

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, April 22, 2013
10:15 a.m.

PRESENT:

COUNCIL PRESIDENT DARRELL L. CLARKE
COUNCILWOMAN CINDY BASS
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN BOBBY HENON
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILMAN DAVID OH
COUNCILMAN MARK SQUILLA

BILLS 130178, 130179, and 130180
RESOLUTION 130190

- - -

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COUNCILMAN JONES: Good

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morning, everyone. This is a

4

continuation of the Committee of the

5

Whole for the City of Philadelphia on

6

public hearings regarding Ordinance Nos.

7

130178, 130179, 130180, 130190 dealing

8

with the City's Operating Budget.

9

Good morning, and we would like

10

to get started. Will the first panel,

11

which is the First Judicial District,

12

please come to the microphone. State

13

your name for the record. And we're

14

getting started relatively on time, so...

15

(Witnesses approached witness

16

table.)

17

COUNCILMAN JONES: Your Honors.

18

JUDGE HERRON: Good morning.

19

I'm John Herron.

20

COUNCILMAN JONES: Good

21

morning.

22

JUDGE HERRON: It's a privilege

23

and a pleasure to be here on behalf of

24

the First Judicial District. I'm the

25

Administrative Judge of the Trial

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Division and Chair of the Administrative
3 Governing Board.

4 We'll offer various comments
5 from different individuals and court
6 leadership: Kevin Cross, our CFO Budget
7 Director, Administrative Judge Dougherty
8 in charge of the Family Division,
9 President Judge Neifield is here from
10 Municipal Court, and President Judge
11 Dembe for the Common Pleas Court, and
12 then as well Judge Sheila Woods-Skipper,
13 who may address any questions about our
14 criminal courts also.

15 Let me begin by mentioning some
16 of the accomplishments in the Civil
17 Division of the Court of Common Pleas and
18 the Criminal Division of the Court of
19 Common Pleas.

20 As you may know, in 2009, '10,
21 '11, and '12, Philadelphia was named to a
22 position that we didn't really enjoy, but
23 nevertheless, from one tort reform group
24 labeled us the number one judicial
25 hellhole in the United States. I'm

1 4/22/13 - WHOLE - BILL 130178, etc.
2 pleased to say that, first, that
3 nomenclature was incorrect, but, second,
4 we did a study in 2012 and found that of
5 the 147 cases tried to verdict in 2012,
6 47 percent -- I'm sorry; 49 percent of
7 those cases resulted in verdicts for the
8 plaintiff and 51 percent of those cases
9 verdicts for the defendants. These
10 results demonstrate the balanced,
11 evenness, and fairness of our trial
12 courts for both plaintiffs and
13 defendants, the fact that is sometimes
14 lost among the spirited rhetoric.

15 I might add that we are no
16 longer the number one judicial hellhole
17 in the United States and have yielded
18 that position to California, West
19 Virginia, Chicago, New York, and
20 Baltimore.

21 As a result of measures we
22 implemented in the Civil Division, we've
23 reduced the mass tort inventory where
24 there was a significant backlog by 14
25 percent, new filings by 70 percent, and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 overall civil filings by 10 percent, and
3 we're very pleased with those results.

4 In the criminal area, we've
5 implemented a number of innovative
6 reforms promoted by Chief Justice
7 Castille and Justice McCaffery. These
8 major address witness intimidation, the
9 high failure to appear rate among
10 criminal defendants, the City's epidemic
11 gun violence, and legal representation of
12 indigent defendants, and a backlog of
13 cases in the homicide program. More
14 specifically, we have adjusted the bail
15 guidelines for inflation for the first
16 time since 1995 and reclassified witness
17 intimidation and firearm offenses to the
18 most serious level. We have established
19 a Bench Warrant Court under the direction
20 of Judge Waters, and you'll hear more
21 about that in detail from President Judge
22 Neifield.

23 In December, we became the
24 first jurisdiction to implement indicting
25 grand juries. We have located the

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2 indicting grand jury in City Hall
3 facilities under maximum security
4 arrangements and expect 40 or more
5 criminal indictments to be issued
6 monthly. As you may know, this is in
7 direct response to the concern about
8 witness intimidation.

9 We successfully addressed the
10 backlog of capital cases by substantially
11 raising the fees paid to court-appointed
12 counsel and thereby increasing the number
13 of lawyers willing to accept these cases
14 and simultaneously working with the
15 District Attorney's Office to reduce the
16 inventory of cases designated as capital
17 cases, and I am pleased to report that
18 from 2011 until the present time, we have
19 reduced the average waiting time in a
20 capital case from 15 to 18 months, which
21 was unacceptable, to a very acceptable 12
22 to 15 months.

23 There are a number of
24 innovative programs currently underway in
25 the criminal program, and I'd like to

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2 mention these very briefly. With the
3 assistance of Chadwick Associates,
4 President Judge Neifield has implemented
5 standardized periodic reporting of case
6 activity in the Municipal Court to
7 facilitate speedy and accurate
8 interpretation of data resulting from a
9 less-than-perfect marriage of several
10 databases. This represents a substantial
11 step toward the implementation of
12 performance-based management within the
13 district and is an objective in the
14 second phase of the criminal reform
15 initiative, and we shortly expect the
16 Trial Division of the Court of Common
17 Pleas to adopt these same performance
18 measures.

19 We have engaged the National
20 Center for State Courts to assess our
21 Probation Department. We recently
22 received a 67-page report detailing
23 issues and concerns with the department
24 as well as recommendations, which we
25 intend to closely monitor and implement,

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2 if possible.

3 We have worked with the
4 Districts Attorney's Office in a number
5 of programs, and I would like to mention
6 the imminent launching of the focused
7 deterrence program modeled after a highly
8 successful program developed by Professor
9 David Kennedy of the John Jay College in
10 New York. That has achieved reductions
11 of gun violence of 40 to 50 percent in
12 other cities. The initial pilot will
13 focus on a high-risk population in South
14 Philadelphia, and we have drafted five
15 judges in our criminal program to be
16 involved in that.

17 We are seeking grant funding to
18 establish a specialized court to address
19 domestic violence cases. We have been
20 experiencing unacceptable delays in
21 adjudicating cases in this vital area.
22 And we will be reinstating a court-wide
23 accountability study to allow judges to
24 compare their productivity with other
25 judges performing similar assignments and

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2 to enable us to assist judges whose
3 productivity has fallen as a result of
4 poor work habits.

5 I might mention in closing an
6 article that appeared recently in the New
7 York Times on April 13, 2013 captioned
8 Faltering Courts, Mired in Delays. I'm
9 pleased to say that none of those issues
10 detailed in that very inclusive article
11 are present today or have been
12 encountered and not addressed by us.

13 With those comments, I'd like
14 to turn it over to Mr. Cross for
15 presentation on our budget request, which
16 I know that you'll listen to seriously,
17 as we are very concerned with the Mayor's
18 budget offering of 105 million. We are
19 hoping that with Council's assistance, we
20 might achieve some additional funding,
21 and he will indicate the reason for those
22 requests.

23 COUNCILMAN JONES: We will
24 reserve questions until all the panelists
25 speak and then we'll weigh in.

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2 So continue your testimony,
3 please.

4 MR. CROSS: Thank you,
5 Councilman. Again, my name is Kevin
6 Cross and I'm a Deputy Court
7 Administrator and a Financial Officer for
8 the First Judicial District.

9 Included in the Mayor's
10 Operating Budget is our base budget for
11 the First Judicial District, and it is
12 \$104.9 million. We are seeking about a
13 \$4.3 million increase, and they're coming
14 from four or five different items.
15 Before I talk about those four items --
16 three items actually and Judge Dougherty
17 will talk about the fourth, I will just
18 give a brief perspective of our budget.

19 We're basically about 3 percent
20 of the City's Operating Budget but
21 generate about \$64 million in revenue
22 from fines and costs and reimbursements.
23 So our net cost to the City's General
24 Fund is about \$41 million, which
25 essentially is about 1 percent of the

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2 City's overall budget.

3 Within the public safety
4 budget, we are about 9 percent of the
5 billion dollar budget for public safety,
6 but with our revenue offset, we account
7 for actually about 4 percent of the total
8 budget.

9 We dispose of about half a
10 million cases annually through all of our
11 various courts. So we're really a small
12 piece of the pie, but have a tremendous
13 output in what we do in our cases.

14 We collect in our Traffic
15 Court, we collect four times the budget
16 amount. We collect about \$24 million,
17 and our budget is about \$5 million. In
18 our Clerk of Courts, we collect \$38
19 million, and we're about seven times more
20 than our budget. And in our child
21 support program, we collect and disburse
22 about \$171 million, and that's about
23 eight times the amount of the budget.
24 So, again, we're a small piece of the
25 pie, but have a tremendous amount of

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2 collections and disbursements.

3 Many of our programs are geared
4 for efficiencies within our courts and
5 our justice partners, but also they
6 provide services to the community. Our
7 Municipal Court AMP program, Accelerated
8 Demeanor Program, partners with over 100
9 community-based organizations and 42
10 recreation centers, and they have
11 collectively garnered about 27,000 hours
12 of public service during this time, and
13 this public service is provided in the
14 neighborhood where these crimes are
15 committed.

16 We also have a community-based
17 probation program for our Family Court,
18 and this juvenile program has about
19 13,000 hours of community services for
20 offenders, juvenile offenders. So the
21 juveniles are back in the community where
22 these crimes are being committed.

23 Our nationally recognized
24 Mortgage Foreclosure Program has had
25 about 20,000 cases come through there.

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2 We've saved about 4,500 homes, and we've
3 had a positive resolution in about 60
4 percent of our cases that have come
5 through there. So, again, we're a small
6 piece of the pie, but have a tremendous
7 impact in our community.

8 We generate efficiencies, not
9 just for the court but for other agencies
10 also, and one of our programs, our Family
11 Court GPS program is -- instead of having
12 children on or juveniles offenders in
13 placement or in -- in placement, we have
14 about a 95 -- we've saved 95,000 days in
15 detention costs and detention days, and
16 that equates to about \$22 million in
17 savings. We're big on video conferencing
18 now and have about seven or eight
19 courtrooms that have video conferencing
20 right now, and we're using that to reduce
21 our -- excuse me for a moment. We're
22 using it to reduce police overtime,
23 prisoner transportation costs, and
24 adjudicate trials quicker. So these are
25 another way that we're generating

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2 savings. We have an e-filing program
3 that we're just starting in our criminal
4 case management system, and that's going
5 to save and create some more efficiencies
6 with the District Attorney and other
7 agencies.

8 To really talk about our budget
9 request, I have to give a little bit of
10 perspective, and I hate to go back to
11 Fiscal Years 2009 and 2010, but that's
12 when we had a substantial budget
13 reduction. We had a reduction of \$15
14 million, which was about 14 percent of
15 our budget, and we lost about 200
16 positions during that time to make our
17 budget number. Now, we did that through
18 attrition, and sometimes when you do
19 things through attrition, you lose
20 positions in unintended areas. You
21 don't -- you have no control over where
22 we lose positions, and we lost heavily in
23 our adult and juvenile probation officers
24 and in some of our areas. So we've been
25 able to accomplish a lot of these goals

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2 and objectives, but our operations have
3 been suffering for that.

4 We're seeking about \$900,000
5 that will restore some of our positions,
6 and we've also had to reduce by 70
7 positions just this fiscal year to make
8 our target budget amount. So we're
9 looking for some Class 100 stabilization,
10 and we will try to fill those positions
11 in areas where they're needed the most,
12 again, Adult/Juvenile Probation and in
13 other parts of the court.

14 We're looking to expand our
15 digital courtroom initiative and are
16 seeking to have about another 30
17 courtrooms funded or outfitted with video
18 conferencing equipment, and this will
19 save us with prisoner costs and
20 transportation costs, and we'll have
21 quicker plea agreements and, where
22 possible, reduce the prison population.

23 We're also seeking \$450,000 for
24 senior probation officers. We lose a
25 number of our probation officers to other

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2 counties and to surrounding jurisdictions
3 because our salaries are much lower than
4 the salaries in the surrounding areas so
5 we're seeking \$450,000 for our senior
6 probation officers.

7 With me here is the Honorable
8 Kevin M. Dougherty, the Administrative
9 Judge of the Family Court, and he is
10 going to talk about the Family Court
11 request, and then following that will be
12 the President Judge of the Municipal
13 Court, Marsha Neifield, to talk about
14 Bench Warrant Court.

15 Thank you for your time,
16 Councilmembers.

17 COUNCILMAN JONES: Thank you
18 for your testimony.

19 MR. CROSS: Thank you.

20 JUDGE DOUGHERTY: Good morning.
21 How are you?

22 COUNCILMAN JONES: Outstanding.

23 JUDGE DOUGHERTY: I'm Kevin
24 Dougherty. I'm the Administrative Judge
25 of Philadelphia Family Court.

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2 Each day every day the women
3 and men of Philadelphia Family Court work
4 tirelessly helping our children and
5 families make it better. To understand
6 what we do, you need to know who we are.

7 Currently, I have 25 judges,
8 counting myself, two courthouses, at 34
9 South 11th Street and 1801 Vine. We have
10 a staff of approximately 800 people.
11 Each day every day we are working hard to
12 make sure that each and every child
13 and/or family is served.

14 As you know, life in our
15 streets is difficult enough. However,
16 there are certain laws, at least on my
17 juvenile side, that are somewhat
18 Draconian that people need to understand.
19 The law is that if you're 14 years or
20 older and you're a judge delinquent of a
21 felony, you're a convicted felon the rest
22 of your life. Our prisons are so
23 overcrowded with young Philadelphians
24 that we give prior record scores so that
25 you can get into jail quicker. The most

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2 points one can acquire would be six
3 points. Stealing a car is one, selling
4 drugs two, aggravated assault could be
5 anywhere from four to six. As I
6 indicated, a maximum amount of points one
7 can acquire in a lifetime is six points.

8 What does that mean for the
9 Philadelphia youth? It means that the
10 way our system works, we are directing
11 our children to State Road where our
12 prisons are as opposed to state college
13 where they should be.

14 Each day every day Philadelphia
15 Family Court has worked to make sure that
16 we can divert those children and separate
17 the good child that got caught up in a
18 bad way from the child that I will put
19 away, and I will not apologize for
20 either. I think it's necessary and
21 fundamental.

22 What also must be understood,
23 upon adjudication of delinquency, we take
24 your fingerprints, we take your
25 photographs, and now we take your DNA.

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2 And unless undo hardship is shown, we
3 charge you \$250. Our system permits us
4 to expunge a juvenile record five years
5 after the last contact with our system,
6 assuming that there's no prior adult
7 arrest. One is eligible for an
8 expungement of fingerprints, arrest, and
9 photographs, but never DNA.

10 So when you look at what we do,
11 we are doing some phenomenal work with
12 limited resources.

13 I'm going to share with you
14 2012 was a banner year for Philadelphia
15 Family Court in our juvenile divisions.
16 Our probation staff has shrunk
17 considerably as a result of the deficit.
18 Yet, the staff that I have are the
19 hardest working group of members that I
20 have ever experienced, both for children
21 in placement and in the community. While
22 I have probably about 120 probation
23 officers, they have seen about 37,834
24 face-to-face contacts with our children
25 whether they're in placement. Each day

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2 every day they are working very hard.

3 We have developed units in our
4 courthouse to assist with the increase of
5 crime and to make sure that each and
6 every person feels safe as they walk down
7 the streets of Philadelphia. We have
8 developed a Juvenile Enforcement Team
9 Unit and we have created a Bench Warrant
10 Unit. These are two units that have been
11 somewhat separated from natural
12 probation.

13 Probation has historically been
14 a case management system, with a social
15 justice child welfare edge. However, we
16 have now two units that are no longer
17 case management per se, but are actually
18 assisting the Philadelphia Police and any
19 law enforcement agency when it's
20 necessary to retrieve children or
21 juveniles who decide to break the law at
22 will and cause a ruckus or cause a
23 concern or cause us to fear for our
24 safety as we walk down Broad Street.
25 That will not happen.

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2 I can proudly say that my unit
3 of Juvenile Enforcement Team as well as
4 YVRP or my Bench Warrant Unit, we have
5 about four juvenile, five juvenile JET
6 officers and probably ten YVRP. They're
7 going out working with the police
8 executing bench warrants for known
9 juveniles who have absconded from
10 placement, who have been targeted as part
11 of an arrest or part of a plot against a
12 citizen in Philadelphia. We work hand in
13 glove with criminal intelligence and
14 homicide to make sure that we can remove
15 those who carry guns illegally on our
16 streets. We want to get them off the
17 street.

18 I can share with you just one
19 number, is that there were 289 successful
20 bench warrant apprehensions by Juvenile
21 Probation compared to 145 last year,
22 yielding an increase of 144 from the
23 previous year. That's phenomenal. As my
24 Juvenile Enforcement Unit and the Youth
25 Violence Reduction Program targeted

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2 particular hotspots citywide, we
3 successfully, Juvenile Probation, removed
4 \$50,000 worth of illegal narcotics and
5 recovered 26 illegal firearms.

6 I'm proud of that. I'm proud
7 of the hard-working women and men of
8 Juvenile Probation for what they've done
9 on a limited resource in a short period
10 of time.

11 We've also worked and made it a
12 part to work hand in glove with the
13 Police Department. As Mr. Cross
14 indicated, focused deterrence is a
15 program based upon a model that we
16 brought in, and we're concentrating on
17 South Philadelphia. Juvenile Probation
18 is also a part of that. We are working
19 to target what we consider high-risk
20 gangs. Now, we in Philadelphia, we may
21 not have the Bloods, the Crips, the Latin
22 Kings, but we all know that we have
23 street corners. You know that maybe 15th
24 and Tasker is not like 26th and Morris or
25 2nd and Jackson. We understand that.

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2 And they are running criminal
3 enterprises. So we will work with Adult
4 Probation, Trial Division, as well as any
5 law enforcement to make sure that we
6 bring in the leaders and these groups,
7 and we're going to tell you, Hey, guys,
8 we're looking at you, and the full
9 resources of the court, we'll target you,
10 so that it is best to work within the
11 confines of the law, so that at least the
12 people of South Philadelphia feel
13 somewhat safe. And it's good to see that
14 I have several South Philadelphia
15 Councilmen.

16 We also have been fortunate to
17 be selected by the Department of Justice
18 in the Obama Administration, the City of
19 Philadelphia, to be one of ten cities who
20 has been accepted in the National Forum
21 on Youth Violence. What this is doing,
22 the Obama Administration is concerned
23 about gun violence and homicide. We're
24 looking particularly in the 22nd, and we
25 are now beginning to work and develop a

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2 strategic plan. His honor, the Mayor,
3 has appointed myself, Commissioner
4 Ramsey, and Commissioner Anne Marie
5 Ambrose of DHS to be the three co-chairs
6 to sit on the development of this
7 strategic plan. We are working with all
8 City resources and anyone who is willing
9 to help; that is, community, activist
10 groups, the large universities, and we're
11 beginning with the Temple University
12 area. In essence, it's our position that
13 if we get out into the community and we
14 start removing first those who cause the
15 problems, but more so assist those who
16 need the problems. We're beginning to
17 develop a whole new culture of
18 trauma-based therapy and evidence-based
19 programming so that when you come into
20 our system, you leave our system a better
21 person and whole.

22 Again, these are two programs.
23 We are also working with the Department
24 of Justice, and we have developed certain
25 programs to assist those who have been

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2 caught up in our system to become more
3 engaged in certain activities. We have
4 developed a sports collaborative with the
5 Department of Justice and several
6 organizations in Philadelphia. We're
7 taking City kids and we're teaching them
8 how to row on the Schuylkill. We're
9 teaching them how to play tennis, all
10 those sports that when you grew up in the
11 City, they seemed to be the wealthy
12 sports. They seemed to be the sports
13 that our high schools did not engage.
14 This is an opportunity, not only for
15 mentoring, because they're paired with
16 individuals who are adult and who have
17 similar experiences, but they're now
18 experiencing what it means to be part of
19 a collective family, to take part, and it
20 encourages our youth to stay in school
21 and possibly get scholarships. This is a
22 phenomenal work that we're working with
23 the U.S. Attorney himself and his
24 assistant, Rob Reed. We're starting
25 small. It started last year.

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2 We also are working with the
3 Department of Justice in South
4 Philadelphia as well in which we're
5 taking individuals who have an interest
6 or musically inclined or have talents,
7 and we're sending them to South
8 Philadelphia where they're becoming part
9 of the music industry. Matter of fact,
10 one of our individuals who succeeded when
11 Jay-Z came to play in Philadelphia 4th of
12 July, he had an opportunity to meet him.
13 It doesn't sound like much, but when
14 you're a kid from, say, 20th and Tasker
15 and you only see Jay-Z on TV and you have
16 an opportunity to meet him in person,
17 that's a big thing. And then you get
18 these words of encouragement. We're
19 taking this opportunity to make our
20 children better so that when they become
21 adults and we're old, we're going to have
22 successful leaders who understand our
23 system and are free and capable of making
24 rational decisions and commonsense
25 approaches to how life in this city

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2 should be.

3 That's with regard to my
4 juvenile system. Dependency, dependency,
5 that is for abuse and neglect. We have
6 worked arduously in this fiscal
7 constraining time to reduce the number of
8 placement. What does that mean? Far too
9 often we're taking our children who are
10 predominantly children of color and
11 placing them in institutions, residential
12 treatment facilities, because of
13 allegations and because of a culture.
14 However, we're having a paradigm shift, a
15 cultural shift. It's now important to
16 understand the difference between a
17 safety factor as opposed to a, say,
18 wellness factor, meaning we would go into
19 a house and unfortunately a child may be
20 removed because there may be no running
21 water, when the answer is all we had to
22 do is work out a payment plan with the
23 Water Department to put the water back
24 on.

25 We have to be better at

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2 deciding when should we take a child from
3 a family. It's so easy to remove someone
4 and put your head down at night.
5 However, we're failing to remember the
6 trauma that's impacted when you take a
7 three-year-old and rip that
8 three-year-old from his or her mother's
9 arms or grandparent arm or whatever
10 guardian. In Philadelphia, we're
11 privileged to have numerous people as
12 guardians and caretakers. It's no longer
13 the biological parent. It's any
14 individual that has an open heart.

15 We're working really, really
16 well with the Department of Human
17 Services. I have to applaud my comrade,
18 Commissioner Ambrose, in working with
19 this court. What we've done, the number
20 of children in dependent placement has
21 decreased 5.5 percent by 2012 when
22 compared to January 31st of 2011. And
23 when we really started collecting
24 statistics with Anne Marie Ambrose, since
25 2008 we have reduced 28 percent overall

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2 the number of children in placement.

3 Placement can cost anywhere
4 from \$150 a day to \$400 a day. That's a
5 substantial savings on the citizens of
6 Pennsylvania and Philadelphia. Plus it's
7 the right thing to do. And we have sat
8 down now and we are making sure all our
9 providers and programs are culturally
10 competent and sensitive to the needs of
11 the individual child.

12 We're now focusing on young
13 children. We all know that if a young
14 child, particularly a Latino or child of
15 color, by third grade doesn't read by the
16 third grade level, he or she is going to
17 be learning deficient the rest of his or
18 her life. Well, the comment or question
19 is, how do we get the School District to
20 the table to make sure each and every
21 child gets an appropriate education as
22 well as a free education.

23 I have been a harsh critic of
24 the Philadelphia School District, and
25 I've indicated publicly that while I

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2 believe we get a free education, they
3 don't necessarily get the appropriate.
4 I'm proud to say that this new
5 Superintendent has a phenomenal staff and
6 has been working well with the
7 Philadelphia Family Court as well as DHS
8 to make sure that we're servicing our
9 children. As a result, we have the
10 truancy cluster courtrooms in which we
11 have DHS and the court involved in the
12 community, trying to divert and collect
13 social information so that we can deal
14 with the developmental problems or
15 educational problems and see if we can
16 get those services in the community as
17 opposed to removing that child and
18 placing him or her in a educational
19 surrounding away from the family and
20 sometimes out of Philadelphia. It's not
21 the right thing to do. But, again, we
22 are working hard.

23 I can also share with you, as
24 Mr. Cross indicated, going back to my
25 delinquency, in order to avoid placement

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2 of our children, which could be
3 exponential in the monies, some
4 placements at the state were costing \$700
5 a day. The Youth Study Center costs
6 approximately \$400 to \$500 a day, other
7 placements \$225 a day.

8 We have utilized GPS, global
9 positioning, with a \$500,000 investment
10 through DHS from the City. We have been
11 able to save the City approximately \$22
12 million. Not only have we saved the City
13 this money, it's the right thing to do,
14 because the children who normally would
15 have been removed as a result of a lack
16 of appropriate, quote/unquote, family
17 background, we're able to put them GPS,
18 which we track them every five minutes
19 and we know where they are. And we can
20 have inclusion zones and exclusion zones,
21 meaning when I say to Johnny, You're
22 going school, you'd better be at
23 Sullivan, when I say, You're going to
24 school, you'd better be at Father Judge,
25 this transcends race, nationality,

1 4/22/13 - WHOLE - BILL 130178, etc.

2 ethnicity, and social economic times.

3 On my domestic relations

4 located at 34 South 11th Street, again,

5 the women and men work tirelessly. Last

6 year we did approximately 92,000 filings

7 in one year. I could share with you, of

8 those 92 filings, 27,000 were in custody,

9 39,000 were in support, 12,000 domestic

10 violence, 13,000 divorces, and 105,000

11 interim or final orders. That's a lot of

12 work with a little bit of money.

13 I also am proud to say -- and

14 this is the focus of my appearance before

15 this noble Council -- is my 4D. 4D is

16 the child support enforcement. Child

17 support enforcement, last year we

18 collected \$171,783,514 in child support

19 collections. We also were able to

20 gather -- included in that is \$11,389 --

21 I'm sorry; \$11,389,513 that was paid to

22 the Pennsylvania Department of Public

23 Welfare.

24 What does that mean? That

25 means we are collecting money from

1 4/22/13 - WHOLE - BILL 130178, etc.
2 individuals who are receiving public
3 assistance and able to give it back so it
4 can be reinvestment to those who need.
5 But what it really tells me is that we're
6 really working hard to make sure that
7 when we have children in Philadelphia,
8 that the obligor, be it the father or the
9 mother, is paying for that child. While
10 we have no problem assisting the child
11 through public assistance, it is and will
12 always be the responsibility in perfect
13 accountability for the person who chooses
14 to bring the child into this world to
15 support that child. And how are we doing
16 that? We're doing that on a limited
17 budget. We're doing that carefully,
18 thoughtfully, methodically. However,
19 each year every year, we're in a deficit.

20 I could say the current budget
21 of General Fund positions is insufficient
22 to the demands of the services which
23 we're providing the families. This is
24 never more prevalent than in domestic
25 relations. Since 2004, this Council and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the Mayor has permitted \$1.5 million to
3 be provided to Family Court to offset
4 this 4D, the child support monies. When
5 I say 4D, I'm talking about the federal
6 funds that we get from the feds to assist
7 us in collecting child support.

8 However, we're currently
9 running at a \$600,000 deficit. Since
10 2004, those monies have not been
11 increased. Yet, the number of petitions
12 have, custody petitions. We're working
13 hard. Philadelphia has been recognized
14 as leading Pennsylvania in the collection
15 of child support, and Pennsylvania has
16 led the nation in the collection of child
17 support, meeting all the necessary
18 hallmarks that the feds have established.
19 We have been able to establish paternity.
20 I think there were 88,000 findings of
21 paternity for which active orders have
22 been entered.

23 When you look at this kind of
24 money and you realize that the most
25 recent Pew evaluation indicated that

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Philadelphia is the largest poor city in
3 the country. So if we're the largest
4 urban jurisdiction, we're also the
5 largest urban jurisdiction in the
6 collection of child support.

7 When you look at the monies
8 that we bring in and you look at the
9 children that we feed or that we assist
10 the parents to clothe and feed, I don't
11 think it's unreasonable to come before
12 this Council and seek your guidance in
13 placing an additional million dollars to
14 this 1.5. I think when you look at the
15 number of children we have, you look at
16 our positions and you realize how poor we
17 are and how much we do, that by supplying
18 the Philadelphia Family Court, 4D, 1.5 to
19 2.5, I think in this fiscally
20 constraining time, that's a wonderful
21 investment for the return that you're
22 receiving.

23 Thank you.

24 COUNCILMAN JONES: Every year I
25 look forward to hearing your testimony

1 4/22/13 - WHOLE - BILL 130178, etc.
2 and it's a guilty pleasure of mine, but
3 it really enlightens me on issues that
4 are near and dear to me and public
5 safety.

6 So I'm going to let -- before
7 we go into question and answer, we're
8 going to let all of the President Judges
9 give their testimony. Thank you.

10 JUDGE NEIFIELD: Good morning
11 and thank you for the opportunity to
12 address this body. My name is Marsha
13 Neifield. I am President Judge of
14 Philadelphia Municipal Court, which, as
15 you know, is one of the highest volume
16 courts throughout the entire country. We
17 handle all of the misdemeanor and felony
18 cases as they come in, which was in
19 excess of 52,000 cases last year. We
20 have over 100,000 civil filings, and
21 there are also in excess of 22,000
22 non-summary/summary citations.

23 Glad to have the opportunity to
24 be here. After yesterday's article in
25 the newspaper, there's been a lot of talk

1 4/22/13 - WHOLE - BILL 130178, etc.
2 over the past year about Bench Warrant
3 Court, and we've now reached our one-year
4 milestone. It is in fact one of the most
5 recent parts of the reform initiative,
6 and, frankly, I think the results are
7 stellar. There is no doubt that there
8 have been anecdotal comments over the
9 past year that the bench warrants seem to
10 be down, but fortunately now as a result
11 of accurate statistics, I am happy to
12 report that since Bench Warrant Court
13 began on April 16th of 2012, under the
14 direction largely, as you heard, of Judge
15 Waters, there have been a total of 10,175
16 individuals who appeared in front of
17 Judge Waters to address the failures to
18 show up, as required pursuant to bail
19 conditions.

20 There have been a lot of
21 comments along the way that I'd like to
22 address, suggesting that somehow Judge
23 Waters was overly harsh in some of his
24 dispositions, that the suggestion was
25 that there were too many people who were

1 4/22/13 - WHOLE - BILL 130178, etc.
2 sent to jail as a result of Bench Warrant
3 Court. The reality is that of the over
4 10,000 people who appeared in front of
5 Judge Waters, only approximately
6 one-third of those individuals was
7 actually found in contempt of court and
8 sentenced to any period in jail. And of
9 the third, not all of them were given a
10 sentence of incarceration. For those who
11 were incarcerated, the sentence that was
12 most typical, particularly for those
13 people who had not appeared before Judge
14 Waters previously, was a sentence of five
15 to ten days in jail.

16 The statistics and the
17 suggestion that the prison population has
18 soared as a result of the initiation of
19 Bench Warrant Court, with all due respect
20 to those who have made that suggestion, I
21 would take issue with that suggestion,
22 and with a long painstaking process has
23 shown that the average number of days
24 that -- or the average number of
25 individuals in custody on any given day

1 4/22/13 - WHOLE - BILL 130178, etc.
2 as a result of Bench Warrant Court is
3 slightly over 42 individuals.
4 Considering the size of the prison
5 population and considering the issues
6 that Bench Warrant Court is attempting to
7 address, I suggest that 42 individuals in
8 any given day is a small price to pay for
9 the respect of the court and bringing
10 people to a proceeding that they've been
11 subpoenaed to attend. It certainly helps
12 the perception of the court and it
13 certainly is something that is much more
14 friendly to the complainants and the
15 victims and the eyewitnesses who have
16 taken time from their day to actually
17 show up in court, only to be frustrated
18 by the failure of the defendant to comply
19 with the terms of their bail.

20 And the result, frankly, I
21 think is remarkable. It's stunning. I
22 know that there were some charts that
23 were in yesterday's newspaper. Frankly,
24 had I been the one writing the article, I
25 might have selected other charts as well,

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2 because one of the things that we saw as
3 we looked through the history of bench
4 warrants, going back to the year 2007, is
5 that there was a market trend that every
6 summer, no surprise, the number of bench
7 warrants increased in the months of July
8 and August. And we charted that and we
9 showed where the peaks and the valleys
10 were, and this year August came around,
11 July came around and, frankly, there were
12 absolutely no peaks in the number of
13 bench warrants and, in fact, there was a
14 continuation of the decline that we
15 started from the beginning with Bench
16 Warrant Court back in April of last year.

17 The high before we started was
18 over 16 percent, and we're now down to an
19 8.42 percent. It was a 49 percent
20 decrease in the number of bench warrants
21 being issued in Municipal Court since the
22 onset of Bench Warrant Court.

23 And as I indicated, there was
24 reference that Bench Warrant Court had
25 done much to increase the prison

1 4/22/13 - WHOLE - BILL 130178, etc.
2 population, and, frankly, sitting on the
3 prison population subcommittee going to
4 regular meetings with other justice
5 partners, including the Prison, there's
6 been a long attempt to attempt to dissect
7 exactly who is in the prison, how long
8 they're in the prison, and why they've
9 been in the prison. And, frankly, as
10 much as I would like to be able to
11 address something beyond the impact of
12 Bench Warrant Court of the 42 days, I'm
13 unable to do so, because that information
14 is really solely in the province of the
15 Prison Commissioner. They're the ones
16 that keep records as to who is there, how
17 long they're there, whether it's
18 pretrial, whether it's bail, whether it's
19 detainers. And people who are coming in
20 for Bench Warrant Court, oftentimes they
21 come in with probation violations. Many
22 times they come in with new offenses.
23 Yes, there are times when people have a
24 history of failing to appear. Judge
25 Waters has increased the bail at the time

1 4/22/13 - WHOLE - BILL 130178, etc.
2 they've been before the judge, but, quite
3 frankly, I suggest it's more than
4 appropriate when people don't appear,
5 when they have a long history of failing
6 to appear, if the bail is obviously
7 insufficient to ensure somebody's
8 appearance at court, which is one of the
9 main goals of bail, along with community
10 safety, then I suggest that what Judge
11 Waters is doing is increasing the
12 incentive, if you will, to show up. It's
13 increasing the amount of money that the
14 individual or somebody committed to the
15 individual have --

16 COUNCILMAN JONES: I like your
17 choice of words, incentive.

18 JUDGE NEIFIELD: Pardon me?

19 COUNCILMAN JONES: I like your
20 choice of words, the incentive to show
21 up.

22 JUDGE NEIFIELD: Correct. I
23 mean, that's what we expect, and we have
24 a right to expect, as does the rest of
25 the City, and I think that all the things

1 4/22/13 - WHOLE - BILL 130178, etc.
2 that we're doing at Bench Warrant Court
3 is going towards that goal.

4 If I could just switch gears
5 and address -- I mentioned that Municipal
6 Court is one of the busiest courts, but
7 we're also very proud of being able to
8 handle as many things as we do through
9 our Criminal Division with a number of
10 problem-solving courts that we have.
11 There was mention the amount of community
12 service that our people do through AMP,
13 and we're happy that we were able to
14 successfully partner with the Department
15 of Recreation back over the summer. We
16 had a meeting with Commissioner Slawson
17 and others from her staff. We recognized
18 that as a result of budget cuts that are
19 impacting all of us, certainly the
20 Recreation Department was one of those
21 that was hit. So in an effort to try and
22 make it a win-win situation, we reached
23 out to them, and fortunately they
24 responded quite favorably. So as a
25 result, there are City recreation centers

1 4/22/13 - WHOLE - BILL 130178, etc.
2 that have been in need as a result of
3 their budget cuts and their neighborhood
4 cleanups, and we've been able to partner
5 those who have come in through our AMP
6 program primarily and send them to do
7 community service.

8 AMP stands for Accelerated
9 Misdemeanor Program. It actually began
10 in July of 2010. It did start out in the
11 Councilman's West Philadelphia district.
12 We chose that area not only because it
13 was a large area that we had a number of
14 people coming through charged with
15 misdemeanors, but, frankly, as I'm sure
16 the Councilman remembers, we had various
17 conversations about why we couldn't have
18 a community court. And certainly
19 although my reply was one that it was
20 largely financial, with no additional
21 resources, we started out on a pilot
22 program. The DAs began diverting people
23 who were just charged with low-level
24 misdemeanor offenses, where the thought
25 was that there were not going to be

1 4/22/13 - WHOLE - BILL 130178, etc.
2 safety concerns in the community and the
3 further concern that there might be a way
4 of resolving their cases with some type
5 of restorative disposition that was
6 beneficial to the community where they
7 committed their offense and to give
8 something back to the community, while at
9 the same time resolving those cases
10 without giving those individuals a
11 criminal record. And in the year 2012,
12 we diverted a total of close to 8,500
13 cases. Ninety six point two percent of
14 those cases were misdemeanors. The
15 diversions -- there were 32 percent of
16 the cases were SAM cases, and 23.6
17 percent of the misdemeanor cases that
18 were diverted went to AMP.

19 When we began the Zone Court
20 also later in the year in 2010, we took
21 the position that there was no reason
22 just to limit the benefit of having no
23 record to the area in West Philadelphia
24 in the districts that we had selected for
25 the pilot program. We expanded, and we

1 4/22/13 - WHOLE - BILL 130178, etc.
2 now serve individuals throughout the
3 entire City. A judge does go out. We
4 were able to get space from the Police
5 Department. So we have all these
6 individuals we are not bringing into the
7 Criminal Justice Center. We are not
8 paying for any extra space, which is
9 being provided by the Police. We are not
10 in a position where we need to bring in
11 any police or civilian witnesses to the
12 CJC that not only would add to the number
13 of people, but also in the case of police
14 officers, we are not pulling any police
15 officers off the street for a single
16 hearing that has been resolved
17 successfully out in the police districts.

18 We were also able to expand AMP
19 to -- when Community Court closed, there
20 were services that were being provided by
21 the way of drug and alcohol services to
22 individuals at Community Court. We
23 reached out to the people who were
24 providing those services, and they have
25 partnered with us, so that for some

1 4/22/13 - WHOLE - BILL 130178, etc.
2 individuals where the concern is that the
3 basis and the cause of the criminal
4 activity may be drug and alcohol in
5 nature, we do have evaluations that are
6 being done on site and referrals for
7 treatment that are being made.

8 And if I could just touch on a
9 couple of the other problem-solving
10 courts. We began or we actually expanded
11 Project Dawn Court, which is actually
12 something that we're particularly proud
13 of, because what we're doing in Project
14 Dawn is really taking advantage of the
15 latest thoughts and belief and research
16 in terms of what's driving women into the
17 sex trade, we refer to as prostitution.
18 And we see that with the prostitution,
19 there are huge numbers of people who are
20 coming back repeatedly over and over and
21 over again, and what we're finding in
22 addition to the drug and the alcohol
23 issues is that many of these women have
24 been subjected to abuse sometimes from a
25 very early age, much of it sexual in

1 4/22/13 - WHOLE - BILL 130178, etc.
2 nature, and in addition physical abuse
3 either from their pimps or members in
4 their family. And I'm proud that we've
5 partnered with JJPI that many of you may
6 be familiar with. It's a renowned
7 organization here in the City, and
8 they've largely focused their attention
9 in the past to the abusers, sexual
10 abusers, and trying to work with them.
11 They've actually partnered with us and
12 working with the women and trying to deal
13 with the sexual trauma and abuse that
14 they've had in the past. And at the
15 moment, we're very cautiously optimistic.
16 Seeing these women come in on a monthly
17 basis, they're almost unrecognizable now
18 that they've gotten treatment for their
19 drug and their alcohol addiction, as well
20 as starting to deal with some of the
21 abuse issues that they have.

22 As you know, we have our
23 Veterans Court, which we piloted a couple
24 years ago. We've continued to expand the
25 use of our video technology, again, with

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the hope of not having to drag witnesses
3 in nor transport any individuals from the
4 prison. The hearings are conducted via
5 video, via agreement.

6 And I think that pretty much
7 covers the highlights in Municipal Court,
8 and thank you.

9 COUNCILMAN JONES: Thank you,
10 Your Honor.

11 And we continue with the
12 testimony. You guys are doing a good
13 job. You're educating a lot of us on
14 some of the things that you're doing.

15 JUDGE DEMBE: I'm Pamela Dembe,
16 the President Judge of the Court of
17 Common Pleas, and I'll try not to mess up
18 our record then.

19 COUNCILMAN JONES: You're doing
20 good.

21 JUDGE DEMBE: I just wanted to
22 just give a brief long view. Certainly
23 when Judge Herron and I became judges,
24 the courts, like almost every other
25 government agency, really didn't think

1 4/22/13 - WHOLE - BILL 130178, etc.
2 very much at all about money. If we had
3 checks, we figured there must be money in
4 the bank somewhere, and every agency
5 spent until they hit a wall of some kind.
6 And when things went wrong, the courts,
7 the Police, the District Attorneys, the
8 Council, everybody pointed fingers and
9 went bad dog, bad dog. And things began
10 to change in recent years, and I think
11 because we've all been in the trenches
12 handling things on a micro level, we may
13 not step back and look at what all of us
14 have done.

15 In the last several years, the
16 courts are working not only among the
17 different divisions within the courts,
18 but with the Police, with the
19 prosecutors, with the defenders, with the
20 social service agencies, with the Council
21 and their staff to, first of all, try to
22 identify a problem, try to figure out
23 what could be possible solutions,
24 determine how you can measure whether
25 those ideas are going to work or not, and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 then we roll out programs, and then we
3 step back and look at them and try to
4 grow from them rather than use them as
5 clubs with which to hit one another over
6 the head.

7 As a result, in the last five
8 years, this city, which just went through
9 a terrible downward spiral, through no
10 fault of anybody here, but Council and
11 every other agency involved I think have
12 used that as an opportunity to bring us
13 to a point where the courts and certainly
14 other agencies, although I don't know
15 about their details, have regained their
16 position as premier in the country.
17 We're the courts that other court systems
18 in the country and in the world come to
19 learn from, and in part, it's down to
20 having a lot of good people here who have
21 worked hard over these years, but we're
22 also thankful for the partnerships that
23 we've had with Council and again with all
24 the other justice partners.

25 So that's all I wanted to say.

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2 Thank you.

3 COUNCILMAN JONES: Are there
4 any others to testify? If not, we will
5 segue into our comments and also
6 questions.

7 I think you did good bringing
8 up -- I like to use track analogies. You
9 anchored the relay, but I think you did
10 it well, because I think you touched on
11 something that I've observed in my time
12 here, that you don't -- it's a difference
13 between providing justice in your
14 courtroom and then administrating over a
15 justice system. I believe you to be fair
16 individuals, but what I think is truly
17 noteworthy here is that talented
18 individuals submerged their individuals
19 egos to work together, and then beyond
20 the bench, work with other departments,
21 such as the Police Department, the
22 District Attorney's Office, the Probation
23 Department, the Defenders Office to
24 create that CJAB model, where what we
25 began to see and us as potential and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 active partners, that one aspect of it
3 affects every aspect of it. So when the
4 Police Department gets more aggressive
5 about apprehending criminals, it touches
6 on the Police, but it also touches on the
7 Prisons. It also touches on the number
8 of cases you have to hear. It also
9 messes with the census with the Prisons.
10 But once you began to do that, you also
11 identified solutions, which I have to
12 applaud you for. I mean, when you look
13 at -- and I hope everyone got a copy of
14 this. It makes our job easy as well to
15 narrow down to the issues what your
16 requests are, what your initiatives are,
17 what your accomplishments are. And I
18 actually read it and felt about good the
19 about the work that you are doing.

20 Individual thank you's. I
21 mean, from everything from nuisance
22 courts up in -- it's not just the hard
23 stuff, but it's the nuisance quality of
24 life stuff in the 5th District when we
25 have a bike race and you have -- you send

1 4/22/13 - WHOLE - BILL 130178, etc.
2 a signal out that drunk and disorderly
3 won't be tolerated in Roxborough and
4 Manayunk either. It's also those things
5 that matter to every citizen.

6 Couple of things. Number one,
7 you touched on this, but I've heard
8 different figures, and maybe one or more
9 of you can clarify this. Over that
10 five-year period, President Judge, that
11 you mentioned, how much savings have you
12 actually -- I mean, I've heard very large
13 numbers that were associated with some of
14 the efficiencies you found and how that
15 impacted other departments, but could
16 someone help me with what your
17 cooperation has meant in savings to
18 taxpayers. I heard individual stuff.

19 MR. CROSS: Councilman, I wish
20 I could give you a straight and quick
21 answer, but I think those efficiencies
22 and savings come in so many different
23 areas that they're kind of hard to
24 quantify.

25 COUNCILMAN JONES: Give me a

1 4/22/13 - WHOLE - BILL 130178, etc.
2 wild guess. I mean, this is not -- it is
3 on the record, but you won't commit
4 perjury by being a little wrong.

5 MR. CROSS: I've got to say
6 close to a hundred million dollars from
7 various --

8 COUNCILMAN JONES: So over the
9 last five years -- what was it?

10 MR. CROSS: Several billion.

11 COUNCILMAN JONES: Okay. Now
12 you're going to commit -- there's a
13 reasonableness that we will accept.

14 So let's say -- let's discount
15 that by 25 percent -- or make it 25
16 percent of the hundred million you said.
17 So easily 25 million you've saved us. So
18 do you get any of those savings back in
19 your budget? I mean, is the reward or
20 incentive for you operating more
21 efficiently reducing the amount of time
22 an individual spends up on State Road?

23 JUDGE DEMBE: Only in the sense
24 that a good deal of it goes to the City
25 and we hope that as taxpayers, it helps

1 4/22/13 - WHOLE - BILL 130178, etc.
2 keep the buses running and that kind of
3 thing.

4 COUNCILMAN JONES: So one of
5 the things I would ask our colleagues to
6 possibly consider is when departments do
7 these kinds of major savings, that some
8 of it is incentivized back to the
9 department to almost encourage that kind
10 of thinking inside of the department to
11 help you even be more efficient. Was
12 that a clap?

13 JUDGE DEMBE: That's a loud
14 applause.

15 (Applause.)

16 COUNCILMAN JONES: Something
17 we'll think about. A couple of other
18 questions. I see the lights are lighting
19 up for my colleagues.

20 So the bail, the rethinking of
21 the prioritization of bail and also I
22 want to go with the bench warrant --
23 folks who stand us up at court, those two
24 critical moves keep us safe. Elaborate
25 on that a little bit.

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2 JUDGE NEIFIELD: Well, I think
3 that -- and Judge Herron touched on it.
4 There is the GunStat program in
5 Philadelphia, and frankly, the DAs
6 approached me. I can't remember exactly
7 when it was. They were trying to
8 replicate what seemed to be a program
9 working elsewhere in the country, with
10 the hope that -- the ultimate goal was to
11 keep the City and all the citizens a
12 little bit safer by getting individuals
13 who were using guns off the street, and
14 at some point, believe it or not, the
15 bail guidelines called for release on ROR
16 for possession of a gun. Now, the
17 guidelines hadn't been reviewed in quite
18 some time. Some of us remember way back
19 when possession of a firearm was actually
20 a misdemeanor of the first degree. It
21 had been changed years ago by the
22 Legislature to a felony of the third
23 degree. And the way the guidelines were
24 set up, anything with a felony three or
25 below called for release.

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2 Obviously continuing to release
3 individuals with guns back on the street
4 was not working. And working with the
5 bail commissioners in conjunction with
6 the DA's request and the Police
7 Department, those bails have been set
8 considerably higher for some period of
9 time. I can't tell you that they're
10 followed exclusively, but I know the DA's
11 position, it begins, I think, at \$50,000
12 for a first arrest on a gun, is what they
13 request the bail to be set at. I think
14 initially it was followed almost
15 exclusively. There got to be a point
16 where there were some equities that based
17 on the individual's age and the
18 circumstances under which they had the
19 gun -- I mean, one stands out in my mind,
20 which was an individual who had a
21 registered gun, although he was not
22 licensed to carry, was kicked out of his
23 house. He actually took everything with
24 him, including the gun that he took the
25 bullets out of. It was not taken apart

1 4/22/13 - WHOLE - BILL 130178, etc.
2 as the law would require with the parts
3 of the gun being kept separately for
4 purposes of travel, but it was not loaded
5 and it was in a bag of clothes that he
6 had when he was walking down the street
7 to find a place to stay, and the family
8 called the police and reported man with a
9 gun. So it was taken off the street, but
10 that individual -- at the time I believe
11 he was somewhere in his later 20's --
12 didn't deserve to be in custody with the
13 same bail as the other individuals are.

14 So obviously there are an
15 increase in number of people being
16 charged with gun offenses and people with
17 bails being set upwards of \$50,000 who
18 are in custody. And certainly for those
19 who don't appear in court, one of the
20 purposes of bail, in addition to public
21 safety, is to ensure somebody's presence
22 at a court proceeding. And certainly
23 when one does not appear once, twice,
24 three times, they're clearly indicating
25 that the amount of bail that was

1 4/22/13 - WHOLE - BILL 130178, etc.
2 previously set to ensure their presence
3 was insufficient and bail needed to be
4 increased. It's the only way. Now, some
5 of these people are still in custody at
6 the time of the court proceeding, and one
7 could clearly argue that that's
8 appropriate. The only way you're going
9 to get them to court is if you're
10 bringing them down from custody. So be
11 it.

12 Now, some of those individuals
13 I have to say when they've come through
14 Bench Warrant Court and they've been
15 charged with lesser offenses, one of the
16 things that we did begin doing after
17 Bench Warrant Court was in operation for
18 a couple months is, the DA did begin
19 making offers for non-trial disposition,
20 so that those cases were now resolved, so
21 that you didn't run the risk of the
22 individual bench warranting again, and it
23 also gave them the opportunity to resolve
24 the case with what the DA described as
25 the best offer they were going to get on

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2 the open case.

3 COUNCILMAN JONES: I'm going to
4 stop there and let other Councilpersons
5 who are here ask some questions.

6 The Chair now recognizes
7 Councilman Greenlee.

8 COUNCILMAN GREENLEE: Thank
9 you, Mr. Chairman.

10 Good morning, everyone. I
11 guess, Mr. Cross, this is probably a
12 couple questions goes, I guess, towards
13 you. The 70 positions that are being
14 cut, is that through attrition or is
15 there -- how do you -- and what -- I
16 don't expect you to give the whole list,
17 but are they concentrated in particular
18 areas or they're all over the place?

19 MR. CROSS: They are being done
20 through attrition, yes, and they are
21 being done proportionately by each court.
22 So each court has to take a part of that
23 reduction, and then they are -- sadly to
24 say, they fall where they may. So some
25 areas are being harder than other areas.

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2 COUNCILMAN GREENLEE: Could you
3 submit a list to the Chair of what they
4 are?

5 MR. CROSS: Yes, I will.

6 COUNCILMAN GREENLEE: I
7 appreciate that. Thank you.

8 We've talked in previous years
9 about the issue of probation officers and
10 the pay inequity and that kind of thing
11 and the caseload. Now, I see there's,
12 what, \$450,000 to try to address that.
13 Now, does that -- do you see that
14 bringing that up to equity or is that
15 just getting there?

16 MR. CROSS: It's just getting
17 there. The salaries of the probation
18 officers in the surrounding counties
19 range from 52,000 to 72,000. This will
20 bring it up to around \$50,000 for the
21 senior probation officer.

22 COUNCILMAN GREENLEE: Fifty
23 thousand, okay. And what will do that do
24 to caseload, if anything, for them?

25 MR. CROSS: I hope that if we

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2 can maintain our seasoned probation
3 officers, that it would keep our
4 caseloads from going up.

5 COUNCILMAN GREENLEE: Okay.

6 And I know Judge Dougherty talked about
7 the juvenile probation officers and the
8 work they do, and I know that's an
9 important factor in the whole system.
10 Has there been any studies that show over
11 the years as you've had this problem with
12 the pay equity and maybe people leaving
13 to go to some of these surrounding
14 counties, what effect has that had?

15 MR. CROSS: I hate to say, but
16 we really don't need to do a study. We
17 see our probation officers leaving. We
18 see them going to the federal government.
19 We see them going to Bucks County. We
20 see them going to Montgomery County,
21 where the caseloads are lower and the pay
22 is higher.

23 COUNCILMAN GREENLEE: What I
24 meant by a study is, what effect that has
25 as far as recidivism or anything like

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2 that. Has there been any figures on
3 that?

4 MR. CROSS: Not to my
5 knowledge, unless someone else can answer
6 that.

7 JUDGE DEMBE: I don't know
8 whether you know, but several years ago,
9 we were one of the very first courts to
10 change how we manage people on probation.
11 And there are a lot of people that you
12 can release on probation and say stay
13 below the radar, and they will, and then
14 there's a bunch that need to be poked
15 with a stick with greater or lesser
16 regularity, and then there are people
17 that you have to be on like flies on
18 garbage, and those -- and so we began --

19 COUNCILMAN GREENLEE: You
20 cleaned that up real well.

21 JUDGE DEMBE: So we begin
22 concentrating most of our probation
23 officers' work there. And to do that,
24 they have to be able to go out in the
25 middle of the night when the

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2 probationer's buddy gets arrested,
3 because they know that he's been hanging
4 with the probationer, to see what both of
5 them have been up to. They need to be on
6 the corners, things like that, and they
7 can only do that if they've got bodies
8 available all the time. And we can
9 concentrate more probation officers
10 there, but then that doesn't leave the
11 probation officers to handle those guys
12 who do need reminders, and it doesn't
13 leave probation officers to check that
14 the ones we think are safe bets at the
15 bottom are indeed safe bets.

16 So it's crimes waiting to
17 happen. It's a question of what kind of
18 risk you're willing to gamble that we
19 have to take.

20 COUNCILMAN GREENLEE: And last
21 question on that. I understand there was
22 an arbitration award last year dealing
23 with -- could you talk about that just a
24 little bit and where we are on that.

25 MR. CROSS: There were three or

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2 four different parts to the arbitration
3 award. One part was an immediate 2.5
4 percent increase in the salaries of the
5 probation officer. That was granted.
6 There's a second part to the arbitration
7 award that gives another 2.5 percent in
8 FY14, beginning July 1st, and then there
9 was also a step increase for the
10 probation officers, pretty much what
11 we're asking that be done, and then that
12 has not been granted to the probation
13 officers at this time. And that's
14 something that we've gone back and forth
15 with the Administration about, about
16 whose responsibility it is to fund that.

17 COUNCILMAN GREENLEE: Okay. So
18 there's a dispute with the City?

19 MR. CROSS: Yes.

20 COUNCILMAN GREENLEE: City
21 Administration on that?

22 MR. CROSS: Yes.

23 COUNCILMAN GREENLEE: But
24 there's no appeal of the arbitration?

25 MR. CROSS: It wouldn't be for

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2 us to appeal. It would be for the
3 Administration to appeal.

4 COUNCILMAN GREENLEE: I might
5 have other questions, but okay. Thank
6 you. Thank you very much.

7 Thank you, Mr. Chair.

8 COUNCILMAN JONES: Thank you,
9 Councilman.

10 The Chair recognizes Councilman
11 O'Brien.

12 The Chair recognizes that he's
13 not available and will move to Councilman
14 Johnson -- we'll come back -- go ahead,
15 Councilman.

16 COUNCILMAN O'BRIEN: I can go.
17 Thank you.

18 COUNCILMAN JOHNSON: You have
19 to acknowledge him, sir.

20 COUNCILMAN O'BRIEN: Councilman
21 Johnson, I will defer to my colleague.

22 COUNCILMAN JONES: Councilman
23 Johnson.

24 COUNCILMAN JOHNSON: I defer to
25 my colleague back there.

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2 COUNCILMAN O'BRIEN: I'll be
3 glad to do it. I'll be glad to do it.

4 COUNCILMAN JONES: Councilman
5 O'Brien.

6 COUNCILMAN O'BRIEN: I have
7 just a couple questions. I was trying to
8 get organized, so you caught me a little
9 off guard.

10 First, I would like to ask
11 Judge Herron and Judge Dembe a question.
12 I know that it was testified earlier that
13 the courts are not a revenue-raising
14 mechanism. I remember Frank Rizzo when
15 he was Mayor, he was talking -- well, he
16 wasn't Mayor. He was running for Mayor,
17 and he was talking about then Traffic
18 Court or the Parking Authority, and he
19 was on the Wally Kennedy Show, and he was
20 getting more incensed as they were asking
21 the question about the role of the
22 Parking Authority. And he got to a fever
23 pitch and he said --

24 COUNCILMAN JONES: Councilman,
25 I need you to speak in the mic.

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2 COUNCILMAN O'BRIEN: -- when I
3 become Mayor, I'm going to break their
4 pencil points.

5 Well, I know that we all
6 struggle, and I appreciate the
7 efficiencies that you've created in the
8 court discussion with CJAB and some of
9 the other inclusive wonderful
10 conversations.

11 When we did the full-time DAS
12 bill in Harrisburg, there was one
13 revenue-raising mechanism to pay for
14 full-time DAS that we never quite got
15 past the Senate, and that was allowing
16 judges to impose a fine proportionate to
17 the transaction. In other words, you
18 can't bring a credit card to a drug deal.
19 And I was wondering if it's a requirement
20 to have state law or you administratively
21 could impose fines. And the one case
22 that came to mind was in Delaware County
23 when duPont killed the Olympic wrestler,
24 and that case was an extraordinary burden
25 on the system. And I know someone says

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2 that it is a constitutional issue, you
3 can't disproportionately apply a fine
4 because someone has money or they don't
5 have any means at all, but if you -- do
6 you have the authority to impose a fine
7 proportionate to the size of a drug deal.
8 That's pretty easy to assess. And the
9 question is, when you say the person is
10 indigent and doesn't have the money, they
11 don't take credit cards at drug deals, so
12 that person has to have the money in the
13 personage of his wife, his brother, his
14 girlfriend in a tin can in the backyard.

15 What I'm looking at is, that's
16 not a revenue-raising mechanism. It will
17 raise significant revenues for those
18 cases that are in the margins, but it
19 also is a significant deterrent effect,
20 because you're taking that infrastructure
21 away from them and their ability to
22 proceed.

23 JUDGE DEMBE: First of all,
24 everybody would vote for breaking the
25 pencil points at the Parking Authority.

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2 COUNCILMAN O'BRIEN: I'm for
3 that too.

4 JUDGE DEMBE: Secondly, judges
5 do have authority to levy fines. The
6 discussion about whether the court should
7 be in the revenue-raising business a
8 couple years ago is not really about the
9 criminal courts. As you will recall,
10 when \$15 million walked out of our budget
11 very rapidly, we were -- we got to within
12 four days of payday and we had \$10,000 in
13 the bank. It was one of the most
14 frightening things I've ever lived
15 through, because our workers are row
16 house people for whom missing a paycheck
17 is catastrophic.

18 So we raised revenue through
19 the electronic filing in the fees and
20 through the efficiencies created by the
21 electronic filing so that we don't have
22 paper and we don't have toner cartridges
23 so much and all that kind of stuff.

24 In terms of the criminal cases,
25 yes, judges do have authority to issue

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2 fines. One of our difficulties is that
3 we have very few duPonts as defendants,
4 so it's difficult to do that and expect
5 any real return. Most of the people who
6 go through our criminal courts are so
7 marginalized economically that one of the
8 reasons that they go back to committing
9 crimes, why they recidivate is that when
10 they walk -- when we put people in
11 prison, even for a day or two, they lose
12 the low-level job they had, because the
13 employer needs somebody to sweep the
14 floors and fry the hamburgers and this
15 and that. And that means that they lose
16 their housing, and that means that they
17 lose whatever their stuff is, because
18 that was in their housing. So they get
19 out of prison, even if they've only been
20 there for a few days, without a place to
21 live or even the wherewithal to take care
22 of themselves and/or any family.

23 So realistically speaking,
24 collecting fines from those people is
25 always going to be, number one, not very

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2 productive for most of them and actively
3 destructive in helping to drive them back
4 to crime. So it's something that very
5 much has to be looked at a case-to-case
6 basis and probably not a solid funding
7 stream.

8 Does that answer your question?

9 COUNCILMAN O'BRIEN: Judge
10 Herron.

11 JUDGE HERRON: I think the
12 short answer is that there are two areas
13 in the court that address collections.
14 One is in the Probation Department where
15 we have individual probation officers who
16 are supervising restitution cases, and
17 it's vital to go after that restitution
18 for the victims. Because we prioritize
19 the use of vital probation officer time
20 to the high-risk and the median-level
21 offenders, we have very few probation
22 officers available for the restitution
23 area.

24 The second area of court
25 collections is in the Office of Court

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2 Compliance where we have about ten
3 individuals subsidized by City funding
4 who go after court fines, fees, costs,
5 and restitution as well. And we've been
6 very successful in those collections, but
7 they're somewhat controversial. Of
8 course, there's got to be a threshold
9 inquiry about ability to pay, but all of
10 those collections are given to the City
11 and to the state proportionately under
12 law.

13 COUNCILMAN O'BRIEN: Thank you.

14 I know my bell went off, so
15 I'll come back.

16 COUNCILMAN JONES: Thank you,
17 Councilman.

18 The Chair now recognizes
19 Councilman Johnson.

20 COUNCILMAN JOHNSON: Thank you
21 for your patience, Mr. Chairman. I
22 thought because I deferred to the former
23 Speaker of the House, you would want to
24 overlook me and go to the next person.
25 So I thank you for your leniency,

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2 Mr. Chairman.

3 Two things. First and
4 foremost, I want to acknowledge the work
5 of a gentleman I consider a comrade and
6 also a friend in the capacity of really
7 saving the lives of young people in the
8 City of Philadelphia, and that's Judge
9 Dougherty. I've been on this path
10 working in the field of social justice
11 and advocating for positive resources,
12 positive opportunities for young people,
13 particularly and more specifically
14 juveniles. A lot of times we focus on
15 the issue of ex-offenders from the adult
16 side, who we often overlook the level of
17 support that our juveniles need, because
18 ultimately the young people, like most of
19 my friends I grew up with, who go on to
20 St. Gabriel's Hall, who go to Slayton
21 Farms, who goes to Glen Mills, if they
22 aren't given the level of support and,
23 more importantly, accountability that
24 they can make positive choices with
25 support to change their lives, they then

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2 become the adults who go on to

3 Graterford, Coal Township, Huntingdon.

4 And so I've had an opportunity
5 to work with Judge Dougherty in a variety
6 of different capacities, the Juvenile
7 Enforcement Task Force, the Youth Gun
8 Violence Task Force. So I just want to
9 acknowledge you for your work that you've
10 done, and more importantly, a lot of
11 people don't know that you stepped up to
12 the plate in the southwest part of my
13 district and set up the Nuisance Court,
14 free of charge, purely saw that there was
15 a need, and you stepped up and started
16 holding night court out there, focused on
17 the issue of the quality of life of young
18 people on a regular basis.

19 So I just want to acknowledge
20 you for your hard work, tell you to keep
21 up the good work, and I recognize your
22 passion and the work that you do. It
23 must be that South Philly thing in your
24 blood, but I just want to tell you to
25 keep up the good work.

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2 JUDGE DOUGHERTY: Thank you.

3 COUNCILMAN JOHNSON: I wanted
4 to -- two things. One, Judge Dougherty,
5 if you could just give us a brief
6 overview of what the transition model
7 looks like for juveniles once they return
8 from juvie hall. So rather it be the
9 Youth Study Center, rather it be Glen
10 Mills, Slayton Farm, making that
11 transition back into our society and
12 bridging that gap with the various
13 agencies, rather it be DHS of a young
14 person that's homeless or adopted or in
15 foster care, or one of the main issues I
16 saw was the School District. When a
17 young person comes back from Slayton
18 Farm, how do you make that connection so
19 that they can reintegrate back in
20 society?

21 That will be my first question,
22 and then on the administrative side, I
23 want to go back to -- and whoever has to
24 answer this from the administration
25 side -- the arbitration award and how

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2 we -- I'm trying to get a dollar amount
3 of what that award looks like as it
4 relates to us making sure that we have
5 competitive salaries for our probation
6 officers. And then what do we have to do
7 in terms of bringing together, I guess --
8 you mentioned something along the lines
9 of the Administration with FJD. How do
10 we make that work for all of us? And so
11 I start off with Judge Dougherty.

12 JUDGE DOUGHERTY: Fair enough.
13 Thank you. Good question. My
14 understanding is, what is Philadelphia
15 Family Court now doing with regard to
16 reintegration. It's a twofold question.
17 Several years ago, the legislators in
18 Harrisburg passed Act 88, which was an
19 amendment to the educational code, which
20 indicated that those children of the City
21 of the first class that initially
22 committed an offense, an adjudication,
23 would be removed from a Philadelphia
24 public school. The Juvenile Law Center
25 stationed in Philadelphia ultimately sued

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2 and a consent decree was agreed upon in
3 which there would be only certain
4 offenses for which children are placed
5 when they return from Philadelphia --
6 return from placement back home. They
7 would be excluded from a free and
8 appropriate public education for
9 approximately 180 days. Unfortunately,
10 that, in years gone by, developed into
11 the entire educational career. While we
12 had no say in the passing of the
13 legislation, we in the court system had
14 an opportunity to make sure that our
15 children were properly served and
16 educated.

17 We have worked again to create
18 a better system so that if a child is
19 coming out of placement and requires a
20 removal of the Philadelphia public
21 school, we developed an office which we
22 call Reti-Wrap, R-E-T-I, but in essence,
23 we're working -- I have an assigned
24 probation officer who works with the
25 School District and School District

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2 representatives, so that we're collecting
3 the educational records while the child
4 is away at a delinquent placement and
5 making sure that those educational
6 records are smoothly transitioned to the
7 Philadelphia School District. We have
8 gone from approximately 180 days to 72
9 days down to -- I would say right now
10 we're about anywhere from 12 hours to 72
11 hours being able to get them back into a
12 Philadelphia public school setting.

13 For those individuals who are
14 being stepped out of placement, what we
15 try to do is make sure that we conform to
16 what we know is the BARJ, B-A-R-J,
17 principles. That's Balance and
18 Restorative Justice. Balance and
19 Restorative Justice is the guiding
20 principle in which we have to make sure
21 that the juvenile is accountable for his
22 or her action; that while the child is
23 under our watch, that we develop his or
24 her competencies. What does that mean?
25 Behavior, education, medical, mental, the

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2 holistic approach to improving the life
3 of a child, but we also have to balance
4 that against community safety. So if a
5 child is coming out of placement for a
6 serious offense for which he or she has
7 excelled through the program and is
8 available for discharge, we're bringing
9 them back with certain restrictions; for
10 example, GPS. So that I'm going to
11 restrict your ability to walk our streets
12 if you continue to be uncivilized.
13 However, we're going to make exceptions
14 so that you can go to school, that you
15 can seek your therapy and you can seek
16 any treatment that's necessary.

17 What we've done is, I worked
18 hand in glove with the Commissioner of
19 DHS, and we now review all the requests
20 for proposals or the programs of these
21 juvenile institutions to make sure that
22 they cater to our needs, to make sure
23 that they are culturally competent and
24 sensitive to the Philadelphia youth.

25 While I have often gotten

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2 frustrated at the comment that your kids
3 are different than our kids, those kids
4 are our kids, and the child in
5 Philadelphia County or Allegheny County
6 or Centre County still endures the life
7 of poverty. It may be a different form,
8 but they're still the same. So you can't
9 distinguish, except when you look at the
10 majority of my children and the children
11 of color, 85 percent -- approximately
12 anywhere from 75 to 85 percent of all
13 children in delinquent placement in our
14 probation are children of color. So we
15 have to be concerned.

16 And while we are absolutely
17 color blind when it comes to dispensing a
18 conviction or adjudication of
19 delinquency, we have to be extremely
20 color conscious when we're making sure
21 that the programs that they receive are
22 sensitive to the needs. As I indicated,
23 we now know that if you're not reading on
24 the third grade level by third grade,
25 you're educationally deficient. So what

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2 are we going to do? How do we expect to
3 get a job? How do we expect one of our
4 kids to fill out an application and be
5 successful?

6 So we're now working on those
7 programs to make sure that it's working.

8 Simultaneously with the child
9 being removed, we have engaged providers
10 to work with the family to try to make
11 sure that if the mom is overwhelmed
12 because she has three kids and two jobs,
13 we're trying to make sure that we can get
14 into that home and provide the necessary
15 services so that when the child is
16 reintegrated back into the community,
17 that those conditions that existed which
18 caused the child not -- hypothetically
19 speaking, I don't feel like babysitting
20 my six brothers and sisters anymore, so
21 I'm running the streets at night. So now
22 I know if I'm going home, I'm probably
23 going to get locked out or I'm going to
24 get a whooping, so I'm going to stay out
25 and I'm going to get high. And now I get

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2 high, I get in a car I know to be stoned.

3 Now I'm arrested and charged with a

4 felony. Well, wouldn't it make sense

5 instead of arresting that child, giving

6 them a felony conviction, if

7 hypothetically we have to do that, we

8 work with the family, make sure that the

9 mom has necessary services available or

10 therapy or treatment?

11 What people in Philadelphia

12 don't realize is, millions and millions

13 of dollars are invested each and every

14 year in Philadelphia for community-based

15 services, but most people think you have

16 to be arrested or DHS has to remove you

17 before you're accessible to these

18 programs. What we've done is, we've

19 broken the door down in this invisible

20 wall and we're now developing prevention

21 services in Family Court and we're taking

22 those prevention services and applying

23 them to the delinquent stream as well as

24 my dependent stream so that anybody that

25 walks and lives in our city is available

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2 to the resources that this government has
3 provided.

4 Does that answer your question?

5 JUDGE HERRON: Maybe I can
6 answer the second question, Councilman,
7 on probation --

8 COUNCILMAN JOHNSON: Before you
9 answer that second question, just one
10 small part. What's the name of the
11 office that does the -- not the BARJ
12 principle.

13 JUDGE DOUGHERTY: Reti-Wrap.

14 COUNCILMAN JOHNSON: Reti-Wrap?

15 JUDGE DOUGHERTY: Yes.

16 COUNCILMAN JOHNSON: Can you
17 spell that for me.

18 JUDGE DOUGHERTY: R-E-T-I
19 hyphen wrap, W-R-A-P.

20 COUNCILMAN JOHNSON: And just
21 one other component. I also deal with a
22 lot of young men from a constituent
23 service aspect that engage in drug abuse,
24 smoking wet, snorting heroin, and that
25 plays a role in them in terms of acting

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2 out and violence from a violence aspect,
3 as well as the issue of homelessness
4 among juveniles. And so if I'm living --
5 not homelessness that -- this is an issue
6 in the shadow of Philadelphia. I'm not
7 speaking homelessness in terms of young
8 people sleeping on the Parkway. I'm
9 talking about the young person that's not
10 going to school but don't have a place to
11 live, but they living from house to house
12 selling coke to get by or robbing people
13 or running up in people houses to get by
14 because they're not in school system.

15 Just briefly, what services
16 addresses the DNA component specifically
17 dealing with juveniles as well as any
18 services that focuses on the homelessness
19 of juveniles?

20 JUDGE DOUGHERTY: There's a
21 plethora of services. One would have to
22 go by a case-by-case basis. For the
23 individual that is a substance abuser
24 with small amounts, we try to divert
25 those individuals and get them into

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2 outpatient treatment, intensive
3 outpatient, obviously before we even
4 consider placement. We also have
5 developed a diversion program called the
6 Juvenile Treatment Court in which we are
7 accepting misdemeanors and those charged
8 with felonies and put them through a
9 strenuous process of meeting the
10 necessary phases.

11 Simultaneous with that, we're
12 collecting the social information. And
13 as you call the homelessness, I like to
14 say it's the transiency of our
15 poverty-stricken area. What we've done
16 is, we've collaborated with the
17 Department of Human Services and we
18 developed what we called shared case
19 management. So if I have a child that's
20 been arrested for a drug arrest and
21 ultimately find out that he or she has
22 been jumping houses and really has no
23 stable environment, which means there's
24 no stable home life, which means there's
25 no stable education, we're now working

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2 with DHS to develop a cross systems
3 approach in which the child no longer
4 needs to be one of both systems but can
5 actually be both, so we can file a
6 juvenile dependency petition. And in
7 some cases, if it's the first-time
8 offender or the child that really is just
9 caught up in a bad way and there is no
10 other resource other than placement, in
11 order to avoid the prior record score and
12 the DNA removal, we're able to place that
13 child as a dependent, provided that the
14 child meets the criteria.

15 So we're working hand in glove
16 with our system partners and stakeholders
17 to make sure that each and every child
18 has an opportunity to succeed, with the
19 understanding that should they take our
20 services and not be compliant, that
21 ultimately the full authority of the
22 juvenile delinquent system will be there.

23 COUNCILMAN JONES: Councilman,
24 we're going to ask that we hold that so
25 we can get to Councilman Squilla and

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2 Councilman Henon, who have not had an
3 opportunity. This is a good line of
4 questioning, but we have to get to them
5 as well.

6 COUNCILMAN JOHNSON: Sure.

7 Mr. Chairman, the second part of my
8 question. So are you saying that should
9 be answered the second round? Because
10 there was a second part to the question
11 the gentleman was about to answer.

12 COUNCILMAN JONES: You've
13 already lit -- oh, you were?

14 COUNCILMAN JOHNSON: Yeah. You
15 were about to chime in in terms of the
16 arbitration award and how that plays a
17 role --

18 JUDGE HERRON: May I?

19 COUNCILMAN JONES: Yes, but
20 what we need to do also is get other
21 people in.

22 COUNCILMAN JOHNSON: I'm doing
23 my Curtis Jones record now.

24 COUNCILMAN JONES: I know.
25 That's why I've been real lenient.

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2 Listen, I understand. When it get good
3 to you, you just want to continue on, but
4 we need to take a little break and pause.

5 COUNCILMAN JOHNSON: Yes, sir.

6 JUDGE HERRON: Well, I do not
7 want to get in the middle of that.

8 We start probation officers off
9 at 42,000. There's --

10 COUNCILMAN JOHNSON: 42?

11 JUDGE HERRON: 42,000. There's
12 a very small range going up into 50,000,
13 a little lower. We're hoping that the
14 450,000 we've asked for will add \$1,500
15 to the senior probation salaries. The
16 requirements for hiring are that you have
17 a college degree and you pass a test. So
18 the individuals who come into the
19 Probation Department then receive a
20 significant amount of training. It is a
21 real loss to the community to have these
22 individuals who are trained then
23 accepting positions elsewhere, because
24 positions elsewhere offer two things.
25 They offer much higher salaries, and so

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2 we're training probation for other
3 jurisdictions; and, second, they offer
4 much lower caseloads.

5 COUNCILMAN JONES: This is my
6 imitation of President Clarke. Thank
7 you.

8 JUDGE HERRON: You're welcome.

9 COUNCILMAN JOHNSON: Just one
10 last part, and I'm not joking, and I'll
11 come back. But my more direct question,
12 the specific amount of money that the
13 arbitration award will contribute to this
14 process of making sure we have basically
15 all the revenue on the table as possible
16 to increase the salaries of our probation
17 officers. That's really what I'm getting
18 at, because I know we're losing them, but
19 the arbitration award will possibly play
20 a role, because if you're asking us for
21 \$450,000 but we also have an arbitration
22 award that's on the table, it's kind of
23 like, If we can get it from the
24 arbitration award, then why is the
25 \$450,000 being requested as well? That's

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2 really what I'm getting at.

3 JUDGE HERRON: Because at the
4 higher level, those probation officers
5 are not compensated anywhere near
6 surrounding counties and jurisdictions.
7 So we lose the higher level, senior
8 probation officers. The arbitration
9 award will not change that.

10 COUNCILMAN JONES: Thank you so
11 much, Councilman.

12 COUNCILMAN JOHNSON: Thank you,
13 Mr. Chairman.

14 COUNCILMAN JONES: No problem.
15 Councilman Squilla.

16 COUNCILMAN SQUILLA: Thank you,
17 Mr. Chairman.

18 (Applause.)

19 COUNCILMAN SQUILLA: Thank you.
20 It's a pleasure being here. Still the
21 morning. A couple questions. Just
22 during this process when we go through
23 the budget process and you talk with the
24 Administration, do you go over all these
25 steps along the way with the

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2 Administration before they give you a
3 figure?

4 JUDGE HERRON: I'll give you
5 the person who is in the meetings
6 themselves.

7 MR. CROSS: Councilman, yes, we
8 do. We prepare -- the City gives us our
9 base number. We prepare our budget
10 request, and there may be additions or
11 additional monies that we're seeking, and
12 then we will try to sit down with the
13 Budget Director and their office and try
14 to prioritize our additional request.

15 COUNCILMAN SQUILLA: And during
16 this process, you go back and forth, I
17 guess, and you say, Well, we need
18 additional funding for these certain
19 issues or procedures? Because during the
20 process -- and we talked about this and
21 we heard about even the Warrant
22 Department that's under the court system,
23 and there was, I guess, outstanding
24 warrants was in 40,000, 45,000.

25 JUDGE HERRON: We have 40,000

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2 outstanding warrants. Ten thousand of
3 those are probation violation warrants.
4 This is a critical community that needs
5 to be apprehended. We have 58 warrant
6 service officers. It's a prescription
7 for failure. It has been for years and
8 years and years. It's impossible for 56
9 individuals to find 40,000 people on
10 warrants.

11 So we really need to have a
12 conversation and a dialogue on a more
13 effective means to go after that
14 population.

15 COUNCILMAN SQUILLA: During
16 this process -- and I'm sure you asked
17 the Administration for more money for
18 that part of it, and they come up with a
19 reason whether to fund it or not, but are
20 there other jurisdictions that do it
21 differently than ours?

22 JUDGE HERRON: We are the only
23 jurisdiction in America, to our
24 knowledge, that supervises electronic
25 monitoring, which is one of the

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2 components City Council has been very
3 interested in in prior years and this
4 year. Obviously the savings per day
5 prison cost, estimates range from \$100 to
6 \$114 per day in prison, whereas the cost
7 for an electronic monitoring unit is
8 somewhere around \$30 or so per unit. So
9 if you can identify a population and
10 release it on EM and then supervising it,
11 it's obviously a more cost-effective
12 approach. However, we have a total of
13 750 units now. There is no waiting list
14 for them. It is clear to us. However,
15 when we look at other jurisdictions,
16 we're the only one doing it. So you
17 might think about moving electronic
18 monitoring to the Prison System, for
19 example. You might think about moving
20 pretrial warrant service officers to the
21 Sheriff's Department, which has been a
22 casual conversation at this point,
23 perhaps to another area of the judicial
24 system or to the Police Department
25 certainly for the service of warrants.

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2 COUNCILMAN SQUILLA: But either
3 way even if we move it, we would need the
4 resources to make it functional to have
5 50 people whether we put in the Sheriff's
6 Department or --

7 JUDGE HERRON: It's clearly
8 underfunded, and until that's recognized,
9 we don't ever realistically expect
10 success.

11 COUNCILMAN SQUILLA: All right.
12 I mean, that's a major issue I think for
13 us as Council and the Administration
14 moving forward. The funding of the
15 courts is one thing, and we need to work
16 in conjunction with our different
17 departments, District Attorney's Office
18 and the court system, the Police
19 Department, and to not have the resources
20 to do that or even to follow up on the
21 warrant issues. Sometimes we have a
22 bunch of bad guys out there -- and I know
23 you prioritize the warrants. So you go
24 out there and I guess it's crimes of
25 violence that you really pay attention to

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2 most seriously, but a lot of these people
3 that know the warrant system out there,
4 they know nobody is coming out looking
5 for them in these, what we call, minor
6 crimes, and it enables them to go out
7 there and do other things. And to have
8 that out in the City and known amongst
9 what we call the bad guys, it just sends
10 the wrong message, and I think we as
11 Council need to look at that and really
12 come up with a way to fund this system
13 and to fund the court system properly so
14 that we have the resources.

15 My other question is, we've
16 been seeing a rash of crimes in our
17 senior population, our senior citizens,
18 and we see it with thefts of their
19 properties, taking advantage of them.
20 And during some of our hearings, there's
21 been some studies that were saying as you
22 get older, your brain functions
23 differently, and that little part of your
24 brain that can sort of know if a guy is
25 conning you or taking advantage of you or

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2 not, you lose that sense after a certain
3 age and that you don't realize it. And
4 these people go in there, knowing that
5 they take advantage of senior citizens,
6 and our -- my issue is if we could come
7 up -- and maybe it's working with the
8 DA's Office and the court system and the
9 Police in general -- to come up with a
10 plan to know when these people actually
11 prey on the seniors and take their homes
12 and materials that they own. It's not
13 just so much a theft. They're actually
14 taking their lives away from them. And
15 the way our crimes are written, it seems
16 like it's still just a theft. I know
17 there's degrees of theft that we could
18 charge them with, but it just seems that
19 maybe we could do something more when
20 people are out there really going after
21 our seniors.

22 JUDGE DEMBE: You're right. We
23 have all seen -- and I've seen this for
24 years and years, but it does, I guess, go
25 in waves. We have all seen and

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2 personally known older people who have
3 suffered that kind of thing, and it just
4 starts to collapse. It just makes them
5 afraid to live alone, and then pretty
6 soon everything just spirals downhill.

7 So we are certainly sensitive
8 to that. Perhaps what we can do is
9 contact the National Center for State
10 Courts and a couple of organizations like
11 that that do national studies and look at
12 different programs, let's see what's out
13 there, and then that's the kind of thing
14 that we could bring in front of the CJAB.
15 And, of course, Council participates in
16 that as well, and see if we could --
17 because that is a terrible, terrible
18 problem.

19 COUNCILMAN SQUILLA: Well,
20 thank you too, and I would like to be
21 included in that process too if we can,
22 because the more and more you hear about
23 it, and then especially after speaking to
24 the seniors that have gone through it,
25 it's so devastating. And it's true, they

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2 sort of don't want to be involved
3 anymore. They're afraid of everything.
4 And it sort of destroys their whole
5 well-being. So I would like to be a part
6 of that conversation. So thank you.

7 COUNCILMAN JONES: Thank you so
8 much, Councilman. You had the senior in
9 your district that got his life taken
10 away from him, property, cars. And even
11 once convicted, the perpetrator
12 convicted, the restitution is going to
13 take so long to repair his life again.
14 So maybe accelerated restitution for
15 people in that tender age of senior.

16 COUNCILMAN SQUILLA: Something.

17 COUNCILMAN JONES: Councilman
18 Henon.

19 COUNCILMAN HENON: Thank you,
20 Mr. Chair.

21 Good morning, President Judges
22 and Administrative Judge. I'm going to
23 say good morning, and I'll be brief
24 before I have to come back and say good
25 afternoon. So I'll try to get this over.

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2 In my brief time here at City
3 Council and working on many programs and
4 dealing with many departments, especially
5 the courts, I didn't realize how much the
6 courts are involved in every aspect of
7 this city government in every part,
8 because some of the programs, the Quality
9 of Life Court, the specialty courts, our
10 constituents, the courts are involved.
11 And I appreciate the ideas and
12 suggestions that you're willing to sit
13 and take from this body and myself as
14 ridiculous as it may sound coming from,
15 let's just say, some of my suggestions or
16 inquiries. I appreciate the willingness
17 to sit and listen and to talk, because, I
18 mean, the courts need to be collaborative
19 in everything that happens in the City,
20 from our kids, juveniles, and in family
21 and on MC and the Common Pleas Court. It
22 affects everybody, and I just didn't
23 realize the priority. And I just want to
24 commend the courts overall in general for
25 the rate of return, the rate of

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2 investments, the return that we get on
3 our investments for the priority spending
4 when, as Judge Dougherty has said, we're
5 under financial constraints and you're
6 refocusing and prioritizing what's
7 important, and the return saves this city
8 millions upon millions of dollars.

9 One of my questions was going
10 to be, Chairman -- good morning, Council
11 President. There you go. Pulled a
12 Houdini on me here.

13 So Majority Leader Jones had
14 mentioned -- and it was something that I
15 think I discussed with each one of you in
16 private meetings -- that what comes back
17 to the court. When you're -- we're
18 getting a return in these savings, which
19 puts more money for, as you say, the
20 buses, for the core services that we have
21 here in our city. What comes back to the
22 court so you could continue to do that to
23 save us more? Because your rate of
24 return is far more than I've ever seen in
25 my two years of going through this

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2 budget, and I hope that continues and I
3 hope we could continue to work moving
4 forward.

5 I don't know how you measure
6 your programs and your measurements that
7 you have to quantify and to qualify the
8 programs, but whatever it is, keep doing
9 it, because it works.

10 So I only have one question,
11 because several have been answered about
12 the GPS, and I hope we move to that. In
13 regards to the GPS, is it the court's
14 responsibility to issue the monitoring
15 systems or is it the prisons?

16 JUDGE DEMBE: We are doing that
17 now.

18 COUNCILMAN HENON: You are
19 doing that now? And fully responsible in
20 the court system, in the First Judicial
21 District?

22 JUDGE DEMBE: Yes.

23 COUNCILMAN HENON: Well, that's
24 great. And there goes another avenue to
25 save money exponential. I mean, just

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2 like an enormous amount of savings, I
3 think, that we can have if we move
4 forward with that program.

5 I have one question for
6 Administrative Judge Kevin Dougherty, if
7 you would. And I'd be remiss if I don't
8 say great job with the flash mobs. Great
9 job on how you do it.

10 (Applause.)

11 COUNCILMAN HENON: I think
12 that's going to be a compliment that --
13 you had former Speaker of the House
14 colleague Dennis O'Brien speak about
15 Rizzo and some of his things. You're
16 going to be in the history books dealing
17 with our flash mobs. I mean, you handled
18 it tough, but yet you were sensitive that
19 it's kids and respectful to the
20 businesses in the City. So great job on
21 that.

22 You were giving your testimony
23 and you were talking about a lot of
24 things, and one thing I did want to
25 follow up, because we do have financial

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2 constraints here in the City and we're
3 always looking for a way for the revenue.

4 Can you speak on the
5 restitutions for your juvenile for
6 juvenile crimes?

7 JUDGE DOUGHERTY: Good
8 question. Yeah, absolutely. I should
9 correct myself. I currently have 150
10 probation officers. At one time we were
11 up to 221. So you could see we were
12 substantial in the Juvenile Probation.

13 But as a result of Juvenile
14 Probation and the collection of
15 restitution with the known caselaw of the
16 ability to pay, we have been able to
17 collect just from juveniles of judge
18 delinquent \$360,000, and that's also
19 inclusive of some court costs. But
20 that's a phenomenal amount of monies
21 considering the number of juveniles we
22 currently have. We're approximately
23 about 5,000 currently on probation or in
24 placement.

25 COUNCILMAN HENON: I mean, that

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2 must be difficult. Have you seen your
3 restitutions increase over the past
4 several years?

5 JUDGE DOUGHERTY: I would say
6 yes. However, we have changed from one
7 system of case management to what's
8 called the Common Pleas case management
9 system in which the monies are now
10 subtracted. For example, if you were
11 able to get a hundred dollars previously,
12 you may be able to take that hundred
13 dollars and apply it to total
14 restitution, but now the state has a
15 formula, X amount of money has to go to
16 victim compensation, X amount has to go
17 to this, and then the majority will go to
18 the actual victim. We have a -- I have
19 victim witness -- a unit in my
20 courthouse, and their specific duties and
21 responsibilities are to correct the
22 correct biographical information and to
23 make sure that the victims and/or
24 complainants are notified of court dates,
25 and then when the restitution is

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2 collected, that we dispense the monies.

3 COUNCILMAN HENON: Restitution,
4 I guess you're collecting \$360,000 in
5 small increments. I think that's a
6 credit to the system.

7 JUDGE DOUGHERTY: Thanks.
8 Every dollar counts.

9 COUNCIL PRESIDENT CLARKE:
10 Thank you, Councilman.

11 The Chair recognizes Councilman
12 O'Brien.

13 COUNCILMAN O'BRIEN: Thank you,
14 Mr. President.

15 COUNCIL PRESIDENT CLARKE:
16 Councilman, I'm sorry. Could you defer
17 to Councilwoman Blackwell?

18 COUNCILMAN O'BRIEN: Yes, I
19 will.

20 COUNCIL PRESIDENT CLARKE:
21 Apparently she has --

22 COUNCILMAN O'BRIEN:
23 Absolutely.

24 COUNCIL PRESIDENT CLARKE:
25 Thank you, sir.

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2 COUNCILWOMAN BLACKWELL: And
3 I'm only going to be 30 seconds.

4 I only wanted to say thank you
5 for all the things that we ask you to do
6 in all these areas, whether it be youth.
7 We contact Judge Dougherty about so many
8 issues we have in today's world. All the
9 President Judges, we call you about
10 everything, from domestic violence, you
11 name it, and no matter what it is and
12 whether it's in order or not, because we
13 just want to ask questions to figure out
14 what we should do, "we" who are not
15 lawyers, thank you, Lord. Years ago it
16 was all lawyers almost when Lu came on
17 board.

18 But we appreciate all that you
19 do to try to help us as we try to
20 represent the citizens of the City. I
21 thank you all.

22 (Thank you.)

23 COUNCIL PRESIDENT CLARKE:

24 Thank you, Councilwoman.

25 Councilman O'Brien. Sorry

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2 about that.

3 COUNCILMAN O'BRIEN: Thank you,
4 Mr. President.

5 COUNCIL PRESIDENT CLARKE:
6 You're welcome, sir.

7 COUNCILMAN O'BRIEN: First I
8 would just like to ask Kevin Dougherty a
9 couple questions, but I would like to
10 reflect a little bit on his past history
11 and that of the Juvenile Unit.

12 Years ago, that unit with Al
13 Tozlosky, John Delaney, Kevin Dougherty
14 and a number of other people took the
15 Juvenile Unit from the doghouse to
16 penthouse, and I just want to say that
17 Family Court under all of your individual
18 and collective leaderships, Judge Murphy,
19 has taken Family Court from the doghouse
20 certainly to the penthouse.

21 JUDGE DOUGHERTY: Thank you.

22 COUNCILMAN O'BRIEN: There's a
23 number of issue I'd like to touch on.
24 One is the preventive services that I
25 know we've had discussions in Northeast

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2 Philadelphia about with CORA and several
3 other agencies, Shalom. I'll get back to
4 that. I just want to put it on your
5 radar screen so you can think about it.

6 I also would like to comment on
7 your interest in focused deterrence. I
8 believe that's a strategy that we have to
9 employ. With all of the criminal justice
10 legislation and discussions I've been
11 involved with in my previous life, I've
12 never seen a model with boots on the
13 grounds that can have this significant
14 effect. I know others have talked about
15 it and represented that success, and I'm
16 pleased that you are leading the
17 conversation in this conversation.

18 Kennedy has created a roadmap
19 that will thoughtfully reduce gun
20 violence, but it does require the
21 inclusive conversation of the Police, the
22 District Attorney, judges, U.S. Attorney,
23 Probation and Parole and the community,
24 and has to be 100 percent buy-in of the
25 community. It's worked in several

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2 jurisdictions. I don't have to get into
3 that right now. You and I both know
4 where that is. But I'm happy that this
5 is happening in South Philadelphia. I'm
6 also happy that it's working or being
7 employed not only on the adult level but
8 in the juvenile and Family Court level.

9 What I'd like to know is, there
10 are two brackets. There's the law
11 enforcement and the health and human
12 services aspect in order to make this
13 successful. What would it take, what is
14 our resource commitment that we have to
15 make in this legislative body to take
16 that from that wonderfully successful
17 experiment that's ongoing, just went test
18 model last week, what would it take to
19 generalize that and take it citywide?
20 I'm talking about what kind of
21 concentrated resources, and maybe you can
22 talk a little bit more to the experience
23 and the discussion that you've had. I'm
24 not asking you to pull a number out of
25 air. What I'm really talking about is to

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2 emphasize the quality of the conversation
3 and the component parts and the
4 strategies that are necessary to make
5 that successful citywide.

6 JUDGE DOUGHERTY: I'd have to
7 say that that answer cannot be given at
8 this time, only because we're in the
9 infancy. For example, last week was the
10 first call-in in which the stakeholders
11 and partners actually reached out to the
12 large targeted population, just being
13 advised as to, at least from the juvenile
14 side, just being advised as to the
15 process and that the process is going to
16 be the continuum call-in, the designation
17 of targeted interested populations, and
18 the fact that should those cases come
19 through our system, they will be directed
20 to me as the Administrative Judge and I
21 will sit personally on those cases so
22 that we can gather data, information, so
23 that we can ultimately come back and
24 answer your question.

25 COUNCILMAN O'BRIEN: And

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2 there's another question, and maybe you
3 can ring the bell or warn me when I get
4 close, because I have a number of
5 questions and I might need a third round
6 or fourth round.

7 But Judge Dougherty, I'm very,
8 very interested in your focus on
9 juveniles and bringing the School
10 District into this conversation. These
11 kids, as I know, are victims of a failed
12 educational system. The adults are
13 failing these kids in a number of ways.
14 One, because we're not giving them the
15 educational supports they need to be
16 successful. They learn differently.
17 They have ADHD, dyslexia, language
18 processing issues, and the School
19 District is not focusing on that.

20 They do feel bad about
21 themselves in third grade. They quit
22 when they're in fifth grade. They walk
23 out the door when they're high school.
24 And you can see this progression. You
25 can see the kids that are walking three

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2 or four steps behind. The ones that are
3 already in your juvenile system have
4 progressed into the adult system.

5 I know that education has not
6 been part of this conversation in the
7 past, and I just wanted to get more
8 amplification as to how Dr. Hite and this
9 current administration is responding to
10 that challenge significantly different
11 than what the previous administrations
12 have.

13 JUDGE DOUGHERTY: I think
14 Dr. Hite has risen to the occasion, and
15 there is a phenomenal woman who comes
16 from a social work background, Karen
17 Lynch is his administrative assistant. I
18 apologize. I don't know her direct
19 title. I call her the number two. And
20 Ms. Lynch and Dr. Hite, I've met with
21 both of them and I meet regularly with
22 Ms. Lynch, who is part of the National
23 Forum on the Prevention of Youth
24 Violence, and I chair with Dr. John Rich
25 out of Drexel, we chair the intervention

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2 group. The whole national forum is
3 broken down to four subcategories, and
4 Ms. Lynch is an active participant.

5 Outside of that, on the normal
6 course of getting our children the
7 appropriate education, Dr. Hite has been
8 phenomenal in his promise of providing
9 resources. Now, there's always going to
10 be an issue as to the delivery. As you
11 know, the School District is enduring its
12 own horrific fiscal budget, but with what
13 little resource they have, we are trying
14 to maximize and make sure that it begins
15 with truancy and deals with, as
16 Councilman Johnson had indicated, talking
17 about reintegrating them and making sure
18 when they're coming out of institutional
19 placement, that they are deemed
20 appropriately educated and that any
21 credits that they may have acquired while
22 in placement is transferred so that our
23 School District will accept it. There
24 had been a history of a lack or a
25 drop-off of the accreditation process.

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2 So we have many more successes
3 than we have failures, and we're taking
4 each case on a case-by-case basis, but
5 we've now been able to get different
6 juvenile providers to provide a reading
7 and math evaluation upon entry and upon
8 discharge to see if the providers are in
9 and of themselves educating our children,
10 for which they're being paid, and making
11 sure that those credits and those courses
12 are being transferred back to the home
13 district here in Philadelphia and looking
14 for supplemental services.

15 I always go back to the day of
16 Reading is Fundamental. Remember the
17 commercials for RIF? I still like to
18 somehow introduce that back, and I've
19 engaged in that conversation with the
20 Superintendent and Ms. Lynch with regard
21 to the targeted population of the 22nd
22 and which we now want to reach out to
23 Temple University and maybe get their
24 educational department involved. Let's
25 get back to the Reading is Fundamental,

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2 teaching our children how to read or
3 having a book read to a child, engaging
4 in the beauty of literacy.

5 So it's step by step, we're
6 getting there. It's been a tough
7 process. The School District has not
8 always been an equal partner. I should
9 say they are an equal partner; they've
10 not always been a good partner.

11 COUNCILMAN O'BRIEN: Or a
12 willing partner.

13 JUDGE DEMBE: Councilman, I'm
14 delighted to see that you and your
15 colleagues are -- Kevin is probably not
16 so delighted. He's been on the firing
17 line all morning. But I'm really
18 delighted to see that Council is really
19 focusing down on the particularities of
20 what happens in Juvenile Court, because
21 when that fails, when we fail with the
22 children, that's the Criminal Court
23 inventory going forward, it's the social
24 breakdown going forward, it's the reason
25 the City remains impoverished.

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2 It's an awful lot of
3 information, and since there is so much
4 interest on the part of Council, perhaps
5 Council wants to think about whether it
6 would be constructive, so that we're not
7 trying to do this all on one morning once
8 a year, to have a meeting or a hearing or
9 something as a mid-year event where Judge
10 Dougherty and Judge Murphy can come in
11 and really give you an awful lot of
12 detail so that you're not trying to
13 swallow it all at the same time that
14 you're trying to deal with all the other
15 budgets for all the other parts of what
16 you have to deal with. So that's out
17 there, if that's something that would be
18 helpful.

19 COUNCILMAN O'BRIEN: Thank you.

20 I guess I'm out of time?

21 COUNCIL PRESIDENT CLARKE:

22 Thank you, Councilman.

23 Your Honor, it's rare that
24 people ask to come back to Council more
25 often. That's pretty rare.

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2 The Chair recognizes Councilman
3 Jones.

4 COUNCILMAN JONES: Thank you,
5 Mr. President. That is rare.

6 COUNCIL PRESIDENT CLARKE: Yes,
7 sir.

8 COUNCILMAN JONES: But
9 appreciated.

10 A couple of things. Drilling
11 down on that integration with the School
12 District, it's a matter of public record
13 what happened to Mr. Bernard Scott out at
14 Overbrook High School, and without giving
15 out too many details, it was a social
16 problem with a number of players.

17 For the record, at Overbrook
18 High School, that population -- he was an
19 innocent bystander, for the record, but
20 some of the agitants that get involved
21 represent maybe 2 percent of the entire
22 student body. So 2 percent out of
23 control, 98 percent of them want to go on
24 and just get an education and move
25 forward and pretty much aren't going to

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2 be disturbed by this one way or the
3 other. But that 2 percent -- and
4 President Clarke talks about it all the
5 time -- that we need to focus on. And
6 what is encouraging to me is a
7 two-pronged approach, the right hand of
8 fellowship. Everything you need to be
9 successful, young man, young woman, if
10 it's a job, if it's some help, if it's
11 some social services at home, we want to
12 provide for you. But those who have
13 decided in their mind that criminal
14 enterprise is their vocational choice, we
15 want to help them along their way to
16 achieve their goal too and get out of the
17 other 98 percent of the kids' way.

18 So having said that, some of
19 the stakeholders in the West Philadelphia
20 community have met with about 20 young
21 men, and we're literally giving them that
22 kind of choice, the kind of choice that
23 you talked about. So how do we come up
24 with someone in your office? Because
25 we've identified them. Many of them are

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2 already on probation or parole, and we've
3 kind of told them, You're not invisible.
4 We know exactly who you are and that from
5 our limited perspective, we don't do this
6 on a daily basis. We're lawmakers. We
7 try to -- we're budget-makers,
8 law-makers, and constituent service
9 providers. But working with experts in
10 your field to identify the difference
11 between a kid who had a bad day or a bad
12 kid that's on his way, we need that help
13 as a community to be able to identify how
14 we can segregate those two pools of kids.

15 So who in your office? Because
16 I know you would like to, but who in your
17 office actually does --

18 JUDGE DOUGHERTY: My Chief of
19 Operations sitting right in the back row,
20 Kathy Grasela. You can reach out to her
21 if it's juvenile related, and we always
22 have my Supervising Judge, Judge Murphy,
23 from the Domestic Relations Division.

24 COUNCILMAN JONES: We're
25 meeting ongoingly about this, and the

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2 interesting part was that some of the
3 actors in that case were kids that had
4 already moved out of school, that they
5 were no longer in the school system and
6 they were coming back to school. Now,
7 they didn't want to be in the school
8 system when they were enrolled, and then
9 in order to deal with conflict, they came
10 back to Overbrook High School. These are
11 actually 18-year-olds, 19-year-olds that
12 instigated some of the activity there.
13 So we want to kind of identify these
14 individuals.

15 JUDGE DOUGHERTY: If it's a
16 delinquent child, my Chief of Probation
17 is Faustino Castro-Jimenez. So he can
18 also be contacted.

19 COUNCILMAN JONES: Thank you,
20 Mr. Chairman.

21 COUNCIL PRESIDENT CLARKE:
22 Thank you, sir.

23 The Chair again recognize
24 Councilman O'Brien.

25 COUNCILMAN O'BRIEN: Thank you,

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Mr. President.

3 Again, I would like to
4 congratulate Judge Dougherty on his
5 conversation, ongoing conversation, and
6 model for foster care with Anne Marie
7 Ambrose. I would like to review a
8 concern that I have on probation and
9 parole.

10 We recently on Friday had
11 Chairman Pottinger from State Probation
12 and Parole before us in City Council. I
13 don't know what to make of what he said
14 and what he didn't say. I do know that I
15 have significant concerns about the
16 recidivism rate and what drives that
17 recidivism rate. I'm concerned that by
18 one of his subordinate's testimony that
19 on average the state probation and parole
20 officers have three years experience in
21 Philadelphia. I'm concerned that he
22 believes that 130 -- a caseload of 130 is
23 appropriate, even though the state
24 association or the National Association
25 of Probation and Parole believes it's one

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2 in 50.

3 Judge Herron, I congratulate
4 you on recognizing that there are
5 significant challenges to our county
6 probation and parole as far as salaries,
7 stress levels. They not only leave
8 county probation in Philadelphia to go to
9 county probation in other counties, but
10 they leave county probation in
11 Philadelphia to go to state probation and
12 parole.

13 And there were other concerns
14 that I have as it relates to pre and post
15 Rafael Jones and Giddings. I'm concerned
16 that these offenders are not being
17 violated on technical violations, and the
18 significant histories of both Rafael
19 Jones -- that's horrific in and of
20 itself, but when I talked about it,
21 Chairman Pottinger reflected that we
22 can't arrest everyone for a marijuana
23 violation, and he invited me to open the
24 door on Rafael Jones, which wasn't my
25 intention. The hearings were about that

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2 general concept and what the component
3 parts were that led to failure.

4 But having said that, here's a
5 guy who maxes out on four years. He gets
6 out. He gets arrested for a marijuana
7 violation. In that case, in that case,
8 that's a technical violation. He
9 re-violated. That information should
10 have been shared, in my view -- and I'd
11 like you to comment on that -- with the
12 sentencing judge. If that had happened,
13 then he wouldn't have gotten shot two
14 months later. And even then, State
15 Probation and Parole didn't say, where
16 were you, who were you with, what were
17 doing there, you got shot, don't violate.
18 Then he gets arrested for another
19 gunpoint robbery, which is the original
20 offense that he was sentenced for. The
21 witness doesn't show up. You figure it
22 out. You sit on the bench. You surprise
23 these guys, why didn't he show up. Guess
24 what? And then he kills Officer Walker.

25 Giddings did 50 days in the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 hole, 50 days. And 25 -- because of 25
3 infractions in prison.

4 Pre, post, Rafael Jones, do
5 they share that institutional information
6 with the judges? Would that have a
7 significant effect on how you treat that
8 offender, whether it's special probation
9 or the length of the probationary tail?

10 I'm just overwhelmed, and I
11 have some specific questions that I'm not
12 asking you to defend State Probation and
13 Parole, but I do have some significant
14 questions.

15 JUDGE DEMBE: That's good.

16 COUNCILMAN O'BRIEN: For
17 instance, what kind of information
18 sharing exists between the County and
19 State Probation and Parole departments,
20 let me just suggest, when there are
21 multiple offenders living in one house,
22 some supervised by county, others by the
23 state? Is there informational sharing
24 between the two agencies regarding
25 findings in the home or violations

1 4/22/13 - WHOLE - BILL 130178, etc.
2 committed?

3 For instance, if there is an
4 instance if a gun is found or if someone
5 isn't home, has a gun arrest, and the
6 state knows that, do they share that
7 information with the county officer and
8 vice versa? And further, is there a
9 database where officers can look up
10 violations of an offender from previous
11 officers, from juvenile officers or from
12 state officers? In essence, one place
13 where offenders' probation, parole, and
14 criminal history exists?

15 That's a lot, but I'm trying to
16 be efficient.

17 JUDGE HERRON: I think all of
18 those questions are important, and let's
19 address them separately outside the
20 hearing. I will say that there are many
21 databases, and unfortunately we don't
22 have a wonderful marriage of these
23 databases, and that's one of the Chadwick
24 Associates' efforts that is ongoing and
25 we hope to have some results.

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2 Sharing of information between
3 state and county, I can't tell you how
4 active that sharing is. I can tell you
5 it's not anywhere near the level that we
6 all think it should be.

7 And with regard to caseloads,
8 they're far too high in Philadelphia, far
9 too high. We categorize offenders by
10 high risk, moderate, and low risk. Those
11 high-risk caseloads are well above 70,
12 80, 100 or so. They should be 50 or
13 less. So what we need to do is match our
14 senior probation officers, our most
15 experienced people, with the high-risk
16 individuals in order to provide the kind
17 of experienced supervision that can make
18 a difference. Too little of that happens
19 because we don't have enough probation
20 officers to cover all of those three
21 areas.

22 COUNCILMAN O'BRIEN: And if
23 could squeeze this in. We have what we
24 call annuitant state probation and parole
25 officers. Do you know what they are?

1 4/22/13 - WHOLE - BILL 130178, etc.
2 They're retired probation and parole
3 officers that come back. They have no --
4 in my view, they have no knowledge of the
5 people they're supervising, because all
6 they're doing is downloading the
7 information that's given them secondhand
8 or thirdhand from somebody else. The
9 probation and parole exists because
10 they're able to take that community, as
11 Judge Dougherty and you, Judge Herron,
12 and Dembe and Neifield and Murphy, as
13 you're recognizing in a unique way,
14 reenergizing the court system and
15 recognizing this is a community and all
16 of those issues have to be brought into
17 focus.

18 I believe that State Probation
19 and Parole is failing. I asked one
20 specific question. I'll ask you to
21 comment on this. I asked how many
22 technical violations were people violated
23 on in the last year as opposed to direct
24 violations? They just lumped them all
25 together, direct violations or new

1 4/22/13 - WHOLE - BILL 130178, etc.
2 arrests. They said they have no way of
3 separating technical violations from
4 direct violations. I directed them to
5 their own website, where they identify
6 how many technical violations and how
7 many direct violations, but they can't
8 tell me if anybody has ever violated on a
9 technical violation. Can you tell me
10 that?

11 JUDGE HERRON: We violate on
12 technicals. As a sitting judge in
13 criminal, did it routinely, saw it done
14 routinely.

15 COUNCILMAN O'BRIEN: But when
16 they're violated on that technical
17 violation, if I can impose upon you for
18 another question or clarification, do
19 they get sent back to jail?

20 JUDGE HERRON: Well, that's an
21 individual judge discretionary decision.
22 Each judge hopefully will recognize what
23 the technical violation is and what the
24 history is and factor that into the VOP.

25 COUNCILMAN O'BRIEN: I applaud

1 4/22/13 - WHOLE - BILL 130178, etc.
2 you for this conversation you're having
3 here today. There's things that we have
4 to take ownership in the City of
5 Philadelphia and there's things that we
6 have to push back on, and I would like to
7 have an offline conversation with you
8 about these important issues.

9 Thank you, Mr. President.

10 COUNCIL PRESIDENT CLARKE:

11 Thank you, sir.

12 I want to thank you so very
13 much for your testimony.

14 (Thank you.)

15 COUNCIL PRESIDENT CLARKE:

16 We'll be talking to you very shortly.

17 Thank you.

18 Next up we'll have the
19 Defenders Association.

20 (Witnesses approached witness
21 table.)

22 COUNCIL PRESIDENT CLARKE:

23 Folks, we're going to have the Defenders
24 up next. Thank you.

25 Good afternoon.

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2 MS. GREENLEE: Good afternoon,
3 Council President. I'm Ellen Greenlee,
4 Chief Defender of the Defender
5 Association of Philadelphia, as you know.
6 With me today at the table are First
7 Assistant Defender Charles Cunningham and
8 our Chief Financial Officer Kristen Muhl.
9 It's a great pleasure to be here today
10 and to have listened to the marathon that
11 was the testimony of court
12 administration.

13 This year is a particularly
14 important year in terms of indigent
15 criminal defense as it marks the 50th
16 anniversary, the anniversary having been
17 marked on March 18th of Gideon versus
18 Wainwright in which the Supreme Court of
19 the United States pronounced that every
20 criminal defendant was entitled to have
21 Council.

22 It is a source of great pride
23 for us to be part of the Philadelphia
24 Defender Association, which is nationally
25 recognized as one of the best defender

1 4/22/13 - WHOLE - BILL 130178, etc.
2 organizations today and for a great many
3 years before now. You, the members of
4 Council, and citizens of Philadelphia are
5 both the benefactors and the
6 beneficiaries of a legal organization
7 that effectively and efficiently
8 represents our poorer citizens, adult and
9 juveniles charged with criminal offenses,
10 the mentally ill in both civil and
11 criminal matters, and thousands of
12 dependent children who may be abused
13 and/or neglected.

14 Representative of the
15 high-quality work our staff of attorneys,
16 social workers, investigators,
17 paralegals, and administrative staff
18 perform are the exceptional results
19 achieved by our Homicide Unit,
20 celebrating 20 years this year,
21 representing persons charged with
22 homicide. We have handled approximately
23 2,000 homicide cases and have not had one
24 client sentenced to death, which is a
25 testimony to the absolutely marvelous

1 4/22/13 - WHOLE - BILL 130178, etc.
2 work that our unit does. A recent study
3 by the RAND Corporation acknowledged the
4 superior work of the Homicide Unit.

5 Our Juvenile Division has no
6 equal in this state or nationally in the
7 quality of its representation. Last year
8 the Juvenile Unit handled close to 40,000
9 hearings. Almost 4,000 were trials, each
10 client represented by a properly trained
11 attorney zealously advocating for their
12 rights.

13 In addition, the unit continued
14 to develop and expand initiatives aimed
15 at providing more specialized
16 representation, including Juvenile
17 Treatment Court, Crossover Court dealing
18 with children who are both dependent and
19 charged with a delinquent act, and
20 Graduated Response Court, among others,
21 which allows reduced sanctions or
22 punishment often in lieu of placement of
23 juveniles.

24 Also of note is our ongoing
25 expungement initiative funded by a grant

1 4/22/13 - WHOLE - BILL 130178, etc.
2 from the Pennsylvania Commission on Crime
3 and Delinquency. In cooperation with the
4 District Attorney's Office, we were able
5 to expunge almost 3,000 arrest records of
6 those who had been diverted prior to the
7 lodging of a formal petition.

8 In our dependency work, we
9 represent more than 3,000 children as
10 advocate and guardian ad litem. With the
11 support of Department of Human Services
12 Commissioner Anne Marie Ambrose, we have
13 in place for the past three years our
14 Mobile Outreach Program, which sends
15 teams of attorneys and social workers
16 across the state and beyond to visit our
17 young clients wherever they may be
18 placed.

19 A third unit whose work I'd
20 like to mention just as indicative of the
21 quality of work is our Mental Health
22 Unit, a team of only eight attorneys and
23 several support staff which does an
24 amazing job in its effective and
25 compassionate representation of clients

1 4/22/13 - WHOLE - BILL 130178, etc.
2 in 350 complex cases at present. The
3 unit is a key player in the First
4 Judicial District's Mental Health Court,
5 which was a small pilot program at its
6 inception in 2009 and now deals with 500
7 cases, with often 75 to 100 listed in
8 court on any given day. This program
9 benefits not only the individual
10 participants, but has provided systemic
11 and financial benefits to the criminal
12 justice system, including shorter periods
13 of incarceration as participants are
14 released to the community-based programs
15 or psychiatric treatment.

16 These are but a few examples of
17 the high quality, dedicated legal
18 representation our staff provides in all
19 the courtrooms, in Municipal Court,
20 Common Pleas, and Family Court on a daily
21 basis.

22 Within this last year, we have
23 moved to a zone system in the Court of
24 Common Pleas, and I would ask First
25 Assistant Charles Cunningham, who has

1 4/22/13 - WHOLE - BILL 130178, etc.
2 been the person who has led this effort
3 and oversees it at present, to give you a
4 few words about what our participation
5 now is in this zone process.

6 COUNCIL PRESIDENT CLARKE:

7 Thank you.

8 MR. CUNNINGHAM: Charles
9 Cunningham, First Assistant Defender.

10 As you may know, the First
11 Judicial District changed the
12 configuration of how they were operating.
13 They've gone to a zone system. That zone
14 system was composed of six zones. Those
15 zones were determined by the police
16 detective divisions. As a result of the
17 First Judicial District's making those
18 changes, both the District Attorney's
19 Office and the Defender Association has
20 in fact or have in fact reconfigured the
21 structure of their own offices.

22 Whereas, the Association, the
23 Defender Association, once had three
24 trial units - Municipal Court, Felony
25 Waiver, and Major Trials - these have now

1 4/22/13 - WHOLE - BILL 130178, etc.
2 been replaced by six zones. Each of
3 these zones covers one of the zones
4 created by the First Judicial District,
5 and each zone is headed by a supervising
6 attorney and an assistant supervising
7 attorney.

8 The conversion to this system
9 has not completely done away with the
10 horizontal system that the Defender
11 Association has used in the past, but it
12 has allowed for more vertical
13 representation. The ability to provide
14 more vertical representation has enabled
15 the office to address one of the major
16 complaints of our clients, which is being
17 passed from one lawyer to another before
18 the case is completed.

19 This new system has also made
20 for a more efficient court system.
21 Because we are able to provide more in
22 the way of vertical representation, it
23 allows us to develop a longer
24 relationship with our clients, and that
25 means that we are able to build up more

1 4/22/13 - WHOLE - BILL 130178, etc.
2 of a trust relationship with the client.
3 Therefore, when in fact we are
4 approaching our clients with regards to
5 the possibility of a plea, when, in
6 appropriate cases, those clients have
7 more reliance upon the information that
8 they are receiving from our attorneys and
9 consequently they're more willing to
10 trust the assessment that our attorneys
11 are making and in turn enter into a plea,
12 this, of course, will save the court a
13 tremendous amount of time.

14 In addition to going to the
15 zone format, we've also been able to
16 provide more supervision to our younger
17 attorneys, thereby making them better,
18 more professional, and more efficient.

19 MS. GREENLEE: Thanks, Charlie.

20 Now to the pressing financial
21 issues with which you must grapple. We
22 must add our continuing concerns. I need
23 to add at this point that we have not yet
24 had the opportunity, which we expect to
25 have shortly, to meet with the Budget

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Director, but let me give some
3 preliminary idea of what our concerns
4 are.

5 The City Administration has
6 proposed a no-growth appropriation at
7 this point in time of about \$38 million,
8 and we must respectfully ask that you
9 consider an increase in the following
10 categories: insurances, operating
11 expenses, computer hardware and software,
12 and additional personnel for our
13 understaffed IT Department. The
14 additional amount required for these
15 increases in our expenses is about \$1
16 million, \$525,000 of that to cover health
17 and other insurance increases. These are
18 expenses over which we have very little
19 control.

20 We raise again the issue of
21 fair compensation for our staff, as
22 across the board all of our salaries fall
23 considerably below comparable
24 compensation for the City Law Department
25 and the District Attorney's employees.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 We have been working with Chief of Staff
3 Everett Gillison in the hope of
4 developing a parity plan for the City's
5 three major legal firms, the City
6 Solicitor, the District Attorney's
7 Office, and the Defender Association. It
8 is estimated that we would need about
9 \$6.5 million to close the gap, which will
10 give you some sense of the great
11 disparity that exists in terms of
12 compensation that Defender employees who
13 are working in the very same courtrooms
14 that the District Attorneys are are
15 subject to.

16 While it is true really that we
17 are able to attract and hire talented and
18 dedicated staff at all levels, we cannot
19 retain many of them due to a lack of
20 parity in compensation. Attrition is
21 high, and we are constantly in a hiring
22 mode, which clearly affects productivity
23 and morale.

24 We will certainly be most
25 grateful for Council's acknowledgment and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 support on the issue of parity of
3 resources for the Defender Association,
4 an Association which I am quite sure
5 should make you proud to be in the City
6 of Philadelphia, an association that has
7 a national reputation for excellence and
8 has never at any time embarrassed the
9 City or Council or the Administration,
10 but continues to do the best work that
11 any legal firm could do.

12 I'd like to thank the members
13 of City Council for your continuing
14 interest in and support of our work over
15 the years. We're happy to answer any
16 questions or concerns you may have.

17 Thank you.

18 COUNCIL PRESIDENT CLARKE:

19 Thank you.

20 I just have a couple of quick
21 questions. This issue around salary
22 parity, where are we in comparison to the
23 other municipalities of comparable size
24 in terms of the salary parity issue?

25 MS. GREENLEE: Well, in all the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 other counties in the State of
3 Pennsylvania, public defenders are paid
4 the same as district attorneys, because
5 they're all county employees. Their
6 salaries probably are not any higher than
7 ours, I guess. I don't really know. I
8 haven't seen any comparable salary
9 studies, but their workloads are
10 obviously consistently a lot smaller than
11 what we would have in the City of
12 Philadelphia, and I don't think any
13 reasonable comparison can be made except
14 with the two large legal firms in the
15 City of Philadelphia in terms of people
16 who live in Philadelphia. The City Law
17 Office and the District Attorney are the
18 standards, I think, with which we should
19 be measured.

20 COUNCIL PRESIDENT CLARKE: Let
21 me understand. So the system in the City
22 of Philadelphia is different than other
23 counties in the state?

24 MS. GREENLEE: It is.

25 COUNCIL PRESIDENT CLARKE: So

1 4/22/13 - WHOLE - BILL 130178, etc.

2 in order to make those comparisons, it
3 wouldn't be appropriate?

4 MS. GREENLEE: No, not really,
5 because they're all -- in every other
6 county, they're county employees, and
7 it's a whole different structure.

8 COUNCIL PRESIDENT CLARKE: Let
9 me ask you as a layperson.

10 MS. GREENLEE: Being the only
11 city of the first class, we are a private
12 agency that contracts with the City. So
13 it's a very different situation.

14 COUNCIL PRESIDENT CLARKE: Let
15 me ask you as a layperson on this matter.
16 Why do we have that type of system in the
17 City of Philadelphia? I'm only asking
18 because I simply don't know.

19 MS. GREENLEE: It goes back to
20 the State Constitution and the
21 Constitutional Convention in 1968, which
22 set out the Public Defender Act, which
23 was to encompass everything except
24 Philadelphia. I think part of it
25 probably has to do with the State

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Legislature not wanting to deal with
3 Philadelphia, because any time you
4 mention Philadelphia, there's a deafening
5 silence in terms of what people want to
6 do.

7 We recently went through a
8 joint legislative task force to set up a
9 statewide defender system, and in that
10 system that was devised, while it's
11 sitting on the shelf now, Philadelphia
12 was excluded in terms of any type of
13 state funding for Philadelphia. I think
14 they like to leave us to our own devices,
15 because they really don't like us a lot.
16 They don't like Philadelphians a lot, and
17 particularly in the State Legislature, as
18 I'm sure you're aware, we get short
19 shrift all the time when there's
20 something to be given out.

21 COUNCIL PRESIDENT CLARKE: I
22 would normally concur, but I just got
23 word that we got three bills passed out
24 of the House Urban Affairs Committee that
25 will provide relief for AVI.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 MS. GREENLEE: Oh, good.

3 COUNCIL PRESIDENT CLARKE: So

4 I --

5 MS. GREENLEE: Congratulations.

6 COUNCIL PRESIDENT CLARKE: So

7 I'm going to stay silent on that
8 particular criticism of the state at this
9 point in time. Today they're heroes for
10 us. Maybe some other time.

11 Thank you. So in terms of --
12 you did reference this. In terms of your
13 recruitment of attorneys for the
14 Defenders Association, you find this to
15 be -- actually, recruitment and
16 retention. I mean, I'm assuming that --

17 MS. GREENLEE: It's a retention
18 issue, because we're able to recruit the
19 best, and we don't hire attorneys who are
20 not the best, and we ask them for a
21 three-year commitment, and virtually
22 without exception they give us a
23 three-year commitment. But at that point
24 in time, when they've started at 48,500,
25 which is about a third of what they could

1 4/22/13 - WHOLE - BILL 130178, etc.
2 make in any private firm, and three years
3 later they're probably two or three
4 thousand dollars beyond that only, while
5 the District Attorneys have added like
6 eight to ten thousand, there's a huge
7 disparity there. And as our young
8 lawyers begin to marry and to have
9 children and still have huge loans to
10 deal with, it becomes virtually
11 impossible for them to stay much longer
12 than their commitment.

13 COUNCIL PRESIDENT CLARKE:

14 Right. Okay. Thank you.

15 The Chair recognizes Councilman

16 Oh.

17 COUNCILMAN OH: Thank you very
18 much, Mr. President.

19 I don't have so much as a
20 question as I do a comment, that as a
21 former ADA and a veteran, I'm very
22 concerned about the lack of parity here
23 in Philadelphia for the Defenders, as I
24 see more and more funding that I believe
25 is necessary and I support to go to fight

1 4/22/13 - WHOLE - BILL 130178, etc.
2 crime, to fight terrorism, but there
3 should be an equal amount of funding for
4 those who defend those accused, otherwise
5 we may be locking up, receiving plea
6 agreements, and incarcerating people who
7 are not guilty. And I certainly will
8 certainly support your efforts to get
9 more funding. I think you should have
10 the ability to defend those who are
11 accused.

12 I am also very concerned
13 about -- while I'm happy to see plea
14 agreements for those that there's mounted
15 evidence against, I am very concerned
16 about people who simply make plea
17 agreements because they don't have the
18 wherewithal to defend themselves.

19 So I certainly join in your
20 concern and would love to support your
21 efforts to see that you have good people
22 to defend the public.

23 MS. GREENLEE: Thank you,
24 Councilman.

25 MR. CUNNINGHAM: Thank you.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILMAN GREENLEE: Thank
3 you, Councilman.

4 Councilman Jones.

5 COUNCILMAN JONES: Thank you,
6 Mr. Chairman.

7 First of all, thank you for the
8 wonderful work that you do, and it is
9 true, your reputation does speak for you.
10 Your works speak for you, and we're very
11 thankful over the five years I've been
12 here to actually get to know that.

13 MS. GREENLEE: Thank you.

14 COUNCILMAN JONES: A couple of
15 things. The sequestration issue, is that
16 real?

17 MS. GREENLEE: It's real for
18 our federal office, but they are totally
19 separately funded from us.

20 COUNCILMAN JONES: So you're
21 not --

22 MS. GREENLEE: It doesn't
23 impact on us.

24 COUNCILMAN JONES: Okay.
25 That's number one. And then, number two,

1 4/22/13 - WHOLE - BILL 130178, etc.

2 are you eligible for the DROP program as
3 well?

4 MS. GREENLEE: No.

5 COUNCILMAN JONES: So you don't
6 get --

7 MR. CUNNINGHAM: We have a
8 running joke, and our running joke is our
9 DROP program is you drop dead.

10 COUNCILMAN JONES: A couple of
11 lawyers laughing at that over there. So
12 okay.

13 MS. GREENLEE: We're not part
14 of the City's pension plan because
15 obviously we're a private organization.

16 COUNCILMAN JONES: So where do
17 your benefit packages come from then? So
18 you're not on the City's plan at all?

19 MS. GREENLEE: No. We have our
20 own 403(b) plan where people can save a
21 few dollars and there's a small match by
22 the Association.

23 COUNCILMAN JONES: All right.
24 A couple of things. Recently, there was
25 a ruling that or policy shift there were

1 4/22/13 - WHOLE - BILL 130178, etc.
2 certain firms that when there was a
3 conflict of interest, if you -- if we
4 were all on a case and you represented
5 one of the clients, that made the other
6 client ineligible to receive your
7 service. Could you for the record talk
8 about that process and then how that
9 impacts defendants that are looking for
10 good representation.

11 MS. GREENLEE: Well, the City
12 issued an RFP several months ago to set
13 up a conflicts office for -- that they
14 would pay for someone to represent a
15 co-defendant of our client. I understand
16 at this point in time the City has
17 received five contract offers. They have
18 not yet reviewed them insofar as I'm
19 aware. I'm part of a Bar Association
20 task force that the City has promised
21 they will allow us to sit down and review
22 these contracts.

23 It wouldn't impact on us. We
24 would obviously be happy and be willing
25 to train attorneys who might be in a

1 4/22/13 - WHOLE - BILL 130178, etc.
2 conflicts office and to provide that type
3 of service to the City. Beyond true
4 defendants, then, they would still be
5 using court-appointed counsel if there
6 are three or more defendants in a case.

7 COUNCILMAN JONES: Again, for
8 my -- as Councilman President Clarke
9 talked about it, just so that I know and
10 then those who are out here trying to
11 understand the process, three defendants,
12 one of them has the good sense to contact
13 you and engage one of your attorneys, the
14 other two are not eligible to be
15 represented by the Public Defender's
16 Office?

17 MR. CUNNINGHAM: True.

18 MS. GREENLEE: The first person
19 does not contact us. The court appoints
20 us.

21 COUNCILMAN JONES: Okay.

22 MS. GREENLEE: The court
23 appoints us, and then if there is a
24 recognized conflict, the court will
25 appoint counsel for the other defendants.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILMAN JONES: Could you
3 describe that process heretofore and then
4 how it will change?

5 MS. GREENLEE: Well, the way it
6 would change is that we are appointed at
7 arraignment. The City presumably will
8 hire one of these firms that has offered
9 to do conflict services. They will take
10 on the second case and represent that
11 person, and if there's a third person or
12 fourth person, the court will still
13 appoint private counsel from a list of
14 court-appointed counsel.

15 COUNCILMAN JONES: And the
16 reason I raise this is that when you get
17 to do a thing over and over again, even
18 legislate, after a while you get good at
19 it and, similarly, you guys know the
20 system, and I'm concerned about the
21 private sector's ability to represent
22 those other two defendants. I would -- I
23 guess I want to know a little more about
24 the compensation structure. So that if
25 I'm in a private firm and I get a capped

1 4/22/13 - WHOLE - BILL 130178, etc.
2 amount of money to defend someone, at
3 what point does his case get juggled with
4 the firm's interest of moving
5 billable-houred cases that I can make
6 more money on, and how do you balance
7 that? And I don't know.

8 MS. GREENLEE: I don't know
9 either how you balance that, because if
10 they're hiring a for-profit firm to
11 represent the person with whom we have a
12 conflict, there are always going to be
13 business decisions about how much time
14 you're going to spend on that case, which
15 are problems that we don't face, because
16 we have the resources to expend whatever
17 is required in terms of legal,
18 investigative, and social service on a
19 case. It's really not clear, Councilman,
20 how this private firm, while they will be
21 promising to provide social services and
22 investigation, whether they're really
23 going to be able, when profit is part of
24 the motive, to provide the quality of
25 service that we provide.

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2 COUNCILMAN JONES: And my
3 further concern is not just when the
4 meter runs out on the billable hours
5 associated with that case, but also if
6 I'm looking at a high-priority client and
7 I'm a lawyer and then I have to defend
8 this young man or woman who is sitting on
9 State Road and there's conflict of time
10 of trial, preparation for trial, then I
11 may be more inclined to postpone the
12 youth or a person on the Public
13 Defender's end versus the paying client
14 that I get billable hours from. And I'm
15 just -- if you don't know, then --

16 MS. GREENLEE: That conflict
17 will always exist if there's a for-profit
18 motive.

19 MR. CUNNINGHAM: Your concern
20 is a legitimate concern, and I don't know
21 how you're actually ever going to cure
22 that unless you make the compensation to
23 the court-appointed attorney based upon
24 billable hours as well and at a decent
25 rate so that it will be as profitable for

1 4/22/13 - WHOLE - BILL 130178, etc.
2 them to do one as it is to do the other.
3 Otherwise, you're going to be constantly
4 looking at that situation that you're
5 concerned about, which is do I do the
6 right thing about for this client as
7 opposed do I do the most beneficial thing
8 for me in terms of my economics.

9 COUNCILMAN JONES: That's
10 something I'll be looking at, Council
11 President.

12 MS. GREENLEE: It's a serious
13 consideration.

14 COUNCILMAN OH: Point of
15 information.

16 COUNCIL PRESIDENT CLARKE:
17 Councilman Oh, you had a point of order.

18 COUNCILMAN OH: Thank you very
19 much. Point of order. I'm sorry. I can
20 actually answer the Councilman's
21 question, and, that is, by example, that
22 if three co-defendants were arrested and
23 alleged to have committed a crime, they
24 cannot be represented by a single
25 attorney. They have three different

1 4/22/13 - WHOLE - BILL 130178, etc.
2 interests. One may testify differently
3 than the other, so the Public Defender is
4 appointed by the court to one defendant.
5 The other two must have separate counsel.

6 It used to be that in some
7 cases, an attorney, a private attorney,
8 would get \$500, for example, for or \$300
9 or \$500 per, I suppose, appearance, but
10 as times have changed and the money has
11 been reduced, it then became something
12 like \$500 no matter how many times you
13 had to come by. So if a typical
14 preliminary hearing was at the time
15 \$1,500 to \$2,500, you might have to show
16 up three, four, five times. If it was
17 now \$500 for as many times as you would
18 possibly have to show up, obviously your
19 better criminal defense attorneys would
20 not be interested. Less profitable or
21 experienced attorneys would take the
22 cases, and there would be a widespread at
23 least incentive to just plea at the
24 preliminary hearing level without the
25 investigation and interview of the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 witnesses that are so important to the
3 case.

4 So I think the economics are
5 very important, that the lower the fee
6 goes, the less likely there is a quality
7 of representation.

8 Thank you very much.

9 MR. CUNNINGHAM: If I just may
10 add to that. That was in fact one of the
11 things that we began to see in court
12 appointments in terms of homicide
13 representation. The more qualified
14 lawyers simply could not afford to take
15 on a homicide case because it was just so
16 detrimental to their economics that they
17 said, No, I'm not going to take on an
18 appointment.

19 COUNCIL PRESIDENT CLARKE:

20 Thank you. Thank you both.

21 Thank you, Councilman.

22 I'm looking for Councilwoman
23 Blackwell. Councilwoman, is she gone?
24 Don't worry about it.

25 (Discussion off the record.)

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2 COUNCIL PRESIDENT CLARKE: Hold
3 on one second.

4 MR. CUNNINGHAM: Could I just
5 add one thing while we're waiting. I
6 just wanted to sort of address the point
7 that Councilman made earlier, not in our
8 proceeding but in the court
9 administration.

10 You talked about the fact that
11 the savings that the First Judicial
12 District has made to the system, and I
13 just want to say that in many of the
14 programs that the First Judicial District
15 talked about that are saving the City of
16 Philadelphia so much money, the Defender
17 Association plays an integral part, and
18 we are one of the major reasons why many
19 of these programs in fact exist today.
20 For instance, there would be no AMP
21 program without the Defender Association.
22 We save the court administration and the
23 City valuable money in terms of doing
24 crash courts, diversionary courts. All
25 of these are programs that the Defender

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Association was and has been involved in
3 for a great many years and has saved the
4 City. And so when you say do you see
5 some of that money coming back to you,
6 the answer that we say is no. We're
7 saving the City a great deal of money,
8 and some of that money we think could be
9 used so that we could be in a situation
10 where we had parity. And we're talking
11 about parity with the District Attorney's
12 Office and with the City Solicitor's
13 Office.

14 COUNCILMAN JONES: Thank you.

15 COUNCIL PRESIDENT CLARKE:

16 Thank you.

17 The Chair recognizes
18 Councilwoman Blackwell.

19 COUNCILWOMAN BLACKWELL: Thank
20 you. I wanted to ask about the -- thanks
21 for all you do, number one -- about the
22 Criminal Record Expungement program. We
23 worked with Judge Ehrlich before.
24 There's so many people -- we have
25 expungement programs in our area.

1 4/22/13 - WHOLE - BILL 130178, etc.
2 People's Emergency Center work with it.
3 Do they all feed into the same source? I
4 know CLS was involved too in one. Are
5 there different expungement programs or
6 is it one?

7 MS. GREENLEE: Well, they
8 really are different programs. I mean,
9 ours has been -- we've always done
10 expungements for adults who were
11 eligible, and we really in the last year
12 greatly increased the efforts that we
13 made with juveniles, and as I mentioned,
14 we've gotten a grant from Pennsylvania
15 Commission on Crime and Delinquency to do
16 that, and we've done like 3,000 within
17 the last year. But I know that the
18 University of Pennsylvania Law School has
19 an expungement clinic and People's
20 Emergency Center that you mentioned.

21 There are a number of efforts
22 going on around the City that I don't --
23 I'm not really aware of any coordination
24 of those efforts, but there are a lot of
25 people doing a lot of good work.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILWOMAN BLACKWELL: Thank
3 you. So I guess I keep working with them
4 separately. Thank you.

5 MS. GREENLEE: Some of our
6 people are involved with the other
7 projects.

8 COUNCILWOMAN BLACKWELL: Yes,
9 so many people. Thank you.

10 COUNCIL PRESIDENT CLARKE:
11 Thank you, Councilwoman.

12 There are no other questions.
13 I want to thank you so much for your
14 testimony.

15 MR. CUNNINGHAM: Thank you.

16 MS. GREENLEE: Thank you,
17 Council President. I appreciate your
18 courtesy.

19 COUNCIL PRESIDENT CLARKE: Any
20 time.

21 We will recess until 2:15.

22 (Recess.)

23 COUNCILMAN JONES: Good
24 afternoon. This is a continuation of the
25 public hearing of the Committee of the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Whole regarding Bills No. 130178, 130179,
3 130180, and Resolution No. 130190.

4 Thank you. Good afternoon,
5 Mr. District Attorney and deputies.
6 Thank you for your patience. If you
7 note, we are starting relatively on time
8 for Council time. So would you state
9 your name for the record -- and
10 welcome -- and begin your testimony.

11 DISTRICT ATTORNEY WILLIAMS:
12 Certainly. Good afternoon, Councilman
13 Jones. My name is Seth Williams and it
14 is my honor and distinction to serve as
15 the District Attorney for the City and
16 County of Philadelphia. Joining me today
17 to help and assist me with my testimony
18 is my First Assistant, to my left, Mr. Ed
19 McCann and to my right, Mr. Greg Rowe,
20 who is the Chief of my Policy and -- my
21 Legislation and Policy Unit more exactly.

22 So, again, good afternoon,
23 Mr. Chairman. Good afternoon,
24 distinguished members of Council.

25 In years past, I have asked to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 submit my full testimony in writing and
3 to speak off the cuff. Today, due to the
4 Mayor's proposed budget cut to my office,
5 I will instead read my testimony in its
6 entirety.

7 Distinguished members of
8 Council, there is too much crime in
9 Philadelphia. It is unusual to find a
10 Philadelphian who has not been affected
11 by crime. When was the last time you
12 spoke to a constituent who said crime was
13 not affecting their lives? A long while,
14 I'm sure. Some are victims of horribly
15 violent crimes and find their lives
16 forever shattered. Others are victims of
17 less violent crimes that nonetheless harm
18 them, erode their quality of life, and
19 reduce their desire to live in
20 Philadelphia. And as good people give up
21 the fight, our city and our spirits are
22 further diminished.

23 This is not hyperbole. It is
24 the harsh reality we face. As of last
25 week, there had been over 4,300 violent

1 4/22/13 - WHOLE - BILL 130178, etc.
2 crimes in Philadelphia so far this year.
3 This number includes 71 homicides, 307
4 rapes, 760 gunpoint robberies. Last year
5 our city had 334 homicide victims and
6 1,279 shooting victims. This means that
7 a typical day in Philadelphia often ends
8 with nearly one person killed and three
9 others shot. This is unacceptable.
10 Already this year there have been 74
11 homicides.

12 Together, we have undertaken
13 many initiatives that provide us the
14 opportunity to reform the entire criminal
15 justice system by making Philadelphia
16 safer, saving the City valuable taxpayer
17 dollars, and by demonstrating that the
18 system is legitimate. My work and the
19 work of my staff with all of you,
20 especially with the Public Safety
21 Committee chaired by my Councilman,
22 Councilman Jones, has been enormously
23 successful, and I only want to enhance
24 all of our collective work.

25 Imagine my surprise when I was

1 4/22/13 - WHOLE - BILL 130178, etc.
2 shown the Mayor's budget proposal for my
3 office in Fiscal Year 2014. As I will
4 explain, the Mayor has effectively cut my
5 budget, despite everything we have begun
6 to do over the last three and a half
7 years. On its face, the proposed budget
8 would flat-fund my office at the same
9 amount as Fiscal Year '13, \$31,634,616.
10 This may appear to leave us in the same
11 position as last year, but in reality, it
12 is a significant cut. Because over the
13 course of the past year, we have had two
14 salary obligations imposed on us by
15 outside entities. First, the recent FOP
16 arbitration award required an increase in
17 detective salaries that are in my office
18 totalling \$361,000. Second, when the
19 Mayor announced that City employees would
20 be burdened with higher healthcare and
21 the likelihood of higher pension
22 payments, he then awarded a 2.5 percent
23 salary increase to all affected
24 employees. Despite these two mandates,
25 the City provided zero dollars to cover

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the FOP arbitration and only partial
3 funding to cover some of the 2.5 percent
4 salary increases. As a result, my office
5 was left to try to fill in budgetary
6 holes to ensure a balanced budget.

7 This is not how the Mayor has
8 treated other criminal justice agencies.
9 He proposes to increase the budgets for
10 the Police by \$24 million, the Prisons by
11 \$10 million, the Office of Information
12 Technology by \$13 million, and even the
13 Public Defender's Office by 1.2 million,
14 while providing nothing for the
15 additional costs we must now incur
16 because of him. So this is not about a
17 lack of money. In years past, maybe it
18 was. Now it is about values.

19 Nor is it about targeting
20 available money where it is truly needed.
21 The Mayor has no idea what the District
22 Attorney's Office needs. There was no
23 budget process. There was no discussion
24 with us. Now, I'm looking at you.
25 You're looking quizzical, and you would

1 4/22/13 - WHOLE - BILL 130178, etc.
2 assume that the Mayor's Office would have
3 their budget people contact my budget
4 people and ask us, Well, what does your
5 attrition rate look like? Give us some
6 documents showing us how you're spending
7 money. What do you foresee next year in
8 having to buy paper or expert witnesses?
9 There was none of that. There was
10 nothing. All we received was an e-mail
11 the Friday before the Mayor was to give
12 his proposed budget address that didn't
13 happen. We received an e-mail telling us
14 what our budget would be.

15 I even wrote a detailed letter
16 to the Mayor on March the 6th talking
17 about the minimums that we would need to
18 sustain our office, but no one ever
19 responded. They still haven't, not an
20 e-mail, not a call, not a text, nothing.

21 The Mayor simply seems to
22 assume that you don't need prosecutors to
23 help fight crime or to find new and
24 better ways to make the City safer. He
25 is clearly wrong. Not adequately funding

1 4/22/13 - WHOLE - BILL 130178, etc.
2 a District Attorney's Office is a recipe
3 for disaster and will lead to a failed
4 criminal justice system in which
5 criminals are not held accountable. This
6 will ultimately lead to a system of catch
7 and release, which is only a good
8 strategy if you're sport fishing.

9 Consider the Mayor's Five Year
10 Financial and Strategic Plan, which I
11 have in my hand right now. Goal 1 is to
12 make Philadelphia one of the safest
13 cities in America. There was a
14 significant discussion about -- and there
15 should be -- about work of and the
16 funding for the Police, the Prisons, the
17 Fire Department, the Department of Human
18 Services, the Managing Director's Office,
19 and Licenses and Inspections. The
20 District Attorney's Office was not
21 included. To exclude the District
22 Attorney's Office in any discussion about
23 public safety, especially in a Five Year
24 Financial and Strategic Plan document,
25 demonstrates that what we do is simply

1 4/22/13 - WHOLE - BILL 130178, etc.

2 not valued by Michael A. Nutter.

3 I think Council knows better.

4 The public knows better and demands more.

5 I believe you are all aware of the

6 initiatives we have put in place to try

7 to combat crime and improve community

8 safety. These include the Gun Violence

9 Task Force, which works to get illegal

10 firearms off of our streets, and a robust

11 charging unit of experienced Assistant

12 District Attorneys; our Small Amounts of

13 Marijuana Program, SAM, to move low-level

14 marijuana possession cases out of the

15 criminal justice system; an Accelerated

16 Misdemeanor Program, AMP, to divert

17 lower-level misdemeanors out of the

18 criminal justice system; The Choice is

19 Yours Program to give young non-violent

20 offenders a second chance; the Public

21 Nuisance Task Force, which combats drug

22 and alcohol-related nuisance problems in

23 the neighborhoods; a Bench Warrant Court

24 to ensure that those who abscond from the

25 system are held accountable; the Elder

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Justice Project, which coordinates
3 services for elderly victims; efforts to
4 target those who steal homes and
5 properties by using fraudulent deeds;
6 programs to target human trafficking;
7 Community Action Centers, which provide
8 victim services on a neighborhood level;
9 and ongoing efforts to combat public
10 corruption and domestic violence.

11 I know from my meetings with
12 you and with other Philadelphians that
13 these programs are important to you.
14 They are important to me. When I meet
15 with you and with communities, all of you
16 ask me to do more. I have never heard
17 any of you tell me to do less or that
18 what we have done is quite enough. To
19 the contrary, everyone wants me to do
20 more, and I agree. We need to expand
21 these programs and create new ones. But
22 the proposed budget makes that
23 impossible. In fact, it makes sustaining
24 what we have put into place so far
25 impossible.

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2 When I took office, we
3 reallocated scarce resources to initiate
4 some of these projects and to sustain the
5 others. But, again, we cannot sustain
6 them without adequate financial support.
7 Our budget has remained flat over the
8 last six years, despite implementation of
9 these important programs.

10 Just think about the SAM and
11 the AMP programs. Without them, our
12 county prisons would be far more crowded
13 and we would be spending far more money
14 on police overtime. And we have
15 implemented them without sacrificing
16 public safety. It is unconscionable that
17 the City, this mayoral administration,
18 will not contribute to the very programs
19 that have saved the City vast amounts of
20 money by diverting people from county
21 prison and greatly reducing police
22 overtime expenditures.

23 But such successes are not
24 free. To run and sustain these programs,
25 I have been required to reassign a

1 4/22/13 - WHOLE - BILL 130178, etc.
2 significant number of experienced
3 prosecutors. Operationally, this has a
4 great impact. It means that there are
5 fewer Assistant District Attorneys to
6 staff trial rooms and handle cases before
7 our appellate courts. As a result, each
8 one of our Assistant District Attorneys
9 is handling more cases. And because our
10 budget has remained flat, I'm unable to
11 provide raises to Assistant District
12 Attorneys who deserve them. This is a
13 significant point. I must have the
14 ability to retain outstanding Assistant
15 District Attorneys by providing them with
16 meaningful salary increases. Otherwise,
17 our attrition rate will rise and the
18 City's most serious and complex cases
19 will be left to relatively inexperienced
20 prosecutors.

21 Here is a fundamental
22 unfairness: More than any other criminal
23 justice entity, my office has shouldered
24 the financial burden of implementing and
25 sustaining remarkable changes to our

1 4/22/13 - WHOLE - BILL 130178, etc.
2 criminal justice system. Yet the
3 proposed budget ignores this, and it
4 takes my office and assistants for
5 granted. No more. As you know, I am a
6 team player, and I will continue to be a
7 team player. I believe in building
8 coalitions and working together to
9 achieve important results. But I cannot
10 continue to do this alone. I cannot
11 continue to overlook the lack of support
12 we receive through the budget year after
13 year after year despite the Mayor's
14 promises. Something must change.

15 With the current budget, I
16 cannot ensure that we have a sufficient
17 number of prosecutors to handle the
18 constant influx of cases. With the
19 current budget, I cannot ensure that a
20 prosecutor's experience matches the
21 complexity and gravity of the case. With
22 the current budget, I cannot ensure that
23 the City's prosecutors are appropriately
24 compensated. And I certainly cannot
25 maintain our specialized programs and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 alternatives to incarceration. I wish I
3 could.

4 Nor can I maintain and improve
5 our technology. My staff has been told
6 by high-level City officials that there
7 is no plan to spend any money or other
8 resources on technology for the District
9 Attorney's Office in the near term. Nor
10 is there any technology funding proposed
11 in the Mayor's Five Year Budget Plan for
12 my office.

13 It was our office that
14 pioneered development of an electronic
15 discovery system that will bring
16 substantial benefits and savings to the
17 Defenders, the defense bar, and the
18 court. But we ourselves may not be able
19 to operate the system because our
20 computers are out of warranty and our
21 technology is from the 1990s. We
22 complain when criminals out-gun our
23 police because of lax gun laws. So why
24 should we allow criminals to have better
25 technology than those in law enforcement?

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2 At this time, Mr. Chairman, I
3 want to show you a chart, and, again,
4 this shows -- like I said, it would be
5 different if there was no money and all
6 of us were taking a cut. Then I would
7 understand. But that's not the fact.
8 You'll see here it shows that the Office
9 of innovation and Technology has received
10 a 149.71 percent increase since Fiscal
11 Year 2008, that the Prisons have received
12 a 7.6 percent increase since Fiscal Year
13 2008, that the Police have received a
14 13.67 increase since Fiscal Year 2008,
15 and you see that the District Attorney's
16 Office has received a decrease of 0.37
17 percent since Fiscal Year 2008. Why? I
18 wouldn't know because they don't talk to
19 us, but you have to ask Mayor Nutter why.

20 If you enact the Mayor's
21 proposed budget, it will force me to make
22 some very difficult and unfortunate
23 choices, including reducing or
24 eliminating many of the very good
25 programs we discussed earlier. I am

1 4/22/13 - WHOLE - BILL 130178, etc.
2 putting you on notice of that fact right
3 now. Some extremely effective programs
4 will have to be eliminated, and the
5 consequences of these changes will be
6 challenging. The county prison
7 population will increase, as will police
8 overtime costs, but I simply have no
9 alternative.

10 Already I have directed my
11 First Assistant to prepare for the
12 elimination of the Small Amounts of
13 Marijuana and Accelerated Misdemeanor
14 diversionary programs effective July 1,
15 2013. All of those cases which would
16 have been diverted may have to be
17 reabsorbed in the trial rooms. In
18 addition, the Elder Justice program and
19 project may be folded into our zone
20 prosecution system. Some members of the
21 Public Nuisance Task Force may have to be
22 reassigned to the Trial Division.

23 I hate to be in this position.
24 I hate that I have to make this kind of
25 statement to you. I believe that we are

1 4/22/13 - WHOLE - BILL 130178, etc.
2 partners. We work well together. I
3 can't thank enough the partners we have
4 with the First Judicial District, with
5 Commissioner Ramsey. We all work very
6 well together. I want to change the
7 criminal justice system for the better,
8 but I will not permit my office, my
9 hard-working Assistant District Attorneys
10 and staff and the people of Philadelphia
11 to fall victim to the unsustainable and
12 arbitrary budget policies of the Mayor.

13 My budget request: I'm asking
14 for a minimum augmentation to sustain
15 current initiatives and meet the
16 increased need for public safety
17 initiatives \$2.75 million.

18 During the beginning of my
19 testimony, I spoke about how you and your
20 constituents want me to do more. And I
21 share that sentiment. I want my office
22 to do more. So in order to make
23 meaningful improvements, including
24 expanding our anti-violent crime
25 initiatives, like focused deterrence, to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 other areas of the City, opening new
3 Community Action Centers, attacking
4 witness intimidation by having more
5 Assistant District Attorneys handle those
6 cases, and having more senior DAs
7 prosecute our most violent and complex
8 cases and investigations, as well as
9 modernize our technology, my office would
10 need a total of \$2.7 million more than
11 what the Mayor has requested. Even if we
12 received that amount, we would still be
13 millions below where we would have been
14 had our budget simply tracked inflation.

15 So, again, I'm going to show
16 you another chart. Those of us who are
17 trial attorneys like to have documents
18 and charts.

19 COUNCILMAN JONES: I was just
20 thinking that.

21 DISTRICT ATTORNEY WILLIAMS:
22 You watch Law and Order, I know.

23 So, Mr. Chairman, what you see
24 here is a depiction, a graphic depiction,
25 of the District Attorney's Office budget.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 What you see in blue is the actual budget
3 2008 to your far left. It was \$32.3
4 million. The proposed budget of this
5 Mayor for Fiscal Year 2014 is 31.6
6 million, which again is less than the
7 actual budget in real dollars from 2008.
8 I don't know about you, but if I go to
9 the supermarket, we both -- I see you
10 sometimes at Jeff Brown ShopRite. I
11 can't buy as much today with the 2008
12 dollars, let alone we're in a significant
13 deficit.

14 If we have received just the
15 rate of inflation increase, our budget
16 this year would be \$36.2 million. So if
17 I just wanted to keep up with that, I
18 would ask for the 4.6 million just to get
19 back to that. But I'm not doing that to
20 everybody.

21 In order to merely sustain what
22 we do now, the District Attorney's Office
23 requires a budget increase of \$2 million
24 more than what the Mayor has proposed for
25 Fiscal Year 2014. My unanswered to the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Mayor of March 6th made this point.
3 Without an additional 2 million, I will
4 unfortunately be obligated to make
5 programmatic cuts that I have detailed
6 above.

7 Let me summarize the very
8 minimum of what I need to sustain our
9 initiatives. Sufficient funding to cover
10 the FOP arbitration award and the 2.5
11 percent across-the-board raises awarded
12 by the Mayor. We estimate this amount to
13 be no less than \$500,000.

14 Sufficient funding to ensure
15 adequate staff to do all of the work that
16 we expect them to do, including both our
17 diversionary work and prosecuting the
18 most violent cases. We estimate this
19 amount to be no less than \$750,000.

20 Sufficient funding to allow us
21 to maintain our technology, including
22 ensuring that we have enough computers
23 and are able to maintain our warranties
24 and implement our e-discovery system. We
25 estimate this amount to be no less than

1 4/22/13 - WHOLE - BILL 130178, etc.
2 \$750,000. And that's still patching
3 together old stuff.

4 My IT person, if we really
5 wanted to do it right, the Cadillac
6 version would be \$5 million to get the
7 computer systems that we need. But,
8 again, we've been told by OIT they will
9 not give us that money.

10 An increase of 2 million is the
11 most conservative increase for which I
12 can ask, because all it would do would
13 allow me and my office to continue
14 operation as it is, without any further
15 innovation or improvement.

16 As a matter separate from
17 Fiscal Year '14 budget, it is important
18 for me to inform you that because of the
19 shortfall caused by the Mayor's
20 unwillingness to cover any of the FOP
21 arbitration award or all of the 2.5
22 percent across-the-board raises, I will
23 be asking you for a transfer ordinance to
24 cover these amounts for Fiscal Year '13
25 after the budget for Fiscal Year '14 has

1 4/22/13 - WHOLE - BILL 130178, etc.
2 been enacted. We estimate these costs to
3 be no less than \$275,000. All of this
4 could have been avoided had the Mayor
5 provided the funds necessary to cover
6 these costs that were completely outside
7 of my control.

8 My request for 2.75 million
9 above the Mayor's proposed represents
10 only a minuscule amount, 0.073 percent,
11 of the total City budget. It is a
12 rounding error for some of the
13 departments. And it is the only way we
14 can hope to expand the programs that you
15 and your constituents are properly asking
16 for.

17 Short of that amount, we would
18 still need at least \$2 million to merely
19 permit me to sustain our initiatives at
20 their current level. Otherwise, it will
21 be necessary to begin cutting some of the
22 innovative programs I initiated for minor
23 crimes in order to shift resources into
24 fighting crime.

25 This is a conservative,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 bare-bones request. Even to keep up with
3 where we were four years ago, as I've
4 stated earlier, we would need \$4.6
5 million in increase. Because I am
6 acutely aware of the many other pressing
7 fiscal demands facing Council, I am
8 committed to making my request for a
9 budget increase as small as possible.
10 But the truth is that the Mayor's
11 budgetary proposal undermines our battles
12 against crime. It's not smart and it's
13 not right. And that is why I am speaking
14 bluntly here today. Philadelphians
15 deserve better than the Mayor's budget
16 proposal, and I ask for your help in
17 reaching that goal.

18 I welcome your questions.

19 COUNCILMAN JONES: Mr. District
20 Attorney, tell us how you really feel. I
21 mean --

22 DISTRICT ATTORNEY WILLIAMS:
23 How long do you have? They told me I
24 only had an hour.

25 COUNCILMAN JONES: So you had

1 4/22/13 - WHOLE - BILL 130178, etc.
2 charts and we -- let me start by saying
3 thank you. Thank you for things like
4 participating in the Crime Summit, doing
5 actual walk-arounds in particular
6 neighborhoods, some of the more troubled
7 and challenging neighborhoods. Thank you
8 to your staff, that I have learned from
9 the time I've been here, first time ever
10 that a District Attorney invited City
11 Council over to see the internal
12 operations of the District Attorney's
13 Office, and we appreciate it, things like
14 your Small Amounts of Marijuana program
15 to your Teen Courts, who I have grown to
16 appreciate what their role is within the
17 criminal justice realm of intensity.

18 So thank you for what you do.
19 And it was shocking to me to hear that
20 you had not been engaged in the budget
21 process with the Administration, and that
22 is a little baffling, to say the least.

23 A couple of other programs that
24 we would like -- so you spent a lot of
25 time talking about what you needed, but I

1 4/22/13 - WHOLE - BILL 130178, etc.

2 want to spend a little bit of time about
3 some things you're doing really well so
4 we justify why you even further need it.

5 I see the charts. In adjusting
6 for inflation, your \$2.7 million request
7 doesn't even -- it barely goes halfway
8 into what --

9 DISTRICT ATTORNEY WILLIAMS:

10 Correct.

11 COUNCILMAN JONES: -- the
12 increases would be if we just adjusted it
13 for inflation.

14 DISTRICT ATTORNEY WILLIAMS:

15 Rate of inflation.

16 COUNCILMAN JONES: So a couple
17 of things. Could you describe for me
18 your perceptions of how GunStat has been
19 a part of the successful crime strategy
20 that we've had.

21 DISTRICT ATTORNEY WILLIAMS:

22 Certainly. And, again, I have a lot to
23 owe and I'm very thankful of the working
24 relationship I have with Police
25 Commissioner Charles Ramsey. But GunStat

1 4/22/13 - WHOLE - BILL 130178, etc.
2 is based on the theory of us being smart
3 on crime. It's based on -- I created, as
4 you're well aware and I ran for District
5 Attorney in 2005 and 2009 talking about
6 community-based prosecution. There is an
7 entire branch of criminology known as the
8 ecology of crime. There are patterns of
9 crime based on time, temperature, and
10 season.

11 So GunStat is the second
12 evolution of the community-based
13 prosecution, which is mirroring
14 community-based policing. We're working
15 with the Police using intelligence, using
16 empirical data, and criminal analytics to
17 show on maps where the violent crime is
18 in Philadelphia, and then to use our
19 intelligence again to be able to identify
20 the groups and individuals that are most
21 responsible for that violence. And so
22 then we can then focus our limited
23 resources on those groups and those
24 individuals to better detect them, to
25 better prevent them from bringing harm to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Philadelphians, and to better prosecute
3 them.

4 And so I think GunStat again
5 has been a wonderful initiative. It has
6 shown a much better working relationship
7 with the District Attorney's Office and
8 Police across the board, and I think
9 we're beginning to see real results that
10 show that we're reducing gun violence,
11 reducing violence in those communities
12 that we're targeting.

13 COUNCILMAN JONES: Mr. District
14 Attorney, so you identify a hotspot?

15 DISTRICT ATTORNEY WILLIAMS:
16 Correct.

17 COUNCILMAN JONES: You identify
18 those actors within that hotspot?

19 DISTRICT ATTORNEY WILLIAMS:
20 Correct.

21 COUNCILMAN JONES: You let them
22 know that we know who you are?

23 DISTRICT ATTORNEY WILLIAMS:
24 Well, that's part of focused deterrence,
25 which is the next evolution of GunStat.

1 4/22/13 - WHOLE - BILL 130178, etc.
2 But GunStat is a continuation of
3 community-based policing,
4 community-placed prosecution. And then
5 to bring the two together -- see, people
6 on the street would have thought for
7 years that the Police Department and the
8 DA's Office meet and talk about these
9 things. Well, that wasn't the truth.
10 That wasn't the case in Philadelphia,
11 until we really began community-based
12 prosecution, which started in its
13 operational model in November of 2010,
14 and then as a result of the gun violence
15 that we saw in 2012, the Commissioner and
16 I got together and we created this
17 GunStat model. And we meet monthly
18 together in my office with high-level
19 police officers and members of my staff,
20 but I've also implemented GunStat in each
21 of our six geographic bureaus where the
22 Police and the Assistant DAs are working
23 to identify, like you said, the most
24 violent neighborhoods and the most
25 violent groups and individuals

1 4/22/13 - WHOLE - BILL 130178, etc.
2 responsible for it, so that we can then
3 target them to better prosecute their
4 cases and be on them like white on rice.

5 COUNCILMAN JONES: So
6 Councilman Johnson, I have to give him a
7 lot of credit about we commiserate often
8 on bad occasions as we watch the news.
9 We watch the news almost geographically
10 now as to where these things happen, and
11 it's either his district, Councilwoman
12 Blackwell's district. We're all kind of
13 in this thing together. And one of the
14 things that intrigues me about it is that
15 you kind of identify these individuals,
16 and some aspects of this gives them a
17 choice. You can either stop your path or
18 you can -- we can give you the
19 expressway, as you like to say, gotta go,
20 gotta go.

21 So I think that's an important
22 choice, because you cannot play with
23 this. This is not a game, and the
24 people -- the victims of this are
25 expecting us all to take a firm but

1 4/22/13 - WHOLE - BILL 130178, etc.
2 gentle but firm hand.

3 DISTRICT ATTORNEY WILLIAMS:
4 Correct.

5 COUNCILMAN JONES: And I think
6 this does this. I really for the first
7 time -- thank you for elaborating on it
8 at the Crime Summit. It actually has a
9 chance to work. And most recently when
10 the young man, Bernard Scott, was
11 murdered, Councilman Johnson was nice
12 enough to call me up and remind me about
13 adding that to some of the responses that
14 we have for that untimely death. So,
15 again, it's something that I appreciate
16 you guys doing.

17 I'm going to let it go now to
18 some of the Councilpeople that are
19 interested in asking questions.

20 I recognize Councilman O'Brien
21 first.

22 COUNCILMAN O'BRIEN: Thank you,
23 Mr. Chairman.

24 COUNCILMAN JONES: Thank you.

25 COUNCILMAN O'BRIEN: I'd like

1 4/22/13 - WHOLE - BILL 130178, etc.
2 to just go back to Page 3 of your
3 testimony, Mr. District Attorney, where
4 you refer to in your testimony "my office
5 has shouldered the financial burden of
6 implementing and sustaining remarkable
7 changes to our criminal justice system."
8 I would just like to amplify that a
9 little bit over many years.

10 Your office has taken the lead
11 on all legislative issues in the
12 Commonwealth of Pennsylvania. You
13 shepherded the burden financially and
14 from a leadership perspective with all
15 the District Attorneys across the
16 Commonwealth, and on issues that predate
17 Sandusky, you launched the grand jury
18 into the Archdiocese. You issued a
19 second grand jury report. You've
20 successfully prosecuted that. You've
21 changed the lives of people.

22 Most people look at the
23 District Attorney's Office as someone who
24 takes a criminal, locks him up, and
25 throws away the key. I view your office

1 4/22/13 - WHOLE - BILL 130178, etc.
2 and my relationship as someone who
3 advocates for victims and looks for
4 justice.

5 The prison cap or the prison
6 legislation that we worked on provided
7 for solutions that the County
8 Commissioners wanted for 25 years to
9 determine place of incarceration,
10 transportation, residential drug and
11 alcohol treatment that would reduce the
12 recidivism rate. That resulted in tens
13 of millions of dollars saved by the City
14 of Philadelphia. Now, I'm not saying
15 that you should lay claim to all those
16 savings, but a mere \$2.7 million is
17 insignificant to the monies that your
18 creative juices in your office have
19 pioneered for this Commonwealth of
20 Pennsylvania.

21 I would like to follow up with
22 Chairman's line of questioning.
23 Dr. Kennedy has presented a roadmap to
24 thoughtful -- that thoughtfully reduces
25 gun violence with the focused deterrence

1 4/22/13 - WHOLE - BILL 130178, etc.
2 strategy. He's found that many homicides
3 are group-motivated incidents, and
4 through meaningful connection with group
5 members, gun violence can be
6 significantly reduced. He also has an
7 approach that's inclusive of the Police,
8 the District Attorneys, judges, U.S.
9 Attorneys, Probation, and the community.
10 It's only successful if it's implemented
11 with complete buy-in from the
12 stakeholders.

13 But just for the members'
14 edification, focused deterrence has been
15 successfully instituted in many
16 jurisdictions, including High Point,
17 North Carolina; Cincinnati, Ohio; and
18 Chicago, Illinois. But let's focus on
19 what happened just in Ohio. Homicides
20 have gone down in each of the last three
21 years. Shootings have gone down in each
22 of the last three years. More
23 specifically, in Cincinnati,
24 group-motivated homicides were down in
25 2012 by 29 percent, total homicides were

1 4/22/13 - WHOLE - BILL 130178, etc.
2 down 21 percent in 2012, and shootings
3 were down 11 percent in 2012.

4 Let's drill down even further
5 into the Avondale section of Cincinnati.
6 Avondale is the fourth largest section of
7 the city. 2009, ten homicides; 2010,
8 seven homicides; 2011, 11 homicides;
9 2012, zero homicides.

10 The first Philadelphia call-in
11 was last week for groups in a section of
12 South Philly. Congratulations,
13 Mr. District Attorney and all of your
14 staff, for that accomplishment. As I
15 said, Dr. Kennedy's approach is an
16 inclusive one. The Philadelphia Police
17 Department, District Attorney's Office,
18 judges, U.S. Attorneys, Probation, and
19 the community -- I have to reemphasize
20 that to demonstrate how complete this
21 discussion and how inclusive it is -- all
22 fully commit to the strategy with
23 fidelity for success. You took the lead
24 in bringing all of these agencies
25 together to make last week a reality.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 How much work did it take to get to this
3 point last week?

4 DISTRICT ATTORNEY WILLIAMS:

5 Well, first, let me thank you on behalf
6 of the 600 men and women in my office for
7 recognizing, and Councilman Jones, for
8 recognizing their hard work. My name is
9 on the letterhead, but it's their hard
10 work, and I just want to thank you for
11 recognizing what they do.

12 You're also correct, our office
13 and our policy is responsible for
14 multi-million dollars in savings to the
15 state and multi-million dollars in
16 savings to the taxpayers of the City of
17 Philadelphia.

18 COUNCILMAN O'BRIEN: I only get
19 a couple minutes here. That's why I
20 didn't mentioned all of your
21 accomplishments.

22 DISTRICT ATTORNEY WILLIAMS:

23 Right. But focused deterrence, as you
24 mentioned, Professor David Kennedy of the
25 John Jay School of Criminology is the one

1 4/22/13 - WHOLE - BILL 130178, etc.
2 who wrote a book Don't Shoot, and we're
3 implementing that again as another
4 evolution of community-based prosecution,
5 evolved to GunStat, now to focused
6 deterrence. And focused deterrence, we
7 started in part of South Philadelphia,
8 and only because the detectives there
9 compared to the other special
10 investigations unit had the most
11 intelligence on the groups that were
12 responsible for the violence in that
13 neighborhood. And so what we did, we
14 identified the groups, the gangs, the
15 affiliations of knuckleheads in that
16 neighborhood, and then what we -- the
17 theory is that we can make them and hold
18 them -- make them accountable to each
19 other more so than just to us. And so
20 what we're doing -- and I'd like to thank
21 Councilman Johnson. We've included him
22 every step of the way, as with other
23 members of Council, to be a part of it --
24 and thank the Police Department -- to
25 identify those most violent groups. Then

1 4/22/13 - WHOLE - BILL 130178, etc.
2 we brought them in last week,
3 representatives of the group that were
4 probation and parole, to explain to them,
5 the Police Commissioner, the U.S.
6 Attorney, Zane Memeger, was there,
7 members of the FBI, ATF, saying that
8 we're all together now, and that if one
9 of you shoots or kills somebody in your
10 group, we're going to hold the whole
11 group accountable. We don't care if we
12 have enough evidence to ultimately
13 prosecute the case. If we can identify
14 and find your group was responsible, then
15 whoever has probation, parole, whatever
16 we can do, we're going to bring our full
17 resources against the entire group to
18 make them all accountable to each other
19 to stop the gun violence. And as you've
20 identified, it has worked in other cities
21 that you've identified, and something we
22 have to do.

23 Now, your question was how much
24 time, how much money does it cost. It's
25 almost impossible for me to quantify the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 brainpower and the hours used by Bryan
3 Lentz and his staff to create it, but
4 about ten months of preparation, of
5 research, traveling to New York, seeing
6 how it works in other places. The Police
7 Department and Commissioner Ramsey have
8 been 100 percent on board, and I'm very
9 thankful. So it's impossible for me to
10 quantify what that amount is.

11 COUNCILMAN O'BRIEN: I have
12 some follow-up questions, but I'll do
13 that on the second round. Thank you,
14 Mr. Chairman.

15 COUNCILMAN JONES: Thank you,
16 Councilman.

17 The Chair recognizes Councilman
18 Squilla.

19 COUNCILMAN SQUILLA: Thank you,
20 Mr. Chair.

21 Thank you, Mr. Williams and the
22 District Attorney's Office that's so
23 important to public safety for the City
24 of Philadelphia.

25 It's disappointing to hear that

1 4/22/13 - WHOLE - BILL 130178, etc.
2 when you're going through your budget
3 process, that you really don't have a
4 give and take process with the
5 Administration, knowing that I would
6 think that when we go for budgeting, we
7 would ask at least what was needed or
8 what improvements could be made before
9 you move forward.

10 But going past that, we have
11 issues throughout the district -- and I
12 work with your office, and they've been
13 great to work with. So thank you for
14 that. Especially with nuisance
15 properties. It's been a big problem we
16 have throughout the district. Certain
17 things we can do, certain things we can't
18 do, and the resources and the manpower
19 and the hours it takes to even bring one
20 case to court, it's unbelievable, and the
21 money and the time being spent. And then
22 there's also issues when we have people
23 who are our constituents that are victims
24 of a crime and have to work with the
25 ADAs, and they're working with them and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 some of them, they tell you that, Oh, my
3 God, the ADA called me, he's so tired
4 from these other cases, their workload is
5 so much, and they have so many things to
6 do.

7 I mean, we need more resources
8 to be able to protect the citizens of our
9 city, and we need those resources to make
10 sure that our Assistant District
11 Attorneys aren't overworked and they have
12 so many cases, that they may not be able
13 to give the attention that a person of a
14 victim of crime has received, because
15 what we end up doing is, the person who
16 is a victim of crime ends up feeling
17 like, well, then they're a victim
18 afterwards too, because they don't have
19 the ability to get proper representation
20 or the person is so overworked that they
21 only give so much time to these type of
22 cases.

23 So it's important for us as
24 Council to work with you, work with the
25 Administration to know that we need more

1 4/22/13 - WHOLE - BILL 130178, etc.
2 resources here.

3 And back to the nuisance
4 properties, we only have certain standing
5 that we have as a city because of state
6 legislation that allows us to do things.
7 We're looking at maybe through the state
8 to do some other things that will allow
9 the District Attorney's Office to give
10 them a hammer of sorts to say, All right,
11 if you're using our City resources, if
12 our police are going to your property 30,
13 40, 50 times in a year and we can't deem
14 it a nuisance property because maybe
15 they're not selling drugs or caught
16 selling drugs out of that property, we
17 need to have the ability for your office
18 or for the Police to be able to come down
19 on these landlords that rent these places
20 and to be able to say, All right, this is
21 now deemed a nuisance property, now the
22 DA could do their job, and maybe to the
23 extent of even forfeiture.

24 Would you be in favor of having
25 the ability to do something like that?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 DISTRICT ATTORNEY WILLIAMS:

3 Yes. And good afternoon, Councilman
4 Squilla. So you asked me two separate
5 types of questions. So the second one,
6 yes. And as you know, Greg Rowe is the
7 Chief of my Legislation and Policy Unit.
8 I made him available to any member of
9 Council, if you have any ideas about
10 municipal ordinances you think might be
11 helpful, but also they're very effective,
12 and my office serves basically as the
13 legislative arm for the 67 District
14 Attorneys of the Commonwealth of
15 Pennsylvania.

16 And so you're correct, the Drug
17 Forfeiture Act only allows us and our
18 Public Nuisance Task Force to seize and
19 to take properties when drug sales have
20 been made at an address to take it away
21 from the owner who either doesn't care
22 that the drug deals are going on or knows
23 and doesn't do anything to stop it. And
24 you're very accurate, Beth Grossman is
25 the Chief of the Public Nuisance Task

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Force. Her and her staff are out every
3 night of the week at community meetings
4 all across the City educating the public
5 about what we can do working together to
6 shut down these nuisances that
7 significantly reduce the quality of life
8 for all of us.

9 I don't know how we quantify
10 that, but that's what they're doing every
11 day. You're right in how long it takes
12 to build those cases to gather the
13 information, the photographs, the
14 documents to then seize those properties.
15 But we would be thankful if you could
16 help us in lobbying state lawmakers
17 possible to expand the Drug Forfeiture
18 Act to include when there's been multiple
19 shootouts at a bar to possibly shut that
20 bar down and to possibly force that
21 property to the public good.

22 So, again, at some point after
23 today, I'll make sure that Ms. Grossman
24 and Mr. Rowe address you specifically
25 about that. But you're right, you and

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Councilman Henon are always working with
3 us, as almost every other Councilperson,
4 for the public nuisances. But, again, if
5 we don't get the minimum to sustain what
6 we're doing, that unit will cease to
7 exist. It could have been different if
8 the Mayor had spoken to us, but it's not
9 too late, and you can make a difference.

10 I wanted to show you my final
11 chart. You're talking about the budget
12 and what's necessary. All these great
13 things we want in our city. I love
14 eating downtown, as I'm sure you do.
15 There are a lot of other restaurants in
16 your district and Councilwoman Bass's
17 district. I like going up there to eat
18 at McNally's and have a Tobias or a
19 Schmitter. People love coming into the
20 City, right? Well, if we have too much
21 violence, all these things we're talking
22 about -- the Mayor wants to spend \$3
23 million on bike lanes. That's nice, but
24 a fundamental concept must be public
25 safety and keeping the City safe and its

1 4/22/13 - WHOLE - BILL 130178, etc.
2 citizens safe. People won't want to ride
3 bikes in the City, wouldn't want to come
4 to the restaurants. And this shows you
5 that per incident of violence crime, only
6 one county in the United States of the 22
7 most populated, only one county funds its
8 office less than the City of
9 Philadelphia, and that's Wayne County,
10 Michigan where Detroit is.

11 So you're right, we have to do
12 something. I wish we could do
13 everything, but we have to at a minimum,
14 I believe, fund public safety.

15 COUNCILMAN SQUILLA: I agree
16 too.

17 And, Chairman, it would be a
18 devastating blow to the City of
19 Philadelphia if we do not have a Public
20 Nuisance Task Force and we don't have the
21 ability to even -- not what we can do
22 now, but even make it even stronger and
23 to go after more properties that we have
24 a lot of public nuisance that's not
25 really deemed public nuisance at this

1 4/22/13 - WHOLE - BILL 130178, etc.
2 time.

3 So I'd be willing to work with
4 your office. And I already have -- Beth
5 Grossman has been greet to work with and
6 Bryan Lentz and the rest, and what you're
7 doing, we really appreciate it. So thank
8 you, and you have our support -- my
9 support, I should say.

10 DISTRICT ATTORNEY WILLIAMS:
11 Thank you, Councilman.

12 COUNCILMAN JONES: It's okay.
13 Ours.

14 Councilman Squilla, thank you.
15 Councilman Greenlee.

16 COUNCILMAN GREENLEE: Thank
17 you, Mr. Chairman.

18 Good afternoon, everyone.
19 Mr. District Attorney, I just want to
20 echo what other people have been saying
21 for your community outreach. You and I
22 with a whole lot of community members
23 walked around Francisville last summer
24 when there was that unfortunate incident,
25 and I think that was greatly appreciated.

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2 And I see Mr. Price back there and I talk
3 many, many times about issues that are
4 important.

5 DISTRICT ATTORNEY WILLIAMS:

6 Councilman, on that walk, it was
7 unscheduled. We just were walking
8 through that community, and the two of us
9 bumped into two mothers who had lost
10 their sons to gun violence that year.

11 COUNCILMAN GREENLEE: Right.

12 DISTRICT ATTORNEY WILLIAMS:

13 That's part of what our office does every
14 day, going out, meeting with victims and
15 trying to be their champions and
16 advocates. But I'd like to thank you for
17 sharing that evening with me.

18 COUNCILMAN GREENLEE:

19 Absolutely.

20 Just on this whole issue,
21 without getting into specifics about the
22 non-communication, if you will, I know
23 you said the Mayor has not responded to
24 you. Has there been communication
25 between your staffs?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 DISTRICT ATTORNEY WILLIAMS:

3 No. You would think -- again, that's why
4 I said earlier -- it was before you
5 walked in possibly -- you would assume
6 that the Mayor's budget people, someone
7 would contact my staff and my budget
8 staff and say, Well, what is your
9 attrition rate? What are they looking
10 like for next year? You have to buy -- I
11 think it's Class 200 -- you have to buy
12 paper. Well, has the cost of paper gone
13 up? Has the cost of expert witnesses
14 like in the Gosnell trial, has that gone
15 up? What do you need? You would think
16 that, and maybe they might still make the
17 value judgment we don't want to give the
18 DA's Office more.

19 COUNCILMAN GREENLEE: I heard
20 you say that and I wanted to clear --

21 DISTRICT ATTORNEY WILLIAMS:

22 But that didn't even happen. That didn't
23 even happen, no.

24 COUNCILMAN GREENLEE:

25 Mr. Chairman, would it be appropriate to

1 4/22/13 - WHOLE - BILL 130178, etc.

2 ask the Budget Director to come up here
3 for a second?

4 COUNCILMAN JONES: I think so.
5 She was hiding behind the chart.

6 (Witness approached witness
7 table.)

8 COUNCILMAN JONES: Thank you,
9 Ms. Rhynhart. State your name for the
10 record.

11 MS. RHYNHART: Rebecca
12 Rhynhart, Budget Director.

13 To address the DA's concerns,
14 we follow the same budget procedure for
15 every department, which involves sending
16 out the budget call, asking for
17 justifications for increased spending, as
18 well as certain cut scenarios, and then
19 forming the Mayor's proposed budget.

20 The letter that the District
21 Attorney was referring to was dated March
22 6th, which was after the actual proposed
23 budget was formulated, given that the
24 Mayor's budget address was on March 14th.

25 With that said, we're happy to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 sit down and talk about that. So there's
3 no stance definitely coming from the
4 Budget Office or the Administration that
5 we can't talk about any of this.

6 COUNCILMAN GREENLEE: If I
7 could just follow up for a minute, and
8 not to get into a back and forth with you
9 two. There might be other times to do
10 that. But, I mean, doesn't it seem -- I
11 mean, it's one thing -- Councilwoman
12 Blackwell and I were talking a minute ago
13 about like your individual departments
14 that are under the Mayor, I guess in a
15 way there can be sort of dictating to
16 them what they have to do, but, I mean,
17 you are talking about, as with the City
18 Controller too, an independent elected
19 official. Doesn't it seem -- Sheriff,
20 there's others. But obviously when
21 you're talking about public safety and
22 all, that concern is heightened.

23 Wouldn't it seem to be more
24 than just say -- I mean, shouldn't there
25 be more outreach? And I'm not just

1 4/22/13 - WHOLE - BILL 130178, etc.
2 trying to put this on you. I'm just
3 trying to think, I mean, you kind of
4 knew -- I mean, the District Attorney has
5 come in before, and to be honest with
6 you, this didn't start with this District
7 Attorney or this Administration. I think
8 we've had some of this before. But it
9 just seems like there should be a little
10 bit more attempt, and I have to say in
11 fairness, attempt by the Administration
12 to try to work these things out before
13 we're sitting here on whatever today is,
14 April 22nd. It's not that much longer to
15 the budget process. And it just seems
16 like -- you can't speak for the Mayor,
17 but I don't understand why a letter went
18 on March 6th from an elected official and
19 here we are on April 22nd and he hasn't
20 heard yet. Now, you maybe can't answer
21 that, but just something doesn't seem to
22 be right here.

23 End of speech. I'm sorry.

24 MS. RHYNHART: And I would just
25 say to that that I think this is just --

1 4/22/13 - WHOLE - BILL 130178, etc.
2 there just needs to be a bit more
3 communication, because my understanding
4 was that there was a response, informal
5 response, back from the Mayor, his
6 office, to have that discussion. So,
7 again, I think this conversation will
8 probably be better not had in a public
9 hearing, but in a more private setting.

10 COUNCILMAN JONES: We agree.

11 COUNCILMAN GREENLEE: I'm
12 sorry. I agree with that, but I think
13 unfortunately it was brought up in this
14 public setting, so I think we have to at
15 least get it out kind of what is going
16 on.

17 MS. RHYNHART: I mean -- right.
18 I think for the record, the Mayor
19 definitely supports public safety,
20 obviously. So I think that we're happy
21 to continue the conversations and --

22 COUNCILMAN GREENLEE: I would
23 really feel bad if you went on record
24 saying he opposed public safety.

25 MS. RHYNHART: And in regards

1 4/22/13 - WHOLE - BILL 130178, etc.
2 to the two and a half percent increase,
3 we believe we did fund that fully.

4 So we're happy to talk to your
5 office about the calculations an how we
6 came to those calculations, because our
7 intent was to fund those fully. So,
8 again, I think we should just have a
9 conversation, not in a public hearing.
10 That would be great.

11 COUNCILMAN GREENLEE: Maybe
12 this will help get that conversation
13 going.

14 COUNCILMAN JONES: That's what
15 I'm hoping.

16 COUNCILMAN GREENLEE: Thank
17 you, Mr. Chairman.

18 COUNCILMAN JONES: Thank you,
19 Councilman. We got the dialogue going.

20 DISTRICT ATTORNEY WILLIAMS:
21 Councilman, again, I would just refute
22 there's no meaningful dialogue between
23 the Mayor's Office and ours. I don't
24 work for the Mayor. I work for the
25 citizens of Philadelphia. The Mayor is

1 4/22/13 - WHOLE - BILL 130178, etc.
2 responsible for our budget, and you're
3 responsible for approving it.

4 It's inadequate and
5 disrespectful the manner in which the
6 Mayor runs the budget process with our
7 office. So I want to say that.

8 What we are told -- this is a
9 public place. What we are told is just
10 go ahead, spend whatever you need, we'll
11 just have a transfer ordinance at the
12 end, which is not transparent, which I
13 believe is what this Mayor stands for.
14 That's all I ever hear about. That's not
15 transparent. And I'm here to ask you for
16 the money up front so that I look like a
17 responsible steward of the public's
18 money.

19 COUNCILMAN JONES: Thank you,
20 Councilman.

21 Councilman Kenney.

22 COUNCILMAN KENNEY: Thank you,
23 Mr. Chairman.

24 I'd like the Budget Director to
25 come back. I tried to keep her from

1 4/22/13 - WHOLE - BILL 130178, etc.
2 sitting down, but I don't really --
3 Councilman Greenlee, I don't really think
4 they care, honestly. I mean, I just
5 think the arrogance is just amazing.

6 (Witness approached witness
7 table.)

8 COUNCILMAN KENNEY: What's the
9 budget projection for the Office of Arts,
10 Culture and the Creative Economy; do you
11 know?

12 MS. RHYNHART: The amount of
13 the budget?

14 COUNCILMAN KENNEY: Yeah. What
15 are you projecting --

16 MS. RHYNHART: I would have to
17 look up the exact amount of the budget.

18 COUNCILMAN KENNEY: While
19 you're looking that up, you can look up
20 the Mayor's Office of Community Services
21 or the Office of Education, since we have
22 two appointees to the SRC. We need a
23 separate Office of Education. So I'm
24 trying to figure out what the priorities
25 are, because if it's not the DA's office

1 4/22/13 - WHOLE - BILL 130178, etc.

2 and public safety, then what is it?

3 MS. RHYNHART: I think I would
4 disagree, respectfully, with you there in
5 terms of the DA and all of the public
6 safety entities. They are a priority of
7 the Administration.

8 COUNCILMAN KENNEY: But you
9 haven't talked to them. How can it be a
10 priority? You don't talk to people.
11 They're not a priority. They're kind of
12 just pushed aside. Heard from the
13 Sheriff, heard it from the City
14 Controller, heard now from the DA. Three
15 independently elected people who you
16 don't talk to about their budget. It's
17 just amazing to me.

18 MS. RHYNHART: Well, I think
19 that we do have conversations, but this
20 isn't --

21 COUNCILMAN KENNEY: Unless he's
22 sitting here -- he's not lying. I know
23 him. He's a good guy. He don't lie. He
24 says you had no conversation, you had no
25 conversation. It's just -- it's insane.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 I mean, \$3 million he set for bike lanes.

3 MS. RHYNHART: I think the
4 reference was to the bike-sharing in the
5 capital budget.

6 COUNCILMAN KENNEY: Oh, the
7 bike-sharing. Bike-sharing is much more
8 important than the DA's Office and what
9 they do.

10 MS. RHYNHART: No, it's not.
11 It's a different budget.

12 COUNCILMAN KENNEY: Somebody
13 talked to the bike-sharing people.
14 Somebody talked to the Office of
15 Transportation. They didn't talk to him.

16 MS. RHYNHART: The DA gets \$32
17 million a year. And, again, I don't
18 think it's productive to keep going back
19 and forth. I do think that --

20 COUNCILMAN KENNEY: No. It's
21 productive to be transparent with the
22 public's business and the public's money.
23 You folks want to talk about things
24 privately when you want to talk about
25 them privately. We're here in a public

1 4/22/13 - WHOLE - BILL 130178, etc.
2 hearing. This is the public's money, the
3 public's budget. The DA got elected.
4 We're going to talk about it publicly.
5 Why do you want to talk about it
6 privately? Isn't it transparent?

7 MS. RHYNHART: I'm happy to
8 talk about it publicly if you want to
9 continue this.

10 COUNCILMAN KENNEY: I'm just
11 saying, the priorities of this
12 Administration is really screwed up, when
13 we can't deal with public safety the way
14 we need to deal with it, when you want
15 them to eat an award, an arbitration
16 award, or an agreement to increase the
17 salary of the police, which is great,
18 because I support the police, but you
19 make them eat their end of it.

20 MS. RHYNHART: No. We gave
21 them additional funding for the
22 increases. If there's some dispute about
23 it, then we're happy to talk to them
24 about it.

25 COUNCILMAN KENNEY: Should I

1 4/22/13 - WHOLE - BILL 130178, etc.

2 put him under oath? I mean, is he lying?

3 MS. RHYNHART: No. I think
4 that if -- I think that we gave them
5 funding for the two and a half percent
6 increase. I'm happy to talk to him about
7 it. If there was some funding left out
8 from the FOP increase for detectives --

9 COUNCILMAN KENNEY: How much
10 did Made in America cost us?

11 MS. RHYNHART: Well, can I
12 finish my sentence?

13 COUNCILMAN KENNEY: Yeah, go
14 ahead.

15 MS. RHYNHART: Thank you.

16 COUNCILMAN KENNEY: I'm just --

17 MS. RHYNHART: No. I get
18 you're upset.

19 COUNCILMAN KENNEY: Things are
20 just popping in my head, how much did
21 that cost.

22 MS. RHYNHART: No. I know
23 you're upset.

24 COUNCILMAN KENNEY: Not that I
25 don't like -- I love Jay-Z, but how much

1 4/22/13 - WHOLE - BILL 130178, etc.

2 did that cost?

3 MS. RHYNHART: But what I'm
4 saying is, it's the Administration's
5 intent to cover the arbitration awards.
6 If there was some funding left out for
7 any of the awards and we get together and
8 talk about it, then we'll put it in. I
9 will say that on the record. We'll put
10 that in. There was no intent to not put
11 that in.

12 DISTRICT ATTORNEY WILLIAMS:
13 Every year in the past the Mayor said,
14 We'll put it in, we'll put it in. Don't
15 ask Council to give it to you.

16 COUNCILMAN KENNEY: Because
17 they won't talk to us either. God
18 forbid, you have to talk to us.

19 MR. McCANN: Just on the issue
20 of the 2.5 percent, Councilman,
21 Ms. Rhynhart did put in some of that
22 money, about 80 percent of it. About 20
23 percent of it was not covered. The FOP
24 contract, none of that was covered, and
25 we wrote the Mayor the letter on March

1 4/22/13 - WHOLE - BILL 130178, etc.

2 6th that we wrote that we never got a
3 response from anybody to, that was in
4 that letter that we sent.

5 COUNCILMAN KENNEY: They're
6 only across the street. It must have got
7 lost in the transmission of the letter, I
8 guess.

9 MS. RHYNHART: Well, again, for
10 the record, the FOP -- we believe that we
11 added the full two and a half percent,
12 but, again, we can just talk about that.
13 That's just a call to my office from you,
14 and that can be handled. And the FOP we
15 can add if that was not put in. So those
16 two things were definitely meant to be
17 put in.

18 COUNCILMAN KENNEY: You know,
19 Mr. Chairman, I appreciate the time.
20 It's just -- this process seems to
21 becoming like a waste of time as we go
22 on. But thank you.

23 COUNCILMAN JONES: Thank you,
24 Councilman.

25 The Chair now recognizes

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Councilwoman Blackwell.

3 COUNCILWOMAN BLACKWELL: Thank
4 you, Mr. Chairman.

5 I would only like to say that I
6 agree with the comments made by my
7 colleagues. This is such an important
8 department, and the DA has been more
9 creative than any DA I've known, and he's
10 been out there on the front line with
11 communities, with seniors, with our
12 youth, and they've done everything they
13 can to do a good job. And certainly
14 before we pass any budget, we want to
15 hear an answer to these issues. It can
16 be in our department callbacks, but we
17 want to know just what's happening before
18 anything -- before we vote for any
19 budget, any City budget, before this
20 process is concluded. So we look forward
21 to having them come back.

22 Thank you.

23 COUNCILMAN JONES: Duly noted.

24 The Chair recognizes

25 Councilwoman Bass.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILWOMAN BASS: Thank you,
3 Mr. Chairman.

4 I just really want to echo the
5 comments that have been said so far in
6 terms of how just really disturbing this
7 is. I've known the District Attorney for
8 a very long time, for 25 years now. It's
9 hard to believe. But I know of his
10 character and I know of the hard work
11 that he does and his work ethic, and to
12 find that you have someone who obviously
13 ran for the job, willing to do the job,
14 wants to do the job, very passionate
15 about the job, and is being hampered in
16 such a way is not only disturbing to
17 myself as a member of City Council, but
18 also we really have to think about how
19 the citizens of the City of Philadelphia
20 feel when they hear these sorts of
21 things. I believe it makes them lose
22 confidence in City government. It sort
23 of encourages the thought of why should I
24 care, why should I get involved. You
25 know, if they are hampered in terms of

1 4/22/13 - WHOLE - BILL 130178, etc.

2 doing the job that they are trying to do
3 to keep me safe, why should I stick my
4 neck out on the line, because where is
5 that going to leave me.

6 So I just really wanted to echo
7 what's been said by my colleagues. I did
8 have one question for you, though. A lot
9 of the questions I had have already been
10 tackled, but I did want to ask you about
11 marijuana prosecutions. So I know that
12 you have changed obviously the way that
13 we handle that, and I believe that it has
14 moved the City forward in a significant
15 way. It's done a lot to unclog our court
16 system and move things forward.

17 But the one question I have --
18 because I know that for every action,
19 there's a reaction. And so the one
20 question that I do have that I hear from
21 my constituents is concern about sort of
22 like the idea of legalization of
23 marijuana and that where we are right
24 now, there's some concern that the public
25 smoking of marijuana. You have our

1 4/22/13 - WHOLE - BILL 130178, etc.
2 senior citizens who feel they don't want
3 to sit on their steps because they smell
4 people smoking in public, and that that
5 may be somewhat of an effect of the new
6 process that we have.

7 So I was wondering if you could
8 just speak to that.

9 DISTRICT ATTORNEY WILLIAMS:
10 Certainly. And, one, I just wanted to
11 thank you for your comments again on
12 behalf of my staff. They work very hard.

13 Just quickly getting back,
14 though, to the comments that the Mayor's
15 Office does care about public safety and
16 the DA's Office. I think -- just look at
17 the numbers. Again, the Office of
18 Technology received a 149 percent
19 increase since Fiscal Year 2008, Prisons
20 7.5 percent increase, Police 13.67
21 percent, DA's Office, a decrease. Let
22 them explain why.

23 Now back to your question, the
24 small amounts of marijuana, I did not
25 legalize marijuana. I don't have the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 power to do that, nor would I want to
3 necessarily do that. And I'd like to
4 thank -- I know that the First Judicial
5 District spoke and they spoke of the
6 positive impact of the SAM program, as
7 did my colleague, Ellen Greenlee, who
8 testified right before me. Her and
9 Mr. Cunningham talked about the SAM
10 program, how great it was. Well, I met
11 with my young Assistant District
12 Attorneys within like three weeks of
13 taking over who prosecuted those cases,
14 and I saw that we were spending thousands
15 of dollars on police overtime, on
16 analyzing the drugs, on hiring defense
17 attorneys, on the discovery for basically
18 when defendants possess \$10 to \$15 amount
19 of weed. It didn't make any sense. And,
20 again, the theory of criminology is that
21 it's not the severity of punishment that
22 changes behavior. It's the certainty.

23 So as a little kid, I used to
24 go tell my dad -- my dad ran a rec
25 center. Whenever I smelled the kids

1 4/22/13 - WHOLE - BILL 130178, etc.
2 smoking weed, I don't my dad. So I don't
3 like the smell of weed either, and I'm
4 sorry to the seniors who think we've
5 legalized it, but we haven't. What we've
6 done is instructed the Police to arrest
7 those people for possessing small
8 amounts, but instead of us clogging up
9 Municipal Court -- we had about, I think,
10 7,000 cases the year before of just small
11 amounts of marijuana cases. Now about 97
12 percent of those cases result in the
13 defendant paying a \$200 fine and going to
14 a three-hour course on drug addiction and
15 the dangers of being addicted to drugs.
16 So, again, it's more certain. That money
17 doesn't come to the DA's Office. It goes
18 to the First Judicial District. And I
19 think that program then allows us --
20 again, being smart on crime doesn't mean
21 being soft on criminals. It means
22 championing victims. It means being
23 smart on prosecuting violent crimes. And
24 this allows us to more focus on violent
25 crimes.

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2 But, again, unless we receive a
3 minimum amount to sustain programs like
4 that, I've directed my First Assistant to
5 cut the SAM program, to stop assigning my
6 DAs to review those cases and put all the
7 extra casework into those cases,
8 reviewing them, effective July the 1st.

9 COUNCILWOMAN BASS: Okay. And
10 I'll --

11 DISTRICT ATTORNEY WILLIAMS:
12 Again -- I'm sorry, Councilwoman.

13 COUNCILWOMAN BASS: No. Go
14 ahead.

15 DISTRICT ATTORNEY WILLIAMS: A
16 conservative estimate was that the SAM
17 program saved the City \$2 million each of
18 the last fiscal years.

19 COUNCILWOMAN BASS: Okay. So
20 you said it saved 2 million?

21 DISTRICT ATTORNEY WILLIAMS:
22 Per year.

23 COUNCILWOMAN BASS: Per year.
24 Well, thank you very much. Because we
25 just want to make sure that at the same

1 4/22/13 - WHOLE - BILL 130178, etc.
2 time that we deal with this nuisance in
3 many of our neighborhoods, which in some
4 cases for some of our seniors in
5 particular can be intimidating. If you
6 come out and there's a couple of guys
7 smoking marijuana on the steps, you may
8 not feel so comfortable in the summertime
9 sitting out on your steps. But at the
10 same time, I agree with you, we don't
11 want to clog up our court system for what
12 might be \$10, \$15, \$20 worth of
13 marijuana. So it's trying to find a
14 balance to deal with some of those,
15 again, nuisance issues.

16 DISTRICT ATTORNEY WILLIAMS:
17 I'm very thankful that the First Judicial
18 District, Municipal Court Judge -- the
19 President of Municipal Court, Judge
20 Marsha Neifield, has been a huge champion
21 of this program, because it eliminates so
22 many misdemeanor cases that would be
23 clogging the Municipal Court, the
24 misdemeanor trial rooms. So we've been
25 able to remove 97 percent of them from

1 4/22/13 - WHOLE - BILL 130178, etc.

2 misdemeanor trial rooms, but after July
3 1st, we won't be able to continue that.

4 COUNCILWOMAN BASS: Well, it's
5 forward-thinking. So I thank you for
6 bringing that to the forefront. Thank
7 you.

8 COUNCILMAN JONES: Thank you,
9 Councilwoman.

10 The Chair recognizes Councilman
11 Oh, who has not spoken.

12 COUNCILMAN OH: Thank you very
13 much, Mr. Chairman. Thank you very much.

14 I would like to ask the Budget
15 Director to come forward.

16 (Witness approached witness
17 table.)

18 COUNCILMAN OH: Good afternoon.

19 MS. RHYNHART: Good afternoon,
20 Councilman Oh.

21 COUNCILMAN OH: In the
22 discussions that we had, you did indicate
23 that the Administration, in your opinion,
24 was willing to talk about amending the
25 budget based on the monies that are

1 4/22/13 - WHOLE - BILL 130178, etc.
2 needed if in fact you find that certain
3 things were not funded; is that correct?

4 MS. RHYNHART: There is a
5 process by which there are changes that
6 can be made called caucus changes at the
7 end of the budget process. They can be
8 small changes. They can be things that
9 are agreed to between City Council and
10 the Administration. So, yes.

11 COUNCILMAN OH: And when does
12 that typically happen?

13 MS. RHYNHART: Right before
14 Council passes the budget. So hopefully
15 in May.

16 COUNCILMAN OH: Okay. And this
17 amount of money, 2.75 million, is
18 considered small change; is that correct?

19 MS. RHYNHART: I would not say
20 that, no.

21 COUNCILMAN OH: It's not?

22 MS. RHYNHART: Small change?
23 No. No.

24 COUNCILMAN OH: So we have a
25 \$3.75 billion Operating Budget right now;

1 4/22/13 - WHOLE - BILL 130178, etc.
2 is that correct?

3 MS. RHYNHART: That is correct,
4 and we have a projected \$80 million fund
5 balance in '14. With that said, though,
6 the amounts under discussion for the FOP
7 increase and the -- those increases can
8 be made in caucus change if there's found
9 to be not enough included in their
10 budget.

11 COUNCILMAN OH: What is the
12 typical mid-year transfer that this
13 Administration has done since the
14 beginning of its Administration? That's
15 five years ago. Per year, what is the
16 average mid-term transfer that occurs?

17 MS. RHYNHART: I can't speak to
18 the average. I mean, mid-year transfer
19 ordinances have gone back well before
20 this Administration. They deal with
21 things such as Prisons costs overruns,
22 Fire Department overtime, various changes
23 in the classes.

24 COUNCILMAN OH: If I said a
25 hundred million dollars, does that sound

1 4/22/13 - WHOLE - BILL 130178, etc.

2 accurate or inaccurate?

3 MS. RHYNHART: That sounds on
4 the high side to me, but I think that,
5 for example, Prisons has an \$11 million
6 cost overrun this year. That's the type
7 of thing that would be included.

8 COUNCILMAN OH: Where does this
9 money come from when you transfer
10 typically? Where does the bulk of the
11 money of this 80 to a hundred million
12 dollars come from?

13 MS. RHYNHART: The money at the
14 end of the year comes from the fund
15 balance. The technicality of where it
16 comes from in the transfer ordinance, it
17 comes from --

18 COUNCILMAN OH: Other budgets?

19 MS. RHYNHART: It comes from
20 something called Provision for Other
21 Grant monies, which at the end of the
22 year has to come out of our fund balance.

23 COUNCILMAN OH: And how much is
24 that available every year?

25 MS. RHYNHART: Well, I don't

1 4/22/13 - WHOLE - BILL 130178, etc.
2 want to get confused between
3 appropriations and cash. So there's a
4 hundred million dollars of appropriations
5 available. I think that's what you're
6 thinking of and referring to. But that
7 isn't cash. So that actually draws --
8 whatever amount of that we use has to
9 come from other places in the budget or
10 from fund balance.

11 COUNCILMAN OH: So that anyway
12 affects us in terms of the millage rate
13 that we set on the taxes; is that
14 correct?

15 MS. RHYNHART: Well, I would
16 say --

17 COUNCILMAN OH: City Council,
18 to be exact.

19 MS. RHYNHART: Every transfer
20 ordinance has to get passed by City
21 Council, first of all. So it gets passed
22 by City Council and then signed by the
23 Mayor. And does it affect the millage
24 rate? I mean, the size of our budget
25 affects the millage rate, and that's why

1 4/22/13 - WHOLE - BILL 130178, etc.
2 we have to live within what's affordable,
3 and that's why we've had constrained
4 resources to give to all of our
5 departments.

6 COUNCILMAN OH: Where can we
7 look for help at this point in time, we
8 as a City Council, from the
9 Administration? In other words, we have
10 this budget. We have a millage rate set
11 or that's going to be set. We have an
12 AVI that's been dealt with, but we have
13 some grave issues regarding the quality
14 of the assessments, the accuracy of the
15 assessments. As you and I have
16 discussed, we're looking for 66 -- I'm
17 looking for \$66 million for the
18 firefighters. The Mayor has come up with
19 \$60 million for the School District.

20 MS. RHYNHART: I'm sorry. Just
21 to correct you on that, I don't -- I
22 think the money for the School District
23 has not been come up with yet.

24 COUNCILMAN OH: Has been
25 requested.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 MS. RHYNHART: The School
3 District has requested it, yes. I just
4 wanted to make sure that the wording, we
5 haven't -- there's not \$60 million that
6 we found in our budget. I just wanted to
7 correct you on that.

8 COUNCILMAN OH: So I'm curious
9 if you have some kind of ideas of how we
10 as a body deal with all of this amounts
11 of money that's not funded.

12 MS. RHYNHART: I think that the
13 budget process is a difficult process
14 because we have limited resources, and it
15 comes up, I'm sure you've noticed, in
16 almost every budget hearing that there's
17 limited resources, and every department
18 and every function of the government
19 wants more.

20 So it is a difficult process
21 that we have to go through, that you have
22 to go through, that we have to go through
23 together. There's not a great answer to
24 that question, because there are
25 difficult decisions that we all have to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 make together.

3 COUNCILMAN OH: Okay. But I
4 think that our decision is what gets
5 funded, and then does it not fall on the
6 Administration to then cut out what we
7 have not funded? In other words, we can
8 go ahead and fund something, and then the
9 response will be that you will have to
10 eliminate things out of your budget that
11 there's not enough money for.

12 MS. RHYNHART: If you're saying
13 that the Administration has the ability
14 to not spend even though you fund
15 something, that's correct.

16 COUNCILMAN OH: That's not what
17 I'm saying. That is true. I understand
18 that. But we fund something and at the
19 end of the day, we pass a millage rate.
20 There are items that are too large in
21 your capital budget or in your operating
22 budget that we could fund those things.
23 In other words, are you not going to --
24 if we fund something, are you not going
25 to, on a reciprocal side, remove

1 4/22/13 - WHOLE - BILL 130178, etc.
2 something from the budget? Do we have to
3 do that as well?

4 MS. RHYNHART: You're saying
5 that if you pass a budget that there's
6 not enough resources for, would we cut
7 something?

8 COUNCILMAN OH: No. In other
9 words, if we were to say we need to fund
10 the DA's Office by 2.75 million and we
11 ask you to reduce from that budget some
12 item of your choosing, is that something
13 that you do or does it fall upon us to
14 fund the DA's Office and take 2.75
15 million out of something?

16 MS. RHYNHART: I think that any
17 type of Council priority that
18 Councilmembers want to discuss, the
19 Administration is open to discussing
20 that. It's -- I would say that there's
21 not one good way to answer that question,
22 because the budget process is -- there's
23 a lot of moving parts and it gets quite
24 complicated towards the end. But I would
25 say that if it's important, that we'll

1 4/22/13 - WHOLE - BILL 130178, etc.
2 talk about it.

3 COUNCILMAN OH: Thank you very
4 much.

5 Thank you, Mr. Chairman.

6 COUNCILMAN JONES: Thank you,
7 Councilman.

8 Councilman O'Brien.

9 COUNCILMAN O'BRIEN: Thank you,
10 Mr. Chairman. I'm not going to ask
11 Ms. Rynhart to come up and answer any
12 questions. I would ask the
13 Administration by way of my interrogation
14 if there's anything that they disagree
15 with, they can contact me directly, and
16 if there's things that through this
17 interrogation that they want to fund,
18 we'd be glad to know that as well.

19 I would like to again just
20 reference the infrastructure, which is
21 people, in the District Attorney's
22 Office, and what's at risk here when you
23 flat-line the District Attorney's Office
24 budget is, you're threatening that very
25 infrastructure that we all take for

1 4/22/13 - WHOLE - BILL 130178, etc.
2 granted. The District Attorney is the
3 number one law enforcement officer in the
4 City of Philadelphia. You can talk about
5 the Police. You can talk about Prisons,
6 but that's the last bash in the defense
7 that we have.

8 You have Ron Eisenberg. And I
9 know these people don't want to be called
10 out. He went to the United States
11 Supreme Court maybe six times undefeated,
12 and I'll tell you, there's at least a
13 half a dozen people over at the Parking
14 Authority that are making considerably
15 more money than Ron Eisenberg.

16 There's a disconnect here in
17 our priorities across this conversation.

18 You have Huey Burns. You have
19 Ed McCann when he was head of Homicide.
20 He wrote the fetal homicide bill. It's
21 now known as the Peterson bill. You have
22 Greg Rowe, who is Chief Counsel to the
23 Governor, who negotiated that prison
24 package that saved again the City of
25 Philadelphia tens of millions of dollars.

1 4/22/13 - WHOLE - BILL 130178, etc.
2 A portion of that should go back into the
3 District Attorney's Office since it was
4 their creative juices that launched that.
5 Beth Grossman comes over and trains up my
6 staff on the Public Nuisance Task Force.
7 There's no end to the dimensions and
8 diversity that this office brings to the
9 table.

10 So having said that, I have --
11 the focused deterrence is the best
12 program -- and I've been working with
13 your office for close to 30 years. It's
14 the best program that I have ever seen.

15 So having said that, there are
16 seven quick questions I'd like to get
17 through, and one being since you managed
18 to get all these agencies and
19 stakeholders to buy in, what is your --
20 have you had any more progressive
21 conversations with the Administration on
22 focused deterrence?

23 DISTRICT ATTORNEY WILLIAMS: I
24 can say that we're starting a very small
25 area of South Philadelphia. We know that

1 4/22/13 - WHOLE - BILL 130178, etc.
2 we had to get some money for social
3 services that we just do not have in our
4 budget. We had a meeting in our office,
5 and the Mayor was present. The Deputy
6 Commissioner of the Police Department was
7 there, and the Mayor put in, I think,
8 about a hundred thousand dollars for his
9 own PhillyRising to provide the social
10 services part of the focused deterrence.
11 I'm very thankful for that.

12 COUNCILMAN O'BRIEN: Is that
13 enough?

14 DISTRICT ATTORNEY WILLIAMS:
15 No. I mean, we need to do a lot more, of
16 course, and we hope to expand once we
17 have the empirical data to see what's
18 worked and what hasn't worked. We hope
19 to expand to the 22nd District, to the
20 19th District, to the 18th District, to
21 other districts that are unfortunately
22 under siege, but we'll have to take time
23 to do that.

24 COUNCILMAN O'BRIEN: Does the
25 Administration have a designated person,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 one person?

3 MR. McCANN: Councilman, Keri
4 Salerno has worked literally hundreds of
5 hours on focused deterrence from the
6 Mayor's Office. She's been an
7 outstanding partner to us in that
8 program.

9 COUNCILMAN O'BRIEN: That's on
10 the social service component.

11 MR. McCANN: Correct.

12 COUNCILMAN O'BRIEN: Do you
13 have one person that can coordinate the
14 criminal justice piece as well as the
15 social service piece so that we can move
16 this aggressively forward?

17 MR. McCANN: No. We haven't
18 developed that yet. We don't have an
19 executive director or anything like that.
20 There's not any kind of funding in place
21 for that.

22 DISTRICT ATTORNEY WILLIAMS:
23 Currently, Bryan Lentz basically serves
24 de facto in that role.

25 COUNCILMAN O'BRIEN: Okay. Who

1 4/22/13 - WHOLE - BILL 130178, etc.

2 did all the criminal analytics to
3 determine the groups and the individuals
4 within each group?

5 DISTRICT ATTORNEY WILLIAMS:

6 That would include the Police Department,
7 the Special Investigations Unit, the
8 Intelligence Unit of the Police
9 Department. Deputy Commissioner Bethel,
10 and Deputy Commissioner Ross have been
11 extremely valuable in their roles in the
12 shaping of that and making sure we have
13 the correct intelligence. So all of them
14 have played a tremendous role.

15 MR. McCANN: Plus Caroline
16 Keating, who is the Chief of our South
17 Bureau, spent again hundreds of hours on
18 the program in that specific aspect that
19 you asked about, as well as members of
20 the Police Department. And we also
21 created the database for the program, and
22 our office, members of our staff, Lauren
23 Baraldi, people that work for her,
24 created a database so that we can track
25 the outcomes.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILMAN O'BRIEN: Page --
3 darn, I almost got through. I got two
4 more questions.

5 COUNCILMAN JONES: Go ahead.

6 DISTRICT ATTORNEY WILLIAMS:
7 Councilman?

8 COUNCILMAN JONES: Seeing there
9 are no other -- no one else has pushed
10 their button. So I'm going to give you
11 some grace there.

12 COUNCILMAN O'BRIEN: I'll go
13 very quickly, Mr. Chairman. I appreciate
14 that. On Page 3 --

15 COUNCILMAN JONES: Well, wait a
16 minute. Someone just pushed --

17 COUNCILMAN O'BRIEN: On Page 3
18 of your testimony, you said, "My staff
19 has been told by high-level City
20 officials there is no plan to spend any
21 money or other resources on technology
22 for the District Attorney's Office in the
23 near term, nor is there any technological
24 funding proposed in the Mayor's Five Year
25 Plan for my office."

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Can your data center and
3 technical services unit give the proper
4 IT support for the success of focused
5 deterrence? What is it that you need,
6 and can you do it without additional
7 resources?

8 DISTRICT ATTORNEY WILLIAMS:

9 No. We need much more than the amount
10 that I've requested if we were to
11 adequately update the infrastructure for
12 our computer systems, both the hardware
13 and the software. We were instrumental
14 in the innovation of getting a grant so
15 that we can start electronic discovery
16 here in the City that will have
17 significant savings to the defense bar,
18 the Public Defender, the courts. That's
19 where they send discovery instead of --
20 so currently the discovery comes from the
21 Police. That's the documents that you
22 see we have to give the defense
23 attorneys. It comes through the
24 computer. We print it. I have
25 college-educated people take crayons and

1 4/22/13 - WHOLE - BILL 130178, etc.

2 delete stuff, and then we present it to
3 the defense bar in court.

4 E-discovery would allow us just
5 to send it through the computers and
6 people could download it on their own.

7 We don't have -- possibly we
8 don't have the technology in our own
9 office to sustain it once it's in
10 existence. And so, again, you saw how
11 dramatically, how exponentially the
12 budget has grown for the Office of
13 Information and Technology. And we've
14 been told that they will only help us
15 with our e-mails, but not with the
16 infrastructure, not with the hardware and
17 the software to -- we're doing
18 everything. Like when I come here,
19 Councilman Green always wants to know the
20 statistics of our held-for-court rate,
21 our conviction rate. We're doing all of
22 that with a computer system that was just
23 created to send out subpoenas in the
24 1990s. So we are far behind where we
25 need to be.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 And I know this is a little bit
3 out of order, but to get back to
4 Councilman Kenney's office. If anyone
5 from the Mayor's Administration, from the
6 Mayor to Ms. Rynhart to anyone else, had
7 asked anybody in my office, Wayne who
8 delivers the mail to any of the Assistant
9 DAs, to me, if they had asked us, Do you
10 want the same budget as last year, all of
11 us would have said no.

12 So you don't have to put me
13 under oath, but I gladly would go under
14 oath to say that that did not happen.
15 There was no communication as to what the
16 budget or our priorities are.

17 COUNCILMAN O'BRIEN: Under your
18 current budget, do you have the resources
19 to sustain focused deterrence in its
20 current form or to move it citywide? And
21 in your --

22 DISTRICT ATTORNEY WILLIAMS:
23 No.

24 COUNCILMAN O'BRIEN: --
25 testimony, you have \$2 million to sustain

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the office.

3 DISTRICT ATTORNEY WILLIAMS:
4 Correct.

5 COUNCILMAN O'BRIEN: And
6 another \$2.7 million to move focused
7 deterrence. Can you please elaborate on
8 that.

9 DISTRICT ATTORNEY WILLIAMS:
10 No, we don't have the money to sustain
11 that citywide as is. And, again, I'm
12 asking for a conservative 2.75, not even
13 to keep up with the rate of inflation
14 from 2008, which would take us to \$36
15 million.

16 If you want to have -- again,
17 if you were to look at what other
18 district attorney offices are funded, San
19 Diego gets \$156 million from San Diego
20 County.

21 The 31 million we get, again,
22 if you look at the incidents of violent
23 crime, only Wayne County, Michigan --
24 they have entire parts of their city that
25 they just cut off. They say don't live

1 4/22/13 - WHOLE - BILL 130178, etc.
2 there, to try to move residents out,
3 because they can't provide services. I
4 don't want that to happen to
5 Philadelphia. I'm still being
6 conservative in asking for the 2.75.

7 But if we wanted to have
8 focused deterrence, if we want to do much
9 better with the Public Nuisance Task
10 Force across the City, we would ask for
11 millions and millions and millions and
12 millions above what just the rate of
13 inflation would have brought us to from
14 2008.

15 COUNCILMAN O'BRIEN: That
16 sounds like an immigration policy, just
17 build walls around certain sections of
18 the city.

19 DISTRICT ATTORNEY WILLIAMS:
20 The DA's Office is open every moment.
21 Every day of the year our office is open.

22 COUNCILMAN O'BRIEN: One more
23 question. There was a statement by the
24 Public Defenders, and they've gotten an
25 increase, and they do 55 percent of the

1 4/22/13 - WHOLE - BILL 130178, etc.

2 cases. You do 100 percent of the cases.

3 DISTRICT ATTORNEY WILLIAMS:

4 Correct.

5 COUNCILMAN O'BRIEN: You work

6 seven days a week.

7 DISTRICT ATTORNEY WILLIAMS:

8 Correct.

9 COUNCILMAN O'BRIEN: You do all

10 the cases that the Public Defenders do,

11 you do the private defense attorneys, and

12 you do every case that's brought to you

13 by the Police Department.

14 DISTRICT ATTORNEY WILLIAMS:

15 Correct.

16 COUNCILMAN O'BRIEN: So when we

17 do transfer ordinances, how do you

18 respond to the fact that they're getting

19 a major increase and your office is

20 staying stagnant? And I understand what

21 Councilman Oh said, that we don't want

22 anybody found guilty that isn't guilty.

23 I really believe that there has to be an

24 investment in public safety. Focused

25 deterrence, I'll say one more time, is

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the best program I've ever seen on the
3 planet. Everybody -- the agencies that
4 your offices brought together to
5 accomplish this is significant, and I
6 don't want to see this opportunity
7 dissipate right before our eyes.

8 DISTRICT ATTORNEY WILLIAMS:
9 Everything that I do, again, I hope is to
10 show the citizens of Philadelphia that
11 we're going to have the same standard of
12 justice every point along Germantown
13 Avenue. Germantown and Erie looks much
14 different than Germantown and Evergreen
15 way up in Chestnut Hill. We want
16 Philadelphians to know we have the same
17 standard. It doesn't matter if you are a
18 Monsignor of the Catholic church. We're
19 going to go after you if you are allowing
20 children to be victimized. If you are a
21 multi-millionaire doctor who is
22 performing -- is murdering people in West
23 Philadelphia, we're going to go after
24 you. If you're members of the insurance
25 industry, we're going to go after you.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 So we have the same standard.

3 You mentioned the Public
4 Defender. Of course, the best way to
5 defend the public is to have a
6 well-funded District Attorney's Office
7 like mine, where we have tripled the
8 number of people in our charging unit to
9 make sure that we only prosecute the
10 right people and only charge them with
11 the right crimes.

12 So, again, I respect the need
13 for indigent people to be represented
14 adequately. How you go about doing that
15 is a business model that is done in many
16 different ways across the country. This
17 is the 50th anniversary of Gideon and,
18 again, I respect that, but if you have
19 multiple PDs offices in the City, if you
20 have all court-appointed, how you go
21 about doing that is a business model.

22 But we prosecute 100 percent of
23 the cases, not 55 percent of the cases.
24 We conduct -- we review every case that
25 is brought to us by the Police

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Department. We review every search
3 warrant before it's approved, every
4 arrest warrant. That's something the
5 defense attorneys don't have to do. Our
6 attorneys have to live in the City.
7 These people don't have to live in the
8 City. I can go on and on and on, but
9 public safety, again, the bottom line
10 here is that the District Attorney's
11 Office is about law enforcement. It's
12 about public safety. That has to be a
13 fundamental expense, a fundamental
14 investment of the City. So, again, you
15 can ask Ms. Rhynhart, you can ask the
16 Mayor, Why is the DA being given the same
17 budget, which is less than they were
18 given in 2008, when everything else that
19 affects all of us has gone up?

20 COUNCILMAN O'BRIEN: There are
21 some members of the insurance industry
22 that I would love to submit some names to
23 you that are ignoring the law.

24 With that, I conclude my
25 testimony. I thank you, Mr. Chairman,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 for your generosity.

3 DISTRICT ATTORNEY WILLIAMS:
4 Thank you, Mr. Speaker.

5 COUNCILMAN JONES: Appreciate
6 it.

7 The Chair recognizes Councilman
8 Johnson and then Councilman Oh.

9 COUNCILMAN JOHNSON: Thank you,
10 Mr. Chair.

11 I want to thank you, Seth, for
12 being here today and just giving us an
13 overview of where you need support at in
14 terms of your budget, specifically as we
15 look at the issue of public safety in the
16 City of Philadelphia, and hopefully we'll
17 have an opportunity to get some type of
18 resolve between you and the
19 Administration so we can move forward.

20 I just want to acknowledge a
21 couple things just based upon your work
22 that you have been doing since you've
23 been a DA and kind of give us an overview
24 of where you're at.

25 One, I work -- one, the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 specific issue of breaking down your DAs
3 into different zones, just an overview of
4 that. And I had a chance to kind of work
5 with Kevin Hart, and he covers the South
6 Division that gave me some good feedback,
7 but just an overview of what your new
8 model look like. That was one component.

9 Two, for focused deterrence,
10 I'm very excited to have the opportunity
11 to participate in the program as it gets
12 rolled out in the South Division. And so
13 I want to make sure that that's a part of
14 the conversation as we move forward,
15 pretty much going after those individuals
16 who commit just about 90 percent of the
17 crimes throughout the 2nd Councilmanic
18 District. And obviously that's
19 reflective in what we see in the City as
20 a whole. So you definitely have my
21 support in that area, and I'll definitely
22 be personally advocating to make sure
23 that as that program moves forward, it's
24 a model that we sustain.

25 But I also want to look at in

1 4/22/13 - WHOLE - BILL 130178, etc.
2 terms of -- I want you to respond based
3 upon your GunStat program. Obviously we
4 can't do a lot of things as it relates to
5 public policy, but I want to get an idea
6 of, you know, the straw purchaser
7 component. I applaud the two-year
8 minimum. I wish we could have got the
9 five-year minimum if you're carrying a
10 gun, but I'm also more interested in
11 really going after those people who keep
12 selling these guns to the young men in
13 our neighborhoods. I'm always going to
14 keep hammering how do we continue to
15 either hold accountable, even with the
16 state laws as they are, those individuals
17 who claim they lost guns that wound up in
18 a homicide.

19 So I think that's probably one
20 of the biggest issues, because there's no
21 gun factories in Point Breeze. There's
22 no gun factories in Grays Ferry. And
23 although you have a choice and I tell
24 young men, Don't even pick up the gun,
25 but the guns are coming somewhere, and it

1 4/22/13 - WHOLE - BILL 130178, etc.
2 is a reason why guns are so prevalent in
3 inner cities. And when I was a kid,
4 revolvers were prevalent. Now the
5 automatics are prevalent. So I'm one to
6 believe that they're coming from
7 somewhere and what can we do better to go
8 after those individuals who sell these
9 guns. And I'm not even -- so that's
10 where I'm at.

11 But I do commend you for your
12 work that you've done thus far as it
13 relates to the District Attorney's Office
14 and moving forward The Choice is Yours
15 program, giving young men different
16 options, young ladies as well. Your
17 coordination with Family Court and
18 working with Judge Dougherty on the gun
19 task force for juveniles and the JET
20 program, but I want to get to going after
21 those people who sell guns in the inner
22 city.

23 And so just give me an idea of
24 where we're at, what could we do better
25 and go from there.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 DISTRICT ATTORNEY WILLIAMS:

3 Certainly. All right. Thank you very
4 much. You went through several, not
5 quite the seven from Councilman O'Brien,
6 but I'll get through them as quickly as
7 possible.

8 COUNCILMAN JOHNSON: Three.

9 DISTRICT ATTORNEY WILLIAMS:

10 Three? No. It was a little bit more
11 than that.

12 So, one, community-based
13 prosecution, in 2000, I was asked by my
14 predecessor -- I was an Assistant DA. I
15 was Assistant Chief of a unit. She asked
16 me to create a unit called the Repeat
17 Offenders Unit to deal with the phenomena
18 that in Philadelphia, 5 percent of the
19 defendants commit 60 percent of the
20 crimes. So as I began my research on how
21 to best prosecute that, I came up with
22 the strategy that's used in other places
23 of community-based prosecution, where the
24 ADAs are assigned geographically and, as
25 much as possible, to vertically prosecute

1 4/22/13 - WHOLE - BILL 130178, etc.
2 those cases as opposed to the horizontal
3 conveyor belt method that we had in
4 Philadelphia. And so I implemented that
5 with the Repeat Offenders Unit in 2000.

6 I then saw that if we could
7 implement that citywide, we could do a
8 lot to change the failures of our
9 criminal justice system, many of which
10 were documented in the Philadelphia
11 Inquirer's 2008 series Justice: Denied,
12 Delayed, Dismissed, which brought to
13 reality that it wasn't just my campaign
14 rhetoric, but that the system here was
15 dysfunctional and broken.

16 So we quickly moved to
17 implement community-based prosecution in
18 January of 2010, and it was implemented
19 in operational with the assistance of the
20 Police, the First Judicial District, the
21 Sheriff's Office, the Public Defender's
22 Office. And now the courthouse and the
23 District Attorney's Office are all, as
24 the Public Defender as well, we are -- I
25 assigned my DAs to the six police

1 4/22/13 - WHOLE - BILL 130178, etc.
2 divisions proportionate to the amount of
3 crime in those districts, and as a team,
4 they vertically prosecute the cases
5 there.

6 Crime occurs geographically.
7 So they get to know the names of the
8 police, the detectives, but also the
9 good, the bad, and the ugly, how to
10 pronounce the names of the streets in
11 those neighborhoods, all of those things
12 to be more proficient as law enforcement
13 members.

14 And so community-based
15 prosecution has dramatically allowed us
16 to become better partners and better
17 advocates and champions for victims, and
18 we have seen our held-for-court rate
19 rise. We've seen our conviction rate
20 rise as well.

21 Then asked about focused
22 deterrence.

23 COUNCILMAN JOHNSON: What's
24 your conviction rate? Just give me an
25 idea from the past to now in terms of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 just measuring the results.

3 DISTRICT ATTORNEY WILLIAMS:

4 Right. Well, we have here the
5 preliminary hearings from 2008 to 2012,
6 the disposition for violent and gun
7 crimes held for court is up from about 46
8 percent, which at the time was one of the
9 lowest of the 40 largest urban areas, now
10 we're up to about 58 percent. Agg
11 assaults went from 39 percent to 48
12 percent. Robberies, 45 percent to 60
13 percent. Violation of the Uniform
14 Firearms Act, having guns illegally, up
15 to 80 percent. Homicides, we've always
16 done an excellent job in prosecuting
17 them. We've gone from 91 percent to 98
18 percent. Rape trials from 71 percent to
19 79 percent.

20 So we're doing better. We have
21 to do more, but we're doing as much as we
22 can with as little as we're being given,
23 again, if you look at the rate of
24 inflation from 2008 and what we have been
25 deleted, what's been reduced from our

1 4/22/13 - WHOLE - BILL 130178, etc.
2 budget.

3 But moving forward, you asked
4 more questions about focused deterrence,
5 and I think it has the potential --
6 again, we got to try lots of different
7 things. We're not sure a hundred percent
8 what is going to be the best thing,
9 what's going to work, but it appears from
10 the data in other jurisdictions and the
11 intelligence that we have, the great
12 relationship with the Police Department,
13 the community stakeholders such as
14 yourself who came and helped us address
15 the young men, I think it has the
16 potential to be a success, because we
17 have here in Philadelphia what some don't
18 have in other jurisdictions, the court.
19 The Chief Justice, Ron Castille, has
20 agreed to help and have designated four
21 judges to be a part of this focused
22 deterrence, and if we have the ability to
23 sustain it, we will.

24 I started The Choice is Yours
25 program. We cannot sustain that. Of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 course, the City didn't have money to
3 give me, so I got a million dollars from
4 Gerry Lenfest and the Lenfest Foundation,
5 \$400,000 from the William Penn
6 Foundation. And for every 200 people
7 that we have in that program, we would
8 save the state \$7 million. Again, the
9 theory is justice reinvestment.

10 We were able to put people in,
11 reducing the rate of recidivism, which is
12 about 65 percent for people who go to
13 state prison, 65 percent get rearrested
14 within three years. This program so
15 far -- our diversionary programs as a
16 whole have about a 13 percent recidivism
17 rate. So we're doing a good job, but I
18 couldn't sustain The Choice is Yours
19 unless I get more money. I have a very
20 good friend in John Wetzel, the Secretary
21 of Corrections, and hopefully we'll be
22 able to do more in the future.

23 But continuing, the gun
24 violence reduction, which is at the
25 forefront of all that we do in trying to

1 4/22/13 - WHOLE - BILL 130178, etc.

2 be --

3 COUNCILMAN JOHNSON: That's
4 three.

5 DISTRICT ATTORNEY WILLIAMS:

6 Yeah. And trying to be smart on crime.

7 Two years ago, I came before Council and
8 asked for an additional \$600,000 so that
9 we could hire Assistant District
10 Attorneys and then backfill and have more
11 senior people just focusing on the
12 non-fatal shootings in our city. We're
13 told by the Administration then, Oh,
14 don't ask Council for the money, we'll
15 work it out some kind of way. Didn't
16 happen. Didn't happen. That's why I'm
17 here again asking you on the record in
18 public for what we need.

19 So last year we had 334
20 homicides. Eighty-five percent were
21 committed with handguns, but not one of
22 them was committed by a person that
23 lawfully possessed a handgun. That is
24 why --

25 COUNCILMAN JONES: Excuse me.

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2 Not one of them?

3 DISTRICT ATTORNEY WILLIAMS:

4 Not one. So I tell people everywhere I
5 go, I have a license to carry a firearm.
6 I also have a license to ride a
7 motorcycle. I don't own a motorcycle, as
8 you know. I like people to have
9 licenses. And so the point is that not
10 one of the homicides last year was
11 committed by a person with a firearm,
12 which means to me we have to focus very
13 narrowly on who is committing the crimes
14 and how can we prevent it, how can we
15 detect them, how can we better reduce
16 recidivism by keeping them in prison
17 longer. And so we saw that in New York,
18 they had the political will in New York
19 to reduce the homicides. They used to
20 have about 2,300 homicides a year in New
21 York City, but, one, they increased
22 funding to the Police. They increased
23 funding. Not decreased funding to the
24 DA's Office. They increased funding to
25 the DAs in all five boroughs, unlike

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Mayor Nutter.

3 What else did they do? He had
4 a holistic approach that addressed many
5 different things. One of them was a
6 mandatory minimum of three and a half
7 years for the unlawful possession of a
8 firearm.

9 So I was able to speak with my
10 good friend Senator Larry Farnese and
11 then State Representative John Taylor to
12 introduce legislation that would increase
13 the penalty. But I had a series -- I
14 invited Councilmembers, clergy, community
15 members to come to my office on three
16 mornings to talk about the gun violence
17 and what we can do collectively. And one
18 of them -- again, nationally the debate
19 is that any one of these things, Oh, it
20 won't work because there's this
21 exception. It won't work because -- we
22 have to try lots of different things.
23 And so one of them we saw in New York.
24 They had a 20 percent reduction in just
25 the first year after imposing a mandatory

1 4/22/13 - WHOLE - BILL 130178, etc.
2 sentence for the unlawful possession of
3 firearms. Last year they had 416
4 homicides in the City of New York. Now,
5 I'm not good with math, but they have
6 eight million people in New York. Only
7 56 percent of their homicides were
8 committed by handguns. Ours is 85
9 percent.

10 Mr. McCann, he went to Catholic
11 high school. He did much better than I
12 did. He went to Monsignor Bonner. He
13 did the math for me. We actually had
14 more homicides in Philadelphia last year
15 caused by handguns than all five boroughs
16 of New York. So they had the political
17 will. The question is, will we have the
18 political will or will we just have more
19 bike lanes?

20 COUNCILMAN JOHNSON: Well, let
21 me ask you this. And I'm a frequent user
22 of the Schuylkill River Trail bike lane,
23 but nevertheless --

24 DISTRICT ATTORNEY WILLIAMS:
25 You can ride your bike even if there

1 4/22/13 - WHOLE - BILL 130178, etc.
2 wasn't a lane, though, right?

3 COUNCILMAN JOHNSON:
4 Nevertheless --

5 DISTRICT ATTORNEY WILLIAMS:
6 Right? As long as you're not going
7 against traffic.

8 COUNCILMAN JOHNSON: And Cobbs
9 Creek Parkway as well. But I want to
10 follow up on something on a more serious
11 note, and I don't know if this should be
12 directed toward the Philadelphia Police
13 Department as well.

14 So when they're doing -- a
15 homicide happens. They recover the guns.
16 What happens to the journey of the gun?
17 And that's probably my biggest question
18 out of the homicides that have taken
19 place in the City of Philadelphia,
20 because the guns are coming from
21 somewhere, and so I'm like, Okay, a
22 homicide happened, we go to these press
23 conferences, we see these AKAs or these
24 six swords that supposedly been recovered
25 from a crime. So I'm like, Okay, what

1 4/22/13 - WHOLE - BILL 130178, etc.
2 happens to that gun? Do you research the
3 gun, do ballistics on the gun, trace the
4 gun back to the owner? And then if it is
5 the case you trace the gun back to the
6 owner, what happens? Just say, Well, I
7 lost it. I mean, that's -- because to
8 me -- I mean, probably the young men
9 shouldn't pick the guns up, but I'm real
10 still big on it's a lot of smoke and
11 mirrors in terms of different policies
12 that we can put out there, but one of
13 those issues that's not really focused on
14 is, those guns still come into our
15 neighborhoods from somewhere. And when
16 you talk about political will, the
17 political will for me is going after the
18 people who are either coming in the
19 neighborhood in the trunk of the car and
20 selling them or the person that go to the
21 gun shows, bring ten guns, and distribute
22 them out on the street. And it's like I
23 don't know why isn't that the focus or
24 why isn't there more pressure put upon
25 those individuals who sell the guns. So

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2 I'm still trying to wrap my head around
3 that part. So help me out from the law
4 enforcement standpoint.

5 DISTRICT ATTORNEY WILLIAMS:

6 Councilman, you're right. I believe that
7 we do have to do a better job of holding
8 accountable and responsible and
9 convicting those that profit off of the
10 bloodshed in our city. And you hear me
11 say that almost everywhere I go. And so
12 you are accurate that if there is a
13 shooting and if there is a spent shell
14 casing at the scene or if part of a
15 projectile is recovered from the human
16 body that was murdered, we can then take
17 the shell fragment, the bullet, take
18 that, and if we have a gun that we think
19 is the gun that it came from, through
20 ballistics at the Police Department or
21 through labs at the FBI, we can compare
22 the projectile to one that we know we can
23 shoot through that gun. Each gun and
24 rifle has what's known as rifling. So
25 it's like to throw a perfect spiral,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 which I know you did when you played
3 football, a spiral comes from being
4 right -- rotating like that. And so
5 there is things inside of the rifle and a
6 gun barrel that make the bullet project.

7 COUNCILMAN JOHNSON: Seth, I'm
8 going to wrap up. We talk about -- I'm
9 trying to get something for the record.
10 I'm with you. I'm a criminal justice
11 man.

12 DISTRICT ATTORNEY WILLIAMS: So
13 we can follow it, but the problem is --

14 COUNCILMAN JOHNSON: I took
15 forensic science. I'm just trying to get
16 the other --

17 DISTRICT ATTORNEY WILLIAMS:
18 I'll cut through all the ballistics
19 stuff. The problem is that we need in
20 Pennsylvania a law to help us. So, one,
21 after Officer Fox was shot in Montgomery
22 County, quickly there was legislation
23 that make that if you -- because the guy
24 who sold the gun to the guy that shot
25 Officer Fox lived in Philadelphia, and he

1 4/22/13 - WHOLE - BILL 130178, etc.
2 sold him nine handguns. So we closed the
3 loophole. We increased the mandatory
4 sentence. If you sell two guns as a
5 straw purchaser, you got a five-year
6 mando.

7 So, again, your question was
8 similar to mine, where are these guns
9 coming from. They're not being built in
10 Point Breeze. So where are they coming
11 from? Yes, there are some places in
12 Philadelphia where you can rent a gun.
13 There are some people that do come and
14 sell multiple guns, but the supermajority
15 of these handguns are getting into the
16 stream of commerce here in Philadelphia
17 from straw purchasers. So the defendant
18 sends his girlfriend or an aunt or a
19 member of the crew who doesn't have a
20 conviction, doesn't have a history of
21 domestic violence or doesn't have a
22 history of mental health, goes in to buy
23 the gun and then sells it to someone.

24 So I'm very thankful. I know
25 Council President Clarke has been a

1 4/22/13 - WHOLE - BILL 130178, etc.
2 champion of making lost and stolen a
3 municipal ordinance, but state law
4 preempts the municipal ordinance. So as
5 much as -- if he were a State
6 Representative, I would champion him in
7 pushing through Harrisburg ensuring that
8 if you lose a gun or it's stolen, that
9 you have to report it. Why? That would
10 significantly reduce the number of straw
11 purchasers, because often our agents go,
12 we find out where the bullet came from,
13 find the gun, we see the serial number,
14 we then trace it, find out where it was
15 sold, we get the record of where it was
16 sold and sold to who, we then ask that
17 person, Oh, you know what, someone broke
18 into my home.

19 COUNCILMAN JOHNSON: And then
20 you leave it alone after that?

21 DISTRICT ATTORNEY WILLIAMS:
22 They didn't take any of the flat screens,
23 any of our jewelry, all they took was
24 that 9-millimeter Glock. And we know
25 they're lying, but there's nothing we can

1 4/22/13 - WHOLE - BILL 130178, etc.
2 do unless we have additional evidence.
3 So that's what happens and that's where
4 it stops.

5 COUNCILMAN JOHNSON: I got you.

6 DISTRICT ATTORNEY WILLIAMS: So
7 something that we can do to reduce straw
8 purchasers, a significant law in
9 Harrisburg, would be to make reporting of
10 them lost and stolen would help.

11 COUNCILMAN JONES: Can I make a
12 suggestion, Councilman? This is
13 meritorious of a hearing. I mean, this
14 is the kind of thing that plagues your
15 district, my district, maybe another
16 eight or so districts in here, and we
17 should have a hearing on that.

18 COUNCILMAN JOHNSON: I was on
19 that path, so what I will do, I'll follow
20 with you as Chairman of Public Safety.
21 And I do know when the shootings happen
22 in Newtown, Councilman Kenney, he already
23 introduced -- you introduced legislation
24 for a hearing on gun violence, Committee
25 of the Whole. If you don't remember,

1 4/22/13 - WHOLE - BILL 130178, etc.

2 then I'll move forward and do it myself,
3 but I was just trying to defer, because
4 you do have something out there. But if
5 not, I'll go back to my office and then
6 we'll do additional followup so we can
7 finish this conversation. Because it's
8 always the -- I mean, because basically
9 what it's essentially saying, because we
10 don't have the state law to address it,
11 we can focus on who shot the gun and then
12 after that, we leave it alone if there's
13 no other followup.

14 COUNCILMAN JONES: But on straw
15 purchases, we may well find a window of
16 opportunity to slow that down. And I
17 think it's the kind of thing that if we
18 sat down with the legal minds and the
19 criminal prosecutors --

20 COUNCILMAN JOHNSON: Thank you,
21 Seth.

22 COUNCILMAN JONES: -- to be
23 able to come up with something like that.

24 Thank you for --

25 COUNCILMAN JOHNSON: Appreciate

1 4/22/13 - WHOLE - BILL 130178, etc.
2 it. And I'll follow up.

3 COUNCILMAN JONES: Councilman
4 Kenney.

5 COUNCILMAN KENNEY: Thank you,
6 Mr. Chairman.

7 District Attorney, we had a
8 recent discussion about a grant that you
9 applied for and was successful in getting
10 and then never got the money. Could you
11 explain a little bit about what you were
12 doing and what it was slated for? We
13 talked on the phone the other day.

14 DISTRICT ATTORNEY WILLIAMS:
15 Witness relocation?

16 COUNCILMAN KENNEY: Have there
17 been grants that you've applied for and
18 been successful in obtaining that have
19 gone to the Administration and not to
20 you?

21 DISTRICT ATTORNEY WILLIAMS:
22 I'm not familiar with that.

23 COUNCILMAN KENNEY: I must have
24 misunderstood our conversation on
25 Saturday. You had mentioned to me that

1 4/22/13 - WHOLE - BILL 130178, etc.

2 there was a grant that you had received.

3 DISTRICT ATTORNEY WILLIAMS: I
4 might have mentioned that we applied for
5 and we got significant funding to begin
6 the e-discovery computer program.

7 COUNCILMAN KENNEY: That's it.

8 DISTRICT ATTORNEY WILLIAMS:
9 Right. So that we would be able to save
10 money for the courts, the Police, the
11 defense bar, the Public Defender's Office
12 for e-discovery.

13 COUNCILMAN KENNEY: How much
14 was that?

15 DISTRICT ATTORNEY WILLIAMS:
16 But we don't have the necessary --

17 COUNCILMAN KENNEY: How much
18 was that grant for?

19 DISTRICT ATTORNEY WILLIAMS:
20 The grant was for \$800,000.

21 COUNCILMAN KENNEY: And it was
22 received?

23 DISTRICT ATTORNEY WILLIAMS:
24 That was received.

25 COUNCILMAN KENNEY: And it went

1 4/22/13 - WHOLE - BILL 130178, etc.
2 where?

3 MR. McCANN: Councilman, it
4 went to basically building the system,
5 mostly to other entities like --

6 COUNCILMAN JONES: State your
7 name again for the record.

8 MR. McCANN: Ed McCann.

9 -- to consultants and things of
10 that nature. We worked with the FJD to
11 have a portal for the system, but all the
12 money went to the system itself.

13 COUNCILMAN KENNEY: So was your
14 office beneficiary of?

15 MR. McCANN: Well, we're a
16 beneficiary to the extent that we'll be
17 able to have our discovery transmitted
18 electronically. We won't have certain
19 expenditures in terms of printing things
20 out and stuff of that nature.

21 COUNCILMAN KENNEY: Did you
22 guys have control over who was hired or
23 who was the consultants? Was there
24 engagement with your office --

25 MR. McCANN: Yes.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILMAN KENNEY: -- in the
3 expenditure of the grant?

4 MR. McCANN: Yes.

5 COUNCILMAN KENNEY: All right.
6 Fine. I may have misunderstood our
7 conversation. So okay. Thank you.

8 COUNCILMAN JONES: Thank you,
9 Councilman.

10 Councilman Oh.

11 COUNCILMAN OH: Thank you very
12 much, Mr. Chairman.

13 Good afternoon, Mr. DA. The
14 nature of our hearing is public, because
15 ultimately we do have to vote on any
16 amendments and other things, and it is a
17 public hearing. I do just want to put my
18 position on the record.

19 So I am surprised that you are
20 not getting funding to the extent --
21 perhaps it's a misunderstanding -- but to
22 the extent that you need to stay at least
23 on par, if not more funding. I think
24 that the terrorism that occurred at the
25 Boston Marathon is just indicative of the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 challenges that we as a nation face, with
3 greater responsibilities and challenges
4 for law enforcement, not only just in
5 neighborhood crime and quality of life
6 and our ability to grow and flourish, but
7 also in those very important and
8 devastating areas. But our criminal
9 justice system works separately and in
10 parts in unison. You can fund the
11 Police, and we should. I support that.
12 But if you don't fund the DA's Office,
13 those arrests don't have the depth of
14 meaning that they should.

15 And so I fully support funding
16 the District Attorney's Office to the
17 extent our elected representative and his
18 leadership team believes we need to have
19 that here in Philadelphia.

20 I will say, however, that --
21 and I will say it's not an inconsistent
22 position -- that our justice system is an
23 adversarial system. It is based on
24 having the best of two different sides
25 come together before a court of law. And

1 4/22/13 - WHOLE - BILL 130178, etc.
2 as much as I want to see public safety
3 funded with the best and all type of
4 special units and the best prosecutors,
5 we should be mindful that those who are
6 being accused should also have good
7 quality representation, and our Public
8 Defender's Office has year after year not
9 been funded to an abysmal rate, in my
10 opinion.

11 So while I fully support
12 funding of the District Attorney's Office
13 to the extent the DA needs it, I will
14 also take a position that we have to
15 provide some funding to the Public
16 Defender's Office. And I think that all
17 together, police prosecutors, defenders,
18 makes up a fair and just system in
19 accordance with our Constitution. I
20 don't think the DA will disagree with
21 that.

22 DISTRICT ATTORNEY WILLIAMS:
23 No. I've stated earlier that, yes, I
24 believe you need to adequately fund the
25 Police Department. You need to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 adequately fund the District Attorney's
3 Office, which has not happened under this
4 Administration. And, yes, I'm proud --
5 we do need to represent indigent
6 defendants appropriately, but how you do
7 that is a business model, which is done
8 in many different ways.

9 COUNCILMAN OH: Yes. Agreed.
10 Thank you very much,
11 Mr. Chairman.

12 COUNCILMAN JONES: Thank you,
13 Councilman, and well put. The justice
14 scales have two sides to it and it always
15 needs to be balanced.

16 Again, I want to reiterate how
17 important we believe your role to be in
18 keeping our city safe, and thank you for
19 you and your staff, many of whom had to
20 spend an afternoon over here with us, and
21 thank you for your commitment and
22 dedication to what you do, and say that
23 we will look at this and see what we can
24 do to negotiate, in addition to what
25 you're going to do hopefully with the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Administration, to make sure key
3 components of this, like the seniors
4 protection aspect of this, Elder
5 Justice -- we're not letting that get
6 away. So we got to figure it out. It
7 just is a little disturbing that your
8 computers are so old that you can't
9 communicate in some cases with the
10 outside world. So we got to work on
11 that.

12 Are there any other questions
13 for the District Attorney?

14 (No response.)

15 COUNCILMAN JONES: Seeing one,
16 I will recognize Councilman Squilla.

17 COUNCILMAN SQUILLA: Point of
18 reference, I guess. I know for IT, we
19 still had \$120 million, I believe,
20 earmarked over a five-year period that is
21 not being spent. I think that's
22 something else we can look into, if
23 that's being spent. We have a department
24 who needs IT money. I think that's
25 something that should be put forward.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCILMAN JONES: And,
3 Councilman, you're right. They're due
4 for a callback, so maybe one of the
5 questions that we pose is how we can help
6 out the District Attorney's Office.

7 DISTRICT ATTORNEY WILLIAMS:
8 They told us that none of that money is
9 devoted to us.

10 COUNCILMAN JONES: Things
11 change.

12 DISTRICT ATTORNEY WILLIAMS:
13 Thank you.

14 COUNCILMAN JONES: Thank you.
15 The next department will be the
16 Law Department.

17 (Witness approached witness
18 table.)

19 COUNCILMAN JONES: Good
20 afternoon, Madam Solicitor.

21 SOLICITOR SMITH: Good
22 afternoon, Councilman Jones. How are
23 you?

24 COUNCILMAN JONES: Thank you
25 for your patience.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: No problem.

3 COUNCILMAN JONES: State your
4 name for the record and please begin your
5 testimony.

6 SOLICITOR SMITH: Certainly.
7 Shelley Smith, City Solicitor.

8 COUNCILMAN JONES: Feel free to
9 summarize if you'd like.

10 SOLICITOR SMITH: You'd like a
11 summary? Sure.

12 COUNCILMAN JONES: It's up to
13 you.

14 SOLICITOR SMITH: I'll
15 summarize it for you.

16 Good afternoon, Councilman
17 Jones and members of City Council. I am
18 City Solicitor Shelley Smith, as I said
19 and as I think you all know. With me
20 today are Donna Mouzayck, my First Deputy
21 City Solicitor; Dan Cantu-Hertzler, Chair
22 of our Corporate and Tax group; Elizabeth
23 Mattioni, Chair of the Litigation group;
24 Barbara Ash, Chief Deputy and Acting
25 Chair, Child Welfare and Health and Human

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Services Unit; Linda Moore, Chief Deputy,
3 Health and Adult Services; Frances
4 Beckley, Chief Counsel for Revenue; and
5 Suki Kazahaya, Director of
6 Administration. I'm pleased to have this
7 opportunity to testify in support of the
8 Law Department's Fiscal '14 budget
9 request, and I will summarize my
10 testimony.

11 The Law Department requests a
12 total of \$12,822,255 in the General Fund,
13 which is a decrease of \$1,955,146 from
14 our Fiscal '13 estimated obligations;
15 \$3,166,711 in the Water Fund,
16 representing an increase of \$58,333 over
17 Fiscal '13; \$1,971,311 in Aviation Fund,
18 which is an increase of \$93,237 over
19 Fiscal '13; \$153,334 in the Community
20 Development Fund, which is an increase of
21 \$4,510 from Fiscal '13; and \$335,987 in
22 the Grants Revenue Fund, a decrease of
23 \$506,833 over Fiscal '13.

24 For Fiscal '13, OEO set our
25 participation goal at 20 percent of the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 contract awards. We are proud of our
3 continued commitment to diversity
4 contracting, which resulted in 28.97
5 percent of contract dollars totalling
6 \$2.7 million being obligated to minority
7 and women certified contractors or led by
8 minority or women staff.

9 In addition, we remain
10 committed to the maintenance of a highly
11 professional Law Department that both
12 reflects the diversity and exceeds the
13 expectations of the citizen of
14 Philadelphians we serve. Of the total
15 Law Department staff of 275 as of
16 February 2013, which includes attorneys,
17 legal assistants, and support staff, 34.6
18 percent are minority and 62.6 percent are
19 women. At the executive committee level,
20 six of seven members are women and three
21 are minority. Our goal for Fiscal '14 is
22 20 percent.

23 The Law Department continues to
24 provide cost-effective representation to
25 its clients and the citizens of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Philadelphia. As of December 31st, 2012,
3 the Law Department was defending 2,468
4 active litigation cases expected to
5 impact the General Fund. Fiscal '13
6 estimated General Fund indemnity
7 obligations are \$31.28 million as
8 compared with Fiscal '12 budgeted
9 obligations of \$32.7 million.

10 The Law Department has obtained
11 excellent results in litigation in 2012.
12 The Civil Rights Unit tried 31 cases to
13 verdict in state and federal court and
14 obtained 23 defense verdicts. The Claims
15 Unit tried six tort claims cases to
16 verdict resulting in five defense
17 verdicts. Cases arbitrated resulted in
18 84 percent outright defense award, and
19 the verdicts received in favor of the
20 plaintiff were nearly 100 percent
21 favorable compared to plaintiffs' demand,
22 meaning the plaintiff was awarded less
23 than the demand.

24 Over the past three years, the
25 Labor and Employment Unit is sustaining

1 4/22/13 - WHOLE - BILL 130178, etc.
2 an excellent record as well, obtaining
3 eight defense verdicts out of eight
4 federal court trials.

5 Through special programs to
6 ensure code violations hearings for
7 vacant properties occur quickly within
8 the Court of Common Pleas, approximately
9 \$195,000 in fines was collected from the
10 inception of the program on September
11 20th, 2011 through March 31st of 2013.
12 Moreover, the overall compliance rate has
13 improved from 40 percent in the initial
14 months of the program to approximately 50
15 percent now.

16 Total collections by the
17 non-tax units of the Law Department for
18 Fiscal '12 totaled \$2.85 million, putting
19 those collections ahead of last year by
20 \$1.5 million, an increase of 111 percent.

21 This past year, among other
22 accomplishments, the Law Department
23 completed a lease agreement under which
24 the Philadelphia Zoological Society is
25 constructing a much-needed multi-story

1 4/22/13 - WHOLE - BILL 130178, etc.
2 parking garage. And that garage is
3 completed now. This project will make it
4 easier for visitors to travel to the Zoo
5 and will alleviate the effective Zoo
6 patron parking on surrounding
7 neighborhoods.

8 In 2012, the Law Department
9 also worked to streamline the regulatory
10 requirements applicable to the Sunoco
11 Philadelphia Refinery. As a result of
12 this successful effort, the Philadelphia
13 Refinery will continue to operate and
14 thereby preserve 850 jobs and, at the
15 same time, invest millions of dollars in
16 capital improvements, including air
17 pollution control upgrades at the
18 facility.

19 And, again, for the fourth
20 fiscal year, the Law Department has
21 decreased costs for outside counsel by
22 keeping many more legal matters in the
23 Law Department. Those expenditures
24 decreased by 36.1 percent since 2009,
25 excepting labor negotiations.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Thank you for the opportunity
3 to testify today on the Law Department's
4 Fiscal '14 budget request. I look
5 forward to continuing to work with
6 members of City Council in the
7 performance of my duties as City
8 Solicitor, and should any Councilmember
9 wish to engage in further discussion on
10 any of these matters, my staff and I are
11 happy to meet with Councilmembers at
12 their convenience, and I'm happy to
13 answer any questions you may have today.

14 COUNCILMAN JONES: That might
15 be the fastest reading of testimony I've
16 heard.

17 SOLICITOR SMITH: Yeah. I
18 speak quickly. I'm sorry about that.

19 COUNCILMAN JONES: That's all
20 right.

21 A couple of questions. By way
22 of the economy a couple years ago when a
23 lot of law firms were in trouble, did you
24 pick up counsel, people that were seeking
25 opportunities within the Solicitor's

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Office?

3 SOLICITOR SMITH: In the
4 earlier years of the recession, we were
5 asked to pick up lawyers who -- fellows
6 who were deferred -- whose hiring offers
7 with law firms had been deferred for a
8 year. We had approximately five in the
9 first year. So essentially those firms
10 paid the fellows a stipend and they came
11 and worked for us. There were other
12 public interest law offices who took
13 fellows around the City as well. We were
14 not the only office to do so, but we had
15 about five the first year and then I
16 think we might have had two the year
17 after that. That has fallen off.

18 COUNCILMAN JONES: Did they
19 leave afterwards?

20 SOLICITOR SMITH: They did.
21 They left afterwards.

22 COUNCILMAN JONES: How is your
23 turnover within your department, and how
24 many people are affected by DROP?

25 SOLICITOR SMITH: In 2013, our

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2 attrition is 5.84 percent. That's a
3 decrease from last year when we had
4 higher turnover at 11.03 percent. But
5 the 2011 number was 5.59 percent. And
6 for most of my tenure, it's been around 5
7 or 6 percent, not the high of 11 percent.

8 COUNCILMAN JONES: Are you
9 losing them to just aging out of the
10 workforce or other opportunities?

11 SOLICITOR SMITH: Mostly other
12 opportunities, I believe.

13 You asked me about DROP. In
14 Fiscal '14, we have three staff members,
15 one lawyer and two support staff people,
16 who will leave the government as a result
17 of DROP.

18 COUNCILMAN JONES: By way of
19 awards and things like that, are they out
20 of -- what was the total amount of
21 obligation on cases that we lost? What
22 was that number? And I did make note of
23 what you saved. Particularly I was
24 fascinated about the oil refinery
25 renegotiation, but I just want to focus

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2 on the losses at this point.

3 SOLICITOR SMITH: Just a
4 second. Let me find that number for you.

5 COUNCILMAN JONES: And could
6 you codify what those kind of cases were
7 in general. You don't have to break it
8 down individual cases, but are we talking
9 about slip and falls? Are we talking
10 about wrongful deaths? Are we talking
11 about police abuse? What are we talking
12 about?

13 SOLICITOR SMITH: The total
14 closed cases, not just verdicts but cases
15 settled as well, the total number was --
16 the total closed cases -- I have two
17 separate charts here that represent two
18 different periods of time, so that's why
19 I'm trying to make sure I'm using the
20 right number.

21 The total closed cases with
22 payment, 636 cases for the first two
23 quarters of Fiscal '13, and the total
24 cost of those cases overall was \$11.5
25 million.

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2 COUNCILMAN JONES: Is that up
3 or down over the last couple of years?
4 Is that about average?

5 SOLICITOR SMITH: It's hard
6 to -- it looks like it's about the same
7 projecting out for the total fiscal year.
8 The chart I'm looking at has total fiscal
9 years for the previous years and I'm
10 looking at Q-1 and Q-2 for Fiscal '13.
11 So the total for Fiscal '12 cost of
12 closure was 25 million.

13 COUNCILMAN JONES: If you could
14 break that out --

15 SOLICITOR SMITH: To break it
16 out, it's about the same.

17 COUNCILMAN JONES: Okay. Just
18 provide that to us with maybe a little
19 chart. But if you were to say what our
20 exposed area is, what would you say the
21 top three might be?

22 SOLICITOR SMITH: The top two
23 areas for City payment are City motor
24 vehicle cases and excessive force or
25 assault and battery, which are police

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2 civil rights typically. Those are the
3 highest.

4 COUNCILMAN JONES: You'll break
5 those down?

6 SOLICITOR SMITH: Yes.

7 COUNCILMAN JONES: And get us
8 that as well?

9 SOLICITOR SMITH: Yes.

10 COUNCILMAN JONES: All right.
11 With that, I will defer to Councilwoman
12 Blackwell.

13 COUNCILWOMAN BLACKWELL: Thank
14 you very much.

15 Good afternoon.

16 SOLICITOR SMITH: Good
17 afternoon.

18 COUNCILWOMAN BLACKWELL: I am
19 interested in the process that is
20 employed when City Council needs a lawyer
21 and the criteria that your office uses to
22 determine when we can hire a lawyer, even
23 if it's for the normal rates, and when we
24 can't.

25 SOLICITOR SMITH: An outside

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2 counsel, you mean?

3 COUNCILWOMAN BLACKWELL: Yes,
4 ma'am.

5 SOLICITOR SMITH: The default
6 position is that the Law Department
7 represents all City employees who are
8 sued. We only hire outside counsel when
9 we have a conflict of interest or when
10 the case is of the nature that we do not
11 have the expertise to handle it in-house.
12 That's the standard that we use across
13 the board.

14 COUNCILWOMAN BLACKWELL: We
15 have confidence in the Solicitors.
16 That's not the issue. The issue is the
17 right of Council to make its own
18 decisions and the right of Council to say
19 if we're willing to go for the same rate
20 that the public gets if we have a private
21 attorney to do that. My question is, why
22 can't that be considered if we wanted
23 outside attorneys?

24 SOLICITOR SMITH: Well, I'm not
25 sure what you mean by the right of

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2 Council to make its own decisions, but we
3 have a limited budget for outside
4 counsel. That budget is based on the
5 standard that -- the application of the
6 standard that I just described. If we
7 were to allow individual clients to elect
8 separate and apart from that general
9 standard and the statutory obligation
10 that we have as a Law Department to
11 represent City employees, except where we
12 cannot by virtue of the ethical rules, we
13 would not have adequate control over the
14 budget that we're allotted for
15 expenditures on outside counsel. And as
16 a practical matter, in terms of the right
17 of Council to make its own decisions --
18 again, I'm not sure exactly what you mean
19 by that, but even outside counsel reports
20 to and is directed by the Law Department
21 in the matters that it handles for City
22 employees when they are hired to
23 represent City employees. So they don't
24 act independently of the Law Department
25 under any circumstance.

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2 COUNCILWOMAN BLACKWELL: Well,
3 we feel the Law Department -- that
4 Council is separate from the
5 Administration, and we feel that you
6 don't understand it because you don't see
7 us. We're not -- we believe there are
8 three branches of government, executive,
9 legislative, and judicial. We're an
10 equal branch of government, and we feel
11 if John Jones in the community needs a
12 City Solicitor, that the City Solicitor
13 should allow Council to have different
14 standing. I know you don't agree,
15 because we don't get it, but we have an
16 issue with that. We feel that if you are
17 our Solicitor, as you said when you were
18 appointed, that you would be our
19 Solicitor and you would be the Mayor's
20 Solicitor. We feel that as a matter of
21 practice that you see yourself as the
22 Mayor's Solicitor and us as the whole
23 rest of the City government, and we don't
24 think that's how we want to be perceived,
25 how we want to be seen, and how we want

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2 our cases treated.

3 Like I said, it has nothing to
4 do with the Solicitors. They're fine.
5 But we're talking about the view of your
6 department when it comes to City Council.
7 If we're the rest -- if we're all the
8 same, then City Council should have its
9 own City Solicitor. If we're the same as
10 every citizen in Philadelphia, then why
11 not have our own City Solicitor, who will
12 listen to our point of view and not say,
13 Well, if you want a lawyer, you and the
14 citizens of Philadelphia, unless you
15 can't do it, that we don't have a right
16 to make those decisions. Well, we don't
17 agree that we should not have input in
18 those decisions.

19 I believe I speak for other
20 members of this body when I say that. We
21 believe that we should have equal
22 consideration as the Administration. We
23 are not under the Administration. We're
24 separate but equal bodies. But we don't
25 feel that you see us that way, and that's

1 4/22/13 - WHOLE - BILL 130178, etc.
2 a problem for us.

3 SOLICITOR SMITH: I'm not
4 really sure how the decision whether or
5 not to hire outside counsel in
6 representation of an individual
7 Councilmember has anything whatsoever to
8 do with our representation of the
9 Administration. Those two things are
10 completely unrelated, because the lawsuit
11 against a Councilmember, which I believe
12 is the context in which you're raising
13 this issue, doesn't have anything to do
14 with the Administration at all, and a
15 decision whether or not the Law
16 Department is capable of or conflicted
17 out of representing a individual
18 Councilmember doesn't have anything to at
19 all to do with the Administration.

20 COUNCILWOMAN BLACKWELL: But
21 when we say that we want to talk about
22 outside counsel, your response has been,
23 We have people to handle your issue.
24 Therefore, what's the problem?
25 Everybody -- and you just said it in your

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2 remarks today, that we and the rest of
3 the citizens of Philadelphia are treated
4 the same way. You said that today.

5 SOLICITOR SMITH: What I said,
6 I think --

7 COUNCILWOMAN BLACKWELL: That's
8 a problem for us.

9 SOLICITOR SMITH: What I said,
10 I think, is that part of our
11 responsibility -- I certainly didn't
12 directly equate City Council, which is a
13 client directly, with the citizens of
14 Philadelphia. But what I said is that in
15 doing our legal work for the City and for
16 the clients that we represent, we
17 indirectly represent the citizens of
18 Philadelphia, because it is taxpayer
19 money that funds our operation, it is
20 taxpayer money that funds outside counsel
21 when we pay them, it is taxpayer money
22 that funds cases if we lose them or
23 settle them and have to pay. So in that
24 respect, we represent the interest of the
25 citizens of the City of Philadelphia,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 because it is their money that gets spent
3 as a result of the decisions --
4 eventually as a result of the decisions
5 that we make. That's different from a
6 client relationship, which is the
7 relationship that we have with, yes, the
8 Mayor and members of the Mayor's
9 Administration, but every individual
10 Councilmember and Council as an entire
11 body. And we make decisions about
12 representation on behalf of individual
13 clients, not on behalf directly of the
14 citizens, but on behalf of the individual
15 client based on the matter that is at
16 issue in the case in which the client is
17 involved, the capacity of the Law
18 Department to handle it, the ethical
19 ability of the Law Department to handle
20 it or lawyers in the Law Department to
21 handle it; in other words, whether or not
22 we have a conflict of interest for some
23 reason that prevents us from handling it,
24 and we make those decisions routinely in
25 accordance with all of those standards.

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2 COUNCILWOMAN BLACKWELL: I

3 would --

4 SOLICITOR SMITH: That's not a
5 decision about what the taxpayers would
6 like directly. That's a decision that
7 is -- it's an administrative
8 responsibility and an ethical
9 responsibility that we exercise in the
10 course of discharging our duties.

11 COUNCILWOMAN BLACKWELL: I
12 would dare say that the taxpayers pay my
13 salary and pay yours as well. Taxpayers
14 pay us all. We all understand that, but
15 when you say you make a decision about
16 our cases, I would dare say that when you
17 talk to the Mayor, you don't tell him
18 what you're going to do and what he has
19 to do.

20 SOLICITOR SMITH: You should
21 ask him that actually.

22 COUNCILWOMAN BLACKWELL: But
23 you tell us what we have to do.

24 SOLICITOR SMITH: You should
25 ask him that actually, because I bet he

1 4/22/13 - WHOLE - BILL 130178, etc.
2 would disagree with you.

3 COUNCILWOMAN BLACKWELL: Well,
4 I'm sure that when you meet with the
5 Mayor, you meet at least as co-equals. I
6 would dare say you don't tell the Mayor,
7 Oh, we have lawyers to take care of your
8 cases; therefore, we don't want to
9 consider outside counsel, because we're
10 broke. We don't have the money, and,
11 therefore, as long as we have lawyers
12 that can handle your cases, we don't need
13 to talk about it, we don't need to do
14 that. I would dare say you don't tell
15 the Mayor you're broke, and when he wants
16 outside Council, that you don't want to
17 consider it.

18 SOLICITOR SMITH: I actually
19 think you should check with the Mayor,
20 because you might get a different answer
21 from him.

22 COUNCILWOMAN BLACKWELL: I'm
23 sure, yeah. I'm sure --

24 SOLICITOR SMITH: Councilwoman
25 Blackwell, with all due respect, if you

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2 think that I am not as firm with the
3 Mayor as I am with every other client,
4 you don't know me very well. The Mayor
5 will tell you that himself, and he says
6 it everywhere he goes.

7 COUNCILWOMAN BLACKWELL: I
8 don't like being referred to as a client.
9 I like being referred to as a co-equal,
10 as I'm sure you do the Mayor. I like
11 being able to have input in the decision.
12 I don't like somebody telling me, The
13 City is broke, so, therefore, we don't
14 need to have -- you're a Councilperson.
15 The City is broke. Just like the rest of
16 the citizens in the City, we don't have
17 money to consider it.

18 I don't believe that is what we
19 expect from a City Solicitor, who is to
20 represent us on an equal basis, as you
21 said when you were -- when you came here
22 for our confirmation, since you're the
23 only position we confirm that the Mayor
24 chooses. We have to confirm. We expect
25 to have some equal consideration. We do

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2 not have that, and I have an issue with
3 that.

4 SOLICITOR SMITH: With all due
5 respect, again, Councilwoman Blackwell, I
6 would just say to you, I hear what you're
7 saying about not wanting to be referred
8 to as a client, but the lawyer-client
9 relationship is the highest relationship
10 that the ethical obligations of a lawyer
11 respect. So when I say that I -- when I
12 refer to as a client, I do it with the
13 utmost respect and not with any
14 disrespect at all.

15 COUNCILMAN JONES: Can I ask a
16 question?

17 COUNCILWOMAN BLACKWELL:
18 Absolutely.

19 COUNCILMAN JONES: Just for
20 clarification on my part, I think I
21 understand, Madam Solicitor, the
22 relationship of the Solicitor *pari passu*,
23 equal to the client of the Council and
24 the client of the Mayor. Is that what
25 you're saying?

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2 SOLICITOR SMITH: Yes. They
3 are equal relationships, lawyer and
4 client in both directions, yes.

5 COUNCILMAN JONES: And
6 generally for hearing the body, they
7 believe it's a little slanted towards the
8 Mayor. We won't argue it, but you have
9 more interaction with that part of the
10 executive branch than the legislative
11 branch. Whether that is true is not what
12 I'm saying. That's the feeling.

13 SOLICITOR SMITH: I accept what
14 you say, sure.

15 COUNCILMAN JONES: So now in an
16 individual case -- and this is just for
17 my own understanding -- if an individual
18 member said that they would like to
19 pursue outside counsel based on this,
20 that or the other, the objective criteria
21 that you make that decision on are what?

22 SOLICITOR SMITH: The criteria
23 on which we base that decision are
24 whether we have a conflict of interest
25 that prevents us from handling it and

1 4/22/13 - WHOLE - BILL 130178, etc.

2 whether we have the capacity to handle

3 it; that is, that it's a matter within

4 the expertise somewhere in our office.

5 So as you're all well aware, we have an

6 office of 165-ish lawyers total -- the

7 number is somewhere around that -- in a

8 variety of different practice areas, and

9 there are some areas where we don't have

10 the expertise, but most civil areas of

11 practice, we have a unit or a division

12 that is capable of handling them.

13 COUNCILMAN JONES: So, again,

14 just for my edification, so is that

15 somewhere written as a policy or is that

16 just how we kind of handled it in the

17 past?

18 SOLICITOR SMITH: It's a policy

19 that's derivative of our state law

20 obligation to represent all City

21 employees. We're obligated to do that

22 under state law.

23 COUNCILMAN JONES: I got that

24 part, but the discretion to outsource

25 versus --

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: And then in
3 terms of whether we decide whether we --
4 so our default position is that we
5 represent any City employee. And, again,
6 I don't say that with disrespect, but
7 Councilmembers are in fact employees of
8 the City.

9 COUNCILMAN JONES: We're
10 thankful to have that sometimes.

11 SOLICITOR SMITH: Right. So we
12 represent all City employees by default
13 unless we cannot do so. And in our --
14 and we have a limited budget -- first of
15 all, we have a limited budget with which
16 to hire outside counsel, and it is our
17 responsibility to manage that budget. So
18 we have a responsibility to manage that
19 budget with some predictability. And so
20 in order to do that, we've established
21 the standard that essentially tracks the
22 combination of our state law obligation
23 and our ethical obligation. So if we
24 have a conflict of interest, which we
25 would analyze under the ethical rules, we

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2 cannot -- that prevents us from
3 representing any client, we would hire
4 outside counsel to do that. I can give
5 you an example, but it wouldn't be
6 relevant here.

7 COUNCILMAN JONES: What I'm
8 trying to get to is --

9 SOLICITOR SMITH: Or if we
10 don't have expertise to handle it.

11 COUNCILMAN JONES: Are those
12 criterion set in a statute or just is it
13 the policy by which a frugal department
14 head makes a decision or is it like --
15 I'm saying is it a matter of statute or
16 is it a matter of discretion?

17 SOLICITOR SMITH: It's a
18 combination of three things. It starts
19 with the statute. It tracks the ethical
20 rules directly in the conflict of
21 interest situation and then indirectly in
22 that if we don't have anybody with
23 expertise to handle it, it wouldn't be
24 prudent under the ethical rules for us to
25 handle it. And then it's a matter of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 discretion in terms of managing the
3 budget.

4 COUNCILMAN JONES: So
5 hypothetically, if this body were to
6 increase your budget and say that that
7 portion of the budget would be reserved
8 for outsourcing of legal services for the
9 defense or representation of a member or
10 body, could we do it, and if we were to
11 do it, how would it have to --

12 SOLICITOR SMITH: The Charter
13 gives us the responsibility and the
14 authority to decide all legal matters.
15 So ultimately the decision of when those
16 people are hired is going to be with us.

17 COUNCILMAN JONES: So would it
18 require a Charter change to change that?

19 SOLICITOR SMITH: Yes, because
20 the Charter gives the Law Department,
21 the City Solicitor, the authority to make
22 all decisions impacting the legal rights
23 of the City and the City employees, the
24 citizens of Philadelphia.

25 COUNCILMAN JONES: I just

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2 needed to put my arms around that. Thank
3 you.

4 Did you --

5 COUNCILWOMAN BLACKWELL: Yes,
6 and then I'm finished.

7 As Council knows, when we
8 decide we want to hire outside counsel to
9 deal with this particular issue, we do
10 that. But yet when it comes to dealing
11 with ourselves, the City Solicitor says,
12 I don't have the money.

13 SOLICITOR SMITH: Under the
14 Charter, City Council is given the right
15 to hire outside counsel when it, as a
16 body, wants to pursue a legal matter.

17 COUNCILWOMAN BLACKWELL: I'm
18 not asking about our rights. I know what
19 ours are. I'm talking about the fact
20 that City Council people have a right to
21 expect that they can get some
22 consideration for themselves from the
23 City Solicitor. We confirm you. The
24 Mayor picks you, but you're the only
25 Commissioner -- and you're the City

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2 Solicitor. You're the only one we
3 confirm. That should mean something.

4 SOLICITOR SMITH: And it does.

5 COUNCILWOMAN BLACKWELL: We
6 should have a right to feel that we can
7 come to you on issues, whether they be
8 personal, our neighborhoods, on any
9 level --

10 SOLICITOR SMITH: You should
11 feel that way.

12 COUNCILWOMAN BLACKWELL: --
13 because we confirm you. But we don't,
14 because you say, We don't have money, we
15 can handle it. When it comes to your
16 cases, that's the way it goes. Because
17 you said it to me.

18 SOLICITOR SMITH: With all due
19 respect, Councilwoman Blackwell --

20 COUNCILWOMAN BLACKWELL: Not
21 that I have a problem with the people who
22 work. That's not the issue.

23 SOLICITOR SMITH: We serve --
24 we demonstrate our commitment to
25 individual City Council members in every

1 4/22/13 - WHOLE - BILL 130178, etc.
2 matter in which we represent them. We
3 represent every client that we represent
4 and certainly every City Council member
5 that we represent as well as or better
6 than any outside counsel will, because we
7 have the expertise to do it. And in the
8 situation that you are referring to in
9 the conversation that we had, you wanted
10 to hire outside counsel because you were
11 sued in an employment discrimination
12 matter, and our Labor and Employment Unit
13 handles employment discrimination matters
14 every single day of the week, and in my
15 testimony in fact --

16 COUNCILWOMAN BLACKWELL: I'm
17 glad that I wanted -- I'm glad I told
18 everybody about this, because you told
19 everybody even about my personal case,
20 and you're the Solicitor.

21 SOLICITOR SMITH: You just
22 referenced the fact that we talked about
23 it, Councilwoman Blackwell.

24 COUNCILWOMAN BLACKWELL: But I
25 did not say what it was. But I've told

1 4/22/13 - WHOLE - BILL 130178, etc.
2 everybody in here I had an employee who
3 sued me on religious discrimination after
4 unemployment ran out. Then she decided
5 she wanted to sue because she couldn't
6 get a job, and every time she told people
7 she worked for me, nobody would hire her.
8 Thank God, I told everybody this, since
9 you are going to sit up here and talk
10 about my case.

11 SOLICITOR SMITH: It's a matter
12 of public record. It's been filed in the
13 courts.

14 COUNCILWOMAN BLACKWELL: Yeah,
15 but you're not supposed to do that.
16 That's very unprofessional.

17 SOLICITOR SMITH: But it's a
18 matter of public record, Councilwoman
19 Blackwell.

20 COUNCILWOMAN BLACKWELL: That
21 is very, very unprofessional. For you to
22 come here -- I referenced it. I did not
23 say specifically why. I did not
24 reference my specific case, but you did
25 because you got angry and you referenced

1 4/22/13 - WHOLE - BILL 130178, etc.
2 my case. That's totally unprofessional,
3 and that's the kind of thing I'm talking
4 about.

5 SOLICITOR SMITH: The lawsuit
6 is a matter of public record. It's been
7 filed in the courts.

8 COUNCILWOMAN BLACKWELL: But
9 none of my --

10 SOLICITOR SMITH: It's been
11 filed in the courts.

12 COUNCILWOMAN BLACKWELL: -- are
13 going to look up some little old case.

14 SOLICITOR SMITH: It's been
15 filed in the courts. It's a matter of
16 public record.

17 COUNCILWOMAN BLACKWELL: But
18 you get my point and I'm sure my
19 colleagues get my point as well. You had
20 no right to talk about it. Everything is
21 a matter of public record. The Right to
22 Know law makes things -- but who is going
23 to take time to look up all of this
24 nonsense? We are busy people. And you
25 didn't have a right -- you had a --

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2 technically you had a right, but it was
3 unprofessional for you to talk about it.

4 SOLICITOR SMITH: I didn't
5 provide the details. I provided not one
6 single detail.

7 COUNCILWOMAN BLACKWELL:
8 Please, Madam Solicitor. Your statement
9 is clear. We confirm you. We have a
10 right to expect consideration, and I'm
11 not so sure that we get it.

12 SOLICITOR SMITH: I'm sorry you
13 don't feel that way.

14 COUNCILWOMAN BLACKWELL: And
15 the respect. I don't believe that you
16 give us that, and I think your statements
17 today have proven that I am correct.

18 COUNCILMAN JONES: All right.

19 COUNCILWOMAN BLACKWELL: Thank
20 you, Mr. Chairman. I'm finished.

21 COUNCILMAN JOHNSON: Thank you
22 for your comments, Councilwoman
23 Blackwell.

24 The Chair recognizes Councilman
25 Kenney.

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2 COUNCILMAN KENNEY: What a
3 beautiful client-attorney relationship.
4 This is fabulous.

5 How much money internally and
6 externally have we spent as a city on
7 appealing the Fire Department arbitration
8 award, and how much have we spent on the
9 ongoing lawsuits and the like?

10 SOLICITOR SMITH: Fire
11 Department only or all of them?

12 COUNCILMAN KENNEY: Fire
13 Department, just the guys getting picked
14 on.

15 SOLICITOR SMITH: We spent a
16 total on the current negotiations, which
17 would include the litigation of the
18 award, we spent a total of \$869,358.

19 COUNCILMAN KENNEY: And that's
20 internally or externally?

21 SOLICITOR SMITH: No. That's
22 with outside counsel.

23 COUNCILMAN KENNEY: That's
24 outside counsel? How about --

25 SOLICITOR SMITH: For the years

1 4/22/13 - WHOLE - BILL 130178, etc.
2 that it's been going on.

3 COUNCILMAN KENNEY: How about
4 internally?

5 SOLICITOR SMITH: Well, we
6 spend the salaries, whatever they are.

7 COUNCILMAN KENNEY: Is there
8 one person that's assigned to kind of
9 shepherding that?

10 SOLICITOR SMITH: It's mostly
11 me and the litigation chair and
12 occasionally one other attorney.

13 COUNCILMAN KENNEY: Now, do
14 you --

15 SOLICITOR SMITH: But we work
16 on everything, so I wouldn't attribute
17 our salaries particularly to that.

18 COUNCILMAN KENNEY: But there's
19 time and money expended on its appeal and
20 litigation.

21 SOLICITOR SMITH: There's
22 certainly been money expended on outside
23 counsel for litigation. There's been --

24 COUNCILMAN KENNEY: And who is
25 the law firm?

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2 SOLICITOR SMITH: Ballard
3 Spahr.

4 COUNCILMAN KENNEY: How were
5 they selected?

6 SOLICITOR SMITH: I beg your
7 pardon?

8 COUNCILMAN KENNEY: How were
9 they selected?

10 SOLICITOR SMITH: Through an
11 RFP process.

12 COUNCILMAN KENNEY: How many
13 firms competed?

14 SOLICITOR SMITH: The first
15 process was --

16 COUNCILMAN KENNEY: If you
17 know. If you don't know, you can get --

18 SOLICITOR SMITH: -- there were
19 three firms that -- maybe four firms that
20 competed for it.

21 COUNCILMAN KENNEY: And did
22 they compete on hourly pricing?

23 SOLICITOR SMITH: It's an
24 overall value. I mean, we have a fixed
25 hourly rate that we --

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2 COUNCILMAN KENNEY: So the firm
3 that's selected gets the same rate
4 regardless?

5 SOLICITOR SMITH: Correct.

6 COUNCILMAN KENNEY: Does either
7 the outside counsel or internal counsel
8 recommend or advise the client on the
9 possibility of winning such a case?

10 SOLICITOR SMITH: We have -- we
11 regularly have a discussion about the
12 merits and --

13 COUNCILMAN KENNEY: Has the
14 City or -- I hate -- I won't say the
15 City, because I don't want to include
16 myself. Has the Administration won on
17 any level?

18 SOLICITOR SMITH: We won the
19 first appeal of the -- well, the first
20 appeal of the fire award -- the award was
21 remanded by agreement.

22 COUNCILMAN KENNEY: Right.

23 SOLICITOR SMITH: Then it was
24 remanded back to the panel, and the panel
25 issued virtually the identical award,

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2 without some of the managerial issues in
3 it, and that's been appealed. It was
4 appealed to Common Pleas Court, and that
5 appeal was unsuccessful, and we have
6 appealed to Commonwealth Court.

7 COUNCILMAN KENNEY: And what's
8 the likelihood that you're going to be
9 successful?

10 SOLICITOR SMITH: I can't say
11 that.

12 COUNCILMAN KENNEY: At some
13 point in time, don't you advise your
14 client that maybe you're kind of throwing
15 good money after bad in pursuing
16 something that apparently is never going
17 to work or is there some other motive to
18 the dragging out of this?

19 SOLICITOR SMITH: I don't think
20 that -- I mean, I'm happy to discuss this
21 with you privately. I'm not going to get
22 into a discussion --

23 COUNCILMAN KENNEY: Let me just
24 say. From now on, we'll discuss
25 everything in public, because this is a

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2 transparent government. I keep on being
3 told all the time transparency and open
4 government. I want to talk about this in
5 public, because it's the public's money,
6 it's the public's employees, and we're
7 public employees also. So I don't really
8 need any secrecy.

9 SOLICITOR SMITH: Well,
10 attorney mental impressions are actually
11 privileged under the law and under the
12 ethical rules. So I'm not at liberty to
13 disclose them in this public hearing, but
14 I'm happy to share them with you
15 privately as a client.

16 COUNCILWOMAN BLACKWELL: Only
17 when it's personal business will she be
18 transparent in public.

19 SOLICITOR SMITH: Attorney
20 mental impressions are never filed with a
21 court.

22 COUNCILWOMAN BLACKWELL: That
23 is her statement.

24 COUNCILMAN KENNEY: So we
25 haven't been successful to date, but we

1 4/22/13 - WHOLE - BILL 130178, etc.
2 continue to spend taxpayers' money to
3 pursue a group of City employees that
4 have actually been awarded something and
5 upheld in court, what, two times?

6 SOLICITOR SMITH: Upheld, no,
7 once.

8 COUNCILMAN KENNEY: Once?

9 SOLICITOR SMITH: We appealed
10 to Commonwealth Court. It was remanded
11 by agreement, and then we appealed again,
12 and that's when the Commonwealth Court...

13 COUNCILMAN KENNEY: And when is
14 that supposed to be determined; do you
15 know?

16 SOLICITOR SMITH: The brief is
17 due today to the Commonwealth Court, and
18 then there's a response. So it will be
19 some months.

20 COUNCILMAN KENNEY: Does
21 anybody, except for the outside law firm
22 who is being paid, think we're going to
23 win this or that the Administration is
24 going to win it?

25 SOLICITOR SMITH: Well, I'd go

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2 back to what I just said a moment ago.

3 COUNCILMAN KENNEY: Because it
4 seems to me -- and this is my opinion,
5 and I'll express it in public. It seems
6 to me that the Mayor and the Law
7 Department and the outside counsel are
8 beating basically a dead horse that
9 ultimately is going to have to be paid
10 for, and there's a lot anguish and angst
11 that goes on as a result of this. And I
12 think it's really disgraceful what we're
13 putting these firefighters and paramedics
14 through. I really do. I think it's one
15 of the worst instances in my memory of
16 the treatment of public employees in the
17 City of Philadelphia, and there's been
18 some bad stuff in the past. This is
19 really, really terrible.

20 SOLICITOR SMITH: Right. I
21 appreciate that, Councilman Kenney. I
22 mean, part of the issue here is that the
23 City and the taxpayers have rights too
24 under Act 111 and PICA, and the appeal
25 seeks to pursue those rights to hopefully

1 4/22/13 - WHOLE - BILL 130178, etc.
2 achieve an award that respects the
3 financial rights of the City and the
4 taxpayers under those statutes and
5 something that is more balanced than what
6 was awarded by the panel.

7 COUNCILMAN KENNEY:

8 Hypothetically, if you put this issue on
9 ballot in this upcoming election, you'd
10 get crushed, because I don't think any
11 citizen -- since you're speaking on
12 behalf of the citizens and taxpayers, I
13 think the citizens and taxpayers are
14 totally in disagreement with you. So
15 you're really not representing your
16 clients, because I don't know anyone who
17 thinks the way the firefighters are being
18 treated is fair. So I don't know who
19 you're speaking for, the Mayor or you're
20 speaking for the taxpayer and citizens,
21 because the taxpayers and citizens don't
22 agree with you.

23 SOLICITOR SMITH: The taxpayers
24 and the citizens don't understand all the
25 issues, Councilman Kenney.

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2 COUNCILMAN KENNEY: Oh, they're
3 just stupid then.

4 SOLICITOR SMITH: No. I didn't
5 say they were stupid. Everybody has
6 areas of expertise, and the taxpayers
7 don't generally have the
8 same information.

9 COUNCILMAN KENNEY: I'm glad
10 you guys know better, because that really
11 is wonderful. It really is terrific. So
12 just keep on spending our money, beating
13 up men and women who are willing to give
14 their life for us, and we'll see if you
15 win.

16 Now, if you lose in
17 Commonwealth Court, are you going to move
18 on to the Supreme Court?

19 SOLICITOR SMITH: We make
20 decisions as we need to make them, and we
21 have --

22 COUNCILMAN KENNEY: Who do you
23 make them in consultation with?

24 SOLICITOR SMITH: I'm sorry?

25 COUNCILMAN KENNEY: Who do you

1 4/22/13 - WHOLE - BILL 130178, etc.
2 make them in consultation with?

3 SOLICITOR SMITH: Well, the
4 first thing that would happen is, we
5 would have to review the opinion of the
6 Commonwealth Court, and then we would
7 have to conduct -- enter into some
8 analysis of it and start from there.

9 COUNCILMAN KENNEY: But at some
10 point -- does it go on forever?

11 SOLICITOR SMITH: Does what go
12 on forever?

13 COUNCILMAN KENNEY: This
14 pursuit of these folks who are employees.
15 Does this go on forever?

16 SOLICITOR SMITH: The
17 advancement of the City's financial
18 rights has -- we have a certain number of
19 procedural opportunities to address them,
20 and that number of opportunities ends at
21 the Supreme Court.

22 COUNCILMAN KENNEY: That's
23 really nice to hear. I'm glad we're
24 going to continue to spend taxpayers'
25 money to do this to these people. I

1 4/22/13 - WHOLE - BILL 130178, etc.

2 mean, it's really -- I am so proud. I
3 can't tell you. I really am. It's
4 really very heartening. Thanks.

5 COUNCIL PRESIDENT CLARKE:

6 Thank you, Councilman.

7 The Chair recognizes Councilman
8 Squilla.

9 COUNCILMAN SQUILLA: Thank you,
10 Mr. President.

11 You had just, I guess, during
12 the testimony, you said that the
13 percentage of the outside lawyers has
14 decreased 39 percent?

15 SOLICITOR SMITH: Excluding
16 labor negotiations, yes, that's correct.
17 36 percent, I think is the number.

18 COUNCILMAN SQUILLA: Oh, 36
19 percent? I'm sorry.

20 SOLICITOR SMITH: 36.1 percent.

21 COUNCILMAN SQUILLA: Why are we
22 excluding labor negotiations in that
23 number?

24 SOLICITOR SMITH: Because labor
25 negotiations are -- I don't want to --

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2 I'm hesitant to -- are not a routine cost
3 of doing business. We're not always --
4 this has been an usual situation, in that
5 we've been involved in labor negotiations
6 for an extended period of time. But for
7 routine matters -- labor negotiations are
8 also something that the City has been --
9 the City hasn't handled in-house in over
10 20 years. But in terms of the routine
11 operation of the Law Department and the
12 retention of outside counsel for matters
13 that we ought to be able to handle,
14 that's why we exclude it.

15 When I came into this position,
16 the cost of outside counsel was -- I
17 think had risen to almost double what it
18 is now. It was around \$7 million and had
19 been --

20 COUNCILMAN SQUILLA: 7 million?

21 SOLICITOR SMITH: Yes. And had
22 been escalating for a few years before I
23 took this position. And so we undertook
24 to reduce those costs, because many of
25 them were expended for outside lawyers to

1 4/22/13 - WHOLE - BILL 130178, etc.
2 handle labor and employment matters and
3 civil rights matters and matters over
4 which the City gets sued routinely. And
5 so we take labor negotiations out. I
6 mean, the cost is still down, but we take
7 labor negotiations out of that because
8 it's not the garden variety work that our
9 office typically does.

10 COUNCILMAN SQUILLA: So when
11 you came in two thousand, I guess, nine,
12 was it?

13 SOLICITOR SMITH: No; 2008.

14 COUNCILMAN SQUILLA: 2008. It
15 was around \$7 million?

16 SOLICITOR SMITH: Correct.

17 COUNCILMAN SQUILLA: And now
18 it's, I guess, decreased 36 percent. So
19 it's like 4.7 million?

20 SOLICITOR SMITH: No. It's
21 actually 3.3 million in Fiscal '13 and
22 3.3 million. That 36 percent is over
23 last year.

24 COUNCILMAN SQUILLA: Over last
25 year?

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2 SOLICITOR SMITH: Yes. It's
3 gone down each year. Oh, I'm sorry.
4 That's from 2009. I apologize.

5 COUNCILMAN SQUILLA: 2009?

6 SOLICITOR SMITH: That's from
7 2009, yes.

8 COUNCILMAN SQUILLA: All right.
9 So if you were to put in the outside
10 counsel that we've been spending, because
11 we have to pay for that, and that money
12 is now being budgeted for outside counsel
13 moving forward?

14 SOLICITOR SMITH: Yes. The
15 money for --

16 COUNCILMAN SQUILLA: For
17 outside counsel for the labor contracts?

18 SOLICITOR SMITH: Yes.

19 COUNCILMAN SQUILLA: And how
20 much is that?

21 SOLICITOR SMITH: The overall
22 cost for labor negotiations for Fiscal
23 '13 has been 401 -- so far has been
24 \$401,022. To give you a comparison, for
25 Fiscal '12 it was total of 441,000. So

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2 for Fiscal '13, adding that number, the
3 total would be \$3.7 million.

4 COUNCILMAN SQUILLA: 3.7
5 million for '13?

6 SOLICITOR SMITH: Yes. And for
7 Fiscal '12, it would be \$3.7 million,
8 because the number is the same. The
9 actual obligations in Fiscal '13 -- I'm
10 sorry. I used the wrong number. Our
11 actual obligations thus far for Fiscal
12 '13 are 2.6. Our budget is 3.3. So the
13 total for Fiscal '13, adding our actual
14 obligations to what's been spent so far
15 on labor negotiations, would be 3.0
16 million. And for Fiscal '12, adding the
17 labor negotiations in, the total
18 expenditure would have been -- was 3.7
19 million.

20 So it's still down
21 significantly over the expenditures
22 before I arrived, but the reason that we
23 take labor negotiations out is not
24 because it inflates it higher, but simply
25 because it's not the routine expenditure

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2 and the focus of -- the more concerted
3 focus of our efforts to reduce the cost
4 of outside counsel was to maintain a
5 staff that could handle the routine
6 matters that the Law Department sees on a
7 regular basis without hiring outside
8 counsel.

9 COUNCILMAN SQUILLA: But hasn't
10 the negotiations been going on for five
11 years?

12 SOLICITOR SMITH: No.

13 COUNCILMAN SQUILLA: Four
14 years?

15 SOLICITOR SMITH: It's been
16 since 2009. We had a one-year contract
17 in 2008, and we're now still negotiating,
18 in many of these instances, the contracts
19 that would have begun in 2009.

20 COUNCILMAN SQUILLA: So '9,
21 '10, '11, '12, '13.

22 SOLICITOR SMITH: Well, '9-'10
23 is one year, '10-'11 is two years,
24 '11-'12 is three years, '12-'13 is four.

25 COUNCILMAN SQUILLA: So four

1 4/22/13 - WHOLE - BILL 130178, etc.
2 years. So for four years, we've been
3 incurring these costs, I would imagine.

4 SOLICITOR SMITH: Correct.

5 COUNCILMAN SQUILLA: So we're
6 looking at close to \$15 million, \$12
7 million?

8 SOLICITOR SMITH: 15 million?
9 I'm not sure where you're getting \$15
10 million.

11 COUNCILMAN SQUILLA: You said
12 3.3 million in '12.

13 SOLICITOR SMITH: Right.

14 COUNCILMAN SQUILLA: 3 million
15 in '13.

16 SOLICITOR SMITH: But that's
17 not all for labor negotiations.

18 COUNCILMAN SQUILLA: You said
19 that was outside counsel that you
20 didn't --

21 SOLICITOR SMITH: Total,
22 including labor negotiations.

23 COUNCILMAN SQUILLA: Oh, I'm
24 sorry.

25 SOLICITOR SMITH: But that's

1 4/22/13 - WHOLE - BILL 130178, etc.
2 not all for labor negotiations. That's
3 the total plus the 400-and-some-thousand
4 dollars for labor negotiations that I
5 just said. I said our Fiscal '12 actual
6 expenditure for legal services -- our
7 actual expenditure was actually 2.8
8 million, but we were budgeted for 3.3.
9 Our labor negotiations expenditure for
10 Fiscal '12 was \$441,000 and then for
11 Fiscal '13 our actual obligations thus
12 far of 2.6 million and our total
13 expenditures on labor negotiations thus
14 far \$401,000. So not 15 million.
15 There's no 15 million in there.

16 COUNCILMAN SQUILLA: Okay.
17 That was your total outside counsel?

18 SOLICITOR SMITH: Total
19 including everything.

20 COUNCILMAN SQUILLA: Total
21 outside Council, \$15 million?

22 SOLICITOR SMITH: No, no, no.
23 I'm still not sure where you're getting
24 the 15 million.

25 COUNCILMAN SQUILLA: Over the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 course of the five years.

3 SOLICITOR SMITH: Over the
4 course of the five years?

5 COUNCILMAN SQUILLA: Since
6 you've been here.

7 SOLICITOR SMITH: Just a
8 second.

9 Our total outside -- you're
10 asking me our total outside counsel
11 expenditures for the entire time I've
12 been here?

13 COUNCILMAN SQUILLA: Yes.

14 SOLICITOR SMITH: Is that your
15 question?

16 COUNCILMAN SQUILLA: Well, that
17 wasn't my question. That's where we got
18 to --

19 SOLICITOR SMITH: I have not
20 answered that question. I didn't
21 understand you to ask that question.

22 COUNCILMAN SQUILLA: I didn't
23 ask that. I was just -- I was asking
24 about the labor negotiations, the cost of
25 that, and then you went into each year of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 what outside counsel was.

3 SOLICITOR SMITH: You asked
4 me -- I don't want to go back, but you
5 asked me why we take out the labor
6 negotiations of the total, and I
7 explained that to you --

8 COUNCILMAN SQUILLA: You said
9 that's not normal, but it's been going on
10 for four years.

11 SOLICITOR SMITH: Correct.

12 COUNCILMAN SQUILLA: So it's
13 sort of normal now. We made it normal.
14 I mean, it wasn't normal before, but for
15 the process -- for most of the time
16 you've been here, we've been doing that.

17 SOLICITOR SMITH: Right. It's
18 just not the kind of thing that the Law
19 Department is set up to handle ever.
20 That's my point.

21 COUNCILMAN SQUILLA: Okay.
22 Could I ask --

23 SOLICITOR SMITH: But even at
24 that, it's been about \$400,000 for the
25 last two years, and it's been higher than

1 4/22/13 - WHOLE - BILL 130178, etc.
2 that in previous years.

3 COUNCILMAN SQUILLA: So that's
4 for the labor contracts, including the
5 33, 47, the firemen, and police and
6 whatnot?

7 SOLICITOR SMITH: Correct.

8 COUNCILMAN SQUILLA: All right.
9 Now, I know we were talking about
10 conflicts, and we had asked this during
11 when the Pension Board was here. Do you
12 see it as a conflict of sitting on the
13 Pension Board, Pension Fund?

14 SOLICITOR SMITH: No.

15 COUNCILMAN SQUILLA: I mean,
16 knowing that the Pension Fund is actually
17 there to represent, I guess, the
18 employees who receive funding to make
19 sure they're funded properly, has there
20 been any litigation anywhere else that
21 would -- in any parts of the country that
22 have found that that would be a conflict
23 to have the Solicitor?

24 SOLICITOR SMITH: For the City
25 Solicitor to sit on the Pension Board?

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2 COUNCILMAN SQUILLA: Yes.

3 SOLICITOR SMITH: Not that I'm
4 aware of.

5 COUNCILMAN SQUILLA: Because it
6 just seems for the most part we're in
7 there as a city to look at protection of
8 the City funds and what could it spend,
9 which you have stated. I know the
10 Pension Fund is in there for the best
11 interest of the pension members, and
12 there's a little disconnect between what
13 is good for the City as far as even going
14 forward with the Fire Department lawsuits
15 and -- what you feel is good for the City
16 and what the Pension Board may feel is
17 good for the pension.

18 So you don't see yourself in
19 that light, that it would be -- you have
20 to wear two separate hats at times when
21 you're looking out for the Pension Fund,
22 people receiving the Pension Fund, and
23 then for what's the best interest of the
24 City?

25 SOLICITOR SMITH: I'm not

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2 really sure I understand how you're
3 teeing up the potential conflict. I
4 mean, I guess the answer is I don't
5 see -- I mean, I wear lots of hats in
6 this job, and sitting on the Pension
7 Board and maintaining the investment
8 status of the Pension Board to the extent
9 that it can meet the obligations of the
10 fund is my -- that's my responsibility on
11 the Pension Board. I don't see that as
12 conflicting with my role in representing
13 the City in labor negotiations. Is that
14 your question?

15 COUNCILMAN SQUILLA: No.

16 SOLICITOR SMITH: Where?

17 Explain --

18 COUNCILMAN SQUILLA: The
19 conflict with the members of the fund.
20 The fund members are there to make sure
21 that the members receive the proper
22 pensions or are able to receive pensions
23 moving forward from this point ongoing.
24 The City's position is that we're there
25 to protect the interest of the City and

1 4/22/13 - WHOLE - BILL 130178, etc.
2 making sure that the fund -- we have the
3 funds available in order to fund our
4 Pension Fund.

5 SOLICITOR SMITH: Well, the
6 financial decision about investment --
7 about the City's contribution to the fund
8 is not a Law Department determination, if
9 that's what you mean. My role on -- the
10 Pension Board's responsibility is to
11 administer benefits and maintain the
12 investments in the fund so that it is --
13 so that it's able to meet its obligation,
14 and we have a fiduciary responsibility to
15 make sure that the Pension Fund itself
16 meets its obligations. But my role on
17 the Pension Board is not related to the
18 funding of the fund, except in the
19 investment portion of it and the
20 administration of benefits.

21 COUNCILMAN SQUILLA: It's not
22 whether you think the City could afford
23 it or not?

24 SOLICITOR SMITH: It's whether
25 the fund can afford it. I mean, the fund

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2 has an obligation based on the pension --
3 based on the pension benefits that are
4 set forth in the ordinance, right? So
5 the obligation to each individual
6 pensioner under whatever plan in which
7 they're enrolled is set forth in the
8 ordinance, and it's the fund's
9 obligation, consistent with the terms of
10 that ordinance, to maintain its
11 investments so that it can meet those
12 obligations.

13 And so that's what the Pension
14 Board does, is make sure that the
15 investments are sound so that the fund
16 itself is maintained and to administer
17 benefits where pension benefits, whether
18 they're -- well, under the respective
19 ordinances, to administer benefits
20 consistent with the ordinances that set
21 forth those pension benefits, like Reg 32
22 disability pensions and those kinds of
23 things, again, consistent with the
24 ability of the fund to pay for them and
25 the legal standards that apply to those.

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2 So that's the obligation of the Board.

3 COUNCILMAN SQUILLA: The only
4 reason I brought that up, I read it, and
5 I guess it's my fault for not having it
6 here. It was somewhere in Florida -- I
7 don't know if it was Miami or some other
8 place -- where it was ruled that it was
9 deemed a conflict for the City Solicitor
10 to be on that, and I didn't know if you
11 felt that same level of conflict.

12 SOLICITOR SMITH: I don't see
13 it here, and I'm not familiar with the
14 case that you're talking about and I'm
15 not familiar with how wherever in Florida
16 this happened.

17 COUNCILMAN SQUILLA: I'll try
18 to get that information to you.

19 SOLICITOR SMITH: But I don't
20 see it here.

21 COUNCILMAN SQUILLA: Just
22 because you have to wear two separate
23 hats. You're looking for -- the people
24 on the Board there are looking solely to
25 protect the benefits of the Pension Fund,

1 4/22/13 - WHOLE - BILL 130178, etc.
2 and then also as the City Solicitor,
3 you're looking to make sure that the City
4 can afford these benefits, and so that
5 may weigh in your decisions on the
6 Pension Fund, and that's where the
7 conflict would come in, and that was all
8 I was asking.

9 SOLICITOR SMITH: Okay.

10 COUNCILMAN SQUILLA: Thank you.
11 I'll wait until the next round.

12 COUNCIL PRESIDENT CLARKE: The
13 Chair recognizes Councilman Kenney.

14 COUNCILMAN KENNEY: Thank you,
15 Mr. President.

16 My office has been working with
17 a group of subcontractors and it's been
18 reported in the press that about 19 or 20
19 or so folks under the NTI program were
20 not paid appropriately during the course
21 of their work. A lot of these men mostly
22 are ex-offenders who are trying to make
23 their way back in the world and doing the
24 right thing, and there's about \$200,000
25 in payments that are due and owing,

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2 according to them. The general
3 contractor was in fact paid after the
4 fact, after the fact became clear that he
5 was paying substandard wages and not
6 treating his employees or subcontractors
7 appropriately. I also understand -- and
8 correct me if I'm wrong -- that there's
9 about \$200,000 or so in a contingency
10 account relative to the contract that was
11 let to -- I think it's Littlepage is the
12 company.

13 SOLICITOR SMITH: LP Group.

14 COUNCILMAN KENNEY: LP Group.
15 Could you tell me what the current
16 situation is and what the City's position
17 on paying these individuals their fair
18 standard?

19 SOLICITOR SMITH: Sure. The
20 City's position has been that it is not
21 the City's obligation to pay the
22 employees that LP Group should have paid.
23 It was LP's obligation to pay them.
24 That's why LP was cited for failing to
25 comply with the prevailing wage law.

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2 COUNCILMAN KENNEY: Is there a
3 contingency account that's being held?

4 SOLICITOR SMITH: I'm not sure.
5 It's not been described to me as a
6 contingency account. It's been
7 described --

8 COUNCILMAN KENNEY: It's their
9 money.

10 SOLICITOR SMITH: -- to me that
11 there were funds that were not used and,
12 therefore, are not appropriately expended
13 for that contract. The contract has been
14 fully satisfied. And so it's LP Group's
15 obligation to pay the employees, not the
16 City's. We've been -- it's the City --
17 well, that's the answer to your question.

18 COUNCILMAN KENNEY: I found it
19 quite cold the comment in the paper by
20 Mr. McDonald on behalf of the Mayor that
21 they should get together and hire a
22 lawyer and sue LP, when in fact the
23 problem is they have no money, because
24 they worked and weren't paid properly,
25 and the City's responsibility was to make

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2 sure that they were paid properly through
3 the Department of Labor Standards. Labor
4 Standards did their job, but the City
5 paid him anyway and allowed him basically
6 fleece his subcontractors.

7 Don't we have some moral
8 responsibility if the money is sitting
9 there to make them whole or as opposed to
10 flippantly telling them to go hire a
11 lawyer?

12 SOLICITOR SMITH: Well, I'm not
13 going to comment on Mr. McDonald's
14 comment. Mr. McDonald can speak for
15 himself. The fact of the matter is, the
16 City does not have a legal obligation
17 to --

18 COUNCILMAN KENNEY: Do they
19 have a moral obligation, since it was the
20 fact that we did not enforce the law
21 properly and we paid LP? We should have
22 held LP's money, let him sue us, but to
23 say that at this point now, where these
24 folks are trying to get their lives
25 together and have done the work and the

1 4/22/13 - WHOLE - BILL 130178, etc.
2 money is there, that we have no legal
3 responsibility, I think we have a moral
4 one, and I find it sad that we can't see
5 that.

6 SOLICITOR SMITH: I appreciate
7 your position.

8 COUNCILMAN KENNEY: So that's
9 it? They're done?

10 SOLICITOR SMITH: I have said
11 already I appreciate your position. I
12 appreciate that this group of individuals
13 is in an unfortunate situation in which
14 LP Group certainly owes them money. The
15 City doesn't have a legal obligation.

16 COUNCILMAN KENNEY: You're
17 missing the point. The City had an
18 obligation to make sure that LP was doing
19 the right thing. Part of the City
20 government did make sure he was doing the
21 right thing by citing him appropriately
22 for mis-paying his employees. Why then
23 was Mr. LP paid his money when he wasn't
24 doing the right thing? Isn't that a
25 legal obligation?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: Isn't that
3 a --

4 COUNCILMAN KENNEY: A legal
5 obligation for us to make sure that
6 people are treated fairly and have the
7 capacity to make them whole as we speak
8 today, but you're not doing it, because
9 you have no legal obligation. It's kind
10 of sad.

11 SOLICITOR SMITH: If the City
12 expended money every time that somebody
13 has a -- every time someone thought we
14 had a moral obligation to compensate
15 someone for a wrong, we would probably
16 not have any more money.

17 COUNCILMAN KENNEY: Well, we
18 have like \$3.7 million in outside legal
19 counsel for fighting firefighters or
20 whatever -- I'm sorry; \$800,000. We
21 could take the \$800,000 that we paid to
22 Ballard Spahr and take \$200,000 of that
23 and give it to the guys who worked, but
24 we have no legal obligation. Just
25 apparently no moral obligation either.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 So that's great.

3 So that's it? They're done?

4 They got to get a lawyer? That's it?

5 SOLICITOR SMITH: I'm not -- I
6 have no comment on what the workers
7 should do. I'm really speaking to the
8 City --

9 COUNCILMAN KENNEY: Well, Mr.
10 McDonald did.

11 SOLICITOR SMITH: -- to the
12 City's legal obligations.

13 COUNCILMAN KENNEY:
14 Mr. McDonald had a pretty cutting and
15 cold -- never mind.

16 COUNCIL PRESIDENT CLARKE:
17 Thank you, Councilman.

18 The Chair recognizes Councilman
19 Squilla.

20 COUNCILMAN SQUILLA: Thank you.
21 And just to piggyback Councilman Kenney's
22 question on LP, who made the decision to
23 pay LP?

24 SOLICITOR SMITH: Just a
25 second.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 If you give me just one second.

3 COUNCILMAN SQUILLA: We have
4 all night.

5 SOLICITOR SMITH: We don't know
6 who decided to pay them. We think it was
7 a mistake, but we don't know whose
8 decision it was to pay them.

9 COUNCILMAN SQUILLA: So
10 somebody administrative level or --

11 SOLICITOR SMITH: I think so,
12 yes.

13 COUNCILMAN SQUILLA:
14 Administrative level say that even though
15 they're wrong, somehow we should pay them
16 and not pay the workers? I mean, is
17 that --

18 SOLICITOR SMITH: I don't know.
19 We don't know.

20 COUNCILMAN SQUILLA: Okay. But
21 since we don't know and say we made a
22 mistake as a city, the City is not
23 obligated to fix or remedy that mistake?

24 SOLICITOR SMITH: Well, I think
25 the issue is, we don't have an obligation

1 4/22/13 - WHOLE - BILL 130178, etc.
2 to the employees. The obligation to the
3 employees runs from LP Group.

4 COUNCILMAN SQUILLA: But --

5 SOLICITOR SMITH: I will say
6 that -- I mean, we're trying to look
7 at -- we've been trying to look at
8 whether or not there is a vehicle that we
9 could use to not open up a slippery slope
10 that might be able to get them paid, but
11 we haven't found it.

12 COUNCILMAN SQUILLA: And the
13 money that's sitting in this supposed
14 account, how was that funded?

15 MR. CANTU-HERTZLER: I believe
16 it's an unliquidated encumbrance. The
17 belief had been that it was retainage
18 against bills that LP Group 2 was
19 still --

20 COUNCIL PRESIDENT CLARKE: I'm
21 sorry, sir. Can you just give your name
22 for the record.

23 MR. CANTU-HERTZLER: I'm sorry.
24 Council President. I'm Dan
25 Cantu-Hertzler from the Law Department.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCIL PRESIDENT CLARKE:

3 Thank you.

4 MR. CANTU-HERTZLER: It's my
5 understanding that people thought there
6 was retainage for the contract to cover
7 bills that were still to come in. It was
8 discovered sometime well after they were
9 paid that in fact they had been paid for
10 all of their bills and there were no more
11 to come in.

12 COUNCILMAN SQUILLA: So that
13 money was sitting there to be paid if
14 there was more bills?

15 MR. CANTU-HERTZLER: If there
16 were more bills, but there weren't.

17 COUNCILMAN SQUILLA: And when
18 this was decided -- and I know we don't
19 know why or who decided to pay LP, but at
20 that time we knew that LP was in
21 violation and when we knew they were in
22 violation, is it possible that LP just
23 didn't submit any more bills even though
24 it was due?

25 MR. CANTU-HERTZLER: I'm

1 4/22/13 - WHOLE - BILL 130178, etc.
2 confident that they would have submitted
3 every possible bill.

4 COUNCILMAN SQUILLA: I'm just
5 wondering, because, I mean, that money is
6 there and it was for a specific cause,
7 and we still have these people that are
8 out there and not being paid what they
9 were expected to be paid, what they were
10 told they were going to be paid.

11 MR. CANTU-HERTZLER: The City
12 paid the money to LP Group 2 that should
13 have gone to the workers. It would be
14 paying it twice if we were to do it now.

15 COUNCILMAN SQUILLA: But we
16 also didn't have to pay LP Group.
17 Knowing that they weren't following the
18 proper procedures, we could have retained
19 that.

20 MR. CANTU-HERTZLER: That's
21 right, we could have retained that.

22 COUNCILMAN SQUILLA: So
23 somewhere along the line, we're just as
24 liable as LP Group.

25 MR. CANTU-HERTZLER: I'm not

1 4/22/13 - WHOLE - BILL 130178, etc.

2 sure that that follows, but I understand.

3 COUNCILMAN SQUILLA: All right.

4 Well, I would just like to be able to

5 continue this conversation along maybe to

6 try to find a way to get these people

7 paid who worked, were expecting the wage.

8 They were in a bad circumstance and we

9 were put in a position and we sort of

10 made it this great thing that we're doing

11 as a city, putting these people to work,

12 and then not paying them, it sort of just

13 doesn't sit right. And whether it's

14 legal, if it's not legal, if it's moral

15 or not moral, we have to find a way to

16 make them whole, and whatever the case

17 may be, there's got to be -- we have a

18 lot of smart people in the

19 Administration, in the Law Department.

20 We have to find a way to be able to come

21 up with a remedy that would not be a

22 slippery slope and will not be a way that

23 every Tom, Dick, and Harry who feels

24 they're wronged would be able to get some

25 type of funds from the City of

1 4/22/13 - WHOLE - BILL 130178, etc.
2 Philadelphia. And if I could help in any
3 way to come up with that remedy, I'd be
4 happy to work with you to do that.

5 SOLICITOR SMITH: Thank you,
6 Councilman Squilla.

7 COUNCILMAN SQUILLA: Thank you.

8 COUNCIL PRESIDENT CLARKE:
9 Thank you, Councilman.

10 Real quick. I heard you on
11 maybe two, three occasions said that you
12 represented every City employee.

13 SOLICITOR SMITH: When -- yeah.
14 What I said was, any time a City employee
15 is sued, we represent them. We're
16 obligated under the state statute to
17 represent them unless there's --

18 COUNCIL PRESIDENT CLARKE: So
19 that's the only time when you represent a
20 City of Philadelphia employee?

21 SOLICITOR SMITH: What do you
22 mean "the only time"? When they're sued?

23 COUNCIL PRESIDENT CLARKE: I'm
24 asking, is that the only time, just in
25 the case of a lawsuit?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: No. I mean,
3 no. Generally we're the lawyer for the
4 City and we're the lawyer for all City
5 employees. I mean, the issue is
6 always -- I mean, on an ordinary day, the
7 average City employee doesn't need a
8 lawyer, so that's why I put it in that
9 context. But we represent every City
10 employee as a general matter.

11 COUNCIL PRESIDENT CLARKE:
12 Okay. So I'm asking this because I don't
13 understand the process. So if there is a
14 case where there's an arbitration or some
15 labor-related issues -- do I have to
16 stop?

17 SOLICITOR SMITH: I think
18 you're out of time. Thank you so much,
19 bye-bye.

20 COUNCIL PRESIDENT CLARKE: I'm
21 sure a lot of my colleagues would love to
22 be able to have a clock on the Council
23 President.

24 With respect to an arbitration
25 award, as an example, or some other

1 4/22/13 - WHOLE - BILL 130178, etc.
2 labor-related cases, do you represent all
3 of the members or do you solely represent
4 the Administration?

5 SOLICITOR SMITH: So in a labor
6 arbitration context, the entity that
7 brings the grievance or, if it's a
8 contract, the entity that is the party
9 opposing the City is the union. So it's
10 the union that is challenging whatever it
11 is, whether it's the contract in the case
12 of interest arbitration that's being
13 litigated or whether there's been a
14 grievance brought on behalf of an
15 employee who has been -- who believes
16 he's been disciplined unfairly or in
17 violation of the contract terms. The
18 party that brings that is the union. So
19 we represent the department -- or the
20 Administration but through the department
21 that, in the grievance arbitration
22 context, has issued the discipline, or in
23 the case of interest arbitration, we
24 represent the City overall against the
25 union in arbitrating the contract award.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCIL PRESIDENT CLARKE: So
3 the union, which represents the
4 employees --

5 SOLICITOR SMITH: Correct. The
6 members of the union, correct.

7 COUNCIL PRESIDENT CLARKE: --
8 that does not count --

9 SOLICITOR SMITH: That's
10 correct.

11 COUNCIL PRESIDENT CLARKE: --
12 as a part of the City?

13 SOLICITOR SMITH: Not in that
14 context, no.

15 COUNCIL PRESIDENT CLARKE: So
16 the unions -- the employees can't come to
17 their lawyer, which is the City
18 Solicitor, and ask for support?

19 SOLICITOR SMITH: In a labor
20 context?

21 COUNCIL PRESIDENT CLARKE: Yes.

22 SOLICITOR SMITH: Well, I'm not
23 sure exactly what you mean, can't come to
24 their lawyer and ask for support.

25 COUNCIL PRESIDENT CLARKE: I'm

1 4/22/13 - WHOLE - BILL 130178, etc.

2 saying that you represent the City.

3 SOLICITOR SMITH: Correct.

4 COUNCIL PRESIDENT CLARKE: And
5 the City is, from my perspective,
6 everybody who works for the City.

7 SOLICITOR SMITH: Right.

8 COUNCIL PRESIDENT CLARKE: So
9 if the employee says, Well, we need
10 support, legal support, in this
11 particular case, then you're prohibited
12 from representing the employee?

13 SOLICITOR SMITH: In labor
14 negotiations?

15 COUNCIL PRESIDENT CLARKE: Yes.

16 SOLICITOR SMITH: Because it's
17 not the employees who are the party; it's
18 the union that's the party.

19 COUNCIL PRESIDENT CLARKE: No.
20 I understand that, but I'm saying if the
21 employees came to you as their lawyer --

22 SOLICITOR SMITH: They
23 wouldn't.

24 COUNCIL PRESIDENT CLARKE: Why
25 wouldn't they?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: Because the
3 union is representing their interest, and
4 in a collective bargaining context, the
5 collective bargaining representative of
6 the employee is not the employee himself,
7 it's the union. So it's not --

8 COUNCIL PRESIDENT CLARKE: But
9 if the employee who you say you represent
10 decides that they want to ask for support
11 from their lawyer in terms of
12 representation for them as a City
13 employee with respect to their labor
14 issue, are you prohibited from
15 representing that person?

16 SOLICITOR SMITH: Well, yeah,
17 because the individuals -- in that
18 situation, the individual employees
19 wouldn't be seeking representation in an
20 official capacity. They would be
21 seeking -- in a labor dispute, they would
22 be seeking representation in their
23 capacity as members of the union.

24 COUNCIL PRESIDENT CLARKE: No.
25 They don't want to do that. They want to

1 4/22/13 - WHOLE - BILL 130178, etc.

2 come as the employee to their lawyer.

3 SOLICITOR SMITH: I mean, in a

4 matter that doesn't involve a labor

5 dispute -- see, I'm not sure I

6 understand -- part of my challenge is, I

7 guess I don't understand how that would

8 ever -- how that situation would ever

9 arise, because the issue in a labor

10 dispute is always about whether the City

11 has acted -- it's one of two things.

12 It's either whether the City has acted in

13 conformance with the contract rights of

14 the union member, whose contract governs

15 the relationship, or it's seeking to

16 establish new contract rights between the

17 union, which is the contracting party,

18 and the City. So in that situation, I'm

19 not sure I understand what an employee

20 would ever be seeking -- how an employee

21 would ever be seeking, outside of those

22 two situations, help as an employee per

23 se that the Law Department could provide.

24 I guess that's what I'm not

25 understanding.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCIL PRESIDENT CLARKE: So
3 an employee that's not represented by the
4 union would have -- would they have an
5 ability to ask for resources from their
6 lawyer with respect to not
7 contract-related rights, because they're
8 exempt employees, but there are rights
9 with respect to pensions. Say, for
10 instance, the exempt employees are forced
11 to take Plan 10 and they don't agree with
12 Plan 10. Does an exempt employee have
13 the ability to come to their lawyer;
14 i.e., the City Solicitor?

15 SOLICITOR SMITH: Not the Law
16 Department, because that's a personal
17 right. It's not a right -- when you say
18 it's a right as an employee, it's not,
19 under the law of scope of employment, a
20 right as an employee. Rights that you --
21 actions in your official capacity mean
22 actions pertaining to your employment and
23 the actions that you take as an employee.
24 The pension rights that you have as an
25 employee are personal rights to you, not

1 4/22/13 - WHOLE - BILL 130178, etc.
2 rights that attend to the duties that you
3 perform as an employee. You get them
4 because you are an employee, but they're
5 not rights that -- they're not legal
6 rights that are related to the exercise
7 of your responsibilities as a City
8 employee.

9 COUNCIL PRESIDENT CLARKE: So
10 everything in the arbitration awards are
11 personal rights?

12 SOLICITOR SMITH: The benefits
13 and terms of employment, those are
14 personal rights that you get by virtue of
15 your employment -- your membership in the
16 union in that situation or your status as
17 an employee. They're not -- and in the
18 arbitration award context where there's a
19 union representing you, your duties are
20 established in connection with that award
21 and your vindication of those rights goes
22 through the union. It doesn't go
23 through --

24 COUNCIL PRESIDENT CLARKE: So
25 if I'm represented by a union, I don't

1 4/22/13 - WHOLE - BILL 130178, etc.

2 have personal rights, I have rights that
3 are subject to the bargaining process?

4 SOLICITOR SMITH: Sort of. You
5 have personal rights, but the union
6 represents them because you're a member
7 of the union. If you're not a member of
8 the union, then they're your own personal
9 rights that you have to then retain
10 private counsel on your own to vindicate.

11 COUNCIL PRESIDENT CLARKE: All
12 right.

13 SOLICITOR SMITH: I mean,
14 that's just the way it works.

15 COUNCIL PRESIDENT CLARKE: The
16 only reason that I'm not going to
17 continue down this path is because it's
18 late, but I think you know where I'm
19 coming from. But I'm going to leave that
20 alone.

21 Let me ask you one quick
22 question. With respect to the Airport --
23 you may not know this, and I understand
24 if you don't -- how much of the Airport
25 property lies within the City of

1 4/22/13 - WHOLE - BILL 130178, etc.

2 Philadelphia boundaries?

3 SOLICITOR SMITH: I think it's
4 a third.

5 COUNCIL PRESIDENT CLARKE: A
6 third?

7 SOLICITOR SMITH: I think it's
8 a third.

9 COUNCIL PRESIDENT CLARKE: And
10 do you know if of that third, there is
11 public advertising on that portion of
12 the --

13 SOLICITOR SMITH: I do not
14 know.

15 COUNCIL PRESIDENT CLARKE: All
16 right. So I would like to get an answer
17 to that question, and if there are -- if
18 there is public advertising on that third
19 of the Airport, I'd like to know the
20 terms and conditions associated with that
21 particular contract.

22 SOLICITOR SMITH: There's
23 actually an advertising policy that
24 specifically applies to the Airport. So
25 I'll be happy to provide that to you.

1 4/22/13 - WHOLE - BILL 130178, etc.

2 COUNCIL PRESIDENT CLARKE: I
3 would like to see all of that in terms of
4 the taxes and nature of the building, the
5 whole nine yards related --

6 SOLICITOR SMITH: Okay.

7 COUNCIL PRESIDENT CLARKE: And
8 also the content-related procedures with
9 respect to that contract.

10 SOLICITOR SMITH: There's a
11 component of that as well.

12 COUNCIL PRESIDENT CLARKE: If
13 there's some public service
14 authorization.

15 SOLICITOR SMITH: There's a
16 component of that as well.

17 I have -- if you want it, I
18 have the answer on the vehicles too, if
19 you want to know. I did follow up on
20 that, since you raised municipal
21 advertising.

22 COUNCIL PRESIDENT CLARKE:
23 Okay.

24 SOLICITOR SMITH: SEPTA
25 vehicles are actually purchased by

1 4/22/13 - WHOLE - BILL 130178, etc.
2 operating funds, so they're not -- so
3 they are not subject to the bond issues
4 that we discussed.

5 COUNCIL PRESIDENT CLARKE: I
6 actually did not ask about SEPTA
7 vehicles.

8 SOLICITOR SMITH: Okay. I
9 thought that was part of the question.

10 COUNCIL PRESIDENT CLARKE: I
11 was asking about City of Philadelphia
12 vehicles.

13 SOLICITOR SMITH: Okay. I have
14 that too.

15 Of our total fleet, we have
16 about 2,500 vehicles that are not bond
17 financed, and the rest were financed in a
18 large purchase last year or in -- let me
19 find it. In 2011, we raised \$28 to \$30
20 million for the purchase of vehicles
21 through the issue of tax-exempt bonds.
22 So there's a significant number of
23 vehicles --

24 COUNCIL PRESIDENT CLARKE: So
25 there are 2,500 that are eligible?

1 4/22/13 - WHOLE - BILL 130178, etc.

2 SOLICITOR SMITH: Correct,
3 including trash trucks, fire trucks, and
4 street sweepers that were purchased
5 through bond payments.

6 COUNCIL PRESIDENT CLARKE:
7 Okay.

8 SOLICITOR SMITH: So...

9 COUNCIL PRESIDENT CLARKE:
10 Okay. All right. Thank you.

11 SOLICITOR SMITH: You're
12 welcome.

13 COUNCIL PRESIDENT CLARKE: The
14 Chair recognizes Councilman Kenney.

15 COUNCILMAN KENNEY: Thank you,
16 Mr. President.

17 Madam Solicitor, are you
18 familiar with a company called Kedra
19 Environmental?

20 SOLICITOR SMITH: No.

21 COUNCILMAN KENNEY: It's a
22 company who did environmental services
23 for the City in a similar circumstance to
24 LP, didn't pay their employees
25 appropriately. My understanding is that

1 4/22/13 - WHOLE - BILL 130178, etc.
2 the employees or the subcontractors were
3 paid out of what's called an indemnity
4 fund. Are you familiar with an indemnity
5 fund?

6 SOLICITOR SMITH: Yeah. We
7 manage that. Did they sue us?

8 COUNCILMAN KENNEY: I'm not
9 familiar with -- that's why I'm asking
10 you about the case. Does anyone with you
11 may know about it? Never heard of them?

12 SOLICITOR SMITH: No. Nobody
13 is familiar with it.

14 COUNCILMAN KENNEY: I would
15 appreciate it if you would ask your staff
16 to investigate --

17 SOLICITOR SMITH: Hedra?

18 COUNCILMAN KENNEY: Kedra,
19 K-E-D-R-A, Environmental. Because my
20 understanding is that the City made those
21 subcontractors whole based on a similar
22 set of circumstances with LP.

23 SOLICITOR SMITH: Do you know
24 when?

25 COUNCILMAN KENNEY: I will get

1 4/22/13 - WHOLE - BILL 130178, etc.

2 you the date.

3 SOLICITOR SMITH: Okay.

4 COUNCILMAN KENNEY: But it's

5 not been that long ago.

6 SOLICITOR SMITH: All right.

7 COUNCILMAN KENNEY: Thank you.

8 COUNCIL PRESIDENT CLARKE:

9 Thank you, Councilman.

10 There are no other questions.

11 I want to thank you very much for your
12 testimony.

13 SOLICITOR SMITH: You're
14 welcome.

15 COUNCIL PRESIDENT CLARKE: The
16 Committee will stand in recess until
17 Thursday, April 23rd, 10:00 a.m. -- I'm
18 sorry; Tuesday, April 23rd, 10:00 a.m.,
19 at which time we will reconvene in Room
20 400.

21 Thank you.

22 (Committee of the Whole
23 adjourned at 5:25 p.m.)

24 - - -

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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