hazardous levels but the employer has not measured or modeled the exposure, the inspector will need to either sample or estimate the level of exposure to determine the appropriate RAC. Unfortunately, odor levels and irritant levels can rarely be used to indicate levels that are hazardous; therefore, other means will usually be needed to estimate exposure levels.

The specific substance standards in 29 CFR Subpart Z that include permissible exposure limits (PELs) require the employer to determine the exposure level. They also require the employer to protect employees as though exposures exceed the PEL until exposure monitoring demonstrates otherwise. For violations of these standards, calculate the RAC using points for exposures above the PEL, unless there is a clear indication that exposures are less than the PEL.

For substances that do not have specific standards in Subpart Z, the inspector can use judgment

and experience to estimate the potential exposure after reviewing the method of application or use, vapor pressure of the material, process temperature, amount and rate of use, and volume of the area where the substance is used.

#### *Applying a RAC for a Condition Having Multiple Risks*

A violation will often have multiple potential outcomes. Examples include:

- Methylene chloride can cause both loss of consciousness during intermittent short-term exposures and long-term exposures can produce cancer.
- Many electrical violations can result in minor shock, major injury, death, localized fires or major facility fires.

To determine the appropriate RAC for such a violation, we look at two scenarios and use the highest RAC between them. We look at the scenario most likely to occur and determine that RAC. Then we look at the scenario with the most severe effects and determine that RAC. The highest of these two RACs (lowest number on our scale) is assigned to the violation.

#### *Do Not Use RACs to Dictate an Abatement Schedule*

A RAC provides information about the relative risk. More serious RACs (RAC 1 and RAC 2) should justify more resources and attention to correct hazards than less serious RACs (RAC 3 and RAC 4). We do not, however, use RACs to indicate a time-line for correcting a violation. If a RAC 4 violation can be corrected simply by eliminating an extension cord or by removing an obstruction, then the violation should be corrected immediately.

#### *Do Not Reduce RACs to Reflect Reduced RACs for Interim Control Measures*

Conditions that have been assigned serious RACs should usually require the employment of interim control measures. These measures should reduce the probability or severity of an injury or illness and result in a less serious (higher number) RAC. Employing offices will normally adjust these RACs as a part of managing their safety programs.

The OOC does not participate in adjusting RACs unless we receive a formal request to assist with this process.

#### *Apply RACs to Direct, Indirect and Root Causes of Hazards*

It is axiomatic that hazards, illnesses, and injuries usually have multiple causes and sources. Correcting a direct cause will physically eliminate the hazard or violation. For example, replacing a chemical that produces hazardous exposures with a chemical that does not produce such exposures addresses the direct cause of the hazard.

RACs also apply to indirect and root causes of hazards. Examples of indirect causes include missing MSDSs that would inform employees of hazardous materials that are otherwise not known, training that has not covered the procedures needed to avoid a hazard, lack of guidance regarding safe processes, an inadequate program in which the missing elements would reduce or eliminate the direct causes, etc.



## Typical Examples of Risk Assessment Codes

Table 9 describes several sets of violations and conditions to show how we assign the RACs. These examples are instructional; therefore, no policy is implied by the conditions and hazards included in this table.

<i>Table 9. Typical Examples of Risk Assessment Codes (RACs)</i>			
<b>Violations, Conditions, and Potential Hazards</b>	<b>Severity</b>	<b>Probability</b>	<b>RAC</b>
Energized junction box is missing a cover. The box is within 8 feet of the floor and poses a potential electrocution hazard upon contact in a work area or frequently-used walkway or corridor.	I	C	2
Energized junction box is missing a cover. The box is within 8 feet of the floor and poses a potential electrocution hazard upon contact but is not located in a work area or frequently-used walkway or corridor.	I	D	3
Energized junction box is missing a cover. The box is more than 8 feet from the floor (relatively inaccessible) and has flammable materials near the location, and poses a limited fire hazard..	III	B	3
Fire extinguisher not inspected or maintained. It is not located in a sprinkler-protected area and a fire would pose a fire hazard with no protective measures.	III	B	3
Fire extinguisher not inspected or maintained. It is located in a sprinkler-protected area and a fire would pose a fire hazard with incomplete protective measures.	III	C	4
A confined space exists with a potential atmospheric hazard. The space is not labeled or marked as a permit required space; no entry program has been developed. No known entries have been made but the space is accessible and it could pose an inhalation hazard.	I	C	2
A confined space exists with a potential atmospheric hazard. The space is not labeled or marked as a permit-required space; no entry program has been developed. Entries have been made without protective measures, posing a likely inhalation hazard.	I	B	1
3 or 4 employees use methylene chloride (carcinogen) for more than 30 hours a week at levels above the PEL with poor ventilation, no respiratory protection, and no PPE to prevent potential skin exposure.	Table 3 = 9 Table 4 = 7 Total = 16 Severity I	Table 6 = 2 Table 7 = 8 Total = 10 Probable	1
5 or 6 employees use methylene chloride very infrequently at levels above the PEL with poor ventilation, no respiratory protection, and no PPE to prevent potential skin exposure.	Table 3 = 9 Table 4 = 7 Total = 16 Severity I	Table 6 = 3 Table 7 = 1 Total = 4 Unlikely	3

This page is intentionally left blank.

# Appendix E - Buildings Inspected in 2004 vs 2002

### Buildings Inspected in 2004 and 2002

## Buildings Inspected in 2004:

Supreme Court  
 U.S. Capitol\*  
 Senate Underground Garage  
 Russell SOB\*  
 Hart SOB\*  
 Dirksen SOB\*  
 Cannon HOB\*  
 Longworth HOB\*  
 Rayburn HOB\*  
 East-West Underground Garage  
 U.S.C.P. Headquarters and Annex  
 Botanic Gardens Buildings  
 GAO  
 Senate Day Care, C. St.  
 Senate Page Dorm  
 St. Cecilia's Day Care (LOC)  
 House Day Care in Ford  
 House Page Dorm  
 Fort Meade LOC Book Storage  
 U.S.C.P.'s K St. Garage  
 AOC's E St. Garage  
 LOC's Taylor St.  
 CMD Blue Plains  
 Postal Square  
 Cheltenham Training Annex

## Buildings Inspected in 2002:

Supreme Court  
 U.S. Capitol  
 Russell SOB  
 Hart SOB  
 Dirksen SOB  
 Cannon HOB  
 Longworth HOB  
 Rayburn HOB  
 East-West Underground Garage  
 U.S.C.P. Headquarters and Annex  
 Botanic Gardens Buildings\*\*  
 GAO  
 U.S.C.P.'s K St. Garage  
 CMD Blue Plains  
 Postal Square  
 Ford HOB  
 Fort Meade warehouses  
 Madison Bldg.\*\*  
 Jefferson Bldg\*\*  
 Adams Bldg\*\*  
 Blue Plains U.S.C.P. Canine facility  
 P Street U.S.C.P. Warehouse  
 Capitol Power Plant

Highlighted buildings were inspected in 2004 but not in 2002.

\* Committee spaces, Members' offices, & non-AOC spaces were not inspected during the 2004 inspections but were included in the 107<sup>th</sup> Congressional biennial inspections [have not yet been inspected during the designated building inspection in 2004].

\*\* Partial inspections

This page is intentionally left blank.

This page is intentionally left blank.

# Appendix F - Responsible Offices

## Comments to Report

Architect of the Capitol

House Employment Counsel

Senate Employment Counsel

United States Capitol Police



THE ARCHITECT OF THE CAPITOL  
03 2005  
COMPLIANCE

Washington, DC 20515  
September 30, 2005

Mr. Peter Eveleth  
General Counsel, Office of Compliance  
110 Second Street, SE, Rm LA-200  
Washington, D.C. 20540-1999

Subj: Response to Office of Compliance letter of September 21, 2005, regarding the *Final Draft Biennial Report on Occupational Safety and Health for the 108<sup>th</sup> Congress*

Dear Mr. Eveleth:

This letter is in response to your office's letter of September 21, 2005. Thank you for the opportunity to provide comments on the Office of Compliance's (OOC) *Final Draft Biennial Report on Occupational Safety and Health for the 108<sup>th</sup> Congress*. The Office of the Architect of the Capitol (AOC) appreciates the prior opportunity to comment on the draft report and the OOC's inclusion of a number of our comments into its final report.

In providing these comments, AOC does not dispute that there are challenges facing the Capitol Hill buildings AOC manages and the safety programs we are implementing.

However, we remain concerned that the report does not present a clear and accurate perspective of the state of Occupational Safety and Health (OSH) within the Legislative Branch. Furthermore, we believe it is important for the report to convey not only deficiency information but an accurate overview of the relevant risk to human health and safety especially, when absent this perspective the subject matter may raise unnecessary employee concerns, as detailed below.

In addition, the report credits employing offices with correcting 91 percent of the deficiencies. However, the report does not provide perspective on the magnitude of the remaining challenges. Many of these challenges result from the design, age, and historic nature of our buildings. Corrections are not always immediately possible as they require coordinated planning and design, substantial funding, and cannot negatively impact Congressional operations or public access.

We believe the OOC should recognize that the generous support of the Congress has resulted in considerable work being accomplished on significant elements, such as substantial expansion of smoke detection and sprinkler coverage. In addition, the level of safety across the campus continues to improve and has never been higher. AOC's injury and illness (I&I) rate as calculated by OSHA is the clearest measure of our progress. In Fiscal Year (FY) 2000, as your office noted in a past report, the AOC had the highest I&I rate of all Federal Agencies - 17.9. In FY 04, AOC's I&I rate was 5.88, a reduction of 67 percent over four years.



As previously mentioned, it is our opinion that some sections of the report lack balance and present an overly alarmist view on specific issues. One example is the characterization of the Rayburn House Office Building ventilation issue. The report concludes that the issue, "poses a continuing risk to employees." This conclusion is not supported by the OOC investigation report. Extensive sampling was performed. Less than one percent of the samples analyzed had a measurable lead content, and all five of these samples were below applicable OSHA and/or HUD EPA levels. The medical expert hired by OOC to review the results concluded that there was, "no basis for concluding that exposure to lead poses a health risk to those people working in the Rayburn Building." The OOC closed this case on September 24, 2004.

Similarly, in describing an asbestos related inspection request in the Madison Building loading dock, the report fails to provide the reader with a clear indication as to the level of health concern. Specifically, the OOC inspection request investigation concluded, "No serious violations or uncontrolled hazards were found. The noncompliance and nonconforming items did not result in significant exposures of contamination of areas outside the regulated area. The extensive daily monitoring results provided sound evidence that the asbestos was well controlled during each of these jobs."

Another example of the unbalanced view given by the report is the discussion of obstructed sprinkler heads. Your report of eighty-six instances of obstructed sprinklers is not provided in context of the tens of thousands of sprinkler heads that exist in the facilities Hill-wide. It is our understanding that the employing offices promptly addressed these relatively few obstructions when inspectors reported them. While we have discussed these examples in some detail, we would like to note for the record that similar mischaracterizations remain throughout the report.

In summary, the AOC believes the report does not present a clear and balanced view of the state of Legislative Branch Occupational Safety and Health. We agree that we face many challenges and there is much work yet to be done. However, the fact is that substantial progress has been made in emergency preparedness, fire protection, and occupational safety and health both within the AOC and across the Capitol campus. The level of safety continues to improve and has never been higher. AOC is committed to continuing to work in a prioritized and fiscally responsible manner using available resources to address the challenges ahead of us. We urge the OOC to continue to strive to present a balanced perspective of the issues facing the Legislative Branch so that priorities and resources may be allocated appropriately.

We appreciate the opportunity to provide comments on the final report and look forward to our continued joint efforts to improve the safety of those who work in and visit the Capitol complex.

Sincerely,



Susan P. Adams  
Director, Safety, Fire, and Environmental Programs

Cc: James Abbott, Deputy General Counsel

GLORIA J. LETT  
COUNSEL

ANN R. ROGERS  
SENIOR ASSOCIATE COUNSEL

VICTORIA L. BOTVIN  
WILLIAM F. ALLEN  
KIMBERLY CAREY WILLIAMS  
ASSOCIATE COUNSELS

U. S. HOUSE OF REPRESENTATIVES  
OFFICE OF HOUSE EMPLOYMENT COUNSEL  
1036 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
TELEPHONE: (202) 225-7075  
FACSIMILE: (202) 225-7033

September 30, 2005

**Via Facsimile and U.S. Mail**

James T. Abbott  
Deputy General Counsel  
Office of Compliance  
Room LA 200  
John Adams Building  
110 Second Street, S.E.  
Washington, D.C. 20540

Re: **Comments to the Revised Biennial OSHA Report for the 108<sup>th</sup> Congress**

Dear Mr. Abbott:

Thank you for your letter of September 21, 2005, conveying the Office of Compliance's ("the Office's") revised Biennial OSHA Report for the 108<sup>th</sup> Congress ("the Report").

Although we are pleased with some of the changes to the Report, our primary concern regarding the characterization of the 2002 inspection of the Rayburn Building remains. The Report fails to discuss crucial information about the inspection findings. Specifically, the Report states that a "comprehensive inspection was subsequently conducted by AOC contractors who took numerous air and wipe samples throughout other parts of the building," yet the Report inexplicably does not include the *results* of the extensive testing. Indeed, the Office's inspection report concluded that "levels of lead in the air did not exceed the OSHA permissible exposure level" and because "surface samples indicated levels appropriate for lunchrooms and eating areas and the medical review found no hazard from these levels of contamination, employees would not be considered to be exposed to a lead hazard."<sup>1</sup> Moreover, the Office's March 8, 2004, inspection report was amended by letter of July 14, 2004, to supplement the testing data to include the fact that the blood lead tests for the two individuals who were offered testing came back "normal." These results and conclusions, however, are not mentioned in the Report's discussion of the inspection.

Office of Compliance Inspection Report at p. 6.

In her July 29, 2002, opinion letter to the Office, Dr. Laura Welch states that informing employees of the sample results is "unwarranted, since the results do not indicate the potential exposure poses a health hazard." The Office's inspection report concurs with Dr. Welch's conclusion.<sup>2</sup> Moreover, Dr. Welch states that "notifying other employees would raise unnecessary concern." Accordingly, by providing only a partial description of the Office's Rayburn inspection and not the ultimate conclusion that there is no health risk associated with the lead levels, the Report will most likely cause needless alarm for the occupants of the Rayburn Building. Therefore, we reiterate our request that the Report include *more* information regarding the Office's inspection to provide the reader with an accurate picture of *all* of the testing that was conducted, the results, and conclusions of the investigators.

In addition to the comments above, we also have the following observations and suggestions:

1. The second paragraph on page 4 states that "the House Employment Counsel reports that the House Office of Emergency Preparedness conducted training on the use of personal protective equipment and emergency evacuation procedures and developed training plans on evacuation procedures for employees and visitors with disabilities." The proper name for the office, as stated in our earlier comments, is the Office of Emergency Planning, Preparedness and Operations ("OEPPO"). Moreover, as worded, the language creates the impression that OEPPO provides training to visitors and this is not the case. OEPPO provides training to *House staff* on the evacuation procedures for staff and visitors in the event of an emergency.
2. Footnote 20 on p. 18 states that "the House Employment Counsel represents that VRUs have also been distributed to House employees with mobility impairments and volunteer 'buddies'." The Report should clarify that VRUs are being distributed to those individuals on the list<sup>3</sup> of self-identified mobility impaired House employees and that the distribution of VRUs and training on their use is an ongoing process.
3. Page 81 also incorrectly refers to OEPPO as the "Office of Emergency Planning and Preparedness Operations."

---

<sup>2</sup> Office of Compliance Inspection Report at 6.

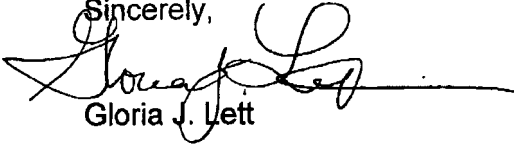
<sup>3</sup> The list is voluntary and maintained by the U.S. Capitol Police.

James T. Abbott  
September 30, 2005  
Page 3

Given the options presented in your September 21, 2005, letter regarding the inclusion of comments in the Report, we ask that these comments, as well as our August 19, 2005, comments be attached to the Report.<sup>4</sup>

Thank you for the opportunity to provide further comments to the Report. Please contact me if you have any questions.

Sincerely,



Gloria J. Lett

<sup>4</sup> We request that you submit our comments to the appropriate U.S. Capitol Police officials to review for any potential security issues prior to the publication of our comments.

GLORIA LETT FERGUSON

ANN R. ROGERS  
SENIOR ASSOCIATE COUNSEL

VICTORIA L. BOTVIN  
WILLIAM F. ALLEN  
KIMBERLY L. CAREY  
ASSOCIATE COUNSELS

U.S. HOUSE OF REPRESENTATIVES  
OFFICE OF HOUSE EMPLOYMENT COUNSEL  
1036 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-5532  
TELEPHONE: (202) 225-7075  
FAX: (202) 225-7033

August 19, 2005

**Via Hand Delivery**

Peter Ames Eveleth  
General Counsel  
Office of Compliance  
Room LA 200  
John Adams Building  
110 Second Street, S.E.  
Washington, D.C. 20540

**Re: Comments to the Draft Occupational Safety and Health Report**

Dear Mr. Eveleth:

Thank you for the opportunity to provide commentary on the Office of Compliance's Draft Biennial Report on Occupational Safety and Health for the 108<sup>th</sup> Congress ("the Report"). Although the majority of the Report addresses issues solely within the jurisdiction of the Architect of the Capitol ("AOC"), there are several areas of concern we seek to address regarding the nature of the findings or the characterization of the issue(s) contained in the Report.

As you requested, we have taken a twofold approach to the commentary: smaller corrections and suggestions are noted in the attached version of the Report (indicated by blue italics and strikeout), while our two broader concerns are outlined below with corresponding citations to the Report.

A. "Rayburn House Office Building Ventilation System"

The Report discusses the Office of Compliance's investigation of an employee's discovery of dark soot on her desk and other furniture in her office in the Rayburn building (Office of Compliance Request for Inspection No. OSH-0210) (Report at pp. 33-34). The Report mistakenly states that the request for inspection and subsequent testing occurred in 2003, when it actually occurred in 2002.

The Report further states that as a result of the Office of Compliance's initiation of an investigation, "significant quantities of lead were discovered in the ventilation system of the Rayburn House Office Building" and that a sample of the material collected by the Office of Compliance in its resulting inspection "contained over 50% lead." These statements create the false impression that a lead hazard exists in the ventilation system in the Rayburn Building when, according to the Office of Compliance's own inspection report, this is not the case. The inspection report, which inexplicably was distributed to interested parties more than two years after the initial request for inspection, states that only three of the 141 air samples and two of the 580 wipe samples showed detectable levels of lead.<sup>1</sup> Moreover, for the rare samples that did contain lead, the inspection report concluded that the levels of lead detected in those samples were so low that there was *no violation of any applicable OSHA standard*. These findings do not support the conclusion that any lead hazard exists in the Rayburn Building. In fact, the inspection report supports the *opposite* conclusion.

As you know, the AOC, and specifically, the House Superintendent's Office, worked closely with the Office of Compliance in an effort to determine the composition of the dark soot found in the requestor's office, its possible source, and the extent of its distribution within the Rayburn ventilation system. Although the combined efforts of the AOC and Office of Compliance could not determine the definitive source of the lead, the Office of Compliance's inspection report concluded that "[n]o specific hazards were recognized" as a result of the investigation. More importantly, the medical expert hired by the Office of Compliance to review the air and surface sample results concluded that there was "no basis for concluding that exposure to lead poses a health risk to those people working in the Rayburn building."

Finally, the Report states that the "General Counsel recommends that ongoing monitoring be conducted by the AOC to *minimize future exposure* to the conditions in the Rayburn House Office Building" (Report at p. 35) (emphasis added). Such a statement creates the false impression that there is an ongoing lead exposure problem in the Rayburn building - a conclusion specifically ruled out by both the Office of Compliance's medical expert and the Office of Compliance's inspection report. Out of an abundance of caution, however, it is our understanding that the AOC conducted follow up testing of the ventilation systems in the Rayburn building.

---

<sup>1</sup> The July 29, 2002 letter of the medical expert retained by the Office of Compliance to review its test findings states that "[a]mong 75 air samples, 2 showed detectable lead, and 2 of 380 wipe samples found lead." The reason for the different figures is not explained in the investigation report.

Peter Ames Eveleth, Esq.

August 19, 2005

Page 3

We strongly suggest that the Report's current description of the investigation be revised to state in clear and uncertain terms that the Office of Compliance's investigation substantiates the conclusion that there is no lead exposure hazard for the occupants of the Rayburn Building. We also suggest that the Report highlight the AOC's prompt and thorough response to the Office of Compliance's inspection.

## **B. Abatement Progress**

Although the Report mentions that as of the end of 2004, 91% of the hazards identified in the Office of Compliance's 2004 inspection have been abated (Report at pp. 2, 8), there is no consistent description in the text of the Report regarding where this abatement has occurred. For example, in the discussion of the hazards identified in the Rayburn House Office Building, the Report states that there were thirteen violations concerning materials being stored less than 18 inches below the fire sprinkler heads. (Report at p. 60). Yet, there is no indication whether these violations are part of the 91% of hazards that have since been abated. Indeed, as indicated to the Office of Compliance through written and verbal abatement updates provided by our office, all of the Member offices whose storage spaces were identified in the Inspection Findings charts for the House Office Buildings now report that the issues in their storage rooms have been abated. As this information will presumably be included in the updated version of Appendix A, we recommend including it in the text of the Report as well.

We appreciate the opportunity to provide commentary and suggestions for the Report. Please let me know if you have any questions regarding the concerns expressed above or in the attached version of the Report. I look forward to reviewing the revised Report.

Sincerely,

A handwritten signature in cursive script that reads "Gloria J. Lett".

Gloria J. Lett

Attachment

EMILY J. REYNOLDS  
SECRETARY

**United States Senate**  
OFFICE OF THE  
SENATE CHIEF COUNSEL FOR EMPLOYMENT  
P.O. BOX 77053  
WASHINGTON, DC 20013  
(202) 224-5424

JEAN MANNING  
SENATE CHIEF COUNSEL FOR EMPLOYMENT

TOBY R. HYMAN  
CLAUDIA A. KOSTEL  
MATTHEW D. KEISER  
ERICA A. WATKINS  
SENATE SENIOR COUNSEL FOR EMPLOYMENT

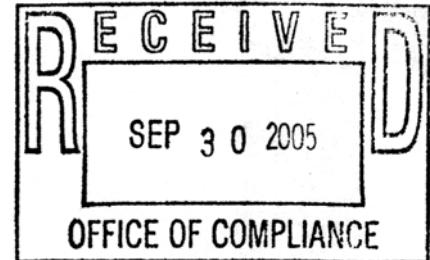
M. STACEY BACH  
DAWN BENNETT-INGOLD  
JULIE E. SAKER  
SENATE COUNSEL FOR EMPLOYMENT

FAX: (202) 228-2557  
TDD/TTY: (202) 224-1240

September 30, 2005

**By Hand Delivery**

Peter Ames Eveleth, Esquire  
James Abbott, Esquire  
Office of Compliance  
Room LA 200  
Adams Building  
110 Second Street, SE  
Washington, DC 20540



Re: Comments to the Final Draft Biennial OSHA Report for the 108<sup>th</sup> Congress

Dear Mr. Eveleth and Mr. Abbott:

I am writing in response to your September 21, 2005 letter. Thank you for the opportunity to comment on the Office of Compliance's Final Draft Biennial OSHA Report for the 108<sup>th</sup> Congress ("Report"). We request that you include the comments already provided to you as our "official comment" in Appendix F to the Report.<sup>1</sup>

have a few recommended clarifications:

As I stated in my August 19, 2005 letter, the comments were submitted on behalf of all Senate employing offices who were inspected in the 108<sup>th</sup> Congress. In footnote 3 of the Report, you state that comments were provided by the Senate Sergeant at Arms. To be accurate, it should state that "comments were provided by the Office of Senate Chief Counsel for Employment on behalf of its Senate clients."

In footnote 21, you claim that our office disagrees with the Report's conclusions regarding the suitability of the Essex. I believe that it is more appropriate to state that our office has provided information regarding the Essex on behalf of its clients.

---

For your convenience, we have attached the previous comments and letter attachments.



Peter Ames Eveleth, Esquire  
September 30, 2005  
Page 2

On page 81, you list an entity as the "Office of Emergency Preparedness." Its official name is "The Office of Security and Emergency Preparedness (OSEP)."

The Senate employing offices look forward to working with you to continue to promote a safe workplace. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew D. Keiser". The signature is stylized with a large initial "M" and a long horizontal stroke.

Matthew D. Keiser  
Senate Senior Counsel for Employment

Enclosure

EMILY J. REYNOLDS  
SECRETARY

**United States Senate**  
OFFICE OF THE  
SENATE CHIEF COUNSEL FOR EMPLOYMENT  
P.O. BOX 77053  
WASHINGTON, DC 20013  
(202) 224-5424

JEAN MANNING  
SENATE CHIEF COUNSEL FOR EMP

TOBY R. HYMAN  
CLAUDIA A. KOSTEL  
MATTHEW D. KEISER  
ERICA A. WATKINS  
SENATE SENIOR COUNSEL FOR EMPLOYM

M. STACEY BACH  
DAWN BENNETT-INGOLD  
JULIE E. SAKER  
SENATE COUNSEL FOR EMPLOYMEN

FAX: (202) 228-2557  
TDD/TTY: (202) 224-1240

August 19, 2005

**By Hand Delivery**

Peter Ames Eveleth, Esquire  
James Abbott, Esquire  
Office of Compliance  
Room LA 200  
Adams Building  
110 Second Street, SE  
Washington, DC 20540



Re: Comments to the Draft Biennial OSHA Report for the 108<sup>th</sup> Congress

Dear Mr. Eveleth and Mr. Abbott:

Thank you for the opportunity to comment on the Office of Compliance's Draft Biennial OSHA Report for the 108<sup>th</sup> Congress ("Report"). These comments are submitted on behalf of all Senate employing offices who were inspected in the 108<sup>th</sup> Congress.<sup>1</sup>

Abatement Responses

On page 2 of the Report, you state that "Representatives of the Architect of the Capitol and of the employing offices ordinarily accompanied the inspection team and promptly corrected many hazards on the spot. As a result, the offices responsible for correcting violations reported that 91% of the hazards were abated by the end of 2004." This should be highlighted in the text and it should be referenced when you describe individual buildings and individual alleged safety hazards. For example, on page 26 of the Report, in describing extension cord hazards, you correctly state that "in most cases where a deficiency was noted in the plug or cord, the employing office representative voluntarily corrected it promptly during or immediately after the inspection." Similarly, on page 75, you correctly state that "frequently AOC personnel were able

---

<sup>1</sup>This space included Postal Square, the Senate Page Dorm, the Senate Day Care Center, and some limited Sergeant at Arms non-office space in the Senate office buildings.

to correct hazards ‘on the spot.’” We suggest using that type of language, where applicable, in describing the other hazards identified in the Report.<sup>2</sup>

As currently written, the Report gives the reader the sense that the majority of potential hazards identified by you have not been addressed. We are especially concerned about your assertion on page 71 that “there has been little if any progress in abating many serious violations.” To the contrary, all noted deficiencies that fall under the responsibility of Senate employing offices that were inspected have been abated.<sup>3</sup> The current abatement information should be reflected in the Report.<sup>4</sup>

As we have identified in our abatement responses to the Senate building charts, the remaining alleged deficiencies in the Senate buildings fall under the responsibility of the Architect of the Capitol and/or the U.S. Capitol Police.

### OSEP Training

The accomplishments of the Senate Office of Emergency Preparedness (OSEP) are given little attention in the Report. While OSEP appreciates the mention on page 4 that it “conducted training seminars regarding OSHA and ADA safety and compliance, the avoidance of common hazards, and emergency evacuation procedures, including planning for the evacuation of staffers and visitors with disabilities,” and the mention on page 72 about “significant training” being provided by OSEP, there are many more details of its training and education efforts that should

---

<sup>2</sup>For example, on page 26, you state that the inspection team noted “a widespread problem” regarding the use of older model and/or broken space heaters. This is another example of a hazard that typically was abated immediately by replacing the old heater with a current model. The space heaters currently being issued by the AOC meet all certification requirements, including the provision of a tip-over switch. Also, you note throughout the Report that in most facilities, one or more sprinkler heads were blocked by items stored too close to the ceiling. The Report fails to mention, however, that this hazard could be, and in most cases was, easily and immediately abated by moving the items in question.

<sup>3</sup>See Postal Square Abatement Responses dated October 14, 2004; Abatement Responses for the Senate Page Dorm, Senate Day Care Center, Hart Building, Dirksen Building, and the Capitol dated February 22, 2005; Updated Abatement Response for Senate Day Care Center (email to Carol Griffith dated June 29, 2005).

<sup>4</sup>In footnote 8, you state: “The AOC and other employing offices have indicated that additional hazards have been corrected since they submitted their initial reports on abatement status. The OGC will verify abatement status during the 109<sup>th</sup> Congress biennial inspection and through other means.” We request that the abatement information we have submitted be included in the Report now to reflect that all noted deficiencies that fall under the responsibility of Senate employing offices that were inspected have been abated.

be mentioned. I refer you to my letter to Peter Eveleth dated March 7, 2005, which detailed the major accomplishments of OSEP concerning issues relevant to your inspections, and to the "Summary of OSEP Training/Services Provided" dated June 14, 2005, which further details OSEP's accomplishments.

Additional Comments

On page 14, you discuss Respirators. I suggest that the language critical of the Essex be deleted: "Some experts have raised concerns regarding the suitability of the Essex, and in some tests it was reported that the actual use of the model indicated a shorter operating time than stated by the manufacturer." There are no citations for this assertion and it is inaccurate. As I detailed in my January 18, 2005 letter, the Office of Senate Security and Emergency Preparedness (OSEP) spent considerable time researching and exploring the best, state-of-the-art equipment to purchase. OSEP worked with the Technical Support Working Group in making its decision. Ultimately, OSEP purchased the [REDACTED]

[REDACTED] They have the potential to provide up to 60 minutes of breathing to those disabled employees and visitors who are in a resting position awaiting assistance from the U.S. Capitol Police and D.C. Fire & Rescue to exit the building. [REDACTED]

[REDACTED] While not required to do so, [REDACTED]  
[REDACTED]  
[REDACTED]  
This evolutionary improvement, [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On page 20, you mention deficiencies in evacuating persons with disabilities. Your report fails to mention the July 28, 2005, Hearing on Accessibility of the House Complex for Persons with Special Needs where several witnesses, including the Chief of the Capitol Police and the Architect of the Capitol, described the progress made by the Senate in improving accessibility and planning for the evacuation of persons with disabilities. In fact, one of the witnesses held up a publication distributed by OSEP entitled "Senate Office Building Evacuation Procedures for Those with Mobility Impairments" and stated

that it is a great publication. You also should mention in this section the other training and guidance provided by OSEP regarding evacuation of persons with disabilities.

You state in several places in the Report that wall maps and signage need to be improved. It is our understanding that the Architect of the Capitol has a “wayfinding” project underway and that significant progress has been made in ensuring that there is proper signage throughout the Senate office buildings.

The Senate employing offices look forward to working with you to continue to promote a safe workplace. Please contact me with any questions.

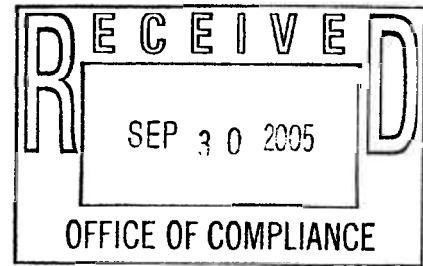
Sincerely,

A handwritten signature in black ink, appearing to read 'M. D. Keiser', written over a solid black horizontal line.

Matthew D. Keiser  
Senate Senior Counsel for Employment

Attachments

Summary of OSEP Training/Services Provided  
June 14, 2005



**Training:** The courses noted are provided on a recurring basis based on the subject and audience. Subject matter is updated and topics evolve as requirements change.

**Seminar: "Shelter in Place: What You Need to Know to Stay"**

Discusses what staff should do if they are required to remain in the buildings due to an external threat. The seminar covers sheltering procedures for individuals with special medical needs.

**Seminar: "Personal Preparedness"**

Basic emergency preparedness information is presented. Attendees are also instructed on how to plan for those with special needs, such as persons with mobility impairments.

**Seminar: "Evacuating DC: What You Need to Know to Leave"**

Experts from local emergency management agencies present on the Capital's evacuation plans. OSEP representatives discuss how these local plans integrate into Senate-specific procedures.

**Emergency Preparedness Basics**

Goes into detailed evacuation planning. Discusses route and exit selection, elevator operation, accountability and check-in. Detailed discussion of evacuating those with mobility impairments.

**Victim Rescue Unit (VRU) Training**

At the Senate, special arrangements have been made to provide respiratory protection to staff members and visitors with mobility impairments and their assigned buddies, small children, and unconscious individuals in the event of an emergency. One such arrangement is the introduction of a special type of escape hood called the Victim Rescue Unit. In this training the proper usage of a VRU is explained to each mobility-impaired individual as requested. They are also told where the closest evacuation elevator is and a member of OSEP walks the route with them.

**Basic Office Emergency Coordinator Training**

This course targets the office emergency coordinator, and addresses the basics of emergency procedures at the Senate, to include evacuation and planning for those with mobility impairments.

**Advanced Office Emergency Coordinator Training**

This course reinforces many existing emergency preparedness programs to OECs and their alternates. It includes discussion of Victim Rescue Unit and Elevator Evacuation of those with mobility impairments.

**New Staff Orientation**

Web-based class walks new staff through the essentials of emergency preparedness at the Senate. The orientation includes information on emergency action plans, mobility-impaired evacuations, how to request help, and how to get additional training.

**Intern Orientation**

Walks interns through the essentials of emergency preparedness at the Senate. The orientation includes information on emergency action plans, mobility-impaired evacuations, how to request help, and how to get additional training. There is also an explanation of the VRU and a demonstration of the Escape Hood.

**Escape Hood Training**

This provides instruction on the capabilities and use of escape hoods currently deployed throughout the Senate. A section of the escape hood presentation discusses the use of VRUs for those with mobility impairments. Senate staff are provided with an opportunity to don a training escape hood.

**Chemical Biological Radiological Explosive (CBRE) 1v1 Session**

Discusses what to do during these specific scenarios. Attendees are shown how to use the Quick2000 Escape Hood and the Victim Rescue Unit.

**Emergency Action Plan (EAP) 1v1**

Briefing to OECs and office managers on OSHA standards as well as Senate recommendations for Emergency Action Plans. Senate recommendations include new evacuation procedure for those with mobility impairments. The "Buddy System" is explained as are the locations of evacuation elevators and the usage of the VRU during an evacuation.

**Evacuation Drills**

These drills occur quarterly for the Senate office buildings and the Capitol. OSEP monitors USCP evacuation of those with mobility impairments by shadowing both officers and the person needing assistance during these scheduled drills.

**Elevator Evacuation Training for USCP**

USCP has trained all Senate Division officers on the procedure. OSEP monitored some of that early training. Capitol Division is working through this now.

**Mobility-Impaired 1v1 Training**

All staff members with mobility impairments who have identified themselves to USCP or the SAA have been through at least one session. Upon notification from the OEC, OSEP meets with each staff member with a mobility-impairment and their office buddy teams, and escorts them through a mock evacuation so they understand the procedure.

**Evacuation Chair Training**

SAA ADA Coordinator has offered training to all staff members with mobility impairments. Most have had training. The Sergeant at Arms has procured various

evacuation chairs which can be provided to an office once training has been complete and office staff have demonstrated they can use these evacuation chairs. Current evacuation chairs are difficult and can be risky to use. The Sergeant at Arms will update devices and training as these improve.

### **Emergency Supply Kit Training**

While focused on the supply kit and not evacuation procedures, these sessions include an informal discussion of all three protective measures - evacuation, relocation and shelter in place.

**Office Outreach:** The Office of Security and Emergency Preparedness provides direct support to offices upon request. This support is tailored to each office's needs and can range from instruction and hands-on training to walking evacuation routes and more extensive rehearsals of office emergency plans.

### **“What Every Staff Member Should Know About Emergencies at the United States Senate” Brochure**

This introductory brochure provides an overview of the emergency planning and response programs at the Senate. It discusses what agencies are responsible for planning and response, the role of the Office Emergency Coordinator, and a summary of protective actions that could be used in response to an incident on Capitol Hill. This brochure provides an excellent overview for new employees or other individuals who are unfamiliar with the resources available to them in the Senate.

### **“Senate Office Building Evacuation Procedures for Those with Mobility Impairments” Brochure**

This brochure educates staff on how and when to assist individuals with mobility impairments before and during an evacuation. It provides guidance on how to use the Emergency Evacuation Elevators and where they are located. In addition, information on the Victim Rescue Unit (VRU) and its proper application is given.

### **“Victim Rescue Unit” Brochure**

Instructs staff on the proper usage of the VRU and under what circumstances they would use the device. The VRU is primarily issued at the Senate to be used as a smoke hood for those with mobility impairments and their buddies while waiting for assistance during an evacuation.

### **“Roadmap to Readiness”**

This comprehensive informational binder outlines the security, continuity, and emergency preparedness services available to Senate Offices. It walks the individual office manager through the steps needed to prepare for, and mitigate the effects of, emergencies at the Senate.

### **OEC Notices**

These periodic notices update OECs on a variety of emergency preparedness procedures. They also remind OECs to notify OSEP of any staff member or intern in their office who



is mobility-impaired so that they can be trained on the VRU and mobility-impaired evacuation procedures.

### **Emergency Quick Cards**

OSEP has created Emergency Quick Cards for use by Senate offices. This card can be attached directly to each staff member's ID holder for quick reference in an emergency. It contains a map of the Capitol Complex and surrounding areas on one side and emergency contact numbers and protective measures guidance on the other side. This card can be customized with each office's Office Emergency Coordinator contact information and assembly area location.

### **OSEP Website**

Site includes detailed information on all OSEP procedures, plans, downloadable brochures, and resources available for Senate staff. The site also lists contact information for OSEP personnel who specialize in in-office training on emergency preparedness issues.

### **Additional Programs:**

#### **Building Public Address System**

This communication system involves 3,400 audibility-tested speakers located throughout the Capitol Complex. This system will enable USCP to communicate with Senate staff in the event of an emergency. USCP will also be able to relay messages to mobility-impaired staff who are staging at emergency evacuation elevators.

#### **Distant Shelter Project**

This project will provide secondary assembly locations for Senate staff during an emergency that denies use of Senate office buildings and the primary assembly areas. These locations will be ADA accessible and within reasonable walking distance from the Capitol Complex.

#### **Exercises**

OSEP and USCP conduct both tabletop and functional exercises focusing on emergency procedures for the Senate office buildings and the Chamber.



UNITED STATES CAPITOL POLICE  
OFFICE OF THE EMPLOYMENT COUNSEL

Frederick M. Herrera  
Employment Counsel

October , 2005

Scheron L. Bass  
Senior Counsel

Robin J. Mathew  
Associate Counsel

BY FAX AND U.S. MAIL

James T. Abbott  
Deputy General Counsel  
Office of Compliance  
Room LA 200  
Adams Building  
110 Second Street, SE  
Washington, DC 20540-1999

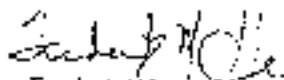
Re: Final Draft: Biennial OSHA Report for the 108<sup>th</sup> Congress

Dear Mr. Abbott:

Thank you for your final OSHA report dated September 21, 2005 requesting comments by September 30, 2005. We request that, in the future, we be provided at least 30 days in which to comment and review a report. Seven working days is simply not sufficient time to review the report in detail and gather information from the client to provide you with accurate information.

As previously discussed with Mr. Eveleth and Ms. Tapley, we request that you include in your report any and all comments that we previously provided to you in our charts and correspondence, particularly, in this case, the material delivered to your office dated February 23, 2005. While we continue to disagree with several conclusions made in your final report, we will continue to work with you to ensure a safe and healthy workplace for all of our employees. Please let me know if you have any questions.

Sincerely,

  
Frederick M. Herrera  
Employment Counsel



UNITED STATES CAPITOL POLICE  
OFFICE OF THE EMPLOYMENT COUNSEL  
110 SECOND STREET, SE  
WASHINGTON, DC 20540-1999  
TEL: 202-541-5000 FAX: 202-541-5001  
WWW.USCAPOLICE.POLICE.DC.GOV



UNITED STATES CAPITOL POLICE  
OFFICE OF THE EMPLOYMENT COUNSEL

Frederick M. Herrera  
Employment Counsel

Scheron L. Bai  
Senior Counsel

Robin J. Mathew  
Associate Counsel

February 23, 2005

**VIA FACSIMILE & HAND DELIVERY**

Peter A. Eveleth  
General Counsel  
Office of Compliance  
Room LA 200 Adams Building  
110 Second Street, SE  
Washington, DC 20540-1999

Re: 2004 Periodic Inspections: USCP Responses

Dear Mr. Eveleth:

We are in receipt of your letter dated February 11, 2005 requesting responses for the House East-West Underground Garage, Rayburn House Office Building, Longworth House Office Building, Russell Senate Office Building, Dirksen Senate Office Building, Hart Senate Office Building, and U.S. Capitol Building. As you know, Rick Rogers, USCP Safety Manager, has been working with David Thompson to get many of the items resolved informally. This letter and attachment will address several areas of concern raised by the Office of Compliance Office of General Counsel ("OCGC") inspection.

We appreciate the time and effort spent on this important project. There are a couple of issues I want to bring to your attention. First, in several paragraphs, you cite to provisions that are irrelevant or do not accurately represent what the statute or regulations require. As a result, it is unclear whether abatement is even required and whether the OCGC has exceeded its authority to make such findings.

Second, it is unclear whether a cited provision is a requirement, a suggestion, or simply guidance from the OCGC. For purposes of this submission, I will consider word choices of "should", "may", "needs to", and "would be" as merely guidance to which a response is not required.

**I. East-West Underground Garage, D St., SW**

Item # 106: Item has been abated.

Item # 107: Item has been abated.

Item # 114: Sentence one is a factual statement to which no response is required. Sentence two is not a USCP responsibility.

Item # 133: Sentence one is a factual statement to which no response is required. Sentence two is not a USCP responsibility.

Item # 142: This item has been abated.

Item # 143: The air compressors do not belong to USCP and, therefore, no USCP action item is necessary.

Item # 144: Sentence one is not a USCP item and is not a USCP responsibility.

**II. Rayburn House Office Building**

Item # 288: With regard to sentences one, two and three, the USCP is working with the House Sergeant at Arms and Architect of the Capitol regarding this item. With regard to sentence four, we are aware that the parking lot is appropriately lit and no lighting standards have been cited to which we are not in compliance.

Item # 350: Sentence one is not a USCP responsibility. Nevertheless, we understand that a work order has been submitted on this issue.

Item # 374: This is not a USCP responsibility because it is affixed to the structure, however, work order # 2005070737 has been submitted to the House Superintendent's Office.

Item # 375: Sentence one is a factual statement to which no response is required. Sentence two (suggesting that items be moved to less than 18 inches) has been abated by moving the items lower than 18 inches.

Item # 376: Sentence one is a factual statement to which no response is required. This does not appear to be a USCP responsibility and has been abated by the AoC.

- Item # 377 We are unclear what is meant by [REDACTED]  
Nevertheless, we have reviewed the area in Rayburn and the requested penetrations have been filled by the AoC shop personnel.
- Item # 378 Sentence one is a factual statement to which no response is required. No action item has been requested by the Office of Compliance. Nevertheless, the power cord has been replaced.
- Item # 379 Sentence one is a factual statement to which no response is required. No action item has been requested by the OCGC. Nevertheless, work order #2005070745 has been submitted to the House Superintendent's Office to make emergency lighting available.
- Item # 380 It appears from sentence one that the OCGC may be suggesting that permanent wiring be used instead of the approved extension cord. Work order # 20050746 has been submitted to the House Superintendent's Office for permanent wiring to the time clock.
- Item # 381 It appears from sentence one that the OCGC may be suggesting that a daisy chain not be used in the manager's office. If so, this matter has been abated with the installation of three new 15' surge protectors.
- Item # 382 Sentence one is a factual statement to which no response is required. With respect to sentence two, the dead bolt locks have been removed.

### III. Longworth House Office Building

- Item # 103 Sentences one and two are factual statements to which no response is required. In response to sentence three, work order #2005070748 has been submitted to the House Superintendent's Office for abatement.

### IV. Dirksen House Office Building

- Item # 25 Sentence one is unclear whether an abatement issue is required. Nevertheless, work order # 94880 has been submitted to the Senate Superintendent's Office for abatement.
- Item # 190 This item is not a USCP responsibility
- Item # 191 Fire-Alarm Building Signal

Dirksen #191 contains 16 sentences. Sentence one is not a USCP responsibility. Sentences two and three are factual statements to which no

response is required. Sentence four lacks specificity but is not a USCP responsibility. Sentence five is a conclusion to which no response is required. Sentence six is a suggestion to which the USCP will take under advisement. Sentence seven is a legal conclusion to which no response is required. Sentence eight is a factual statement to which no response is required. Sentences nine and ten are not USCP responsibilities. Sentence eleven is a speculative conclusion to which no response is required. Sentence twelve is a speculative conclusion to which no response is required. Sentence thirteen is not a USCP responsibility.

Sentence fourteen suggests that employees in all shops and offices be briefed on the purported delay. This suggestion is not supported by a statutory or regulatory provision. Moreover, sentence fourteen also suggests modifications to Emergency Action Plans ("EAP"). This suggestion is not a USCP responsibility to the extent it involved non-USCP employees. To the extent the suggestion involves USCP employees, the USCP will take the suggestion under advisement. Sentence fourteen is unclear as to what is meant by "presence of many covered smoke detectors" and lacks detail as to where there is a "lack of smoke detection in some areas" as to determine whether the information is in USCP areas. Moreover, the suggestion that "all employees need training" will be taken under advisement with respect to USCP employees. Sentence fifteen is unclear and does not appear to be supported by statute or regulation. Moreover, the sentence is inaccurate to the extent that it misstates the existence of a pre-alarm signal requirement for manual pull stations as that condition is no longer in effect in the Dirksen Building or other Senate office buildings.

#### Item # 192

Dirksen #192 contains eight sentences. Sentence one is an inaccurate statement in that manual pull stations will sound the building wide fire alarm. Sentence two is one method by which a situation can be communicated. A USCP officer also can manually pull a fire alarm should the situation warrant it. Sentence three is one method by which a building wide communication can be made. A USCP officer may also manually activate a pull station should the situation require such approach. Sentence four is an inaccurate statement in that manual pull stations are not on a pre-signal system. The rest of sentence four is a factual statement to which no response is required. Sentences five and six mischaracterize the USCP investigation and response time in an emergency situation. In some situations, it may take up to [REDACTED] to conduct an investigation so as to be thorough and accurate in our response. It does not mean, however, that there is any USCP delay in responding to a situation and beginning any necessary investigation.

Accordingly, the mischaracterization is based on a false assumption. Disabled visitors will have the same evacuation time as all other building occupants. Moreover, there is no indication that a "potentially long delay" can occur. Sentence seven contains information that has not been provided for review to the USCP. Moreover, there are no statutory or regulatory provisions that require alerting USCP officers of changes. Sentence eight is an inaccurate statement based on a faulty premise and there is no evidence of any confusion or improper actions having taken place. Moreover, OCGC's conclusion that "proper training on the system would be beneficial" is a suggestion which the USCP will take under advisement for USCP employees, and we welcome the opportunity to receive and review any material from the OCGC that constitute "proper training." It should be noted, however, that the pull stations will go to general alarm instead of pre-alarm in all Senate Office Buildings.

Item # 194

Dirksen # 194 contains seven sentences. Sentences one and two are factual statements to which no response is required. Sentences three and four are not USCP responsibilities. Sentences five and six are inaccurate statements. All officers in the Russell Building who have elevator responsibilities have received appropriate training in the March/April 2004 time period and the December 2004/January 2005 time period. Moreover, those officers have received training in the measures they will need to protect themselves and those they are assisting during an evacuation. All officers who may have the responsibility of using elevator keys have been properly trained in the operation of the equipment, and the measures needed to protect themselves and those they are assisting during an emergency. Sentence seven reaches a conclusion that is not supported by any statutory or regulatory provision.

V. Russell Senate Office Building

Item # 90

Item # 90 contains 25 sentences. In sentence one, the OCGC concludes that the AoC was issued a citation previously and, accordingly, the USCP is not a responsible party. Sentence two is a conclusory statement of sentence one to which no response is required. Sentence three is a conclusory sentence to which no response is required. However, it is important to note that [REDACTED] have been provided to individuals for use in the event of an emergency. Sentence four is an unclear sentence to which a response does not appear to be required. Sentence five is a legal conclusion to which no response is required. Sentences six through thirteen are not USCP responsibilities. Sentences fourteen through seventeen are not USCP

responsibilities. Sentences eighteen through twenty are not USCP responsibilities. Sentence twenty-one is a misstatement of fact in that no pre-alarm signals are used for manual pull stations.

Moreover, disabled and ambulatory persons will have the same evacuation time as all other building occupants. We are unaware of any problems pre-signal alarms for smoke detector and water flow switches have had in the Russell Building. Nevertheless, manual pull stations are available for instant evacuation. Sentence twenty-two is a misstatement of fact in that there is no pre-signal requirement for manual pull stations. USCP officers are fully aware of their responsibilities during a fire or other emergency, and there is no change in their evacuation procedures and their duties during a fire or other emergency. Moreover, there is nothing in the statute or regulations that dictate the elements of training as suggested in sentences twenty-two through twenty-four. Sentence twenty-five does not address whether the employees are USCP employees who were interviewed so we can not respond at this time. Nevertheless, all USCP officers have been briefed at roll call training sessions as to their responsibilities with the pre-alarm signals for the smoke detector and water flow switches as well as their responsibilities related to a manual pull station activation.

#### Item # 91

Item # 91 contains 23 sentences. Sentence one is not correct as manual pull stations will result in instantaneous signal responses. Sentence two is a correct characterization of a procedure for smoke detector and water flow switches but not the procedure for manual pull stations. Additionally, USCP officers in the Russell Building can also utilize their radio equipment for a quicker response time should one be necessary. Sentence three is incorrect to the extent that it refers to manual pull stations. Manual pull stations will provide prompt notice to building occupants. Sentence four is not supported by statute or regulation. Nevertheless, USCP officers in the Russell Building have been briefed through roll call training sessions about their responsibilities with regard to manual pull station activation and smoke detector and water flow switch issues. Sentence five is based on a false premise that officers need to know about the fire alarm system rather than their responsibilities pertaining to manual pull station, smoke detector, or water flow switch activation. USCP officers have been trained properly on their responsibilities in the Russell Building.

Sentence six mischaracterizes the time it takes to conduct an investigation instead of the time for USCP response. In some situations, it may take up to [REDACTED] to conduct an investigation so as to be thorough and



accurate in our response. It does not mean, however, that there is any USCP delay in responding to a situation and beginning any necessary investigation. Sentence seven is a misstatement with respect to responding to a situation. Any obvious signs of fire can be addressed by reacting the manual pull stations, radio communication, and/or fully operational sprinklers. Sentence eight, clause two, is a misstatement and "accidental false alarms" is a misnomer. Sentences nine and ten are opinion statements to which no response is required. Sentence eleven is unclear as to what constitutes a "three-minute delay." USCP will consider any reports or studies available from the OCGC regarding an acceptable standard of a three-minute delay. Sentence twelve is not supported by statute or regulation. Moreover, there is no information we have to suggest that USCP response is none other than excellent and that an assessment or investigation takes the necessary amount of time to ensure that the response is complete. Sentences thirteen and fourteen are factual statements to which no response is required. Sentences fifteen through seventeen are not USCP responsibilities. Sentences eighteen and nineteen are not accurate statements.

All officers in the Russell Building who have elevator responsibilities have received appropriate training in both March/April 2004 time period and December 2004/January 2005 time period. Moreover, those officers have received training in the measures they will need to protect themselves and those they are assisting during an evacuation. Sentence twenty is a misstatement of fact and all USCP officers in the Russell Building have received proper training. Sentence twenty-one is not an accurate statement and we are unaware of which USCP officers were interviewed. Should the OCGC have information as to those officers who assert they have not been trained, we will insure that those officers are briefed again. Sentence twenty-two is an inaccurate statement in that all USCP officers in the Russell Building have been trained. Sentence twenty-three is not a USCP responsibility.

## VI. Hart Building

Item #122 Sentences one and two are not USCP responsibilities.

Item # 123 Sentences one through seven are not USCP responsibilities. Sentence number eight is vague in terms of which employees were interviewed. More information is necessary to respond to this sentence. Nevertheless, we are unaware of any delay lasting as long as 15 or 20 minutes. Sentence nine is based on a false premise that there is a delay and contains no information of an existing dangerous condition. With respect to sentence ten, there is no pre-signal regarding fire pull

station notification. Moreover, there is no indication that a pre-signal notification for smoke detector or water flow switches would create "even greater hazards" nor is this sentence consistent with statute or regulation. Sentence eleven is unclear as to what authority requires a three-minute notification. USCP will consider any reports or studies available from the OCGC regarding an acceptable standard of a three-minute delay.

Item # 124 This item contains 21 sentences. Sentence one is not a USCP responsibility. Sentences two through six are factual statements to which no response is required. Sentence seven is not a USCP responsibility. Sentence eight is a factual statement to which no response is required. Sentences nine and ten are not USCP responsibilities. Sentence eleven is a factual statement to which no response is required. Sentence twelve is not a USCP responsibility. Sentence thirteen, clause one is a factual statement to which no response is required. Sentence thirteen, clause two is unclear as to what is meant by "unprotected" and more information is necessary to properly respond. Sentence fourteen is a factual statement to which no response is required. Sentence fifteen is not a USCP responsibility. Sentence sixteen is not a USCP responsibility. Sentence seventeen is addressed in item #122 above.

Sentence eighteen is a misstatement of fact in that no pre-signal exists for manual pull stations. To the extent that pre-signal notification exists for smoke detector or water flow switches, there is no evidence to suggest that a "delay" will be caused at any hour of the day. Sentence nineteen is not supported by statute or regulation and is not a USCP responsibility. Sentence twenty is based on a faulty assumption that there is a delayed response when a pull station alarm is sounded. To the extent that the OCGC is referring to a delay for the smoke detector and water flow switches, we are unaware of a need to update any EAP. Sentence twenty-one is based on a faulty assumption that EAPs need to be updated due to the alarm system in the Hart Building.

## VII. Capitol Building

Item # 2b Sentences one, two, four and five are not USCP responsibilities. Sentence three is a correct statement.

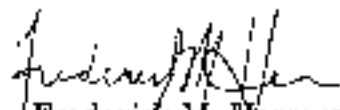
Item #17a Item 17a contains eleven sentences. Sentence one is a factual statement to which no response is necessary. Sentence two is not a USCP responsibility. Sentence three is a factual statement to which

no response is necessary. With regard to sentence four, USCP is unaware of the specific areas to which the OCGC is referring. Nevertheless, with regard to sentence five USCP officers are available to assist in the safe evacuation of disabled people and, therefore, there is no evidence that their assistance may contribute to the problem of using any designated space as a staging area. With regard to sentence six, USCP has reviewed its emergency action plan and continues to believe that it is proper for USCP employees in the Capitol building. With regard to sentence seven, all USCP Capitol employees are aware of their responsibilities in the event of an emergency. With regard to sentence seven, there is nothing in the statute or regulations that requires USCP to train its employees on other employing office's EAPs. USCP employees are properly trained on its EAP. With regard to sentences eight, nine, ten, and eleven, these items are not USCP responsibilities.

- Item # 17b Sentence one is a factual statement to which no response is necessary. Sentences two, three, and four are not USCP responsibilities.
- Item # 20b Sentences one through five are not USCP responsibilities.
- Item # 32 This item does not fall within USCP responsibility. Nevertheless, we are informed that this item has been abated.
- Item # 48 This item will be abated no later than 3/30/05.
- Item # 109 Item 109 contains fifteen sentences. Sentences one through thirteen are not USCP responsibilities. The items in sentences fourteen and fifteen will be abated no later than 3/30/05.

Thank you for the opportunity to comment on the U.S. Capitol Police Abatement Response for seven sites. Thank you as well for allowing us to respond by February 23, 2005. If I can be of further assistance, please let me know.

Sincerely,

  
Frederick M. Herrera  
Employment Counsel

Encl.

U.S. Capitol Building - AoC AO's House-Side Areas  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
2b	Sentences one, two, four and five are not USCP responsibilities. Sentence three is a correct statement.	
a	<p>Item 17a contains eleven sentences. Sentence one is a factual statement to which no response is necessary. Sentence two is not a USCP responsibility. Sentence three is a factual statement to which no response is necessary. With regard to sentence four, USCP is unaware of the specific areas to which the OCGC is referring. Nevertheless, USCP officers are available to assist in the safe evacuation of disabled people and, therefore, there is no evidence that their assistance may contribute to the problem of using any designated space as a staging area. With regard to sentence five, USCP has reviewed its emergency action plan and continues to believe that it is proper for USCP employees in the Capitol building. With regard to sentence six, all USCP Capitol employees are aware of their responsibilities in the event of an emergency. With regard to sentence seven, there is nothing in the statute or regulations that requires USCP to have this responsibility. USCP employees are properly trained on its EAP. With regard to sentences eight, nine, ten, and eleven, these items are not USCP responsibilities.</p>	

U.S. Capitol Building - AoC AO's House-Side Areas  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

7b	Sentence one is a factual statement to which no response is necessary. Sentences two, three, and four are not USCP responsibilities.	
20b	Sentences one through five are not USCP responsibilities.	
32	This item does not fall within USCP responsibility. Nevertheless, we are informed that this item has been abated.	
48	This item will be abated no later than 3/30/05.	
109	Item 109 contains fifteen sentences. Sentences one through thirteen are not USCP responsibilities. The items in sentences fourteen and fifteen will be abated no later than 3/30/05.	

Users may add rows, as needed)

East-West Und. and Garage  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
106	Item has been abated	
107	Item has been abated.	
114	Sentence one is a factual statement to which no response is required. Sentence two is not a USCP responsibility.	
133	Sentence one is a factual statement to which no response is required. Sentence two is not a USCP responsibility.	
142	This item has been abated.	
143	The air compressors do not belong to USCP and, therefore, no USCP action item is necessary.	
144	Sentence one is not a USCP item and is not a USCP responsibility.	

(Users may add rows, as needed)

**Rayburn House Office Building  
108 Congress Periodic OSH Inspection Findings**

**ABATEMENT RESPONSE AND OTHER COMMENTS**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
288	With regard to sentences one, two and three, the USCP is working with the House Sergeant at Arms and Architect of the Capitol regarding this item. With regard to sentence four, we are aware that the parking lot is appropriately lit and no lighting standards have been cited to which we are not in compliance.	
350	Sentence one is not a USCP responsibility. Nevertheless, we understand that a work order has been submitted on this issue.	
374	This is not a USCP responsibility because it is affixed to the structure, however, work order # 2005070737 has been submitted to the House Superintendent's Office.	
375	Sentence one is a factual statement to which no response is required. Sentence two (suggesting that items be moved to less than 18 inches) has been abated by moving the items lower than 18 inches.	
376	Sentence one is a factual statement to which no response is required. This does not appear to be a USCP responsibility and has been abated by the AoC.	
377	We are unclear what is meant by "explosives storage area." Nevertheless, we have reviewed the area in Rayburn and the requested penetrations have been filled by the AoC shop personnel.	

**Rayburn House Office Building**  
**108 Congress Periodic OSH Inspection Findings**

**ABATEMENT RESPONSE AND OTHER COMMENTS**

378	Sentence one is a factual statement to which no response is required. No action item has been requested by the Office of Compliance. Nevertheless, the power cord has been replaced.	
379	Sentence one is a factual statement to which no response is required. No action item has been requested by the OCGC. Nevertheless, work order #2005070745 has been submitted to the House Superintendent's Office to make emergency lighting available.	
380	It appears from sentence one that the OCGC may be suggesting that permanent wiring be used instead of the approved extension cord. Work order # 20050746 has been submitted to the House Superintendent's Office for permanent wiring to the time clock.	
381	It appears from sentence one that the OCGC may be suggesting that a daisy chain not be used in the manager's office. If so, this matter has been abated with the installation of three new 15' surge protectors.	
382	Sentence one is a factual statement to which no response is required. With respect to sentence two, the dead bolt locks have been removed.	

(Users may add rows, as needed)



**Longworth House Office Building**  
**108 Congress Periodic OSH Inspection Findings**

**Abatement Response and Other Comments**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
#103	Sentence one and two are factual statements to which no response is required. In response to sentence three, work order #2005070748 has been submitted to the House Superintendent's Office for abatement.	

Dirksen Senate Office Building - AOC Areas  
108 Congress Periodic OSH Inspection Findings

ABATEMENT RESPONSE AND OTHER COMMENTS

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
25	Sentence one is unclear whether an abatement issue is required. Nevertheless, work order # 94880 has been submitted to the Senate Superintendent's Office for abatement.	
190	This item is not a USCP responsibility.	

**ABATEMENT RESPONSE AND OTHER COMMENTS**

191

Dirksen #191 contains 16 sentences. Sentence one is not a USCP responsibility. Sentences two and three are factual statements to which no response is required. Sentence four lacks specificity but is not a USCP responsibility. Sentence five is a conclusion to which no response is required. Sentence six is a suggestion to which the USCP will take under advisement. Sentence seven is a legal conclusion to which no response is required. Sentence eight is a factual statement to which no response is required. Sentences nine and ten are not USCP responsibilities. Sentence eleven is a speculative conclusion to which no response is required. Sentence twelve is a speculative conclusion to which no response is required. Sentence thirteen is not a USCP responsibility.

Sentence fourteen suggests that employees in all shops and offices be briefed on the purported delay. This suggestion is not supported by a statutory or regulatory provision. Moreover, sentence fourteen also suggests modifications to Emergency Action Plans ("EAP"). This suggestion is not a USCP responsibility to the extent it involved non-USCP employees. To the extent the suggestion involves USCP employees, the USCP will take the suggestion under advisement. Sentence fourteen is unclear as to what is meant by "presence of many covered smoke detectors" and lacks detail as to where there is a "lack of smoke detection in some areas" as to determine whether the information is in USCP areas.

Dirksen Senate Office Building - AoC Areas  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

191	Sentence fourteen is unclear as to what is meant by "presence of many covered smoke detectors" and lacks detail as to where there is a "lack of smoke detection in some areas" as to determine whether the information is in USCP areas.	

**ABATEMENT RESPONSE AND OTHER COMMENTS**

192

Dirksen #192 contains eight sentences. Sentence one is an inaccurate statement in that manual pull stations will sound the building wide fire alarm. Sentence two is one method by which a situation can be communicated. A USCP officer also can manually pull a fire alarm should the situation warrant it. Sentence three is one method by which a building wide communication can be made. A USCP officer may also manually activate a pull station should the situation require such approach. Sentence four is an inaccurate statement in that manual pull stations are not on a pre-signal system. The rest of sentence four is a factual statement to which no response is required. Sentences five and six mischaracterize the USCP investigation and response time in an emergency situation. In some situations, it may take up to 15 minutes or more to conduct an investigation so as to be thorough and accurate in our response. It does not mean, however, that there is any USCP delay in responding to a situation and beginning any necessary investigation.

Accordingly, the mischaracterization is based on a false assumption. Disabled visitors will have the same evacuation time as all other building occupants. Moreover, there is no indication that a "potentially long delay" can occur. Sentence seven contains information that has not been provided for review to the USCP. Moreover, there are no statutory or regulatory provisions that require alerting USCP officers of changes.

Dirksen Senate Office Building - AoC Areas  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

192	<p>Sentence eight is an inaccurate statement based on a faulty premise and there is no evidence of any confusion or improper actions having taken place. Moreover, OCGC's conclusion that "proper training on the system would be beneficial" is a suggestion which the USCP will take under advisement for USCP employees, and we welcome the opportunity to receive and review any material from the OCGC that constitute "proper training." It should be noted, however, that the pull stations will go to general alarm instead of pre-alarm in all Senate Office Buildings.</p>	
194	<p>Dirksen # 194 contains seven sentences. Sentences one and two are factual statements to which no response is required. Sentences three and four are not USCP responsibilities. Sentences five and six are inaccurate statements. All officers in the Russell Building who have elevator responsibilities have received appropriate training in the March/April 2004 time period and December 2004/January 2005 time period. Moreover, those officers have received training in the measures they will need to protect themselves and those they are assisting during an evacuation. All officers who may have the responsibility of using elevator keys have been properly trained in the operation of the equipment, and the measures needed to protect themselves and those they are assisting during an emergency. Sentence seven reaches a conclusion that is not supported by any statutory or regulatory provision.</p>	

Russell Office Building  
108 Congress Periodic OSH Inspection Findings

**ABATEMENT RESPONSE AND OTHER COMMENTS**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
90	<p>Item #90 contains 25 sentences. In sentence one, the OCGC concludes that the AoC was issued a citation previously and, accordingly, the USCP is not a responsible party. Sentence two is a conclusory statement of sentence one to which no response is required. Sentence three is a conclusory sentence to which no response is required. However, it is important to note that emergency escape hoods have been provided to individuals for use in the event of an emergency. Sentence four is an unclear sentence to which a response does not appear to be required. Sentence five is a legal conclusion to which no response is required. Sentences six through thirteen are not USCP responsibilities. Sentences fourteen through seventeen are not USCP responsibilities. Sentences eighteen through twenty are not USCP responsibility. Sentence twenty-one is a misstatement of fact in that no pre-alarm signals are used for manual pull-stations.</p>	

**Russell Office Building**  
**08 Congress Periodic OSH Inspection Findings**

**ABATEMENT RESPONSE AND OTHER COMMENTS**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
	<p>Moreover, disabled and ambulatory persons will have the same evacuation time as all other building occupants. We are unaware of any problems pre-signal alarms for smoke detector and water flow switches have had in the Russell Building. Nevertheless, manual pull stations are available for instant evacuation. Sentence twenty-two is a misstatement of fact in that there is no pre-signal requirement for manual pull stations. USCP officers are fully aware of their responsibilities during a fire or other emergency, and there is no change in their evacuation procedures and their duties during a fire or other emergency.</p> <p>Moreover, there is nothing in the statute or regulations that dictated the elements of training as suggested in sentences twenty-two through twenty-four. Sentence twenty-five does not address whether the employees are USCP employees who were interviewed so we cannot respond at this time. Nevertheless, all USCP officers have been briefed at Roll Call training sessions as to their responsibilities with the pre-alarm signals for the smoke detector and water flow switches as well as their responsibilities related to a manual pull station activation.</p>	

91 | Item # 91 contains 23 sentences.

(Users may add rows, as needed)



Hart Senate Office Building  
108 Congress Periodic OSH Inspection Findings

**Abatement Response and Other Comments**

OOC's Item Number and Location	Update on Completed or Proposed Abatement Actions, With Date Completed or Estimated Date for Future Action	Other Comments
22	Sentences one and two are not USCP responsibilities.	
23	<p>Sentences one through seven are not USCP responsibilities. Sentence number eight is vague in terms of which employees were interviewed. More information is necessary to respond to this sentence. Nevertheless, we are unaware of any delay lasting as long as 15 or 20 minutes. Sentence nine is based on a false premise that there is a delay and contains no information of an existing dangerous condition. With respect to sentence ten, there is no pre-signal regarding fire pull station notification. Moreover, there is no indication that a pre-signal notification for smoke detector or water flow switches would create "even greater hazards" nor is this sentence consistent with statute or regulation. Sentence eleven is unclear as to what authority requires a three-minute notification. USCP will consider any reports or studies available from the OCGC regarding an acceptable standard of a three-minute delay.</p>	

Hart Senate Office Building  
108 Congress Periodic OSH Inspection Findings

Abatement Response and Other Comments

124	<p>This item contains 21 sentences. Sentence one is not a USCP responsibility. Sentences two through six are factual statements to which no response is required. Sentence seven is not a USCP responsibility. Sentence eight is a factual statement to which no response is required. Sentences nine and ten are not USCP responsibilities. Sentence eleven is a factual statement to which no response is required. Sentence twelve is not a USCP responsibility. Sentence thirteen, clause one is a factual statement to which no response is required. Sentence thirteen, clause two is unclear as to what is meant by "unprotected" and more information is necessary to properly respond. Sentence fourteen is a factual statement to which no response is required. Sentence fifteen is not a USCP responsibility. Sentence sixteen is not a USCP responsibility. Sentence seventeen is addressed in item #122 above.</p> <p>Sentence eighteen is a misstatement of fact in that no pre-signal exists for manual pull stations. To the extent that pre-signal notification exists for smoke detector or water flow switches, there is no evidence to suggest that a "delay" will be caused at any hour of the day. Sentence nineteen is not supported by statute or regulation and is not a USCP responsibility. Sentence twenty is based on a faulty assumption that there is a delayed response when a pull station alarm is sounded. To the extent that the OCGC is referring to a delay for the smoke detector and water flow switches, we are unaware of a need to update any EAP.</p>	
-----	--	--

Hart Senate Office Building  
108 Congress Periodic OSH Inspection Findings

**Abatement Response and Other Comments**

124	Sentence twenty-one is based on a faulty assumption that EAPs need to be updated due to the alarm system in the Hart Building.	