

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LAW AND GOVERNMENT

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, March 10, 2014
10:15 a.m.

PRESENT:

COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BOBBY HENON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN

BILL 140001 - An ordinance amending Chapter
10-800 of The Philadelphia Code, entitled
"Safety," by providing for ending the existing
procedure of mandatory custodial arrests for
the crime of Marijuana possession...

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COUNCILMAN GREENLEE: Good

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morning, everyone. This is the Committee

4

on Law and Government. We have

5

established a quorum with Councilman

6

Kenney, the Committee's Vice Chair;

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Councilman Goode; Councilman Henon; and

8

myself, Bill Greenlee.

9

Ms. Marconi, will you please

10

read the title of the bill that's before

11

us today, please.

12

THE CLERK: Bill No. 140001, an

13

ordinance amending Chapter 10-800 of The

14

Philadelphia Code, entitled "Safety," by

15

providing for ending the existing

16

procedure of mandatory custodial arrests

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for the crime of Marijuana possession,

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and by requiring the reporting of the

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number of arrests and related information

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with respect to those arrested for

21

Marijuana possession; all under certain

22

terms and conditions.

23

COUNCILMAN GREENLEE: Thank

24

you. Our first witness?

25

THE CLERK: Francis Healy.

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2 (Witnesses approached witness
3 table.)

4 COUNCILMAN GREENLEE: Good
5 morning.

6 (Good morning.)

7 COUNCILMAN GREENLEE: Please
8 identify yourself and proceed.

9 MR. HEALY: Sure. Good
10 morning, Councilman Greenlee, Vice
11 Chairman Kenney and other members of the
12 Committee on Law and Government. My name
13 is Francis Healy and I am the Special
14 Advisor to Commissioner Ramsey. I'm here
15 with Director of Public Safety, Michael
16 Resnick. On behalf of the Commissioner,
17 thank you for allowing me to voice the
18 Police Department's opinion on Bill No.
19 140001.

20 The Police Department
21 understands the sponsor's concerns over
22 arrests of individuals possessing low
23 levels of marijuana. I have had multiple
24 conversations with the sponsor and his
25 staff on this issue, and Commissioner

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2 Ramsey and Director Resnick recently met
3 with the Councilman to discuss this bill.
4 These conversations have been productive,
5 and we look forward to continuing these
6 discussions in the future.

7 The Police Department, with the
8 rest of the Administration, supports the
9 basic premise of this bill, that
10 custodial arrests should not be required
11 for the typical case of a small amount of
12 marijuana possession. We do believe that
13 custodial arrests may be necessary in
14 certain cases. Although based on the
15 amendments that I understand will be
16 offered this morning, I believe the PPD
17 and the sponsor are in agreement about
18 those cases -- or which cases those are
19 and, in general, we believe that these
20 amendments are a positive step.

21 The current process for
22 arresting individuals with low levels of
23 marijuana are governed by the Rules of
24 Criminal Procedure which are set forth by
25 the Pennsylvania Supreme Court. While it

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2 may be that these rules as currently
3 written must be amended, we are also open
4 to the possibility that the existing rule
5 can be reinterpreted to do away with the
6 requirement of a custodial arrest in all
7 cases. Either way, all elements of the
8 Philadelphia Criminal Justice System must
9 be in sync. Processes across the Police
10 Department, the District Attorney's
11 Office, and the Courts are
12 interdependent, so they must be changed
13 in step with each other. We believe this
14 goal can be achieved, and we will work
15 towards its realization.

16 I would respectfully submit
17 that the most effective way to achieve
18 this goal is to continue the process
19 initiated by the sponsor; that is, bring
20 together the Police Department, the
21 District Attorney's Office, and the
22 Courts to finish the work of determining
23 new policies and procedures that will do
24 away with mandatory custodial arrests in
25 all cases of marijuana possession.

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2 Let me reiterate, the Police
3 Department is ready to fully participate
4 in and assist with that process.

5 This concludes my testimony,
6 and I'd be happy to answer any questions
7 at this time.

8 COUNCILMAN GREENLEE: Thank
9 you, sir.

10 Mr. Resnick, do you have
11 anything to add?

12 MR. RESNICK: No testimony,
13 Councilman.

14 COUNCILMAN GREENLEE: Okay.
15 First, please let the record reflect that
16 Councilman O'Brien, a member of the
17 Committee, is present.

18 Councilman Kenney.

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

21 I'd like to thank Mr. Healy,
22 Mr. Resnick, and the Law Department,
23 Mr. Murken, and the Police Commissioner
24 and the DA for their cooperation in this
25 process. I mean, I think we all agree

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2 that the number of hours that police are
3 taken off the street during the course of
4 a year to process these issues could be
5 better spent fighting real crime, and
6 that the stigma of having an arrest
7 record and being taken into custody and
8 the demographic information we have on
9 who's getting arrested, I think all this
10 kind of culminates into a change for
11 needing policy. So I thank you for your
12 continued efforts and for your continued
13 cooperation.

14 Thank you.

15 COUNCILMAN GREENLEE: Thank
16 you, Councilman.

17 Councilman O'Brien.

18 COUNCILMAN O'BRIEN: I
19 apologize, Mr. Chairman and members of
20 the Committee, for coming late to the
21 testimony. I was trying to get up to
22 speed on this. And I have to put on my
23 Harrisburg hat and my conscience where I
24 am reluctant to support something that
25 changes a misdemeanor to a summary. I

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2 believe that the State Legislature has
3 the sole authority to do that. But in
4 looking at other jurisdictions -- and I
5 fully understand why Councilman Kenney is
6 doing it, if I caught the importance of
7 your testimony.

8 In other counties, it's my
9 understanding that what they do is, by
10 agreement, they make this a summary at
11 the point of arrest and they check
12 everybody out to make sure that they
13 don't have records and whatnot. But the
14 District Attorney, if I read between the
15 lines, through the SAM program, Small
16 Amounts of Marijuana, has gone as far as
17 they possibly can on the record, and in a
18 case if I were charged with a small
19 amount of marijuana, the appropriate
20 disposition would probably be that I'm
21 charged, I am arraigned, I go into court,
22 and the District Attorney pleads that
23 down to disorderly conduct. My challenge
24 is here -- and I fully support the
25 efficiency that they use in other

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2 counties -- is, what do you charge with?
3 It's kind of a dishonest charge if you
4 initially charge a summary. I don't know
5 how you do that. Do you charge them with
6 disorderly conduct? And if I am an
7 individual, how do I -- if I don't want
8 to pay the fine, if I'm not from
9 Montgomery County where I might have the
10 cash and it's wrong to -- it's kind of
11 challenging for me to take a day off from
12 work to do it, so it's easier to pay the
13 fine. How does the DA then stand this
14 up? Because the marijuana goes. And
15 I'll ask one more question.

16 If you decriminalize this and
17 you say that the arresting officer can
18 charge for the summary and then they take
19 the drugs, what do they do with the
20 drugs?

21 MR. HEALY: Councilman, let me
22 just start. You raise some very
23 interesting concerns that the Police
24 Department had as well.

25 COUNCILMAN O'BRIEN: And that's

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2 why I was late. And I fully support what
3 Councilman Kenney is doing. I think that
4 this is a low-level offense for a very
5 insignificant amount of marijuana. And I
6 apologize for grouping all those
7 questions together.

8 MR. HEALY: And that's where
9 our negotiations have begun. The issues
10 are, yes, it is a state law violation.
11 That is a problem for the Philadelphia
12 Police Department. It's an M-3. It
13 hasn't been downgraded, and I don't
14 believe Councilman Kenney's bill is in
15 any way trying to downgrade the crime.
16 It's the processing of the arrest. So
17 we're trying to change the processes of
18 the arrest.

19 Throughout the state, there are
20 other mechanisms that are used, which are
21 called a summons procedure where people
22 aren't necessarily taken into custody,
23 but they're issued summonses for
24 low-level misdemeanors. That's an option
25 possibly available to us, but it doesn't

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2 downgrade the crime. But that takes a
3 coordinated effort between the Courts,
4 the Police Department, and the DA's
5 Office to make sure that process works.

6 We don't currently work under
7 the summons process in Philadelphia. We
8 make a custodial arrest, they're
9 preliminarily arraigned, and that's how
10 the process works in Philadelphia. I'm
11 not saying that can't be revisited, and
12 that's something we'd be looking forward
13 to revisit.

14 The notion of decriminalizing
15 it or lowering it is problematic. If I
16 can't -- I know what some of the counties
17 are doing. They're making a summary
18 citation for disorderly conduct.
19 Technically, that's legally improper.
20 Like as you mentioned, you can't cite
21 disorderly conduct, because that is not a
22 violation. I mean, low-level possession
23 of marijuana is a misdemeanor. If they
24 want to change it to a summary, I mean,
25 that would help everybody, I said, but as

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2 it stands right now, we're betwixt in
3 between the state law and trying to
4 increase the efficiencies that the
5 Councilman is looking at, and we have to
6 look at everything, because even if we
7 process the arrests as summonses in
8 Philadelphia, the same amount of
9 paperwork and police processing time
10 still needs to be included, so there
11 needs to be another way. And that's what
12 we're looking for. This is the beginning
13 of hopefully some longer discussions to
14 see how we can manage this process in
15 Philadelphia better.

16 COUNCILMAN O'BRIEN: So not to
17 be convoluted, because sometimes I can be
18 that way, your position is you welcome
19 Councilman Kenney's ordinance, but you
20 would rather do it in-house?

21 MR. RESNICK: We support the
22 policy behind the proposed legislation,
23 Councilman, yes, the fact that it would
24 decrease processing time, officers don't
25 have to bring people in, process them

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2 inside, officers can stay out on the
3 street, patrol. So we do definitely
4 support the policy behind the
5 legislation. As Captain Healy stated and
6 as we told the Councilman when we met,
7 it's probably a good idea that we all sit
8 down, the Councilman with the CJAB or the
9 Police Department and the Courts, the DA,
10 the PD will be present, and we can
11 discuss how we can go about achieving
12 these results.

13 COUNCILMAN O'BRIEN: Thank you.

14 COUNCILMAN GREENLEE: Thank
15 you, Councilman.

16 Councilman Henon.

17 COUNCILMAN HENON: Thank you,
18 Chairman.

19 Good morning. Thank you for
20 coming in. Could you explain the process
21 of the SAM program that the District
22 Attorney has implemented and how that
23 alters the police officer's custodial, I
24 guess, criminal procedures, or does it or
25 does it not?

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2 MR. HEALY: It doesn't change
3 anything that the police officers do on
4 the street. That occurs after the arrest
5 has occurred.

6 MR. RESNICK: The front end is
7 the same.

8 COUNCILMAN HENON: So would
9 this be codifying a policy and a
10 procedure that's in place from the
11 District -- collaboratively with the
12 District Attorney's Office and the
13 Courts?

14 MR. HEALY: I honestly don't
15 think so. I mean, the arrest procedures
16 are governed by Pennsylvania State Rules
17 of Criminal Procedure. How we process an
18 arrest is irrelevant of how the District
19 Attorney's Office chooses to prosecute or
20 divert that case.

21 COUNCILMAN HENON: But along
22 with the Court. I mean, I think in your
23 testimony you stated that this is a step
24 in the right direction; is that correct?

25 MR. HEALY: We --

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2 COUNCILMAN HENON: Especially
3 with the amendments that are offered here
4 today.

5 MR. HEALY: Right. We support
6 the premise behind the bill. If we could
7 expedite this processing time, it's a
8 benefit to all. The thing is right now
9 as it stands, we haven't removed any of
10 the requirements on the Police Department
11 report-wise and it would still stand.
12 Police reports would still need to be
13 filed, complaints would need to be filed,
14 proper receipts need to be filled out for
15 any marijuana that's seized, testing has
16 to be done. All that kind of minutia
17 needs to be addressed, so if we really
18 truly want to expedite the process from
19 the Police Department's side, it's not
20 just as simply as writing a citation on
21 the street as a summary citation. In a
22 best-case scenario, that would be
23 probably the best-case scenario if it
24 were downgraded to a summary citation of
25 some sort, and then we could just do the

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2 summary citation on the street. That
3 would be a lot easier. But right now
4 state law is something we have to deal
5 with. It is a misdemeanor and we can't
6 change that.

7 COUNCILMAN HENON: From a
8 policy perspective, I think with the -- I
9 assume that this legislation is looking
10 to codify some of the procedures after
11 the fact, on the front end, whether state
12 law needs to be changed or not, to help
13 the Police Department, and everybody is
14 working in sync together. I mean, in the
15 spirit in policy overview of this
16 legislation, do you believe that's
17 correct?

18 MR. HEALY: I applaud
19 Councilman Kenney for bringing everybody
20 together to speak on this issue. So we
21 are moving in a positive direction.
22 Without his help, we wouldn't even be
23 talking about this issue right now. So
24 how we get it done, I mean, I think it's
25 something we work together to make it

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2 work somehow, shape or form. I just
3 don't know how that is yet.

4 COUNCILMAN HENON: No doubt
5 about it. Listen, that happens a lot
6 with legislation that's passed here.

7 Question about summons. Other
8 summons that maybe other jurisdictions --
9 or let's start with our own here,
10 Philadelphia. Other summons that are
11 issued, how many summons would be issued
12 to an individual that then again it
13 elevates it to a higher level?

14 MR. HEALY: Let me explain so
15 there's no --

16 COUNCILMAN HENON: When does it
17 become a crime?

18 MR. HEALY: --
19 miscommunication.

20 A summons that we're talking
21 about is a summons that's -- the
22 initiation of a legal process in the
23 Rules of Criminal Procedure. It is not
24 equivalent to a summary citation or
25 anything like that. What it's done is,

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2 if I'm a police officer, I stop you for a
3 low-level offense -- in the counties,
4 DUIs, low-level DUIs are processed in
5 this manner -- I take all your
6 information and then I release you. You
7 might get fingerprinted or photographed,
8 but then you're released. And what
9 happened, I submit paperwork to the
10 Court, and the Court then issues a
11 summons to the individual to appear in
12 court at a later time. So it's not
13 something that the Police Department
14 issues. It's something that actually the
15 Court issues in other counties. We don't
16 process arrests that way in Philadelphia.
17 That's a site arrest. I take the body
18 in, you're processed that way. But there
19 is an alternate mechanism to do the same
20 arrest via a summons.

21 But don't think the summons
22 that we're talking about is equivalent in
23 any shape or form to the summary
24 citation. They're very, very different.
25 It's still -- you're still charged with a

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2 misdemeanor offense. It's just you're
3 not processed through the court system.
4 You're not arrested, arraigned. A lot of
5 times you're just released on the scene,
6 but you get a nice little subpoena in the
7 mail to show up in court and address the
8 misdemeanor offense.

9 COUNCILMAN HENON: Okay. I
10 have no other questions.

11 COUNCILMAN GREENLEE: Thank
12 you, Councilman.

13 First, let the record reflect
14 that Councilman Jones, the Majority
15 Leader, is present.

16 Before I recognize Councilman
17 Kenney, just a quick question, if you
18 know. I know you said in answer to one
19 of Councilman O'Brien's questions that
20 what they're doing in Montgomery County
21 and some of these other places can be
22 legally problematic. Do you know, have
23 any issues been raised out there legally
24 that has caused a problem for, say,
25 Montgomery County's policy, if you know?

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2 MR. HEALY: I don't know. Not
3 that I'm aware of.

4 COUNCILMAN GREENLEE: I think
5 Councilman Kenney may have the answer.
6 Councilman.

7 COUNCILMAN KENNEY: There's
8 really been no issues raised either in
9 Pittsburgh or in Montgomery County
10 relative to their policies.

11 The other issue is -- I think
12 where Councilman Henon was going -- for
13 example, if you figure out what the
14 process is and a 19, 20-year-old gets
15 stopped and found and processed the way
16 we would like to see them processed, if
17 you don't show up in court, you're going
18 to get arrested next time you get
19 stopped, because you're going to have a
20 warrant for failure to appear. If you're
21 driving a car under the influence of
22 marijuana, you're going to be arrested.
23 If you have other detainers on you when
24 you're stopped, if you can't show who you
25 are by ID, you'll be arrested.

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2 I mean, this is basically for
3 the person who doesn't have a lot of or
4 any contact with law enforcement that
5 messes up smally, small amount of
6 mess-up, and winds up not having to be
7 put in a jail cell. I mean, that's my
8 goal.

9 Now, if you're a habitual
10 abuser of this program or the SAM
11 program, the DA's Office tells me that at
12 some point in time, they'll hit a
13 threshold and they'll begin to charge.
14 He won't or she won't have that option
15 again.

16 So this is for the one-timer I
17 think who will get the summons, will go
18 to court, will do what they have to do,
19 make amends. I mean, summary drinking
20 citation, I've talked to people at Penn
21 State, there's 40,000 kids up there.
22 It's like a regular thing, and they
23 process them the regular way and I guess
24 the parents wind up paying the fine half
25 the time, but somebody pays something,

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2 and that's the way they process through a
3 District Justice.

4 So I do think we can get there,
5 and I just think that 4,200 arrests a
6 year, especially with the -- if you look
7 at some of the numbers, which really are
8 frightening me, is that we looked at
9 Roxborough as a test case and the 5th
10 Police District. There were no arrests
11 for possession of marijuana in the 5th
12 Police District. Now, no one may be
13 smoking up there, but I doubt that. In
14 every other police district, there were
15 some arrests for marijuana possession.
16 The majority of those arrested in every
17 district were black. Regardless of the
18 percentage of white/black in the
19 district, South Philly and Northeast, for
20 example, for instance, still majority
21 black arrests. And I think that it's
22 part of -- I mean, you can fight, you can
23 argue about the policy of stop and frisk.
24 I have my issues with it, but if you're
25 likely to be stopped and frisked, you're

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2 more likely to be caught with weed, and I
3 think that that's really what it's coming
4 down to, and that's why I want to see
5 that inequity addressed, and for you,
6 your testimony, you've agreed that you'd
7 like to see that inequity addressed too.

8 Thank you.

9 COUNCILMAN GREENLEE: Thank
10 you, Councilman.

11 Councilman O'Brien.

12 COUNCILMAN O'BRIEN: Again, I
13 would just like to follow up on what
14 Councilman Kenney said, and that
15 statistic jumped out at me. And probing
16 into those numbers, I just want to ask a
17 simple thing. The concentration of
18 police resources usually goes to
19 high-crime areas, and is it possible that
20 the concentration of police resources in
21 high-crime areas where there's a high
22 concentration of African Americans
23 results in arrests for marijuana
24 possession, whereas in Roxborough people
25 may be smoking it in their house?

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2 MR. HEALY: Correct.

3 COUNCILMAN O'BRIEN: Okay.

4 COUNCILMAN GREENLEE: Thank
5 you, Councilman.

6 Councilman Jones.

7 COUNCILMAN JONES: Yes. Thank
8 you, Mr. Chairman. And for the record,
9 there is no marijuana in Roxborough at
10 all, ever.

11 COUNCILMAN GREENLEE: In the
12 whole 4th District?

13 COUNCILMAN JONES: In the whole
14 4th District, there is none.

15 But I have a few questions, and
16 I think we -- and thank you, Councilman,
17 for bringing this to our local attention.
18 It's a trend that is being considered
19 around the nation and is a timely issue.

20 I have a couple of questions.
21 So if we had a perfect world where things
22 just kind of went into a nice neat
23 citation box, if you would, this would be
24 treated more like an open container of
25 alcohol, beer? If someone was sitting on

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2 their steps or out in the public purview
3 on a bench, park bench, and had an open
4 container of alcohol, this would now be
5 reduced down to that level of offense?

6 MR. HEALY: That's not what
7 this bill is accomplishing.

8 COUNCILMAN JONES: So help
9 me --

10 MR. HEALY: In a perfect world
11 if you wanted to solve the problem per
12 se, yes, that would be one mechanism that
13 would reduce the police time involved and
14 the custodial arrest of individuals on
15 the street.

16 COUNCILMAN JONES: So that
17 officer would write a ticket and that
18 would be it?

19 MR. RESNICK: Right. But that
20 would require the State Legislature to
21 downgrade --

22 COUNCILMAN JONES: I heard that
23 part of the testimony, that it's not
24 within our purview to change it from a
25 misdemeanor to a summary offense. I got

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2 that.

3 MR. RESNICK: Right. But we
4 could all work together to change the
5 process by which we initiate the criminal
6 process for people with a small amount of
7 marijuana.

8 COUNCILMAN JONES: So at some
9 point, we will determine what is a small
10 amount of marijuana or do we have that
11 already?

12 MR. RESNICK: We're guided by
13 state law that says under 30 grams.

14 COUNCILMAN JONES: Thirty? I'm
15 not real familiar with --

16 MR. HEALY: It's a couple
17 cigarettes really.

18 COUNCILMAN JONES: A couple
19 cigarettes, okay.

20 And I heard Councilman Kenney
21 talk about repeat offenders and that
22 there would be some type of threshold by
23 which if this person constantly is picked
24 up for this summary offense, it would
25 then ramp it up a notch to go to the next

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2 level?

3 MR. RESNICK: Well, those
4 individuals, I would assume, would not be
5 afforded the process by which we're all
6 trying to put in place where they're not
7 taken into custody, they're not
8 photographed and fingerprinted, where
9 they're just issued their paperwork or we
10 gather their information and mail them a
11 summons to appear in court. So those
12 individuals would not be afforded that
13 expedited processing. We would take them
14 actually into custody, or if people
15 failed to appear, they have detainers, we
16 would actually effect an arrest and take
17 those people into custody.

18 COUNCILMAN JONES: So if they
19 had no other issues or commissions of a
20 crime while having this marijuana, they
21 would be offered this one-time summary
22 relationship?

23 MR. HEALY: Well, these are the
24 issues we need to discuss, because the
25 officer on the street is not going to

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2 have that information readily available.
3 So the District Attorney's Office in the
4 charging function whether or not they're
5 going to divert or not divert, I mean,
6 that's probably where the biggest impetus
7 would be, because the DA after the fact
8 would be able to determine whether or not
9 there have been multiple arrests or
10 anything along those lines. But, I mean,
11 that's why I think we work together and
12 come up with a good solid plan.

13 COUNCILMAN JONES: And this
14 would in no way decriminalize the use of
15 marijuana, because then you run into a
16 whole host of complications such as was
17 the person driving under the influence.

18 MR. RESNICK: We're not talking
19 about decriminalization.

20 COUNCILMAN JONES: Or was a
21 police officer, you know, recreationally
22 using this. And so it has a whole other
23 level of scrutiny that we need to
24 understand, beyond the citation level
25 offense, what things now are impacted by

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2 our kind of tolerance of this, correct?

3 MR. RESNICK: Correct.

4 COUNCILMAN JONES: And that has
5 to be flushed out?

6 MR. RESNICK: Correct.

7 COUNCILMAN JONES: Who is going
8 to do the flushing of this?

9 MR. HEALY: Quite honestly, I
10 believe the Councilman has started the
11 process. I mean, we're talking amongst
12 ourselves. The three criminal justice
13 players in the City is the Police, the
14 DA, and the Courts. I think that's the
15 first step, that we need to get on the
16 same page and see -- that's the first
17 step. We haven't got there yet. We
18 haven't sat in the same room yet to
19 figure out what we can do to expedite the
20 process, within the boundaries that we
21 have or with the confines of the laws
22 that we're currently under, how can we do
23 it better. And I think we always should
24 strive to see from the legislator's
25 perspective -- I don't make laws. We

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2 enforce them. So if the public believes
3 it's time for laws to be changed, that
4 would be your purview.

5 COUNCILMAN JONES: Well, these
6 are interesting times, to say the least,
7 and I think it's truly appropriate for us
8 to consider this now. It does strike me
9 as where the thresholds and if it's three
10 times that a person is given that ticket
11 or citation that it bumps up. I mean,
12 these are the details that I would want
13 to know about, because I don't want to
14 give a green light kind of license for
15 young people to sit on the sidewalk and
16 enjoy their particular recreational drug.
17 I really want to make sure that we don't
18 throw gasoline on a fire, if you would.

19 So I look forward to hearing
20 the discussion and seeing where it takes
21 us.

22 Thank you, Mr. Chairman, for
23 your indulgence.

24 COUNCILMAN GREENLEE: Thank
25 you, Councilman.

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2 Councilman Kenney.

3 COUNCILMAN KENNEY: Councilman,
4 the other issue too is one of
5 practicality of having an arrest record
6 and trying to get a job. I mean, it's
7 hard enough for a young person to find a
8 job now. Now, there's a period of time
9 after you go through SAM where you can go
10 and have your record expunged, but that's
11 another process and a process that costs
12 money, and if you're waiting for SAM to
13 kick in and you're out there looking for
14 work, you have to disclose the fact
15 you've been arrested. So that's another
16 issue for our young people.

17 COUNCILMAN JONES: Good point.

18 COUNCILMAN GREENLEE: Thank
19 you, Councilman.

20 Any other questions, comments
21 for these witnesses?

22 (No response.)

23 COUNCILMAN GREENLEE: Seeing
24 none, thank you both very much.

25 (Thank you.)

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2 COUNCILMAN GREENLEE:

3 Ms. Marconi, our next panel.

4 THE CLERK: Paul Messing and
5 Major Neil Franklin.

6 (Witnesses approached witness
7 table.)

8 COUNCILMAN GREENLEE: Good
9 morning to you both. Whoever would like
10 to start, please identify yourself and
11 proceed.

12 MR. MESSING: My name is Paul
13 Messing. I'm an attorney. I'm here
14 speaking on behalf of the ACLU.

15 COUNCILMAN GREENLEE: Go ahead.

16 MR. MESSING: So let me --
17 before I get to the proposed bill and
18 some of the discussions that you've
19 already had, let me give you a little
20 background.

21 In 2011, my partner, Dave
22 Rudovsky, and I and the ACLU filed a
23 class-action lawsuit in Bailey relating
24 to the stop and frisk program and issues
25 of racial disparity in the implementation

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2 of that program.

3 The lawsuit was actually very
4 quickly resolved. A settlement agreement
5 was entered into, and a Consent Decree
6 was issued by a Federal District Court
7 judge. And we've been monitoring it and
8 doing a lot of work with the City and the
9 Police Department over the last three
10 years. It's an ongoing process, and the
11 process will continue for some time.

12 Let me tell you what we've
13 seen. And we provided the third report
14 to the Court and Master, and if members
15 of the Committee don't have it, I'm happy
16 to send it to you.

17 Here's what we found over the
18 past three years: There's been a modest
19 decrease in the number of stops. That is
20 a good thing. But nearly half of the
21 stops, about 47 percent of these stops,
22 pedestrian stops, are made without legal
23 cause. Almost half, about 43 percent, of
24 the frisks are made without legal cause.
25 There are very, very few arrests made,

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2 about 5 percent, as a result of these
3 stops, and many of those arrests aren't
4 for the reasons that these folks were
5 stopped in the first instance. They're
6 for things like disorderly conduct for
7 people that protested a little too loudly
8 about being stopped for no reason. And
9 while the main goal of stop and frisk
10 laws and this stop and frisk initiative
11 was to rid the Philadelphia streets of
12 guns, rarely were guns found, maybe one
13 in a thousand, and many of those cases
14 involve people who actually had permits
15 to carry guns.

16 So one of the things that we
17 began to notice was where there were
18 seizures of contraband, which was very
19 rare, many of those involved seizures of
20 small amounts of marijuana. So we
21 started to focus our analysis on the
22 marijuana possession charges, and here's
23 what we found, and the statistics have
24 been the same in the three periods that
25 we've looked at, which are two-month

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2 periods in 2011, 2012, and 2013.
3 Ninety-four percent are African American
4 and Latino, 94 percent. Now, bear in
5 mind, all statistics nationally and
6 locally in Philadelphia indicate that
7 marijuana use tends to be a little higher
8 among whites than among blacks, yet 94
9 percent.

10 In response to something that
11 Councilman Tasco raised earlier, which
12 was police deployment --

13 COUNCILMAN GREENLEE: Just for
14 the record, that's not Councilwoman
15 Tasco. That's Councilman O'Brien.

16 MR. MESSING: Sorry about that.

17 COUNCILMAN O'BRIEN: You can
18 apologize to Marian Tasco.

19 MR. MESSING: I'll make sure I
20 do that.

21 There was a point raised by
22 Councilman O'Brien about the issue of
23 police deployment affecting this data.
24 We analyzed the data by police district,
25 and what we found was in the

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2 predominantly black districts, everybody
3 arrested for possession of marijuana was
4 black. In the predominantly white
5 districts, most people arrested for
6 possession of marijuana were black. In
7 one district, as Councilman Kenney
8 pointed out, the 5th District,
9 Roxborough, Manayunk, predominantly white
10 area, in 2011 zero possession of
11 marijuana arrests, 2012 zero, 2013 there
12 was one arrest. It was for a young
13 African American male.

14 So the racial disparity issue
15 is very, very disturbing, and I think
16 this bill is important because it
17 directly confronts that issue and tries
18 to do something about it.

19 So there are all these
20 questions that Fran Healy and the City
21 has raised about, well, how do you do
22 this? Because there's this conflict
23 between Pennsylvania law, which rates
24 this as a misdemeanor, although it's a
25 funny law because most misdemeanors in

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2 Pennsylvania are graded offenses that
3 carry up to five years in prison.
4 Possession of small amounts of marijuana,
5 under 30 grams, carries 90 days, which
6 while the act may refer to it as a
7 misdemeanor really is the same as a
8 summary offense, a 90-day and a \$300
9 fine.

10 The problem that we have, in
11 addition to the obvious racial disparity
12 issue, is the continued criminalization
13 of this offense means, as has already
14 been pointed out by members of this
15 committee, bench warrants are issued if
16 you fail to appear in court. There's a
17 criminal record of these that is
18 difficult to expunge, and, of course,
19 expungement is only part of the process,
20 with all of the vendors patrol the
21 Internet for arrest information. It's
22 there even if you get it expunged. And
23 then even for the SAM program that now
24 exists, there's a \$200 program fee. A
25 lot of people can't afford it and a lot

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2 of people are kicked out of that program
3 because they can't afford it. And the
4 same would happen with the \$200 fine.

5 So what do you do? What's the
6 solution? Well, I agree with Fran Healy.
7 I think that the stakeholders here, this
8 committee, the District Attorney, the
9 Police Department, and the court system,
10 need to sit down. There are lots of
11 options. The District Attorney has broad
12 discretion as to whether and when to
13 prosecute and what charge to prosecute.
14 The Police Department have broad
15 discretion in the same connection. And
16 it seems to me there are ways that
17 everybody can agree to make this a
18 summary offense or even a code violation.
19 Washington, DC just last week passed a
20 new law saying that possession of small
21 amounts of marijuana will be considered a
22 civil code violation that carries a \$25
23 fine. It's awaiting the Mayor's
24 signature. My understanding is it passed
25 something like 10-2. It will be signed

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2 and enacted.

3 There is nothing that would
4 stop this body, together working with the
5 District Attorney, the Police and the
6 Courts, from coming up with the very same
7 kind of solution.

8 As I said, if you look at the
9 citations that are issued now for summary
10 offenses, there's a checkoff for
11 disorderly conduct under the Pennsylvania
12 Crimes Code and there's a checkoff for
13 disorderly conduct, which is a little
14 different, under the City ordinance,
15 under the City Code. Police officers
16 frequently check off the box for City
17 ordinance, same with obstructing the
18 highway. Underage drinking is frequently
19 treated as a disorderly conduct. The
20 reason is that it carries this, in
21 addition to the criminal penalty, it
22 carries this automatic license
23 suspension, which lots of people don't
24 want minor offenders, no prior record, to
25 be subjected to. So they charge them as

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2 disorderly conduct. This is done all the
3 time. It could be done here.

4 So the ACLU strongly believes
5 that this bill is a very positive step in
6 the right direction. The devil is in the
7 details. And now everybody has got to
8 sit down, the major stakeholders, and
9 come up with a viable, workable solution.

10 COUNCILMAN GREENLEE: Thank
11 you, Mr. Messing.

12 Before we have any questions,
13 let's hear from Major Franklin and we'll
14 have questions for both.

15 Please identify yourself and
16 proceed.

17 MAJOR FRANKLIN: Yes. I'm
18 retired Major Neil Franklin from the
19 Maryland State Police, currently the
20 Executive Director for Law Enforcement
21 Against Prohibition, which is an
22 international organization of law
23 enforcement professionals who advocate
24 for serious drug policy reform around the
25 globe, but most of our work here is done

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2 here in the state. So thank you for
3 allowing me to testify before you today,
4 members of the Philadelphia City Council.
5 And although I may currently live in
6 Maryland, I was born in Gettysburg,
7 Pennsylvania, which is where most of my
8 family is from. So I'm not that much --

9 COUNCILMAN GREENLEE: That's a
10 little closer, yeah.

11 MAJOR FRANKLIN: A little
12 closer.

13 First of all, I just want to
14 thank you for this progress, for moving
15 forward. I wish Baltimore would take
16 similar steps to deal with the very
17 similar issues of arrests that we have
18 and the many, many arrests that we have
19 in Baltimore City for marijuana
20 possession violations and throughout the
21 State of Maryland. So I applaud you for
22 that effort.

23 I just have a brief statement
24 that I want to read, but before I do
25 that, as Paul said, one of the main

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2 things we're looking at here is
3 discretion, and there's a ton of it at
4 both levels of the prosecutor's office
5 and the police. Police across this
6 country have a great deal of discretion.
7 You don't have to charge any of your
8 citizens under Maryland law for any
9 crime. We're talking about marijuana
10 possession here today, which is a
11 misdemeanor, a very, very small crime in
12 the scheme of things.

13 You can adopt a City ordinance
14 and you can handle all of your marijuana
15 possession incidents under an ordinance,
16 and you don't even have to apply state
17 law. That is an option. You can do
18 that. You have that discretion.

19 So let me move forward here
20 real quick. And my background briefly is
21 34 years in law enforcement, retired from
22 the Maryland State Police. Most of my
23 time there was spent in narcotics
24 investigation and criminal investigation,
25 commanded multi-jurisdictional drug task

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2 forces, and I was the head of training
3 for both the Maryland State Police and
4 the Baltimore Police Department
5 throughout those 30-something years.

6 So despite recent reports of
7 violent crime reduction, every major city
8 across this country has a serious high
9 violent crime rate. The problems that we
10 have in assessing violent crime is that
11 we relate it to recent crime rates,
12 usually no further back than 10 or 15
13 years. Our political leaders and law
14 enforcement fail to dramatically -- fail
15 dramatically in critical thinking, what
16 is the root causation for crime, what are
17 the social conditions responsible for the
18 foundation and the building blocks of
19 violent crime, and what policies either
20 contribute to this condition or do
21 nothing in providing relief.

22 Today's policing involves the
23 strategic placement of police officers
24 according to realtime crime conditions.
25 Models such as CompStat have been adopted

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2 by police agencies throughout the nation.
3 This is the use of realtime statistics in
4 discovering, analyzing, and responding to
5 crime trends. Crime suppression efforts,
6 targeted law enforcement due to trends
7 and pockets is critical to reducing
8 violent crime. In order to be effective
9 in crime reduction, which is immediate
10 responses to crime data, officers need to
11 be available and on patrol.

12 Paul has given some recent
13 statistics regarding marijuana arrests
14 and disparity issues here in
15 Philadelphia. Going back and looking at
16 some recent data, I found in 2010, which
17 the fear is back, and I know these
18 numbers are less today, but in 2010, you
19 had more than 5,500 marijuana possession
20 arrests, according to the ACLU, in the
21 City of Philadelphia. There's not other
22 crimes related to this. These are just
23 marijuana possession arrests. This
24 equates to approximately 14,000 man hours
25 of scarce police resources. That's 1,750

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2 days that police officers are not on the
3 streets patrolling. And every time an
4 officer becomes busy with activities that
5 are not related to reducing violent
6 crime, outside of the strategic
7 deployment plan, you run the risk of
8 being ineffective in suppressing violent
9 crime. Holes are created in both the
10 offense and defense in law enforcement.
11 Officers need to be mobile and they need
12 to be visible. There needs to be an omni
13 presence of what we have in reducing
14 crime.

15 So eliminating the physical
16 arrest of marijuana possession violations
17 will not only benefit the Philadelphia
18 Police Department, but also it will
19 benefit the citizens involved. The
20 physical arrest of citizens is very
21 traumatic and sometimes a life-scarring
22 event.

23 Paul mentioned that even if you
24 have a record expunged, it doesn't go
25 away. I have an iPad right here in front

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2 of me and I can find the arrests of just
3 about anyone in this country, because
4 once it goes into a national database, it
5 never, ever goes away, and that's what
6 employers use as they go through their
7 applicants for a new job.

8 So in closing with my statement
9 here, this adjustment can also benefit
10 citizen-police relationships, especially
11 with the disparities that we just heard
12 mentioned. By reducing the number of
13 negative police-citizens encounters, the
14 opportunities for encounters gone wrong
15 dramatically decrease. Fewer lawsuits
16 should be experienced. This is also an
17 opportunity for improving relationships
18 between police and community. The police
19 should take advantage of this opportunity
20 in publicly announcing and promoting this
21 new policy. With fewer negative police
22 encounters, it's an opportunity for
23 getting the citizenry involved in solving
24 violent crime, which you desperately need
25 as a law enforcement agency.

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2 So I urge you to work very hard
3 at this policy in making this happen here
4 in the City of Philadelphia. I also urge
5 you to support your policymakers in
6 Harrisburg as they move forward with even
7 larger efforts in changing these
8 marijuana laws throughout your great
9 state.

10 So I thank you for allowing me
11 to share that with you.

12 COUNCILMAN GREENLEE: Thank
13 you, Major. Appreciate it. Appreciate
14 both your testimonies.

15 Any questions or comments?

16 (No response.)

17 COUNCILMAN GREENLEE: Seeing
18 none, thank you both very much. Thank
19 you.

20 MR. MESSING: Thank you.

21 COUNCILMAN GREENLEE:
22 Ms. Marconi, who do we have next?

23 THE CLERK: Aaron Fleming and
24 Michael DeJessa.

25 COUNCILMAN GREENLEE: Are

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2 either here? It looks like we got one.

3 (Witness approached witness
4 table.)

5 UNIDENTIFIED SPEAKER: He'll be
6 back.

7 COUNCILMAN GREENLEE: Okay.
8 Direct him up to the table when he comes
9 back. Thank you.

10 Sir, please have a seat,
11 identify yourself for the record. And if
12 I could ask everybody that might still be
13 testifying, if we have written testimony
14 from you, that will be made part of the
15 record and we'd appreciate any
16 summarizing of your statements.

17 But please identify yourself
18 and proceed.

19 MR. FLEMING: Thank you. My
20 name is Aaron Fleming. I'm a student at
21 Temple University. I would just like to
22 quickly share my own experiences with the
23 current law.

24 In September of 2012, I was
25 arrested and charged with possession of a

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2 small amount of marijuana under the
3 current legislation. I was arrested at
4 7:00 p.m. on the grounds of my
5 university's campus with less than 2
6 grams of marijuana, and I was put in a
7 holding cell for over 14 hours, during
8 which I was in the company of people that
9 were charged with violent and more severe
10 crimes.

11 Eventually, after hours of
12 being processed, I was released at 9:00
13 a.m. the next morning. Needless to say,
14 my whole ordeal was unpleasant and
15 extremely upsetting to me.

16 Three months later, I paid a
17 fine of \$200 and enrolled in the City's
18 small amounts course in order to expunge
19 this criminal charge from my record. The
20 entire experience, including the
21 reprimands after the arrest, lasted for
22 the entirety of one year, during which I
23 had to suffer with the consequences of
24 holding an arrest record. It is with
25 these experiences behind me that I

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2 believe that the current legislation for
3 small marijuana possession is
4 unnecessarily harsh and does not offer as
5 much positive effect onto the public as
6 we're led to believe. What benefit did
7 society gain for punishing someone
8 without any prior history of violence or
9 criminal activity over this?

10 This unnecessary process also
11 surprises me in terms of the police
12 resources required to deal with the
13 current rules of the law. During the
14 course of my arrest, the arresting
15 officer was required to call an
16 additional four police officers for
17 backup. The most surprising part of the
18 event was when the backup arrived, they
19 spent a large portion of that hour
20 deciding whether to call in the report
21 into headquarters or to dump out the
22 marijuana and tell me to go home. They
23 told the officer making the arrest that
24 it was not worth his time and that the
25 abundance of paperwork to deal with this

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2 was too cumbersome for this to be
3 considered a necessary course of action.

4 The fact that this current law
5 is even opposed by our own police forces
6 further proves how unnecessary the
7 efforts are in carrying out the law and
8 the burden it puts on our officers.

9 I would like to add that I do
10 not blame law officials, but rather the
11 law that they are forced to uphold. I
12 was simply a person that was minding my
13 own business and showed complete
14 cooperation with officers by being
15 respectful and courteous to their
16 instructions. These additional officers
17 were pulled from their other duties for a
18 full hour, unable to return to their
19 patrol and look out for more severe crime
20 than this. My case is likely just one of
21 the many that seems to have used up the
22 time of the police officers that could
23 have been used to protect the City from
24 other crimes that affect the safety of
25 the local citizens, and in my case, they

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2 seemed to have been feeling the same way.
3 Detaining anybody for possessing
4 marijuana wastes necessary resources
5 needed to actually make the City a safer
6 place and causes more trouble onto the
7 detainee than it is worth, which is why I
8 believe it needs to be changed.

9 Thank you.

10 COUNCILMAN GREENLEE: Thank
11 you.

12 Councilman Kenney.

13 COUNCILMAN KENNEY: Just real
14 quick. I'm just curious, how did the
15 other officers not talk the arresting
16 officer out of making the arrest? It
17 seems that they were trying to not have
18 you arrested. Why did the arresting
19 officer insist?

20 MR. FLEMING: I'm honestly not
21 sure. The arresting officer was a
22 Philadelphia police officer that was
23 assigned to Temple. The rest were Temple
24 security officers. There was four of
25 them. Two of them seemed to be more in

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2 charge, I don't know, experience and they
3 talked to him. They just kind of pulled
4 him over and talked to him for a while.
5 I don't know why he -- the actual reason
6 of why.

7 COUNCILMAN KENNEY: All right.
8 Thank you.

9 COUNCILMAN GREENLEE: Thanks.
10 Sir, please identify yourself
11 and proceed.

12 MR. DeJESSA: Hello. My name
13 is Michael DeJessa. As I sit here today
14 in front of you, I am a criminal. I am a
15 victim of failed public policy and
16 circumstance. When I was a young adult
17 in my early 20's, I was stopped by a
18 police officer in South Philadelphia for
19 a random stop and frisk, in which I
20 willingly turned over under 30 grams of
21 marijuana that qualifies as a small
22 amount for the purpose of state and local
23 law. Prior to the progressive advances
24 made under District Attorney Seth
25 Williams' SAM program, non-violent

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2 citizens like myself were handcuffed,
3 arrested, photographed, fingerprinted,
4 and locked in a cell, typically
5 overnight. Personally, I was detained at
6 the 11th Street station in South
7 Philadelphia for 12 hours, after which I
8 was released on my own recognizance.

9 I went in front of a judge,
10 pleaded guilty, received a hefty fine,
11 over a hundred plus dollars, the cost of
12 an education course. I provided
13 community service. I was also the one
14 thing that -- I also have the one thing
15 that follows me everywhere, a criminal
16 record. Every time I fill out a job
17 application, have a routine traffic stop,
18 I must suffer disproportionate scrutiny
19 for the past non-violent indiscretion.
20 These range from being passed over as a
21 potential hire to a routine traffic stop
22 turning into an invasive full search.

23 I was also one that regarded
24 Philadelphia police with honor and
25 respect, I being named after my Uncle

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2 Michael, a fallen Philadelphia police
3 officer. I also appreciate the work they
4 do and reflect often how glad I am I do
5 not have to do it. But now when I see
6 police, I am weary and cautious. I can
7 only imagine how much more anxiety and
8 animosity other victims of this failed
9 policy must feel towards police after
10 their experience. I speak, of course, of
11 the vast majority of Philadelphians who
12 do not experience regular -- who
13 experience regular run-ins with the
14 police and do not have relatives who have
15 also worn a badge.

16 I, a 33-year-old father of
17 three, realize how important it is to be
18 on the right side of the law. However,
19 this black mark will follow me forever,
20 thanks to a failed policy that burdens
21 not only me, but our city's fine law
22 enforcement officers, overburdened
23 judicial system, and our weary taxpayers.

24 As I sit in front of you today,
25 I speak from my heart. I ask you to

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2 please vote in favor of this bill, so we
3 can move towards a society where we have
4 less criminals, more hard-working
5 students, sons, daughters, and wage
6 earners.

7 Thank you.

8 COUNCILMAN GREENLEE: Thank
9 you. Thank you both for your testimony.

10 Mr. DeJessa, I know you said
11 you were stopped on a random stop and
12 frisk.

13 Mr. Fleming, you may have said
14 this at the beginning. I may have missed
15 it. What generated them to stop you to
16 start with; do you know?

17 MR. FLEMING: The arresting
18 officer was hiding in some bushes waiting
19 for some college kids to light up, I
20 guess.

21 COUNCILMAN GREENLEE: Okay.
22 I'll reserve any other comment after
23 that.

24 Any other questions or
25 comments?

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2 (No response.)

3 COUNCILMAN GREENLEE: Thank you
4 both very much. Thank you.

5 Ms. Marconi, who do we have?

6 THE CLERK: Derek Rosenzweig
7 and Erik Altieri.

8 COUNCILMAN GREENLEE: As
9 they're coming forward, is there anyone
10 else here that wishes to speak?

11 (No response.)

12 COUNCILMAN GREENLEE: Seeing
13 none, these will be our final witnesses.

14 (Witnesses approached witness
15 table.)

16 COUNCILMAN GREENLEE: In both
17 your cases, we have your written
18 testimony. That will be made part of the
19 record. If you could summarize, because
20 both of them are a little on the lengthy
21 side, I'd appreciate it. Okay? Whoever
22 would like to start.

23 MR. ROSENZWEIG: I'll make the
24 best attempt.

25 Chairman Greenlee and Kenney,

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2 members of the Committee, good morning.
3 Thank you for the opportunity to be heard
4 on this subject of ending mandatory
5 custodial arrests for possession of small
6 amounts of marijuana. My name is Derek
7 Rosenzweig. I grew up in Levittown and
8 came to Philadelphia in 2001 to attend
9 Drexel University, graduating from there
10 in 2006 with a Bachelor's of Science in
11 computer science. In my senior year at
12 Drexel, I started -- I founded the
13 chapter of NORML there to raise awareness
14 of the issue among my fellow students. I
15 lived in the City until 2010, until I
16 moved out into the suburbs to Warminster
17 to be closer to my place of work. I love
18 the City. It's a unique place, and I
19 have many fond memories here. And truth
20 be told, I'd still rather live here than
21 the suburbs.

22 But one advantage that other
23 counties have over Philadelphia, as
24 mentioned before, is the ability of the
25 police there to issue a citation on the

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2 spot for a fine or a summons to appear
3 before a court for the possession of
4 small amounts of marijuana. It is my
5 understanding that Philadelphia is the
6 only county whose police are required by
7 state law to perform a custodial arrest
8 when a person is in violation of the law,
9 a policy which, while not without a
10 certain logic, is totally wasteful when
11 you consider the sheer scale of the
12 number of people who break the
13 prohibition law on a daily basis. For
14 the issue of possession of suspected
15 marijuana, police in Philadelphia should
16 be able to issue a citation or a summons
17 on the spot just like police do in other
18 counties.

19 So what does it say when the
20 City still arrests thousands of people
21 per year for this, yet it barely
22 scratches the surface of the number of
23 people breaking this law? Since people
24 generally won't admit to a felony on a
25 federal survey, we unfortunately don't

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2 have data on how many people grow or sell
3 marijuana here. However, to supply such
4 a highly demanded commodity, a sizable
5 number of people must be growing or
6 selling marijuana in Philadelphia.

7 Now, police arrested 2,342
8 people for sale or manufacture of
9 cannabis in 2012. The true number of
10 dealers is most certainly higher than
11 that, but we'll never know. It's a
12 completely opaque black market. From the
13 perspective of the cannabis consumer such
14 as myself, it's also a raw deal.
15 Artificially high prices, no strain
16 choices, no quality control or potency
17 labeling, shady dealers who don't work to
18 any regular schedule, dealers who sell
19 you something that isn't actually
20 marijuana or dealers who try to rip you
21 off or rob you, these are just some of
22 the issues that the average person has to
23 deal with when attempting to purchase
24 marijuana, but still it's relatively easy
25 to get. Anyone can get it.

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2 So what does it say when such a
3 prohibition law exists in the United
4 States and so many people are willing and
5 able to break it? According to the
6 latest Substance Abuse and Mental Health
7 Services Administration survey data, 20.2
8 percent of respondents age 15 or older
9 used marijuana in 2012. Philadelphia has
10 a population of approximately 1,194,552
11 citizens age 15 or older. Now, without
12 adjusting for the same age distribution,
13 approximately 241,300 citizens age 15 or
14 older used marijuana in 2012.

15 Philadelphia police arrested
16 4,272 people for marijuana possession in
17 2012. In other words, for each person
18 arrested for marijuana possession in
19 Philadelphia in 2012, about 57 were not.
20 These are rough estimates, but 1 to 57 is
21 a huge ratio, and that kind of failure
22 rate would never be tolerated for any
23 kind of serious crime. This happens year
24 after year.

25 Now, from 2009 to 2012, African

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2 Americans have borne the overwhelming
3 brunt of marijuana prohibition
4 enforcement, both for simple possession
5 and for sales and manufacture. Now,
6 according to a 2010 National Survey on
7 Drug Use, rates of use vary among race
8 only by a few percentage points, meaning
9 African Americans are no more likely to
10 do drugs than any other race. African
11 Americans consist of only 43.2 percent of
12 the population of Philadelphia County.
13 And if you refer to the graphs that I
14 submitted in my written testimony as well
15 as the data sheets, you can see very
16 clearly that year after year Philadelphia
17 police arrest African Americans at a
18 substantially higher rate than whites,
19 Native Americans or Asians. For the
20 record, in 2009, African Americans
21 consisted of 82.3 percent of arrests for
22 simple possession. In 2010, 82 percent.
23 In 2011, 81.9 percent, and in 2012, 81.7
24 percent. This is not an isolated
25 incident.

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2 Numbers don't lie and plainly
3 indicate a pattern of targeted rather
4 than equal enforcement, an issue that
5 should be addressed immediately for the
6 safety of the entire community. African
7 Americans are 5.46 times as likely to get
8 arrested as other races in Philadelphia
9 for marijuana possession. This trend is
10 present not only in Philadelphia, but
11 throughout the entire nation, and it
12 needs to end. Making small amounts of
13 marijuana the lowest police priority,
14 which this bill would do, would be a big
15 factor in beginning to end this
16 unconscionable arrest disparity.

17 Now, support for marijuana
18 legalization has never been higher than
19 today. The latest Quinnipiac survey
20 released this past March 3rd found that
21 48 percent of respondents support
22 legalizing and regulating marijuana, with
23 49 percent opposed. The latest
24 Mercyhurst survey, also released this
25 past March, found that 48 percent are

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2 also in favor, with only 42 percent
3 opposed. Combined, these show the
4 highest support and lowest opposition to
5 marijuana legalization at the same time
6 in Pennsylvania history. The Mercyhurst
7 survey also found that responders favor
8 decriminalization, 59 percent to 34
9 percent, but prefer full legalization
10 over decriminalization by 31 to 16
11 percent.

12 The marijuana market is a
13 fundamental truth of life in
14 Philadelphia, in Pennsylvania, and in the
15 United States. It goes to show that
16 marijuana prohibition laws create public
17 safety and health problems; are, in
18 essence, unenforceable; create an
19 intolerable and unjust racial disparity;
20 and are a failure of public policy of the
21 highest magnitude.

22 In closing, I would ask three
23 things of this Council. First, to pass
24 this ordinance as soon as possible. In
25 addition to helping resolve the racial

1 3/10/14 - LAW & GOV. - BILL 140001
2 disparity issue and ceasing the needless
3 arrest of otherwise law-abiding citizens,
4 it would save the City and its taxpayers
5 a bundle of money. It is almost the most
6 the City can do on its own.

7 To that end, our second
8 recommendation is to ask the Council to
9 pass a resolution calling for the
10 Commonwealth to move forward Senate Bill
11 528, which would end marijuana
12 prohibition throughout the entire state
13 and set up a legal, regulated framework
14 for cultivation, sale, and distribution.
15 The City Council of Charlottesville,
16 Virginia passed a similar resolution in
17 May of 2012 with Councilor Dave Norris
18 stating, I think it's perfectly
19 legitimate for us to say as an elected
20 body that there are other priorities and
21 that we're going the wrong direction when
22 it comes to the war on drugs.

23 Third and finally, tomorrow
24 night at 10 o'clock p.m., we ask you to
25 tune in to CNN to watch Dr. Sanjay

1 3/10/14 - LAW & GOV. - BILL 140001
2 Gupta's brand new documentary on
3 marijuana's use as medicine.

4 I thank you for your time and
5 your consideration on this important
6 issue.

7 COUNCILMAN GREENLEE: Thank
8 you. Thank you for your remarks.

9 Sir, please identify yourself
10 and proceed.

11 MR. ALTIERI: I am Erik Altieri
12 and I'm the Communications Director for
13 the National Organization for the Reform
14 of Marijuana Laws in DC, and I was also
15 born and spent most of my young life
16 right here in Northeast Philadelphia.

17 I'd like to focus my testimony
18 today really on three key areas, and
19 those areas are efficacy, equality, and
20 feasibility.

21 The first area I'd like to
22 touch on is efficacy, and efficacy is
23 something that we must consider when
24 weighing the worth of any law. Does this
25 law work as intended and does its

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2 application have the desired outcomes?
3 The answer to both of those questions
4 when it comes to our marijuana policy is
5 a resounding no.

6 According to the University of
7 Michigan's Ann Arbor's annual Monitoring
8 the Future survey, which they've
9 conducted every year since the mid 1970s,
10 minors have reported that marijuana is
11 very easy to acquire, significantly
12 easier than currently regulated alcohol
13 and tobacco products, and this has been
14 true for decades. And there is a simple
15 reason for this, and that is that drug
16 dealers do not check ID.

17 By taking alcohol and tobacco
18 off the street corner and putting it
19 behind the counter of state-regulated
20 business, we have managed to implement
21 strict frameworks that control who can
22 get their hands on these products and
23 when. This is in stark contrast to our
24 policy of total prohibition on marijuana,
25 a policy which at its core is complete

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2 absence of control or regulation.

3 The survey also revealed that
4 the use of alcohol and tobacco products
5 among all grades has fallen consistently
6 since the mid 1990s and now stands at
7 all-time historic lows. We managed to
8 achieve these successes not by arresting
9 people for possessing these products, but
10 by tightly controlling them with
11 regulatory schemes and by educating our
12 youth on the potential harms of these
13 substances. Education and regulation
14 have proven infinitely more successful
15 and kinder to individual liberties and
16 government finances than 40 years of
17 prohibiting marijuana ever has.

18 The second aspect we must
19 consider is the equality of the law in
20 its application, which we've already
21 touched on in much previous testimony
22 here in terms of racial disparities.
23 Pennsylvania leads most other states in
24 the country when it comes to total number
25 of marijuana arrests with over 21,000

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2 individuals a year, and locally in
3 Philadelphia in 2012, there were over
4 6,600 arrests.

5 Worse than the financial
6 burdening of city budgets is the
7 collateral damage this policy has on the
8 lives of those caught possessing
9 marijuana. On top of having to endure
10 the embarrassment and social stigma that
11 goes with an arrest, a criminal charged
12 for a marijuana offense closes the door
13 to future opportunity, can force these
14 opportunities into a cycle of recidivism,
15 and imposes a massive financial burden on
16 them from which they may never recover.
17 With this charge on their record, they
18 will be denied access to public housing,
19 ineligible for federal financial aid for
20 college, and be removed from
21 consideration at many places of
22 employment. This unduly burdens these
23 individuals for life. Individuals, as
24 the arrest statistics show, are already
25 facing great amounts of economic and

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2 social injustice.

3 The Philadelphia SAM program
4 has begun to unravel some of this damage
5 a marijuana charge has on an individual,
6 and this proposed measure will go further
7 in reducing the destructive impact these
8 laws have on our communities.

9 Finally, I'd like to touch on
10 feasibility. Is it feasible for
11 Philadelphia to move forward on this
12 policy? In our opinion, pursuing this
13 policy is not only feasible, but it is
14 required to end the City's overly
15 punitive and discriminatory enforcement
16 of these laws, and a number of U.S.
17 cities have already moved in this
18 direction and have been for some time,
19 including Kalamazoo; Detroit;
20 Fayetteville, Arkansas; Portland, Maine;
21 Austin, Texas and others. These laws
22 have largely worked as intended, and a
23 study just released this week from
24 Massachusetts shows that the percentage
25 of youth who have tried marijuana in

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2 their lifetimes has decreased 6 percent
3 in just the past two years.
4 Massachusetts made the possession of up
5 to one ounce of marijuana a civil
6 violation punishable by a simple fine in
7 2008.

8 In addition to these
9 localities, 16 states have also
10 implemented decriminalization policies.
11 And most recently, and perhaps most
12 notably, the District of Columbia City
13 Council approved a measure this month in
14 a 10 to 1 vote that reduced possession of
15 up to one ounce to a civil violation
16 punishable by a small \$25 fine and
17 requiring no arrest and generating no
18 criminal record. The DC City Council
19 embraced this policy and improved it
20 based on many of the arguments against
21 criminal prohibition I have outlined and
22 others have outlined here today. The
23 Councilmembers were overwhelmingly
24 supportive of this policy change and
25 viewed it as imperative to ending the

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2 social injustice playing out in the
3 streets of the city under prohibition.
4 The measure is also supported by the
5 District's Mayor and is expected to be
6 signed into law very shortly.

7 They approved this measure
8 because it was the right thing to do.
9 They had the courage to lead on this
10 issue, and they made progress towards
11 ending these racially disparate arrests
12 and the damage they are causing in the
13 District. I'd urge this committee and
14 the full Philadelphia City Council to
15 show the same courage as their
16 counterparts in DC have and act to
17 approve this legislation.

18 Thank you for your time and for
19 your consideration.

20 COUNCILMAN GREENLEE: Thank you
21 both very much.

22 Councilman Kenney.

23 COUNCILMAN KENNEY: Thank you
24 very much. Did you attend school here in
25 Philadelphia?

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2 MR. ALTIERI: In Philadelphia?
3 I attended elementary school at Saint
4 Williams.

5 COUNCILMAN KENNEY: Did you go
6 further or no?

7 MR. ALTIERI: No. I had moved
8 out of the City after that.

9 COUNCILMAN KENNEY: I'm
10 curious, and maybe you could be helpful.
11 I mean, college is probably the period of
12 time where you smoked the most weed. I'm
13 just wondering whether or not we have a
14 reputation as a city for being that harsh
15 on possession that it would make somebody
16 think about going somewhere else, or that
17 doesn't occur here?

18 MR. ROSENZWEIG: No. New York,
19 by and far, arrest people at a
20 substantially higher rate. What is it,
21 like around 50,000 people or something
22 like that are arrested in New York City
23 every year.

24 COUNCILMAN KENNEY: And they're
25 custodial arrests?

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2 MR. ROSENZWEIG: I believe so,
3 yes.

4 MR. ALTIERI: Yes, because they
5 have the disparity in their law where
6 simply possessing the product is
7 decriminalized, but the second it leaves
8 your pocket and is in public view, it's
9 still a criminal misdemeanor.

10 COUNCILMAN KENNEY: So it could
11 be in your pocket, but it can't be --

12 MR. ALTIERI: And unfortunately
13 with their stop and frisk policy, they
14 ask you to empty your pockets, and all
15 the sudden you've gone from a civil
16 violation to a criminal misdemeanor.

17 MR. ROSENZWEIG: The marijuana
18 use, I mean, it spans all racial, social,
19 class, and political boundaries. It
20 doesn't -- people in college generally do
21 tend to experiment more, but in general,
22 people use it at about equal rates across
23 age groups.

24 COUNCILMAN KENNEY: But it's
25 not your experience that Philadelphia has

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2 a particularly bad reputation amongst
3 college students?

4 MR. ROSENZWEIG: No.

5 COUNCILMAN KENNEY: When you
6 said you moved out of Philadelphia County
7 and you'd love to live here, I'm
8 wondering whether or not that's
9 something --

10 MR. ROSENZWEIG: No, no. I
11 moved out because my workplace was far
12 away and I didn't feel like driving a
13 half hour every day through traffic.

14 COUNCILMAN KENNEY: And our
15 other witness indicated that the officer
16 was hiding in the bushes at Temple. I
17 want to make sure that we're not -- the
18 one other benefit of this law and the
19 change in policy might be that we are not
20 locking college kids up too, along with
21 regular citizens.

22 MR. ROSENZWEIG: In my
23 experience on the issue, police often
24 look the other way when dealing with
25 small amounts of marijuana. Arresting

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2 people -- everyone they see for a
3 marijuana offense is already seen by many
4 officers as a pointless exercise, as
5 people testified earlier too. And even
6 over the years informally talking to
7 officers, especially the Civil Affairs,
8 who every year come out to our cannabis
9 march that we do down on South Street,
10 the police actively ignore people smoking
11 marijuana, and we have hundreds of
12 attendees. So for the most part,
13 Philadelphia is seen as a fairly lax
14 city, I think, in terms of marijuana
15 enforcement, but the numbers don't lie.
16 It's still happening, and this bill is
17 definitely the right step in the right
18 direction.

19 COUNCILMAN KENNEY: Thank you.

20 COUNCILMAN GREENLEE: Thank
21 you, Councilman.

22 Councilman Goode.

23 COUNCILMAN GOODE: Thank you,
24 Mr. Chairman. Very briefly.

25 I was struck by the data from

1 3/10/14 - LAW & GOV. - BILL 140001
2 Massachusetts, and I don't challenge the
3 data, but I guess the question is, what
4 do you see as a connection between the
5 decriminalization of marijuana and less
6 use over the lifetime? Is there any more
7 information from that data or report that
8 suggests why that would be the case?

9 MR. ALTIERI: Well, I'd gladly
10 send over the studies, but also that's
11 not an isolated incident. One of the
12 largest studies ever partaken by the
13 federal government has shown that
14 reducing penalties for marijuana has had
15 little to no effect on increasing
16 marijuana use amongst either youth or the
17 general population.

18 COUNCILMAN GOODE: I guess my
19 question is, do you believe that it
20 lessens the use?

21 MR. ALTIERI: Yes, I do.

22 COUNCILMAN GOODE: And what is
23 that based upon?

24 MR. ALTIERI: I think that's
25 based upon usually when these places move

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2 in this direction, it fosters a much more
3 rational discussion on the relative harms
4 and relative risks of marijuana use
5 itself, whereas currently in a lot of
6 education programs, we tell children and
7 others that marijuana is bad, it's all
8 bad, it's as bad as heroin, and they stop
9 believing the rhetoric they're getting.
10 When they move to a decriminalization or
11 legalization or medical policy, we kind
12 of move away from that and start to
13 really see more fact-based evidence being
14 presented.

15 COUNCILMAN GOODE: Thank you.

16 COUNCILMAN GREENLEE: Thank
17 you.

18 Any other questions or
19 comments?

20 (No response.)

21 COUNCILMAN GREENLEE: Seeing
22 none, thank you both very much.

23 (Thank you.)

24 COUNCILMAN GREENLEE: Again,
25 one more time, anyone else here who

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2 wishes to speak?

3 (No response.)

4 COUNCILMAN GREENLEE: Seeing
5 none, that concludes the hearing of the
6 Committee on Law and Government. We will
7 now go into the public meeting.

8 The Chair recognizes Councilman
9 Kenney.

10 COUNCILMAN KENNEY: Thank you,
11 Mr. Chair. I just want to say before I
12 offer the amendments that these
13 amendments are as a result of the
14 meetings with both the Law Department,
15 the DA's Office, and the Police and the
16 issue over whether or not we have as a
17 Council the authority to pass something
18 like this. We changed most of the
19 language from a "shall" clause to a "may"
20 clause. So basically what this does is,
21 it gives the sense that the Council puts
22 in place a vehicle to change the policy,
23 but it's not forcing the Police
24 Department to change the policy. They've
25 said it on record they're willing to look

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2 at changing it. So this is hopefully the
3 vehicle we can use.

4 So with that being said, I
5 would like to offer the amendments that
6 were circulated to the members of the
7 Committee to Bill No. 140001.

8 (Duly seconded.)

9 COUNCILMAN GREENLEE: It's been
10 moved and seconded.

11 All in favor of the amendments
12 please say aye.

13 (Aye.)

14 COUNCILMAN GREENLEE: Opposed?

15 (No response.)

16 COUNCILMAN GREENLEE: Hearing
17 none, the amendments are adopted.

18 Councilman Kenney.

19 COUNCILMAN KENNEY: Thank you,
20 Mr. Chairman. I move that Bill No.
21 140001, as amended, be reported out of
22 this committee favorably and a request
23 made for rules suspension to allow for
24 first reading at our next Council
25 session.

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2 (Duly seconded.)

3 COUNCILMAN GREENLEE: It's been
4 moved and seconded.

5 All in favor?

6 (Aye.)

7 COUNCILMAN GREENLEE: Opposed?

8 (No response.)

9 COUNCILMAN GREENLEE: Hearing
10 none, Bill No. 140001, as amended, is
11 reported out of this committee with a
12 favorable recommendation with a rules
13 suspension to allow for first reading at
14 our next session of Council.

15 That concludes the business
16 before the Law and Government Committee
17 today. Thank you all for your
18 participation.

19 (Committee on Law and
20 Government concluded at 11:20 a.m.)

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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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