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STATEMENT OF
MILTON J. SOCOLAR, DEPUTY GENERAL COUNSEL
BEFORE THE
COMMITTEE ON DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES
ON
APPLICABILITY OF THE CRIMINAL JUSTICE ACT
TO THE DISTRICT OF COLUMBIA

Mr. Chairman and Members of the Committee:

On March 7, 1972, Mr. Rowland F. Kirks, Director of the Administrative Office of the United States Courts requested a ruling from the Comptroller General of the United States as to whether funds appropriated to the Federal Judiciary for the implementation of the Criminal Justice Act are available to cover cases in the Superior Court of the District of Columbia. Mr. Kirks also asked whether the Judicial Conference of the United States and the Administrative Office of the United States Courts have responsibility for administration of, and budgeting for Criminal Justice Act expenditures by the Superior Court of the District of Columbia and the District Court of Appeals.

The Criminal Justice Act of 1964 did not in its specific terms apply to the District of Columbia Court of General Sessions,

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as the D. C. court was then named. The Comptroller General ruled, however, in a decision dated June 15, 1966, that Criminal Justice Act was intended to cover all persons criminally prosecuted by the United States and that, therefore, the act did apply with regard to cases brought in the so-called United States Branch of the D. C. Court of General Sessions. The Comptroller General pointed out that although the act was framed in terms of the Federal Court System of which the District of Columbia Court of General Sessions traditionally had not been considered a part, the United States District Court for the District of Columbia had concurrent jurisdiction over all criminal cases which could properly be heard in the United States Branch and that all serious criminal cases heard in the Court of General Sessions were prosecuted by a United States attorney in the name of the United States. The United States thus had the choice of trying a defendant in either court, and the Comptroller General concluded that the Congress could not have intended a defendant's entitlement under the Criminal Justice Act to rest upon the choice made.

On July 29, 1970, the District of Columbia Court Reform and Criminal Procedure Act of 1970 was enacted into law. Among other things, that act merged the three local courts--the Court of General Sessions, the Juvenile Court and the D. C. Tax Court--into a new District of Columbia Superior Court. After an

18-month transition period, the Superior Court took exclusive jurisdiction over "any criminal case under any law applicable exclusively to the District of Columbia." This act eliminated the concurrent jurisdiction between the local court and the United States Court. Trial jurisdiction in the District of Columbia is no longer dependent upon a choice made by the United States. However, the class of criminal prosecutions formerly tried in the Court of General Sessions are still tried in the local D. C. Superior Court by a U.S. Attorney in the name of the United States.

On October 17, 1970, about two and one-half months after the enactment of the D. C. Court Reform Act, Congress enacted Public Law 91-447 which, in effect, rewrote the Criminal Justice Act of 1964. That act added new section (l) to the Criminal Justice Act providing:

> (l) Applicability in the District of Columbia.--The provisions of this Act, other than subsection (h) of section 1, shall be applicable in the District of Columbia. The plan of the District of Columbia shall be approved jointly by the Judicial Council of the District of Columbia Circuit and the District of Columbia Court of Appeals.

This provision was sponsored on the Senate floor by Senator Hruska who stated that he wished to insure continued coverage of the Criminal Justice Act in the District for those classes of persons covered--under prior Comptroller General decisions--by the Criminal Justice Act of 1964.

Accordingly, in a decision dated May 26, 1972, B-175429, we stated that except as to subsection (h) of the Criminal Justice Act relating to public defender systems, subsection (1) of the Criminal Justice Act as amended in 1970 by Public Law 91-447, together with its legislative history clearly and unequivocably makes the Criminal Justice Act applicable to prosecutions brought in the D. C. Superior Court and the D. C. Court of Appeals with regard to those prosecutions brought in the name of the United States.

In this decision we also addressed Mr. Kirk's question concerning the responsibilities of the Administrative Office of the United States Courts, and the Judicial Conference of the United States, with respect to the administration of, and budgeting for, the Criminal Justice Act Program in the District of Columbia. We noted that subsection (j) of the Criminal Justice Act authorizes appropriations to the United States Courts to carry out the provisions of that act and provides that payments from such appropriations shall be made under the supervision of the Director of the Administrative Office of the United States Courts. We also noted that there is nothing in the 1970 amendments to the Criminal Justice Act which would indicate that the Congress intended to change the existing procedure of having the Administrative Office administer and budget for this program within the District of Columbia. Therefore, since the Director of that Office supervises payments made

from Criminal Justice Act appropriations, it appeared that he was to have the responsibility and authority for administering and budgeting as to the District's program.

Thus, we held in our decision that except with respect to the District of Columbia Public Defender Service, the Administrative Office of the United States Courts should continue to handle the administration of, and budgeting for, the Criminal Justice Act program in the District of Columbia's local courts.

I might add at this time that if the Congress deemed it desirable, the General Accounting Office would have no objection to a change from the current structure for administering the District's program. However, if the Congress should decide to appropriate funds directly to the District, consideration might be given to relieving the Director of the Administrative Office of his supervisory responsibilities with respect to the program in these local courts.

I would like to introduce into the record copies of Mr. Kirks' letter and of the two Comptroller General decisions to which I referred.

Mr. Chairman, that completes my prepared statement. I will be happy to answer any questions the Committee may have.