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COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE OF THE WHOLE

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, April 26, 2011
10:30 a.m.

PRESENT:

- COUNCIL PRESIDENT ANNA C. VERNA
- COUNCILWOMAN JANNIE BLACKWELL
- COUNCILMAN DARRELL CLARKE
- COUNCILMAN W. WILSON GOODE, JR.
- COUNCILMAN BILL GREEN
- COUNCILMAN WILLIAM K. GREENLEE
- COUNCILMAN CURTIS JONES, JR.
- COUNCILMAN JAMES KENNEY
- COUNCILWOMAN MARIA D. QUINONES-SANCHEZ
- COUNCILWOMAN BLONDELL REYNOLDS BROWN
- COUNCILMAN FRANK RIZZO, JR.
- COUNCILWOMAN MARIAN B. TASCO

BILLS 110135, 110136, 110137 and 110138
RESOLUTION 110161

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COUNCIL PRESIDENT VERNA: Good morning, everyone. This is a continued public hearing of the Committee of the Whole.

I would ask Mr. McPherson to please read the resolutions and bills.

MR. MCPHERSON: Resolution 110161, the Five Year Plan; Bill No. 110135, the Capital Program 2012 through 2017; Bill 110136, the Capital Budget 2012; Bill No. 110137, the Operating Budget for Fiscal 2012; Bill No. 110138, the wage tax. And we're taking testimony today on Bill No. 110137, the Operating Budget, and our first department is the First Judicial District.

COUNCIL PRESIDENT VERNA: Good morning.

MR. WASSON: Good morning.

JUDGE DEMBE: Good morning.

COUNCIL PRESIDENT VERNA:
Please identify yourself for the record and proceed with your testimony.

JUDGE DEMBE: Pamela Dembe,

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2 President Judge of the Court of Common
3 Pleas, First Judicial District.

4 MR. WASSON: David Wasson,
5 Court Administrator, First Judicial
6 District.

7 MR. CROSS: Kevin Cross, Deputy
8 Court Administrator, Financial Services.

9 COUNCIL PRESIDENT VERNA:
10 Welcome.

11 MR. WASSON: May I proceed?

12 COUNCIL PRESIDENT VERNA:
13 Please.

14 MR. WASSON: Good morning,
15 Council President and Councilmembers,
16 judges, Court staff, any other elected
17 officials, early risers and fellow
18 citizens. It's my privilege to present
19 the First Judicial District's FY12 budget
20 testimony today representing the Court of
21 Common Pleas, Municipal Court and Traffic
22 Court of Philadelphia. It's an honor to
23 follow in the footsteps of the great Dave
24 Lawrence, who after 40 years of Court
25 service retired this past year to greener

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2 pastures and is having a great time and
3 will probably enjoy watching me muddle
4 through this testimony. Big shoes to
5 fill, but it's really an honor to be
6 here. And I would like to introduce --
7 as I took Dave's position, Charles Mapp
8 is now the Chief Deputy Court
9 Administrator, who is here as well.

10 MR. MAPP: Good morning.

11 COUNCIL PRESIDENT VERNA:

12 Welcome.

13 MR. WASSON: We both took our
14 posts around the same time.

15 If it pleases Council, we'd
16 like to proceed today maybe a little
17 different than normal for these
18 proceedings. First, we'd like to make
19 our written testimony part of the record,
20 and we basically have highlighted six
21 achievements, six items, that we would
22 like to present to Council that we would
23 like to talk about today. The first five
24 I'll talk through a few slides, and then
25 the last one, which is the theme of our

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2 presentation, a return on investment in
3 the Courts, we have a little slideshow
4 for you. It's about three minutes. It's
5 not too long, and hopefully it won't be
6 too painful. Then after that, I'll
7 answer any questions you may have.

8 COUNCIL PRESIDENT VERNA: Fine.

9 Thank you.

10 MR. WASSON: At a very high
11 level, who we are, we have 125
12 commissioned judges in the First Judicial
13 District, 2,600 full-time, part-time and
14 temporary staff. That represents both
15 General Fund and Grant. We handle
16 600,000 new filings every year, of which
17 we dispose of at least 600,000 of those
18 filings every year. And under
19 supervision is 100,000 people both pre
20 and post trial with our staff. That's
21 just a high view of who we are and what
22 we do at a very high level.

23 Just to show our part -- in the
24 handout, you'll see our General Fund
25 position reductions over the last six

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2 years, and in the handout, you'll see
3 over the last six years, we've reduced
4 our General Fund staff positions by 19
5 percent. So certainly we're part of the
6 reductions in government and we've done
7 our part to reduce that, as well as
8 enhancing services.

9 The first item that we'd like
10 to highlight is enhanced services
11 request. And while we've worked closely
12 and we do work closely with the Mayor's
13 Budget Bureau, with Council, with all the
14 justice partners in coming up with our
15 \$106.8 million budget, we would like to
16 present six -- or five different areas
17 for enhanced services that we would just
18 present to Council to consider possibly
19 investing in the Courts, and we'll show
20 you how we invest back into the City. In
21 fact, for every dollar invested in some
22 of these items, the Court has a proven
23 track record of giving \$4 back to the
24 City, whether it's in enhanced revenue,
25 whether it's in reduced prison

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2 population. So an investment in the
3 Courts is a big investment.

4 So of those items -- we'll just
5 run through them real quickly -- Clerk of
6 Courts reductions, replacing those; FJD
7 grant shortfalls; expansion of Community
8 Courts and Accelerated Misdemeanor
9 Program; and restoring the level of
10 offender supervision services, which is
11 very important with the hundred thousand
12 people that we represent; and assigned
13 counsel fees. So for 5.6 million
14 additional investment, the Court would
15 return to the City by our proven track
16 record \$4 or \$24 million returned to the
17 Court.

18 Another important component of
19 that is electronic monitoring, which
20 significantly reduces prison population,
21 and we'll have a few more slides about
22 that.

23 Just on my way over here, a
24 couple of questions were asked, so I'll
25 try to answer them now about that. If

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2 5.6 -- the question was, if 5.6 million
3 couldn't be given to you all at once,
4 could you take it in increments? Is
5 there anything that you may want to do
6 first or may be more important as far as
7 getting the biggest return on investment?
8 And clearly electronic monitoring, which
9 I just discussed, as it significantly,
10 directly and immediately reduces prison
11 population. And following up with that
12 is improving the level of offender
13 supervision. Probation officers do a
14 great job, both juvenile and adult. The
15 more contacts they can have with
16 offenders, as I'm sure you know -- we
17 talked about this many times over
18 years -- the less crime there is, the
19 less recidivism and the greater chance
20 that the offenders have of being
21 successful.

22 A second thing is an update on
23 the Family Court facility. There's a
24 nice rendering of what the building is
25 going to look like, the very beautiful

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2 building, 15th and Arch Streets. Just to
3 give Council an update as to where that
4 all stands, after many interesting months
5 of issues, all the documents have been
6 signed. They're waiting legal review by
7 the lawyers for the state. So DGS and
8 the Attorney General have to review them.
9 We think that will all happen in the next
10 couple of weeks, and we have a tentative
11 groundbreaking ceremony planned for May
12 9th, 15th and Arch, on the site, at 11:00
13 a.m. We're thankful to the Chief Justice
14 and the Supreme Court for pushing this
15 and supporting this all, and Chief
16 Justice and members of the Court will be
17 having a groundbreaking, which, of
18 course, everyone is invited to.

19 Clerk of Courts update, this
20 has been a success story for our
21 assumption of the duties of Clerk of
22 Courts. Joseph Evers, who is our
23 Prothonotary, took over the Clerk of
24 Courts operation on April 1st of last
25 year under the direction of President

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2 Judge Dembe. And just some things that
3 we'll highlight for you, because I know
4 last year there was some concern as to
5 what was going to happen with the staff.

6 Most significantly, all the
7 staff, 90 percent, came over to the
8 Courts, no problem. The other ten who
9 didn't come wanted to retire or they got
10 other jobs in the City. No one was laid
11 off. It was a very smooth transition,
12 thanks to Deputy Mayor Gillison and the
13 City's side to help with that and Council
14 for helping make that happen. Definitely
15 the Courts are running a lot more
16 efficient.

17 One of the things we've been
18 able to do through the very significant
19 and creative management of the Court
20 Managers is to improve training for the
21 staff, establish quality control for the
22 records, which is very important, resolve
23 outstanding accounting procedures.
24 You'll see on the next slide what amazing
25 results we've had with that. And begin

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2 the development of e-filing system.

3 One of the goals of the Courts
4 over the next several years is to become
5 totally paperless with regard to court
6 cases, have an e-filing system. The
7 participants love it, the lawyers love
8 it, the Court loves it. It makes us much
9 more efficient in these shrinking budget
10 times.

11 The next item I would like to
12 talk about revenue contributions to the
13 General Fund budget. When you add up
14 everything that the Court collects and
15 gives back to the City, we give back 80
16 percent of what you appropriate to us.
17 And our overall budget is less than one
18 percent of the total General Fund budget.

19 Now, here's the thing I talked
20 about with the Clerk of Courts. We've
21 increased collections for the Clerk of
22 Courts -- that's the criminal
23 collections -- over 100 percent in just
24 the first eight months of taking the
25 office over, and that is money -- for

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2 every dollar we collect in criminal, 50
3 cents of that comes directly back to the
4 City. So we anticipate if the Clerk was
5 collecting \$8 million a year
6 historically, we're at least at 12
7 million so far, and the sky is almost the
8 limit.

9 A lot of talk about the \$1.5
10 billion owed to the Courts, and we're
11 really taking aggressive efforts to try
12 to collect that, while being
13 compassionate at the same time and
14 understanding to the offenders.

15 Our diversity efforts, we're
16 very proud of this slide. If you look at
17 the FJD staff as far as who the FJD
18 hires, 42 percent are either African
19 American, Asian, Hispanic or other, 58
20 percent Caucasian. That's just by race.
21 If we throw in the measurement of how
22 many women, which is how we measure our
23 contracts as far as diversity efforts,
24 we're well over 55 percent of our staff
25 are either women, minorities or disabled,

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2 and we're very proud of that. And then
3 when we talk about contracts, which I
4 know is a hot issue, and although we
5 don't come under the direct direction of
6 the City, we come under the OPC with
7 regard to our contracts, we try our very
8 best to maintain your high standards.
9 That number is not wrong up there, 38
10 percent, 38 percent. I've heard some
11 testimony from other departments. We're
12 very proud of our 38 percent minority
13 representation in the awarding of
14 contracts.

15 As you can see, out of our
16 Class 200 budget, we issue \$5 million in
17 contracts, \$2 million of that go to
18 minorities, women or disabled.

19 Now, that's the first five
20 items, but the theme of our testimony
21 today -- there's so many great things we
22 believe the Court has done. Thank you
23 for your support and through all our
24 different initiatives to everyone, but
25 the theme this year is return on

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2 investment. Think of the Courts as an
3 investment, and as I said before, give us
4 a dollar, we will give you \$4 back in
5 some of our programs. This next segment
6 of the presentation will be highlighting
7 some of those programs through pictures,
8 some of our accomplishments, and just to
9 show not only money coming back to you
10 but to show Court employees, the
11 employees that you invest in, what they
12 are doing in the communities, in the
13 courts to make us all better.

14 So without further adieu, I
15 hope you like this. This is something
16 different, but in any event, next slide,
17 please.

18 That says \$43.5 million.

19 (Slideshow playing.)

20 (Applause.)

21 MR. WASSON: Fire away.

22 COUNCIL PRESIDENT VERNA: We've
23 come a long way.

24 JUDGE DEMBE: Haven't we just?

25 COUNCIL PRESIDENT VERNA: On

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2 Page 4 of your testimony, Item No. 4, you
3 mention how the City can save \$24 million
4 per year with electronic monitoring
5 units. Have you spoken to the
6 Administration and what is their position
7 on this request?

8 JUDGE DEMBE: Well, we do
9 indeed discuss this regularly with the
10 City. As you know, through the Criminal
11 Justice Advisory Board, we are all trying
12 to move together without stepping on each
13 other's shoelaces and doing a pretty good
14 job of it.

15 We are hoping to get that money
16 in our budget, but Mr. Gillison is right
17 back there --

18 COUNCIL PRESIDENT VERNA: Can
19 we have someone from the Administration
20 come up to the table, please.

21 (Witness approached witness
22 table.)

23 COUNCIL PRESIDENT VERNA: Good
24 morning, Mr. Gillison.

25 DEPUTY MAYOR GILLISON: Good

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2 morning. Everett Gillison, Deputy Mayor
3 for Public Safety.

4 COUNCIL PRESIDENT VERNA: Can
5 you explain why this request was not
6 included in the proposed budget?

7 DEPUTY MAYOR GILLISON: Well, I
8 think that what we have to do is first go
9 back. Last year when we needed
10 additional monitors, the Administration
11 did in fact provide additional money so
12 that we could get additional monitors.
13 We recognize the amount of efficacy in
14 our programming and we also recognize the
15 need, but we always have to balance what
16 revenue we have available to us, and in
17 that process, we continue to work with
18 not only the Courts, we work with all of
19 our partners to make sure we can make the
20 investments when we can.

21 So this is another matter that
22 we recognize that it is a positive. It's
23 something we can do, and we have to
24 balance it like we balance everything
25 else.

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2 COUNCIL PRESIDENT VERNA: Was
3 any of the Byrne money used for this
4 purpose?

5 DEPUTY MAYOR GILLISON: No, not
6 for this. We actually used -- I actually
7 took money out of my allocation from the
8 Managing Director's Office to help with
9 this immediate need, and we still look at
10 different ways of trying to help fund
11 this particular matter.

12 COUNCIL PRESIDENT VERNA: I
13 think it's something that should be
14 worked on. I think --

15 DEPUTY MAYOR GILLISON: Oh,
16 we're working on it, believe me. It --

17 COUNCIL PRESIDENT VERNA: But
18 working on it and getting the money there
19 are two different things.

20 DEPUTY MAYOR GILLISON: Well,
21 not necessarily. I think you have to
22 work on it in order to make sure that it
23 gets there. So I agree with you, Council
24 President. We are trying to make sure
25 that we identify these kinds of things.

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2 We put them very high up on how we can
3 move dollars, but like everything else,
4 especially when it comes to moving people
5 and getting people out of jail, believe
6 me, I am a big proponent of getting
7 people out of jail at the right time and
8 at the right place and with the right
9 supervision, and I think that our track
10 record over the last not just one year
11 but three years shows that we've done a
12 lot working together to advance that
13 goal.

14 COUNCIL PRESIDENT VERNA: And I
15 think we would all agree. You've done a
16 marvelous job.

17 Talking about trying to get
18 people out of jail sooner, can you tell
19 us what actions you have taken to reduce
20 the detainee population in the prisons
21 and what additional actions will you be
22 doing in the future?

23 JUDGE DEMBE: President Judge
24 Dembe.

25 Under the supervision on the

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2 criminal side of Joe Lancellotti, our
3 Deputy Court Administrator over there, we
4 drilled down to really examine who was
5 sitting in jail and have begun working on
6 a way to -- ways to grab people as soon
7 as possible and get them out.

8 For instance, if someone is
9 arrested, that case may be processed very
10 quickly and bail set at a reasonable
11 level, but if a person has other cases in
12 the system, those hold them in jail. It
13 triggers a detainer for probation
14 violation or parole violation. So now
15 we're getting those people, all of their
16 cases all at once and dealing with them
17 within hours or a couple of days at the
18 most. We're using video very actively.
19 The Municipal Court has done wonders in
20 terms of speeding up the processing of
21 smaller cases, which are very often the
22 things that hold people in jail when they
23 shouldn't be in jail. We keep expanding
24 our use of interactive video so that you
25 don't lose the time where the lawyers

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2 need to go to the jail and the prisoner
3 has to be brought up, all those sorts of
4 mechanical things.

5 So we're doing that, and the
6 City, of course, is -- there's always a
7 problem with housing, and that's not one
8 that we can solve. It's one that the
9 City has been working on. But people
10 don't have housing options once they've
11 been arrested, so that very often slows
12 us down. But we keep looking for more
13 and better ways to get people out on the
14 street immediately and to help them find
15 housing and jobs.

16 COUNCIL PRESIDENT VERNA: Thank
17 you very much. I think you and your
18 department have done a fantastic job. I
19 really commend you for that.

20 The Chair recognizes Councilman
21 Greenlee.

22 COUNCILMAN GREENLEE: Thank
23 you, Madam President.

24 Good morning, everyone.

25 (Good morning.)

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2 COUNCILMAN GREENLEE: I

3 certainly concur with the comments
4 Council President just made on the job
5 you're doing, and I think I'll probably
6 ask Mr. Gillison to come up too, if he
7 could, if that's okay.

8 On the issue -- first, I guess
9 my first question, on Page 4 that the
10 Council President was referring to
11 earlier, first on the probation officers
12 and the warrant officers, that \$2 million
13 that you're talking about, that's
14 additional to the 4.5 million that you're
15 talking about with the electronic
16 monitoring?

17 MR. WASSON: Yes.

18 COUNCILMAN GREENLEE: Two
19 separate things, correct?

20 MR. WASSON: Two separate
21 things.

22 COUNCILMAN GREENLEE: First, on
23 the probation officers, this would bring
24 them back to the level of 2008, right?

25 JUDGE DEMBE: (Judge Dembe nods

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2 head in the affirmative.)

3 COUNCILMAN GREENLEE: For the
4 probation officers, what would that mean?
5 How many would the caseload be for each
6 probation officer; do you know offhand?

7 JUDGE DEMBE: It would be more
8 than 50 probation officers. I don't
9 think it's helpful to say how many people
10 they supervise, because under Robert
11 Malvestuto, we've moved to a system where
12 those who really need supervision, we're
13 on them 24/7. There are a lot of people
14 where the probation officer can handle a
15 reasonable load because they just kind of
16 need some guidance, and there's a fairly
17 large pool down at the bottom who need
18 very little supervision and are not going
19 to get in any more trouble than any other
20 mostly young men of that age group.

21 So at the different levels
22 of -- you either call it dangerousness or
23 stupidity, depending on, they need more
24 or less supervision, but we are very,
25 very thin right now and it is reaching a

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2 dangerous point, I believe. We believe
3 that. The City believes that. Certainly
4 the union representing these folks
5 believes that.

6 COUNCILMAN GREENLEE:

7 Mr. Gillison, the reason I asked you to
8 come up, have you done sort of an
9 analysis on how much not having that
10 money -- if you had the money -- let me
11 put it the other way. If you had the
12 money --

13 DEPUTY MAYOR GILLISON: Can

14 I --

15 COUNCILMAN GREENLEE: -- how

16 much would that save in like prisoner
17 costs, that kind of thing?

18 DEPUTY MAYOR GILLISON: Well,

19 there's --

20 COUNCILMAN GREENLEE: Because I

21 know you referenced earlier about wanting
22 to get people out of the prisons.

23 DEPUTY MAYOR GILLISON:

24 Absolutely. There is two ways of looking
25 at it. There are different points along

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2 the system. First off, understand that
3 most prison costs are fixed because we
4 have fixed personnel costs. Until we
5 start really closing facilities, we don't
6 get any dramatic savings. We get the
7 incremental savings that's not having to
8 deal with both the feeding and also
9 clothing and also providing medical care,
10 which depending on the person can
11 sometimes be rather expensive. Those are
12 not insignificant, and we try to move as
13 many people out of the system as quickly
14 as possible so we don't incur those
15 costs. But until we actually get to the
16 point where we can close some of our
17 inefficient facilities and making them
18 more efficient, we don't get the dramatic
19 savings that we could have -- and to be
20 able to throw 2, 3, 5, 10, 20 million
21 dollars into a system. We won't get
22 there until we actually see some really
23 dramatic closing of facilities and/or the
24 rebuilding of facilities in a more
25 efficient way.

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2 But, yes, we have done some
3 internal analysis. I know that the
4 Courts -- and we've worked with the
5 Courts and all of our criminal justice
6 stakeholders to find out how we can
7 provide more in order to make sure that
8 we can target some of the people that we
9 call the low-hanging fruit, get those
10 folks out. The CJAB has worked well to
11 identify those folks, get them out and
12 get them in the programs as best we can,
13 and now we're at the point where given
14 our revenues and given our expenses,
15 we're looking for ways of trying to get
16 to that next level.

17 We've done some of that
18 analysis. I've done it and my office has
19 done it to see where we could put
20 additional dollars should it become
21 available, and we're working with all of
22 our partners to make sure that we'll be
23 able to say this is where we're going to
24 put the next million dollars if we could
25 get it. And given your question, if I

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2 had it, would I put another million?

3 Hey, you know, if we could get back to
4 2008 levels of revenue, I think that we'd
5 all be in a better situation.

6 COUNCILMAN GREENLEE: I hear
7 you. I'm just thinking like the money
8 you put in now, how much do you save down
9 the road? Is it the investment for the
10 future kind of argument?

11 DEPUTY MAYOR GILLISON: Yes,
12 but you have to have the revenue. Right
13 now our revenues, as this Council is only
14 too well aware of, our revenues are only
15 now stabilizing and we are not at the
16 point where we've even gotten anywhere
17 close to our 2008 or even 2007 numbers as
18 far as revenue coming in. So we're at a
19 new normal, and what we're trying to do
20 now is work with our partners to make
21 sure that we are identifying ways of
22 being as efficient as possible.

23 Is additional dollars, could
24 they be needed and could they be invested
25 in this way? Absolutely, but we'd have

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2 to have the revenue in order to support
3 it. That's what we have to deal with.

4 COUNCILMAN GREENLEE: You have
5 to have the money to start with.

6 DEPUTY MAYOR GILLISON: You got
7 to have the money to start with.

8 COUNCILMAN GREENLEE: I hear
9 you. I hear you. Talking about needing
10 money, on the probation officers -- I
11 know a few are here today -- the present
12 ones, the salary level is probably not
13 commensurate with a lot of the
14 surrounding counties. How much of a
15 problem, in your opinion, has that been?

16 JUDGE DEMBE: It's a
17 significant problem. Not only do they go
18 to surrounding counties, but they go to
19 the state. And we're lucky to have as
20 many folks who hang in there, but we do
21 lose people, and you can't blame them.

22 COUNCILMAN GREENLEE: And on
23 the question of if we had the money, how
24 much would that be to bring them up to
25 the level, say, of the surrounding

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2 counties? Would anybody know that
3 offhand, or could they find out for us?

4 MR. CROSS: Kevin Cross here.

5 We have looked at some payroll
6 models and figured it would cost us about
7 \$1.5 million for about 300 probation
8 officers.

9 COUNCILMAN GREENLEE: Okay.

10 All right. Thank you. Thank you very
11 much.

12 Thank you, Madam President.

13 COUNCIL PRESIDENT VERNA:

14 You're welcome.

15 The Chair recognizes Councilman
16 Goode.

17 COUNCILMAN GOODE: Thank you,
18 Madam President.

19 Good morning.

20 JUDGE DEMBE: Good morning.

21 COUNCILMAN GOODE: Staying on
22 the theme of probation officers, Deputy
23 Mayor Gillison said in previous testimony
24 that more probation officers would be a
25 good investment and even today has talked

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2 about if he had the money, it would be a
3 good investment. I'm interested in how
4 you weight the investment. He said
5 they've drilled it down to if they had
6 another million dollars to spend where it
7 would go. I'm interested in where you
8 would put it in terms of electronic
9 monitoring versus more probation officers
10 versus increasing salaries for probation
11 officers in terms of trying to retain
12 them.

13 JUDGE DEMBE: Well, of course,
14 these are different budget
15 classifications because the salaries, of
16 course, are your Class 1. The electronic
17 monitoring is in a different category.

18 Certainly -- I guess we would
19 have to split it in some way. The
20 electronic monitoring is very badly
21 needed, but we're at a point that makes
22 me very uneasy in terms of having thinned
23 down our probation staff. I think that
24 we've been relatively fortunate, but
25 can't count on luck.

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2 COUNCILMAN GOODE: So in terms
3 of the problem with the number of
4 probation officers, to what extent is
5 that a problem with turnover and how much
6 would you invest in turnover in terms of
7 increasing salaries or some other means
8 of trying to retain probation officers?

9 JUDGE DEMBE: Salary increases
10 versus adding new people?

11 COUNCILMAN GOODE: Or a
12 combination of them. How do you weight
13 it?

14 JUDGE DEMBE: Kevin, do you
15 want to handle that one?

16 MR. WASSON: I'll take it.

17 Definitely increase in the
18 salaries would improve our turnover rate.
19 Our turnover rate generally in probation
20 officers is high because of items you
21 cited. So if we do that, it will help
22 it --

23 COUNCILMAN GOODE: You probably
24 have to pull the mike closer to you.

25 MR. WASSON: Oh, sure.

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2 So that's definitely a help,
3 keeping seasoned probation officers here,
4 but the other issue as far as we're
5 talking about return on investment goes
6 is definitely to increase the number of
7 probation officers. Just because it's
8 not rocket science, the more contacts a
9 probation officer has with the offender,
10 the better chance they have to succeed.
11 So retaining the seasoned officers is
12 important. As the judge was saying, we
13 need a balance, kind of a mix. Even if
14 we went all with electronic monitoring,
15 let's put all our marbles on that ball,
16 we get the biggest bang for our buck
17 there as far as return on investment, yet
18 all those people, even though are on
19 monitors, need to be supervised as well.
20 So it's kind of a snowball.

21 COUNCILMAN GOODE: So I guess
22 the question is, if there is a request
23 for an additional allocation, how much
24 money is going toward electronic
25 monitoring, how much money is going

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2 toward hiring more probation officers,
3 how much money is going toward increasing
4 salaries for probation officers?

5 MR. WASSON: Well, if we got
6 the 5.6 million that we asked for, 2
7 million would go to probation officers
8 and --

9 COUNCILMAN GOODE: Two million
10 for hiring probation officers?

11 MR. WASSON: Hiring and
12 increasing salaries.

13 COUNCILMAN GOODE: Both?

14 MR. WASSON: Both.

15 COUNCILMAN GOODE: Can you
16 break that down in terms of how much
17 would go to what?

18 MR. WASSON: Well, probably
19 50/50. It would take 1.5 million to get
20 everybody up to the salary that we would
21 like them to get up to right now, but we
22 also have a plan to do that incrementally
23 over several years. So if we took that 2
24 million, we'd probably put a million into
25 new hires, a million into increased

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2 salaries, and then, of course, that would
3 be recurring, though. So we need that
4 included every year. And then after
5 several years, we would get everybody up
6 to the salary we'd like to for retention
7 purposes and then also have the number of
8 staff we need to fully implement the
9 model that we --

10 COUNCILMAN GOODE: So the rest
11 of that request is for electronic
12 monitoring?

13 MR. WASSON: Electronic
14 monitoring is not actually in the 5.6
15 million.

16 MR. CROSS: That's correct.
17 Electronic monitoring was added after our
18 original letter to the Mayor back in
19 January.

20 COUNCILMAN GOODE: So what is
21 the rest of the 5.6?

22 MR. CROSS: It's part of the \$2
23 million increase for counsel fees, that
24 we would work with the Criminal Bar
25 Association to establish new fees for

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2 appointed counsel.

3 MR. WASSON: Expanding the
4 Accelerated Misdemeanor Program, which is
5 a great diversionary program that was
6 started, expanding to the districts.
7 That's kind of Community Court related.
8 Other grant shortfalls that we have,
9 which has to do with Community Court and
10 some specialty programs in Municipal
11 Court, and then the loss of staff we had
12 from a reduction in the Clerk's budget
13 when it was transferred over. I think it
14 was about eight percent, ten percent,
15 something like that. So we really would
16 like that money back to get enough clerks
17 in the courtroom to do everything.

18 So, yes, we did not include the
19 electronic monitoring in the 5.6.

20 COUNCILMAN GOODE: But there's
21 2 million for probation officers equally
22 split between new hires and bringing the
23 pay grade up?

24 MR. WASSON: That's how I would
25 recommend doing it.

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2 COUNCILMAN GOODE: Thank you.

3 MR. WASSON: You're welcome.

4 COUNCILMAN GOODE: Thank you,
5 Madam President.

6 COUNCIL PRESIDENT VERNA:
7 You're welcome.

8 The Chair recognizes Councilman
9 Green.

10 COUNCILMAN GREEN: Thank you,
11 Madam Chair.

12 Thank you very much for your
13 testimony. I want to commend you on
14 putting together a package that has a
15 clearly defined return on investment. I
16 mean, frankly, I'm not -- part of the
17 problem with the discussion that we're
18 having today and the debates about your
19 funding is that really when the First
20 Judicial District creates efficiencies in
21 the system, the savings are in other
22 departments.

23 For example, electronic
24 monitoring, whether the Administration
25 agrees with \$24 million or not -- I don't

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2 know how you reached that figure --
3 there's clearly a savings in the Prison
4 System as a result of having 850 more
5 people not in prison and on electronic
6 monitors. In fact, that's getting close
7 to the number where we'd be able to close
8 a prison in the City of Philadelphia.

9 And so we really should be
10 looking at the court system and the
11 criminal justice system as sort of its
12 own total aggregate number and be not
13 looking at them in silos across
14 departments, which is the whole purpose
15 of CJAB, Criminal Justice Advisory Board.

16 So just to go through, is there
17 a savings within the court system or in
18 any other department as a result of
19 having more probation officers?

20 JUDGE DEMBE: Well, yes. What
21 a probation officer does is hopefully
22 keep you from getting back into trouble,
23 and if they keep you from getting back
24 into trouble, you don't have to show up
25 in court. And running a courtroom is

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2 like running any other expensive taxi,
3 the meter is running. So every hour that
4 we're not spending with them in the
5 court, that's a good thing.

6 COUNCILMAN GREEN: Can you tell
7 me where the savings are for the
8 electronic monitors if we were to provide
9 the funding for the electronic monitors?

10 JUDGE DEMBE: It's time that
11 people are not sitting in jail. It's
12 time that they're not in court. It's
13 taxes that they're generating because
14 they're now able to go to a job and earn
15 a living and pay taxes and go to the
16 store and buy stuff and that kind of
17 thing. It's transportation to and from
18 prisons and courts. It's police
19 overtime. It's sheriffs. It really does
20 spread over a number of different areas
21 of budgetary impact, and we're glad to be
22 able to share that. I mean, we're happy
23 to generate savings for other agencies.
24 Through the CJAB I think we've all
25 learned to share our toys and play well

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2 together.

3 COUNCILMAN GREEN: Absolutely
4 true. And so with respect to the \$24
5 million in projected savings that would
6 allow you -- so like, for example,
7 counsel fee increases, does that have a
8 savings or is that just something we need
9 to do?

10 JUDGE DEMBE: That is primarily
11 something we need to do. We are, I
12 think, as a society going to have to have
13 a conversation about the fact that even
14 middle-class people are priced out of the
15 courts. If I were to turn to any of you
16 and say, And what happens if you get sued
17 and it's in an area where the government
18 doesn't provide you with a lawyer, and
19 your stomach drops. And for poor people
20 who through circumstance end up in the
21 courts more often, it's truly injustice
22 in a big way.

23 COUNCILMAN GREEN: So what I'd
24 like to do is on Page -- I'm looking for
25 your chart of savings. On Page 7 of your

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2 testimony, you go through the return on
3 investment and return on -- I guess that
4 stands for equity savings as a result of
5 making investments in certain areas, and
6 we've talked about the cost of the
7 investment. This chart doesn't break
8 down the cost of the investment, say, for
9 example, the Smart Courtroom Video
10 Program and you're not asking for
11 additional monies for all of these
12 things. Some of these things are things
13 we were already doing or have
14 implemented.

15 JUDGE DEMBE: That's correct.

16 COUNCILMAN GREEN: And for some
17 of these things, the savings are already
18 in the system.

19 JUDGE DEMBE: Correct.

20 COUNCILMAN GREEN: And for some
21 of these things, the savings are yet to
22 come. And so what I'd like to ask you to
23 do, if it's not too complicated, is just
24 put together another chart or something
25 for the Chair that breaks out what the

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2 cost of these programs was to implement
3 and how much we've saved and how much
4 we're saving on a continuing basis as a
5 result of these. One of the things I'd
6 be most interested in is what the
7 efficiencies are in Class 100 as a
8 consequence of the Prothonotary
9 essentially going to a paperless system
10 and what we can expect to save if we make
11 that investment in the Clerk of Quarter
12 Sessions Office, or I guess that's now
13 under the Prothonotary too, but on the
14 criminal side, because I think that's
15 significant over the next five years and
16 can probably be done with capital
17 dollars, and we have a lot of technology
18 capital dollars that are not going to be
19 spent in the next year.

20 So my other question is -- if
21 you could just provide that to the Chair
22 so we can talk about it.

23 My other question --

24 JUDGE DEMBE: You are so lucky
25 I can't make you diagram that sentence on

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2 the board.

3 COUNCILMAN GREEN: Thank you.

4 It's a run-on.

5 The other question is, have you
6 explored whether or not electronic
7 monitors can be a capital investment? Do
8 you know what the expected life of an
9 electronic monitor is?

10 JUDGE DEMBE: Let me put
11 Mr. Cross to answer both of your
12 questions.

13 MR. CROSS: The cost of the
14 monitors are about \$1,200 a piece, I
15 think. So the question is, would it be a
16 capital expense. Collectively it may
17 fall in the category of a capital expense
18 if you're getting 200 or 400 of them.
19 Then there's a recurring maintenance cost
20 that's also involved. So it can be
21 looked at as a capital expense from that
22 standpoint.

23 COUNCILMAN GREEN: So could you
24 provide the Chair with what you think
25 would be an eligible capital expense

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2 compared to -- and we have a lot of
3 technology capital dollars that are
4 unallocated -- compared to what the
5 ongoing operating costs are? Because
6 obviously we're talking about a one-time
7 investment, and then the operating costs
8 throughout the system are decreased
9 significantly.

10 So I'd like to hear from the
11 Administration whether or not they agree
12 with the savings as proposed by the FJD.

13 (Witness approached witness
14 table.)

15 MS. RHYNHART: Good morning.
16 Rebecca Rhynhart, Budget Director.

17 We haven't seen back-up for the
18 numbers that the FJD presented. We'd be
19 happy to talk to them and get those
20 back-up numbers to try to see where
21 they've arrived at them from.

22 I think that there's no doubt
23 that some of these items could save the
24 City money, but in terms of the level of
25 those savings, we can't say at this point

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2 that we agree with those numbers. We'd
3 have to see back-up data.

4 COUNCILMAN GREEN: Well, I
5 mean, in part, you need to help provide
6 the back-up data because the -- I would
7 say that we could take the entire 6
8 million or most of the 6 million that is
9 requested by the FJD out of the Prison
10 System based on the data they've
11 presented, because we'll have 850 people
12 fewer in prison, there'll be 850 people
13 who need healthcare, who need to be fed,
14 et cetera.

15 Every year I've argued the
16 Prison System could have additional
17 reductions. Every year the
18 Administration has fought me on it, and
19 every year we've saved more money in the
20 Prison System than the Administration
21 projected as a result of the work of CJAB
22 and the entire working group, including
23 the Administration and Deputy Mayor
24 Gillison and other stuff, and I think
25 we're at the point where we've proven we

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2 can do it and we need to start budgeting
3 for the return on investment rather than
4 waiting to see it appear.

5 MS. RHYNHART: Just to be
6 clear, we did reduce the Prison's budget.

7 COUNCILMAN GREEN: Two and a
8 half million dollars.

9 MS. RHYNHART: -- by 2 million.
10 Right. So I don't think we're fighting
11 you on that. I think we all are in this
12 together and are happy to see some
13 savings in the Prison System.

14 And I think that in terms of
15 the electronic -- if the electronic
16 monitors for 800 people, we could do the
17 analysis. I mean, I think we could do
18 the analysis to see how much it would
19 save, how many days.

20 COUNCILMAN GREEN: Do it.

21 MS. RHYNHART: And just to be
22 clear, though, the electronic monitoring
23 wasn't part of the original request to
24 the Mayor for the budget. So we're happy
25 to talk to FJD about it and look at it,

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2 but it's not something that was requested
3 in the original request to the Mayor and
4 rejected. So we're happy to work with
5 them on it.

6 COUNCILMAN GREEN: Okay. Well,
7 I'm not -- nobody is accusing anybody of
8 having paid attention or not paid
9 attention.

10 MS. RHYNHART: No. I was just
11 making it clear.

12 COUNCILMAN GREEN: The point
13 is, can we agree that if we can actually
14 identify 6 million in savings in other
15 places in the current year or the next
16 year, because we're looking at what we
17 need in the Five Year Plan, that the
18 Administration will agree to provide the
19 additional probation officers, agree to
20 electronic monitoring and the other
21 things the Courts agrees? If we can
22 agree on what the savings will be, is
23 there any reason you would object to
24 putting those dollars back -- to putting
25 the dollars saved elsewhere into FJD so

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2 we can realize these savings and make the
3 system more efficient?

4 MS. RHYNHART: I think we can
5 agree to discuss it, and I don't think I
6 would say at this point that I can
7 definitely agree to give an exact dollar
8 amount if the savings are there. I think
9 we can agree --

10 COUNCILMAN GREEN: So you're
11 saying if the Administration agrees that
12 the savings will more than equal the
13 cost, you won't say that we want to make
14 the investment?

15 MS. RHYNHART: I am saying that
16 we will discuss it. Just like, for
17 example, that we'll talk about the DA,
18 we've given some extra money to the DA.
19 We've seen some savings that they've made
20 in some areas. In the Courts we put \$2.4
21 million additional in the proposed budget
22 for parole officers to replace stimulus
23 money going away. We put a million
24 dollars in for counsel and juror fees.
25 We are working on giving funding. We

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2 don't have an indefinite amount of money,
3 so --

4 COUNCILMAN GREEN: That's the
5 one part of the discussion that Deputy
6 Mayor Gillison made and that you're
7 making that I don't understand. If we
8 agree that the savings will appear, then
9 we have the money, because we're not
10 talking about spending it all on dollar
11 one from cash in the bank account. It's
12 over the course of a year or two years.

13 MS. RHYNHART: If we all agree
14 that there are definite savings, it's
15 definitely worth discussing sharing a
16 portion of that. I agree with that.

17 COUNCILMAN GREEN: Sharing a
18 portion of the savings?

19 MS. RHYNHART: Yes.

20 COUNCILMAN GREEN: Right.
21 Okay.

22 That's all I have, Madam
23 President.

24 Thank you very much. Thank you
25 for your testimony.

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2 COUNCIL PRESIDENT VERNA: The
3 Chair recognizes Councilman Clarke.

4 COUNCILMAN CLARKE: Thank you,
5 Madam President.

6 JUDGE DEMBE: If I may before
7 we move on. In fairness to the City,
8 this was a project where the numbers were
9 developed later, but we do have the data,
10 which we will gladly share. Thank you.

11 COUNCIL PRESIDENT VERNA:
12 Councilman Clarke.

13 COUNCILMAN CLARKE: Thank you,
14 Madam President.

15 Good morning.

16 JUDGE DEMBE: Good morning.

17 COUNCILMAN CLARKE: I want to
18 concur with all of my colleagues about
19 the wonderful job that you all are doing
20 working with the Administration and
21 reducing the prison population and coming
22 up with other creative ideas.

23 I want to go on a little
24 different direction as it relates to
25 community service. I'm glad to see that

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2 you're expanding Community Court and
3 other such type programs. What's the
4 criteria associated with an individual
5 being able to be given court-mandated
6 community service?

7 JUDGE DEMBE: There really is
8 nothing formal in the law. So while
9 primarily we use it for nuisance-level
10 crimes, I mean, some kid has been doing
11 graffiti, sure you're going to send him
12 to scrubbing something, that kind of
13 thing, but judges hearing serious
14 felonies can and do include community
15 service when they think it will make an
16 impact on the community and/or on the
17 offender. So in terms of the court's
18 ability to use it, we have a lot of
19 flexibility.

20 COUNCILMAN CLARKE: Okay.
21 Well, one, I anticipate given this push
22 towards changes in terms of sentencing as
23 opposed to sending a person directly to
24 jail wherever possible given the
25 expansion of these other programs, we

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2 will probably have more people that could
3 be eligible for Community Court -- I'm
4 sorry; community service designation.

5 JUDGE DEMBE: Yes. Again, we
6 are on the cusp of a larger societal
7 change. We've been using punishment as
8 our primary form of law enforcement ever
9 since the Germanic tribes brought it to
10 European civilization about 1,500 years
11 ago, and we refuse to let go of the idea
12 that it's not working very well and that
13 doing more of it will change that, and
14 people are beginning very slowly to see
15 that, to see the prisons are more
16 destructive than constructive, and that
17 while we all agree there is a very small
18 population of people who should never be
19 allowed to roam the streets, it's really
20 nowhere near as large as we have led to
21 believe and that the punishment really
22 just destroys families, destroys the
23 ability to earn a living. And even for
24 people who have committed things that we
25 put in the category of violent crime, I

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2 think there is much more to be done in
3 terms of rehabilitation and supervising
4 ways for them to integrate into the
5 fabric of their community.

6 Europe, if you look at Europe,
7 they have long used a very, very
8 different model. A three- or four-year
9 prison sentence is a long sentence there.
10 In Ireland if you go to jail, you go home
11 for Easter and Christmas, and after a
12 while you have vacations with your
13 family, an active effort to keep you
14 involved in a network of family, because
15 at bottom, it's more likely to be your
16 mother, your grandfather, your uncle,
17 your aunt, not your probation officer,
18 who is going to see you hanging with the
19 wrong people, see you getting ready to do
20 something stupid and is likely to
21 intervene if you're part of the family
22 and community network.

23 COUNCILMAN CLARKE: All right.

24 I actually agree with you to a large
25 extent from the philosophical

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2 perspective. Let me shift to change the
3 focus of my line of questioning, still on
4 community services but more on the
5 operational side, because the reality is
6 that some of the challenges that -- I can
7 speak personally from the district I
8 represent and I know Councilwoman Sanchez
9 and a couple of other districts have some
10 significant challenges as it relates to
11 your aforementioned graffiti, vacant
12 lots, some of the other things that we
13 just don't have the person power
14 currently within our budget and staffing
15 levels to deal with. And where we've
16 applied community service, these
17 individuals are not as good as our City
18 workers or our other departments in terms
19 of remediating some of those issues, but
20 they do help. We send some guys out to
21 clean a vacant lot, it's not as neatly
22 manicured as the professionals, but it
23 provides a relief.

24 So I guess my question that
25 from an operational perspective is, one,

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2 how many people -- let me start with,
3 one, is there a possibility -- or maybe
4 you don't want to take that flexibility
5 away from the judge -- to have some sense
6 of guidelines that people have a sense
7 that they're probably going to get
8 community service, and that may or may
9 not be a good thing, or if we can have
10 some levels that we can count on in terms
11 of people who are actually going to
12 provide community service in a
13 neighborhood to help supplement the lack
14 of our workforce. And I hate that it's
15 at that level, but the reality is that we
16 just simply don't have enough people in
17 our workforce to deal with some of these
18 issues. And when I talk to some of these
19 young guys, because I see them out in the
20 neighborhood and I walk over -- I usually
21 know the crew leader, Manny Ortiz, that
22 oversees that operation -- they actually
23 say, You know what, when I'm done with
24 all of my sentencing issues, I'd like to
25 get a job with a land care company. So

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2 they do get a sense of work, you know.

3 Do you think it would make more
4 sense if we had a more structured
5 program, one that would give some
6 structure to that individual and possibly
7 some long-term issues as it relates to
8 them becoming a productive citizen and,
9 two, providing significant assistance to
10 the City's ability to fight blight in
11 communities?

12 I know that was a very long
13 question. I apologize for that.

14 JUDGE DEMBE: We'll have you
15 diagramming sentences, too.

16 It's something that I would
17 like to sit down and talk with you about,
18 and it's a conversation that Judge
19 Neifield from the Municipal Court should
20 be a part of it as well, because most of
21 the people who are going to be impacted
22 by that are going through Municipal
23 Court, not all of them but certainly a
24 large number of them, and it will have
25 to, I think, be a balancing of the

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2 interests of the unions who represent the
3 people who get paid to do similar work.

4 It will have to work out supervision
5 mechanisms. And sentencing is a state
6 law issue. It's not something that we
7 can really enact locally, but what we can
8 do if we build a more structured program
9 is educate the judges, because they are
10 profoundly aware of the senselessness of
11 a lot of the incarceration, so I think
12 we'd get a lot of interest. But I think
13 we're going to need to talk about it,
14 because it's one of these areas that I
15 just know will trigger the law of
16 unintended consequences. So we'll have
17 to figure out as many of those potential
18 obstacles as we can in advance. So if
19 that's all right with you, we can set up
20 a meeting.

21 COUNCILMAN CLARKE: Oh,
22 absolutely. Absolutely. I just think
23 that we need to get a little more
24 creative. I would actually like to see
25 some of these individuals start a

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2 business, land care business. We
3 actually had a conference a couple of
4 weeks ago. Councilman Goode and a number
5 of other Councilmembers that were here
6 actually participated in the conference,
7 and there were individuals there who had
8 challenges in their life as it relates
9 to -- I hate to use the term
10 "ex-offenders," but they came in talking
11 about starting a business.

12 So I think that realistically
13 we need to look at that as a significant
14 option, because a lot of these
15 individuals, they're just not going to
16 get the traditional job because of the
17 skill-set associated with a lot of those
18 jobs, but they do have some abilities as
19 it relates to being entrepreneurial. So
20 wherever possible, if we can kind of
21 merge all of those things and utilizing
22 community sentencing to not just be a
23 sentence but also a path towards doing
24 something with their life educationally
25 or from an entrepreneurial perspective.

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2 JUDGE DEMBE: I would agree,
3 and what pops to mind right away is, you
4 not only have to teach people to do the
5 work itself and the things like showing
6 up on time and being there every day and
7 all that kind of thing, but as many of us
8 know, starting a small business, it's not
9 so easy. So we have to develop that kind
10 of training as a second step once people
11 have a skill.

12 COUNCILMAN CLARKE: I agree.
13 It's actually -- it's difficult as it is
14 for some people to actually get a job,
15 you know. It's that difficult out here
16 now.

17 Okay. Thank you. One other
18 issue that -- I want to say I appreciate
19 your office working with us as it relates
20 to the impending state -- well, actually,
21 the state authorization of enhanced
22 blight removal issues, and I want to
23 thank you for the meetings that we've
24 had. The City has indicated now that
25 given the enhanced powers, not

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2 necessarily directly tied to that, but
3 they're going to start ramping up some of
4 these enforcement issues, and once the --
5 I guess it's three more months, we will
6 be in a position to take advantage of the
7 state authorization to start attaching
8 assets and all of the other things
9 associated with the state legislation.

10 Can you give me a sense of --
11 because I know in our conversation, there
12 were some things that you already had in
13 place and possible direction we will go
14 once this thing is fully implemented.

15 JUDGE DEMBE: Now that we're
16 getting this close, I think it's probably
17 time for me to dump one more task on
18 Dominic Rossi, our legal wizard, kind of
19 putting together a training manual for
20 the judges and the lawyers and time for
21 us to talk perhaps -- either do it
22 ourselves or talk to PBI about doing a
23 CLE for lawyers to get involved in this,
24 and then probably you'd be more effective
25 in setting up some sort of community

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2 education for people who want to know how
3 to get involved in these things without
4 hiring lawyers. So we're getting to that
5 point now, so I think that's where we go
6 next.

7 COUNCILMAN CLARKE: It's
8 coming, yeah.

9 JUDGE DEMBE: That's exciting.
10 That's a good one.

11 COUNCILMAN CLARKE: Very much
12 so. Thank you very much.

13 Thank you, Madam President.

14 COUNCIL PRESIDENT VERNA:
15 You're welcome.

16 The Chair recognizes
17 Councilwoman Tasco.

18 COUNCILWOMAN TASCO: Thank you
19 very much. I'd just like to say that
20 being here for a number of years, it's
21 gratifying to know that you all are very
22 responsive to a number of issues that
23 have been raised through the years in
24 terms of how to deal with the folk who
25 come through your jurisdiction and the

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2 innovative programs that you've
3 implemented and that you're sensitive to
4 what's going on and try to find ways to
5 address issues that are raised. So
6 you're doing a good job and I appreciate
7 it.

8 JUDGE DEMBE: Thank you.

9 COUNCILWOMAN TASCO: Thank you.

10 Thank you, Madam President.

11 COUNCIL PRESIDENT VERNA:

12 You're welcome.

13 The Chair recognizes
14 Councilwoman Blackwell.

15 COUNCILWOMAN BLACKWELL: Thank
16 you, Madam President.

17 Good morning, all.

18 JUDGE DEMBE: Good morning.

19 COUNCILWOMAN BLACKWELL: We
20 certainly agree with the comments, the
21 statements made by Councilman Green with
22 regard to money for ankle bracelets or
23 other monitoring devices that will -- we
24 believe in the end it has to save money.
25 We've got to do something to keep --

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2 whether we call it a capital investment
3 or however we deal with it, we certainly
4 agree that we need to make that happen
5 and look forward to you getting back to
6 the President on that.

7 Another issue is, we've been
8 having a lot of complaints in our office
9 about ex-offenders who get out of prison,
10 they're worried about having to go back
11 because they owe court costs, 4,000,
12 5,000, one as high as \$15,000.

13 What happens when you have
14 ex-offenders who are out who are not
15 employed and who are worried about going
16 back because they can't pay court fines
17 that they have accrued before they got
18 there?

19 JUDGE DEMBE: No one goes to
20 jail simply for being unable to pay.
21 Now, if you've got the money and you
22 don't pay, you can go to jail. We've all
23 heard the stories about the
24 multi-millionaires who squirrel their
25 money away and that kind of thing.

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2 That's not the population that we're
3 dealing with. We put people --

4 COUNCILWOMAN BLACKWELL:

5 Obviously not.

6 JUDGE DEMBE: I keep looking,
7 though.

8 We put people on a very minimal
9 payment plan. And if you come in and
10 convince us that you can't afford cable
11 TV and those aren't new sneakers you're
12 wearing and you haven't got a cell phone
13 plan, then maybe we'll cut it down even
14 further, but most people can make a small
15 minimum payment toward the eventual
16 satisfaction of the amount. And my
17 thought is, they're buying lottery
18 tickets, too, so maybe we'll all get
19 lucky when they hit the big one.

20 We don't put people in jail for
21 that. We don't have cells to waste on
22 that, frankly, but we do expect people to
23 come up with the money.

24 COUNCILWOMAN BLACKWELL: All
25 right. May we call you if we have

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2 problems with these clients?

3 JUDGE DEMBE: You know where to
4 find me.

5 MR. WASSON: You know the
6 number to call.

7 COUNCILWOMAN BLACKWELL: Thank
8 you. Thank you.

9 My last question is -- Madam
10 President, I was late coming to this
11 meeting because I was at a meeting with
12 the DA's Office, with Nationality
13 Services Center, the Chairman of the
14 Mayor's Commission on African and
15 Caribbean Immigrant Affairs, Stan
16 Straughter, and a few others about the
17 whole issue of immigrants being jailed
18 even for misdemeanors. When they're
19 picked up and they find out they're
20 immigrants, they get caught in a
21 deportation system that hurts them that
22 they don't need to be in. It is this
23 city, and we've all heard the Mayor and
24 we've all heard the Police Commissioner
25 say that we're not involved in trying to

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2 deport. We don't ask people their
3 immigration status if they're stopped.
4 But we're finding it is happening too
5 many times across the board, and we are
6 involved in trying to create a whole
7 program where we pull everybody together
8 to try to deal with this issue.

9 So I bring it to you with hopes
10 that -- we didn't have the Courts in our
11 meeting. So we had our first big
12 meeting, but we did not involve the
13 Courts, which we should have, because
14 everyone has a role, and as part of this
15 pars issue and where there's an MOU sign.

16 So we would certainly ask for
17 your help to try to deal with this issue
18 so we don't clog the system, charge more
19 money and have families broken up when
20 people -- we're finding that people are
21 being arrested and they're deported
22 before cases are even resolved or if
23 they're dropped or they're found not
24 guilty or for misdemeanors, and we're
25 having a big issue with that. In fact,

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2 they said that Philadelphia is the sixth
3 highest city in the country for deporting
4 people who should not be deported when
5 they find out that for one reason or
6 another they should not have been in the
7 system, either they're cleared, either
8 their case was dropped or some such
9 issue. So we want to ask your advice,
10 your counsel and your assistance in this
11 area.

12 JUDGE DEMBE: I'm not sure that
13 the state courts do have very much of a
14 role. Deportation is, of course, a
15 federal issue, and whether or not when
16 people are picked up if they are found
17 guilty, if the feds find out about it and
18 they're here illegally, current national
19 policy seems to be to throw them out of
20 the country.

21 COUNCILWOMAN BLACKWELL: But
22 these are cases where the case isn't even
23 heard and in the MOU Marsha Neifield
24 signed it. So somehow our courts deal
25 with it. And these are cases where

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2 they're not even resolved. They arrest
3 the person and they stick them on a track
4 to deport them. It's not a person found
5 guilty of some federal crime.

6 JUDGE DEMBE: I agree, but it
7 is apparently national --

8 COUNCILWOMAN BLACKWELL: But if
9 Marsha Neifield signed an MOU, it seems
10 to me that the Courts are involved in the
11 discussion.

12 JUDGE DEMBE: We're involved in
13 the discussion, but there is very little
14 that we can do about national policy.
15 And as we all know, when people are
16 running for offices and the federal
17 level, they get into these silly debates
18 about somehow conflating illegal
19 immigration with terrorism, and it's a
20 nonsense, but it does seem to involve a
21 fear factor that the voters respond to.
22 It's a shame. We're not handling it very
23 well.

24 COUNCILWOMAN BLACKWELL: Well,
25 my last statement will be, I'll read the

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2 first line of this MOU. The extension of
3 End-User License Agreement, EULA, entered
4 into between the City of Philadelphia as
5 more fully identified, licensor, and the
6 Department of Homeland Security and
7 Custom Enforcement is effective as
8 provided herein. And they list dates.
9 It's signed by David C. Lawrence, Court
10 Administrator; John Gaittens, Deputy
11 Commissioner, Police Department; Joseph
12 McGettigan, First Assistant DA. They're
13 all local people.

14 JUDGE DEMBE: Yes, but the feds
15 can still get the immigration data
16 through another route. We're not going
17 out of our way to help them, but they can
18 nonetheless get the information with or
19 without them.

20 COUNCILWOMAN BLACKWELL: I just
21 thought there may be some way we could
22 work together. I'm disappointed that you
23 don't seem willing. My goodness, these
24 are mothers and fathers. Because our
25 Commission represents 38 countries in

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2 Africa and the Caribbean. These are
3 people who are just trying to find their
4 way as the rest of us are who live here
5 and who came here historically one way or
6 another. I just thought it would be a
7 good way -- I was going to call President
8 Judge Neifield, but I thought there might
9 be some way that you would be interested
10 in it, but obviously I made a mistake.

11 Thank you, Madam President.

12 JUDGE DEMBE: Councilwoman, I
13 think I did not speak clearly. We're not
14 in disagreement here. I certainly know
15 that my people didn't go through
16 immigration when they got here. I'm just
17 saying that there's a limit to what the
18 state court system can do. We'll be glad
19 to be involved in the discussions and,
20 you know, I support your goals. I think
21 we all do, but I think we are limited by
22 a fairly wrong-headed federal policy at
23 this point.

24 COUNCILWOMAN BLACKWELL: Thank
25 you, Madam President.

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2 COUNCIL PRESIDENT VERNA:

3 You're welcome.

4 The Chair recognizes
5 Councilwoman Sanchez.

6 COUNCILWOMAN SANCHEZ: Thank
7 you, Madam President.

8 Thank you. Good morning. I
9 want to talk a little bit about your
10 identified shortfalls; in particular,
11 those related to juvenile offenders and
12 the fact that our juvenile offenders
13 grant will not be renewed by the
14 Governor. You put that number at
15 \$450,000 for the Youth Violence Reduction
16 Program.

17 Can you tell me if in fact we
18 were not to fill this, what would
19 happen -- tell me what's happening now,
20 because this is such an important
21 program. I can't emphasize how much.
22 And if we did not get the money, what
23 happens to juveniles?

24 JUDGE DEMBE: We'll have more
25 dead children, is what it comes down to.

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2 These are young people who are in danger
3 of being victims and of being offenders
4 and making other children victims. So we
5 will have an increase in dead children on
6 our streets.

7 COUNCILWOMAN SANCHEZ: How many
8 young people are being served through
9 this program now?

10 JUDGE DEMBE: It is in the
11 Mayor's proposed budget.

12 COUNCILWOMAN SANCHEZ: Oh, it
13 is in the Mayor's proposed budget? Okay.
14 Because you have it listed as going to be
15 cut.

16 DEPUTY MAYOR GILLISON: It's
17 not in their budget because --

18 COUNCILWOMAN SANCHEZ: Can you
19 please clarify. Thank you.

20 (Witness approached witness
21 table.)

22 DEPUTY MAYOR GILLISON: Everett
23 Gillison, Deputy Mayor for Public Safety.

24 It's not in the Courts' budget
25 because in the Courts' budget, it was a

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2 grant. The grant was not renewed from
3 the feds, but the Mayor felt that it was
4 needed, so we fully funded it through a
5 grant through the MDO. So it actually
6 comes out of my office to fully fund the
7 YVRP program. So we put it somewhere
8 close to \$1.5 million.

9 COUNCILWOMAN SANCHEZ: Okay.

10 All right. This is misleading, so thank
11 you for that clarification. Very
12 important for me.

13 You talked about the counsel
14 fee. Can you tell me where this counsel
15 fee is going to go? Is that to the
16 Defender's Association?

17 JUDGE DEMBE: No. What happens
18 is that very often somebody is arrested
19 and the Defender's Office cannot
20 represent them, either they represent
21 somebody else in the matter or for some
22 reason there's a conflict. So this is
23 conflict counsel.

24 COUNCILWOMAN SANCHEZ: These
25 are only cases that are not conflict, not

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2 in lieu of supporting the Defender's
3 Association?

4 JUDGE DEMBE: Correct, ma'am.

5 COUNCILWOMAN SANCHEZ: That's
6 an important clarification for me.

7 I wanted to talk about -- in
8 your testimony we've been talking about
9 electronic monitoring, and you talked
10 about a \$4.5 million investment will
11 generate \$24.2 million in savings. Is
12 that over the course of two years or is
13 that a one-year? Is there a way we can
14 begin to initiate this in a revenue
15 neutral or an expense neutral?

16 MR. CROSS: We tried to look at
17 two scenarios of trying to put this
18 together, one doing 800 units all at
19 once, and that would cost us about \$4.5
20 million. We also understand that it may
21 take some incremental time to get this up
22 and running, and we did do a two-year
23 plan of 400 units a year over two years,
24 and we've estimated that to be also
25 around \$4.5 million. We will transmit to

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2 Council President an analysis of our
3 revenue costs, our revenues and costs and
4 you'll be able to take a look at that.

5 COUNCILWOMAN SANCHEZ: I
6 appreciate that. And I wanted to -- I
7 know Councilman Clarke left the room. I
8 know he was talking about some of the
9 community service, and I thought it was
10 important to note, I know President Judge
11 Neifield has been very aggressive in
12 trying to find alternative sentencing,
13 and I know she's reached out to me in
14 terms of getting some of our non-profits
15 to be partners and willing to take some
16 of these young people, and I think that's
17 a good step and a model that we should
18 look at as we look at expanding that and
19 supporting and obviously seeking her
20 advice around how do we get our community
21 to become better partners in allowing us
22 to place juveniles and other folks to do
23 their community service.

24 So I just want -- I'm not sure
25 my colleague was aware of that, but I

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2 know that there are steps being taken and
3 Judge Neifield is working on this
4 initiative. It's one that I support and
5 will continue to support and support its
6 expansion, because just as Councilman
7 Clarke mentioned, having those options --
8 I do agree with him that if in fact that
9 is a model that's working that Judge
10 Neifield is doing, it's something that
11 the entire court system needs to look at
12 and figure out how we could keep pushing
13 that forward. Again, a lot of it is
14 getting external partners before we ask
15 City departments to also take on that
16 charge. It's very important. So I just
17 wanted to acknowledge that.

18 We talked about the Clerk of
19 Quarter Sessions and the funding of
20 additional -- to get back the additional
21 funding on the two reductions. I don't
22 see in your testimony what efficiencies
23 that will get us going back to will it
24 pay for itself. You're asking to
25 reinstate the \$548,000. What would that

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2 do?

3 MR. WASSON: We didn't state it
4 in the testimony, but what it would do is
5 allow us -- one thing is to increase
6 revenue, increase collection revenue in
7 criminal cases. It will also allow us to
8 sufficiently staff courtrooms, so all the
9 documents, all the information is done
10 timely. As was mentioned earlier, some
11 of the information that may be in some of
12 our systems may not be up to date as
13 timely as it should be. It could even
14 cause some deportation issues at times.
15 We don't want that to happen. So quality
16 controls, efficiencies, hard to put a
17 dollar number on that, but also increased
18 revenue, assessing the revenue and
19 collecting and accounting for and moving
20 the money where it should be is --

21 COUNCILWOMAN SANCHEZ: One of
22 the concerns I've heard from some of the
23 clerks has been that they're assigned to
24 multiple courtrooms. How many courtrooms
25 are they assigned to? That's one of the

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2 biggest complaints that I've gotten from
3 the transition.

4 JUDGE DEMBE: I don't blame
5 them. I have always believed that when a
6 court is open and operating, there should
7 be at least one clerk there at all times,
8 and in some very busy rooms where there's
9 an enormous amount of data entry that has
10 to be done, we need at least two. So I'm
11 on board 100 percent with that.

12 Right now we are thinner than
13 we should be, because at any given time,
14 you've got people who are sick, you've
15 got people who are out on FMLA, you've
16 got people on vacation, and we now have
17 people who are out on a regular basis
18 because we are training them
19 aggressively, and the technology that is
20 going to be changing even more so, that
21 that will continue to be part of the
22 process.

23 The clerks, for instance, along
24 with everybody else who spends time in
25 criminal courtrooms, is going to be

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2 trained on how to spot witness and victim
3 intimidation while it's happening in the
4 courtroom and be that extra set of eyes
5 and ears that can report to the judge and
6 the sheriff. So there are all these
7 issues and responsibilities, and I have
8 to say they have responded terrifically.
9 The training is being done by folks
10 in-house, and the experienced clerks have
11 really stepped up to help the new ones.

12 But I agree that clerks should
13 not have to move from room to room.
14 Every time you do that, it's like coming
15 in on the middle of somebody's story. It
16 takes you a while to figure out who is
17 talking about who and what the back story
18 is, and in a courtroom where you need
19 very accurate data entry, that's a bad
20 thing.

21 COUNCILWOMAN SANCHEZ: Well,
22 thank you very much. Clearly we see the
23 improvements, and having CJAB and
24 obviously Deputy Mayor Gillison on this,
25 we've seen tremendous improvements on the

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2 prison and court side. So I do want to
3 congratulate you.

4 I'm very happy to see your
5 demographic makeup, although I will have
6 to note that Hispanic and Latinos,
7 because I'm concerned about language
8 access, is still at four percent. So I
9 strongly encourage you if there are any
10 enhancements to staffing, Hispanics now
11 make up 12 percent of the population, so
12 that number could clearly use great
13 improvement.

14 JUDGE DEMBE: Okay.

15 COUNCILWOMAN SANCHEZ: So I
16 just want to put that on the record.
17 Thank you.

18 Thank you, Madam Chair.

19 JUDGE DEMBE: Thank you.

20 COUNCIL PRESIDENT VERNA:
21 You're welcome.

22 The Chair recognizes Councilman
23 Green.

24 COUNCILMAN GREEN: Thank you,
25 Madam Chair. I actually have no more

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2 questions. It's been covered by
3 everybody else. Thank you.

4 COUNCIL PRESIDENT VERNA: Are
5 there any other questions by members of
6 the Committee?

7 (No response.)

8 COUNCIL PRESIDENT VERNA:
9 Seeing no one, thank you very much.
10 We've learned a great deal from you
11 today.

12 JUDGE DEMBE: Thank you. And I
13 just want to say that this is the last
14 round of budget hearings with some
15 people, including one of my heroes. I'll
16 be sorry to see those changes, although I
17 look forward to working with the new
18 folks who will be coming in.

19 COUNCIL PRESIDENT VERNA: Thank
20 you.

21 MR. WASSON: Thank you.

22 COUNCIL PRESIDENT VERNA: Thank
23 you very much.

24 MR. McPHERSON: The Defender
25 Association is next.

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2 (Witnesses approached witness
3 table.)

4 COUNCIL PRESIDENT VERNA: Good
5 afternoon. Welcome. Please identify
6 yourself for the record and proceed with
7 your testimony.

8 MS. GREENLEE: Good morning,
9 Council President. Pleasure to see you
10 again.

11 COUNCIL PRESIDENT VERNA: Thank
12 you. Same here.

13 MS. GREENLEE: I'm Ellen
14 Greenlee, G-R-E-E-N-L-E-E, Chief Defender
15 of the Defender Association of
16 Philadelphia. With me today are Charles
17 A. Cunningham, First Assistant Defender,
18 and Kristen Muhl, that's K-R-I-S-T-E-N,
19 M-U-H-L, Assistant Controller, one of the
20 two Assistant Controllers of the Defender
21 Association.

22 Let me express my thanks first,
23 Council President, to you and the members
24 of City Council and your staffs for this
25 opportunity to present our Fiscal Year

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2 2012 appropriation request and also for
3 your continuing support and encouragement
4 of the work of the Association in
5 representing Philadelphia's poorest
6 citizens charged with criminal offenses,
7 those with mental and emotional problems
8 in both criminal and civil matters, and
9 also through our Child Advocate Unit,
10 thousands of dependent children in
11 contested custody matters, many of whom
12 are the victims of abuse and neglect.

13 The court systems in
14 Philadelphia cannot function without the
15 active participation of the attorneys,
16 social service advocates, investigators
17 and support staff who are the Defender
18 Association of Philadelphia. None of the
19 innovative programs that you have heard
20 the Courts speak about, the First
21 Judicial District, or you will hear the
22 District Attorney speak about can
23 function properly without the assistance
24 and cooperation, the very active
25 assistance and cooperation, of the

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2 Defender Association.

3 On behalf of our staff, we are
4 here today to present our appropriation
5 request for Fiscal Year 2012 and to ask
6 you to consider our request for a
7 substantial increase of 2.8 million plus
8 in the following areas: Salary and
9 benefits to fund 22 attorney positions; a
10 five percent increase for operating
11 expenses, which are never increased in
12 all the years that we've been asking for
13 an increase; anticipated medical
14 insurance increases; and a general salary
15 increase of three percent for all staff.

16 I realize obviously that this
17 is a large request in these straightened
18 economic times, and we do not make it
19 lightly. We have struggled through
20 budget cuts over the last three years
21 with the hiring freeze, with necessary
22 cuts to our benefits package, and
23 postponing equipment and computer
24 upgrades and, of course, no salary
25 increases for staff, all of whose

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2 salaries are well below those of City
3 employees, the District Attorney and the
4 City Solicitor. At the same time, there
5 was and is no reduction to caseload,
6 workload or the number of courtrooms
7 staffed by Defender attorneys.

8 In the last year since we
9 appeared before you, we kept the promise
10 that Mr. Cunningham and I made to provide
11 representation in all forums with no
12 interruption, including the Zone Court,
13 which opened in November 2010 and created
14 11 unfunded court assignment slots for
15 Defender attorneys, though we were
16 promised that the Zone Court would
17 require no additional staff from us. We
18 were able to do this only by robbing
19 Peter to pay Paul; that is, by not
20 filling vacant social worker and
21 administrative positions and directing
22 those funds to attorney positions so that
23 we could continue to staff all the
24 courtroom assignments that we have.

25 Since the City's master plan

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2 includes no budget increase for the
3 Association in Fiscal Year 2012, except
4 for funding for medical insurance
5 increases last December, all our
6 unresolved issues from last year,
7 adequate staffing, salaries, operating
8 expenses, delayed purchases, will
9 continue with us into Fiscal Year 2012.

10 To be fully staffed to cover
11 all court assignments, we need funding
12 for 250 attorneys, not the 228 currently
13 funded over the last several years. In
14 2008, we advised the Budget Director and
15 Court Administration that we needed 16
16 additional attorney positions due to
17 increased workload in Criminal Mental
18 Health, in Juvenile, in the Felony Waiver
19 Program, Homicide, Appeals and Major
20 Trials. Since that time, 2008, the
21 creation of specialty courts like Mental
22 Health Court, Driving Under the Influence
23 Court, Veterans Court and the alphabet
24 soup programs of ARC, AVOP, AMP and now
25 SMART in the zone system have required

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2 additional Defender participation,
3 additional staff.

4 If the additional attorney
5 positions are not funded; that is, the
6 250, we will have to reduce our attorney
7 number to the funded level, which is 228,
8 and begin to withdraw from excess cases
9 and courtrooms. We say this not only on
10 our own behalf but also from the Board.
11 It is the position of the Board of the
12 Defender Association.

13 Our final request today on
14 behalf of our staff is to ask that you
15 support a pay equity plan at all levels
16 in our agency with our City and District
17 Attorney counterparts, as Defender
18 personnel are paid substantially below
19 City workers and the gap widens each
20 year.

21 The Defender Association is and
22 always has been a team player. Witness
23 the fact that through all this crisis
24 over the last three to four years, we
25 have continued to staff all assignments

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2 at great cost to us and to our staff. We
3 ask that the members of City Council
4 consider the budgetary issues we face and
5 take the steps necessary to rectify
6 staffing shortages and salary inequities.

7 Thank you for your time and
8 consideration. We will certainly be
9 happy to respond to any questions and to
10 provide any additional information you
11 may want after this meeting.

12 Thank you.

13 COUNCIL PRESIDENT VERNA: Thank
14 you very much.

15 As I understand it, the
16 additional monies being requested, would
17 that include enough money for you to be
18 able to hire additional attorneys?

19 MS. GREENLEE: Yes, it would.

20 COUNCIL PRESIDENT VERNA: So
21 how many additional attorneys would you
22 be able to hire?

23 MS. GREENLEE: Well, at the
24 present time, we're staffed at 239. In
25 order to get to 250, we would need to

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2 hire 11, but the difference that we're
3 talking about is that we are funded for
4 228. We have been able to hire those
5 additional 11 only because we have not
6 filled vacant social work and
7 administrative positions. So we've
8 diverted funding that should go to those
9 positions to making sure that we have
10 sufficient attorneys to staff all
11 courtroom assignments.

12 COUNCIL PRESIDENT VERNA: And
13 your request was made to the
14 Administration?

15 MS. GREENLEE: Yes. We have
16 over the last several months and in fact
17 last week we had a meeting with Deputy
18 Mayor Gillison and with the Budget
19 Director, Rebecca Rhynhart, where we
20 presented our request, and I guess one
21 could say they've taken it under
22 advisement.

23 COUNCIL PRESIDENT VERNA: I'm
24 sure that City Council will certainly be
25 very much willing to look into this and

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2 also talk to the Budget Director.

3 MS. GREENLEE: Thank you.

4 COUNCIL PRESIDENT VERNA: Thank
5 you very much.

6 Are there any questions?

7 (No response.)

8 COUNCIL PRESIDENT VERNA: Thank
9 you again.

10 MS. GREENLEE: Thank you.

11 COUNCIL PRESIDENT VERNA:
12 You've been very patient.

13 MS. GREENLEE: We don't know
14 whether to be happy or sad. Thank you,
15 Council President, and our very best
16 wishes to you.

17 COUNCIL PRESIDENT VERNA: Thank
18 you so much.

19 We will now stand in recess
20 until 1:15. Thank you very much.

21 (Short recess.)

22 COUNCIL PRESIDENT VERNA: Good
23 afternoon. This is a continued public
24 hearing of the Committee of the Whole.

25 Our first witness?

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2 MR. McPHERSON: District
3 Attorney's Office.

4 COUNCIL PRESIDENT VERNA: Good
5 afternoon. Welcome.

6 MR. WILLIAMS: Good afternoon,
7 Madam President. How are you today?

8 COUNCIL PRESIDENT VERNA: Fine.
9 Thank you.

10 Please identify yourself and
11 proceed with your testimony.

12 MR. WILLIAMS: Thank you. And
13 if it pleases the President of City
14 Council, I am Seth Williams and I have
15 the pleasure and distinction of being the
16 District Attorney for the City and County
17 of Philadelphia.

18 Madam President and members of
19 Council, I am pleased to be joined today
20 by what appears to be close to 20 members
21 of my staff, and I'm very thankful for
22 their collective hard work in preparing
23 the documents from which I will be giving
24 my testimony today. So I would ask that
25 you attribute to them any of your praise

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2 for anything that I do that is correct
3 and right today and assign blame to me
4 for any inaccuracies or errors.

5 I am joined to my right is
6 Mr. Ed McCann, who is the Deputy of our
7 Trial Division, and to my left is
8 Mr. Greg Rowe, who is the Chief of our
9 Legislation and Policy Unit.

10 COUNCIL PRESIDENT VERNA:

11 Welcome.

12 MR. WILLIAMS: I've submitted,
13 Madam President, 13 pages of testimony,
14 along with that three graphs, charts, and
15 a map. I would ask that that be
16 submitted into the official record of
17 today's testimony. With your permission,
18 I will be giving just a brief summary of
19 said testimony.

20 COUNCIL PRESIDENT VERNA: Thank

21 you.

22 MR. WILLIAMS: And, Madam
23 President, I have spoken with your
24 stenographer and I've promised that I
25 will try to speak as slowly as possible.

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2 COUNCIL PRESIDENT VERNA:

3 Great.

4 MR. WILLIAMS: Madam President,
5 just one year ago I sat here as the newly
6 elected District Attorney of Philadelphia
7 on my 100th day in office, and I outlined
8 my goals for improving the delivery of
9 justice and making Philadelphia safer. I
10 spoke about the unacceptable number of
11 cases that were dismissed, the feeling of
12 helplessness among victims and witnesses,
13 the need to be smart on crime and the
14 necessity of changing the way the
15 District Attorney's Office does business.

16 I am pleased to report today
17 that we are being smarter on crime and
18 are beginning to address the systemic
19 problems in the Philadelphia criminal
20 justice system. Justice as a whole is no
21 longer delayed, denied or dismissed.
22 More cases are decided on the evidence,
23 and cases are proceeding faster through
24 the system. What is particularly
25 encouraging is that so many of our

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2 achievements have been done in a
3 collaborative manner, and for that, I
4 must thank Mayor Nutter, Deputy Mayor
5 Gillison, Commissioner Ramsey and my
6 great partner, Judges Dembe and Neifield
7 and the entire First Judicial District,
8 as well as all of our members of the
9 Criminal Justice Advisory Board. I'd
10 also like to thank Councilwoman Donna
11 Reed Miller and all the members of the
12 Public Safety Committee for their
13 assistance and the interaction we've had
14 throughout the year.

15 Madam President, there is an
16 added benefit to what we are beginning to
17 accomplish. Much of what we have done
18 has also saved the City money. In other
19 words, we have made changes that will
20 improve public safety and, as a
21 collateral consequence, save precious
22 taxpayer dollars. In just one year and a
23 few months, we have done so much. I
24 would like to discuss with you our major
25 initiatives and accomplishments.

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2 And, Madam President, as I
3 stated at the onset, it's my goal for us
4 to be smart on crime and not just talk
5 tough. And what does that mean? Being
6 smart on crime doesn't mean being soft on
7 criminals. It means that we do all that
8 we can to prevent crime. Being smart on
9 crime means that we do all that we can to
10 better serve victims so they can heal and
11 not be re-traumatized by our criminal
12 justice system. And being smart on crime
13 means that we do all that we can to
14 reduce recidivism, the rate of people
15 getting arrested over and over and over
16 again.

17 Now, our major accomplishments
18 and the ones that I will outline today
19 could not have been implemented or
20 sustained without the changes to our
21 Charging Unit. So, Madam President, as
22 I'm sure you will remember from your days
23 when you first started working for the
24 City, when you worked for the District
25 Attorney's Office --

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2 COUNCIL PRESIDENT VERNA: Oh,
3 yes.

4 MR. WILLIAMS: -- the Charging
5 Unit is where it all begins, and when I
6 took over, our Charging Unit had five
7 staff members, five Assistant District
8 Attorneys. And the responsibility of
9 charging is that we have to determine who
10 should be charged, what the appropriate
11 charges are. And I've totally revamped
12 that, and we did that on our first day.
13 We brought in 14 well-regarded,
14 experienced prosecutors to the unit.
15 Prior to that, District Attorneys were
16 either hired directly to be in the
17 Charging Unit or they were being sent
18 there because they had been punished.
19 What I wanted to do and what I think is
20 showing great result now is that we'll
21 only assign Assistant District Attorneys
22 to the Charging Unit that have
23 demonstrated good judgment, because
24 Philadelphians demand that we charge only
25 the right people and only the right

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2 charges.

3 Again, we started that on the
4 first day. So almost all of the other
5 benefits of changes that I'll be
6 addressing really stem from the changes
7 we made in the Charging Unit and by
8 really placing our resources to ensure
9 that we're getting cases right from day
10 one and that we weren't abdicating our
11 responsibility to the Courts by hoping
12 they'd figure it out.

13 The second thing I'd like to
14 address, Madam President, is
15 community-based prosecution and how we've
16 transformed the delivery of criminal
17 justice. We work very closely with
18 members of our judiciary, including Chief
19 Justice Castille, Justice McCaffrey and
20 President Judge Dembe. Community-based
21 prosecution will serve as the linchpin
22 for improving public safety and fostering
23 good community relations, and that's very
24 important to understand. Philadelphians
25 need to understand that the criminal

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2 justice system is fair to everyone. I
3 think we're trying to do that when they
4 see that we're prosecuting both doctors
5 and priests and police. No matter who
6 you are, no matter what your last name is
7 or who your uncle was, we're going to
8 have the same standard of justice for
9 everyone. As I tell people, no matter
10 where you are in Philadelphia, no matter
11 which point on Germantown Avenue, if it's
12 at Germantown and Erie or Germantown and
13 Evergreen in Chestnut Hill, we're going
14 to apply the same standard to everyone.

15 Community-based prosecution
16 will help us in many ways, Madam
17 President, to break down the barriers
18 that I'm sure Councilwoman Blackwell is
19 very familiar with, the barriers that
20 exist in so many communities in
21 Philadelphia where the District Attorney
22 or law enforcement as a whole is not seen
23 as a protector of the community but seen
24 as an oppressor of the community.

25 So if you don't mind, I have --

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2 my first chart is actually a map of the
3 City of Philadelphia, and it shows, it
4 depicts by color, Madam President, the
5 six police divisions. Each division is
6 further broken down into either four or
7 three police districts. So now we call
8 these -- these are geographic zones. And
9 when I was a young Assistant District
10 Attorney, we were, for the most part, all
11 assigned to courtrooms and we got our
12 cases the night before, and the cases in
13 those courtrooms came from all over the
14 City. And the young DAs did the best
15 they could, almost working on one of
16 Mr. Ford's conveyor belts on an assembly
17 line, where you get all of your cases
18 ready, you go to court, you do the best
19 job you can, you write down what happens,
20 and then the case will be put on a shelf
21 for the night before or the next time.
22 And that led to one of the problems that
23 we saw, and that was demonstrated by the
24 reports, great work of the Philadelphia
25 Inquirer. About 59 percent of all the

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2 felony cases in Philadelphia were being
3 dismissed, not on their merits but
4 because the system was broken.

5 While I recognize it's not the
6 cure to cancer, I really thought from a
7 very young age at the DA's Office that
8 assigning DAs more vertically where they
9 would handle more of the cases from start
10 to finish themselves and also assign them
11 geographically to that goal would really
12 make them better law enforcement
13 attorneys, would make them more
14 accountable to the public, because they
15 would understand the community. So then
16 what we were successful in accomplishing
17 in November, again, with the great
18 efforts and collaboration of our partners
19 in the criminal justice system, both the
20 District Attorney's Office Trial Division
21 and Criminal Justice Center itself, Madam
22 President, are assigned geographically.
23 So my DAs that are in our Trial Division,
24 based on the percentage of crime in each
25 of these six geographic zones, are

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2 assigned to handle cases only from those
3 areas.

4 Each zone is located on a
5 specific floor in the Criminal Justice
6 Center. So now all of the police or all
7 of the detectives from the Southwest
8 Division or the Northwest Division only
9 report to that one floor. We're finding
10 this is helping expedite cases through
11 the system. It's also helping cut down
12 on overtime of police not having to come
13 to court so frequently.

14 It's also very important that
15 more cases, especially shootings, are
16 being handled from the beginning of the
17 process by the same prosecutors. This is
18 building bridges to neighborhoods, and
19 that the DAs are going out and are
20 meeting with the community groups, the
21 clergy, the business leaders and really
22 making connections with those people that
23 we serve. And I hope that this will help
24 us not only in preventing crime but
25 helping the victims heal and, again,

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2 making the Assistant District Attorneys
3 more accessible and accountable to the
4 public.

5 By changing how we prosecute
6 cases, we are giving all Philadelphians
7 the opportunity to help us fight crime.
8 That is a chance for residents to empower
9 themselves to make the City a safer place
10 to both live, work and raise our
11 families.

12 Being smart on crime recognizes
13 that it is not the severity of punishment
14 that changes behavior. It is the
15 certainty of punishment that changes
16 behavior.

17 I would now like to just
18 briefly outline three programs that we
19 have initiated. They're making a
20 dramatic impact. One, diverting
21 low-risk, non-violent drug offenders.
22 This program, Madam President, is known
23 as Small Amounts of Marijuana program, or
24 SAM. For too long, we had a woefully
25 inefficient system for handling cases

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2 that involve small amounts of marijuana.
3 By statute, cases that are less than 30
4 grams of marijuana, after we have done
5 everything to get the cases ready, paid
6 for defense counsel, provide discovery to
7 the attorney, analyze the drugs in
8 question, paid for the police overtime
9 hanging outside of the court or
10 testifying, after doing all of that,
11 we're spending thousands of dollars, for
12 when a person probably possesses about
13 \$10 worth of marijuana. It was just a
14 woefully inefficient system for that, if
15 we even got to a guilty verdict. The
16 defendant would most likely be given no
17 further punishment.

18 So what we've done is taken
19 those cases out of Misdemeanor Court,
20 where we need to be using more of our
21 resources for most serious cases in the
22 preliminary hearings for the shootings
23 and the robberies. We've taken those
24 cases out of Misdemeanor Court and now
25 the defendants, in a much more efficient

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2 way and much sooner, are paying a \$200
3 fine.

4 We expect about 4,600 cases per
5 year to be diverted out of Misdemeanor
6 Court into the SAM program. The program
7 is faster, cheaper and yields more
8 significant penalties. So instead of
9 walking out of a courtroom with no
10 accountability, offenders now have to
11 receive instruction about the
12 consequences of their conduct and pay the
13 cost of the court up front.

14 Second is our AMP program,
15 Accelerated Misdemeanor Program. So we
16 do not stop with minor marijuana cases in
17 our effort to rationalize the treatment
18 of less serious offenses. With the
19 cooperation of Judge Neifield, we
20 implemented the AMP program that
21 accelerates the appropriate misdemeanor
22 cases for diversion into community
23 service. This ensures swift and certain
24 punishment and improves efficiencies in
25 our system. The program is based on a

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2 community court model we observed in
3 Brooklyn last year. Our Charging Unit
4 identifies and diverts appropriate
5 misdemeanors and ensures offenders do not
6 have records of violence. The Charging
7 Unit recommends a period of community
8 service, and if the defendant accepts the
9 program and completes it successfully,
10 then the case is closed. In just the
11 first four months of this year, 700
12 offenders were diverted. We expect 2,400
13 by the end of the year.

14 Thirdly, assessing cases early
15 and offering appropriate plea offers. In
16 conjunction with court administration, I
17 understand that my very good friend and
18 former member of my Army Reserve Unit,
19 David Wasson, gave a presentation
20 earlier. I don't have Josh Groban music
21 to share with you, Madam President, but
22 we worked with them, and I understand
23 Mr. Lancellotti is here. I have to thank
24 them for the SMART program, which is
25 Strategic Management ARC Readiness and

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2 Trial. So now instead of dragging every
3 case through the full maze of the
4 criminal justice system, resulting in
5 frustrated victims, wasted police time
6 and excessive dismissals, we now identify
7 cases at the beginning of the process
8 that are appropriate for early plea
9 agreement offers.

10 So the process is that after a
11 felony is held for court, the ADA in the
12 appropriate SMART room reviews each case
13 prior to arraignment, and if appropriate,
14 the ADA offers a one-time plea offer. If
15 the defendant rejects, the case will go
16 to trial. This new approach to cases
17 allows us to review and resolve cases
18 that previously would have languished at
19 the trial level in an already overcrowded
20 system. Smart on crime, because it
21 increases the swiftness and certainty of
22 punishment, not the severity but the
23 certainty. We now estimate about 500
24 felonies per month are being resolved in
25 SMART rooms.

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2 I would next like to talk about
3 removing the roadblocks to victims and
4 witness testimony, changes at the
5 preliminary hearing. As a result of
6 sitting down and talking with members of
7 our Commonwealth Supreme Court, working
8 with members of CJAB, Judge Dembe and
9 Judge Neifield, we've made some
10 significant changes to the manner in
11 which preliminary hearings are
12 implemented. We no longer require the
13 presence of civilian witnesses at
14 preliminary hearings in certain
15 non-violent property crimes. If the
16 victim is just to come give ownership and
17 non-permission testimony to say that was
18 my gutter or downspout that that
19 defendant took, they don't have to come
20 and say that. The police officer can
21 come and testify they saw this guy
22 wheeling a shopping cart down the street
23 that had the person's downspout in it and
24 that it had been reported stolen. So
25 this is saving victims from having to

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2 come to court over and over and over
3 again, because clearly victims of these
4 cars that have been stolen or residential
5 burglaries, they'll come to trial, but
6 this saves them the anguish and the
7 trauma of being re-victimized by the
8 system itself.

9 We've also changed many other
10 things. I could go on in great length
11 about changes at the preliminary hearing
12 dealing with status between the defense
13 counsel and the DA, but we're seeing
14 great change and an increase in cases
15 being held for court now at the
16 preliminary hearing as a result of these
17 minor tweaks.

18 Fewer cases are being
19 dismissed. More cases receive a
20 disposition on their merits, and cases
21 are proceeding faster. We no longer rely
22 on mere anecdote. We're capturing and
23 analyzing data.

24 At this point, Madam President,
25 I'd like to show you a few charts that

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2 are included in the documents that have
3 been submitted to all members of Council.
4 Again, I'm no mathematician. I like to
5 remind people that I failed Algebra 2 at
6 Central High School, but some very smart
7 people that are in this room helped me
8 put together all of the charts that we
9 have. And this first one reflects that
10 we're having about 73 percent of the
11 cases now are being disposed of solely on
12 their merits and shows a dramatic
13 increase to those that were being
14 dismissed prior to that without us ever
15 getting to the judge to talk about
16 whether or not the defendant did it or
17 did not do it. And that's really what we
18 want, people to be held accountable, and
19 for the judge, the judiciary, to rule on
20 the merits, not for cases just to be
21 thrown out because it's an overly
22 cumbersome system.

23 We're finding a nine percent
24 decrease in felony cases being dismissed
25 or withdrawn without ever receiving a

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2 decision, a five percent decrease in
3 non-felony cases being dismissed or
4 withdrawn without ever receiving a
5 decision on the evidence in Municipal
6 Court.

7 I'd Like to show you now that
8 cases are proceeding faster. On this
9 chart, we see about 13 percent more cases
10 are disposed of within 100 days in the
11 felony preliminary hearings. Eighteen
12 percent more cases are disposed of within
13 100 days in non-felony cases in Municipal
14 Court. So what does this show? An
15 increase in cases decided on evidence,
16 not on whether witnesses were able to
17 show up over and over, a decrease in the
18 number of days until final disposition.
19 And, again, this has the added benefit,
20 the collateral benefit, of saving the
21 taxpayers dollars.

22 Reducing recidivism and witness
23 intimidation: Recidivism reduction is
24 one of the most effective ways to drive
25 down our crime rate and increase the

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2 trust of our communities. Without that
3 trust, we will have continued difficulty
4 ensuring that victims and witnesses
5 appear at trial. Again, this is about
6 more certain punishment.

7 One of the first programs I'd
8 like to explain is The Choice is Yours.
9 I had the opportunity to visit then
10 District Attorney Kamala Harris. She was
11 the District Attorney for San Francisco,
12 and I have with me a copy of her book,
13 Smart on Crime. The California voters
14 saw fit to elect her Attorney General, so
15 she is now the Attorney General of
16 California.

17 I want to implement one of her
18 programs she refers to a name Back on
19 Track. Back on Track is a deal with the
20 phenomena of recidivism, and what we find
21 in Philadelphia, Madam President, is five
22 percent of our defendants commit 60
23 percent of our crimes. And as a young
24 prosecutor, my goal every day was just to
25 get my cases ready and to try already

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2 cases. I tried to do that to the best of
3 my ability. It wasn't until I was asked
4 to be the Chief of the Repeat Offenders
5 Unit in 2000 I began looking at, well,
6 who is getting arrested and what are
7 these patterns. And we find that the
8 number one thing people have in common
9 that get arrested in Philadelphia is that
10 they didn't finish high school. What we
11 find is that there's a direct correlation
12 between truancy and criminal behavior,
13 and unfortunately 50 percent of all the
14 public high school students in
15 Philadelphia drop out.

16 What I learned was that we
17 spend a lot of our resources when people
18 have murdered people or they've been
19 arrested 25 times or more, but we're not
20 doing enough the first time that the
21 defendant gets arrested to ensure they
22 don't come back into the criminal justice
23 system. And so, again, that is the goal
24 of our SAM program and the SMART program
25 and a lot of the diversionary programs

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2 that we have.

3 The Back on Track program that
4 we're going to implement here in
5 Philadelphia will be called The Choice is
6 Yours, and I'm very lucky that I've made
7 friends with Gerry Lenfest and Dr. Keith
8 Leaphart, and Mr. Lenfest has given us
9 approximately the first one and a half
10 million dollars to get this program
11 started.

12 By law, I can request a judge
13 to give a defendant a mandatory minimum
14 of one year of incarceration if that
15 defendant sells on our streets more than
16 two grams of crack cocaine. So I drink
17 coffee every day, and each little packet
18 of sugar has about one gram. So if a
19 defendant sells two sugar packets worth
20 of crack, at my request and if they're
21 found guilty, the judge will send that
22 person to jail for a minimum of one year,
23 at a cost of about \$40,000 to the
24 taxpayers of the Commonwealth of
25 Pennsylvania, with a recidivism rate of

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2 about 73 percent.

3 What we find also is that these
4 young men come home from state prison,
5 now with an economic death sentence,
6 because they can't get a job as a felon
7 and they've gone to get their Ph.D. in
8 violence from the State Penitentiary. So
9 this program tries to reduce recidivism
10 by taking those first-time non-violent
11 offenders that made a terrible decision
12 to sell that poison on our streets, but
13 to give them a second chance and to give
14 them hope. What this program will do is
15 that they have to get drug and alcohol
16 treatment, if appropriate. They'll have
17 to improve their literacy skills.
18 They'll do community service and clean up
19 our neighborhoods, but, most importantly,
20 they'll learn a trade. They'll learn to
21 be a barber or an auto mechanic's helper
22 or carpenter's assistant. And if they
23 successfully complete the program, not
24 only do they have no conviction, they'll
25 have no record. And what they found,

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2 Madam President, in San Francisco, this
3 has about a five percent recidivism rate.
4 So only five percent of the defendants
5 that enter this program fail, and it
6 costs about \$5,000 per year.

7 So if you're a bleeding heart
8 liberal or a fiscal conservative, you'll
9 see that what we're doing currently
10 doesn't work and that this program
11 hopefully as a pilot program will be able
12 to give us the results and the data so
13 that we can try to implement this in a
14 larger fashion. And it's my goal and
15 hope that the state, with the money
16 saved, will reinvest a portion of that
17 money into the criminal justice system in
18 Philadelphia.

19 Community relations: We have
20 had, with the help of many of the members
21 of City Council, nine town hall meetings.
22 We conducted last year six Take Back the
23 Street community walks, where I just
24 walked with my Timberland boots and some
25 jeans and many members of Council.

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2 Councilman Jones went along with us for
3 one of them. I rode the SEPTA bus and
4 gave a tour, as did Councilwoman
5 Blackwell was on another one of those
6 tours, where we actually just went out
7 into the streets of Philadelphia at
8 night, not to yell and scream at people
9 that we came upon but just to educate
10 them about the DA's Office, about public
11 safety and to give hope to the young men
12 that we came across about finding jobs
13 and education and just hopefully giving
14 that community a taste of what we can
15 provide.

16 We have had ten comprehensive
17 series of presentations to over 250
18 students between sixth and ninth grade.
19 So we have opened our office for students
20 from public and parochial and private
21 schools that come to our office where
22 Mr. Vernon Price, who formerly worked for
23 Councilwoman Donna Reed Miller, and
24 Leland Kent have a training program that
25 explains many of the career opportunities

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2 in the criminal justice system, gives
3 them a tour of the Criminal Justice
4 Center and also shows pictures of lives
5 that have been destroyed as a result of
6 the poison of narcotics. So I think it's
7 a very good program.

8 We've opened two Community
9 Action Centers, one in Northern Liberties
10 in the East Division and the other on
11 Ogontz Avenue, where, again, hopefully we
12 can break down the barriers that exist
13 between the DA's Office and law
14 enforcement and the community so that we
15 can help the community empower itself to
16 prevent crime, to allow Town Watch groups
17 or civic associations that come into
18 these centers to use them as they wish.
19 It's my goal -- and those two cost
20 nothing to the City. I got one as a
21 direct donation from Bart Blatstein at
22 the Piazza in Northern Liberties, and the
23 other I came up with the dollar out of my
24 own pocket to pay OARC for at least for
25 one year. But it would be my goal to

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2 expand and have more Community Action
3 Centers so, again, we can try to empower
4 more communities to prevent crime.

5 That's majorly -- one of my
6 major goals, of course, is to prevent
7 crime. I believe that's what public
8 safety is, not just the mere excellence
9 in crime prosecution.

10 My very good friend Councilman
11 Clarke, who I talked to today while I was
12 waiting for the Verizon man to come fix
13 my phone, Councilman Clarke's family and
14 Councilman Rizzo's families would prefer
15 that they weren't shot, not that they
16 were shot and the District Attorney's
17 Office tried the cases very well.

18 So hopefully through our
19 Community Action Centers, we can
20 implement more strategies to try to help
21 communities empower themselves to prevent
22 crime.

23 Witness intimidation: I'd like
24 to again thank Councilman Jones for the
25 \$200,000 that he helped us receive. To

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2 date, we've used about 120,000 to provide
3 a more comprehensive outreach and to
4 extend the relocation period of
5 witnesses.

6 Improving criminal justice and
7 reducing costs, investing in public
8 safety: We believe that we can
9 conservatively estimate that through
10 these changes, we have saved about \$6
11 million this year to the taxpayers of
12 Philadelphia. These major achievements
13 will, first and foremost, improve the
14 delivery of criminal justice and safety
15 in Philadelphia, but they have an
16 important collateral consequence, they
17 save taxpayers dollars by reducing
18 inefficiencies and redundancies in our
19 system.

20 We've reduced the number of
21 officers who have to leave their patrols
22 and testify in court, often earning
23 overtime, which also means more officers
24 patrolling our streets as a consequence
25 of reducing that overtime, the need for

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2 it.

3 We've reduced the need for
4 court-appointed attorneys. The prison
5 population is now about 7,500, down from
6 about 9,700 two years ago.

7 The changes I've discussed
8 above all are the primary reason for this
9 decrease. But it is my goal that we
10 reinvest some of these savings. And I've
11 testified in Washington, DC at the
12 request of Councilman -- I'm sorry;
13 Congressman Fattah about justice
14 reinvestment.

15 I'd like to show you another
16 chart that shows that the Philadelphia
17 District Attorney's Office is among the
18 lowest funded DA's Office in America, and
19 if you were to look at -- based on the
20 rate of violent crime, only Wayne County,
21 Michigan funds its District Attorney with
22 less money. We believe that we should be
23 permitted to --

24 COUNCIL PRESIDENT VERNA:

25 Excuse me. We're trying to figure out

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2 who gets the most money.

3 MR. WILLIAMS: It appears the
4 most money here is Santa Clara,
5 California. These are the top 20
6 counties by population.

7 COUNCIL PRESIDENT VERNA: And
8 how are they funded?

9 MR. WILLIAMS: Well, their
10 funding comes from -- and these only are
11 reflective of the general funds. But
12 they're funded as a result of in Santa
13 Clara, California, this is their general
14 fund coming from all of the taxpayers in
15 that county. So in some of these, of
16 course, like you'll see San Diego County,
17 San Diego is comprised of -- it's about
18 the same population, the city, as the
19 City of Philadelphia. They're just a
20 little bit smaller than Philadelphia, but
21 their county is about 2.5 million. So
22 that includes people in the City of San
23 Diego and in the suburbs of San Diego.

24 But we receive more funding
25 only of the top 20 counties than Wayne

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2 County or Detroit, Michigan. And I
3 believe that all of us want to ensure
4 that the economy continues to thrive here
5 in Philadelphia and that we don't have
6 the same crime problem that they do
7 unfortunately in Detroit.

8 We believe that justice
9 reinvestment encourages innovation and is
10 a proven best practice. The justice
11 reinvestment would be made part of the
12 Fiscal Year '12 budget and that CJAB can
13 coordinate with Deputy Mayor Gillison and
14 coordinate and work with Council and the
15 Mayor.

16 What will we use the money for?
17 We would use the money for other methods
18 of improving our criminal justice system,
19 making it more efficient, making the City
20 safer, such as a case management system.
21 We hope to have e-discovery, electronic
22 discovery; community courts; one that is
23 being championed by my very good friend
24 Councilman Blondell Reynolds Brown, our
25 Family Justice Center. We're going to

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2 use these reinvestment dollars to improve
3 our technology; of course, for
4 prosecutors' salaries, which is about 94
5 percent of my budget; for DART, District
6 Attorney's Response Team. We should be
7 able to draw on the Department of
8 Technology's capital budget funds with a
9 portion of our savings.

10 And, again, we cannot sustain
11 the innovative programs and initiatives
12 that improve public safety and restore
13 confidence in our office if we continue
14 to be woefully underfunded. We believe
15 that justice reinvestment solves the
16 unfunding problem and wouldn't require
17 any additional dollars to our budget.

18 So, again, Madam President, the
19 13 pages and the charts and the maps that
20 we have provided with Council I believe
21 more adequately gives voice to my hopes
22 for this year and for our budget in the
23 future. But at this time, I will answer
24 any questions that Madam President has or
25 any of the members of Council.

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2 COUNCIL PRESIDENT VERNA: Thank
3 you very much.

4 The Chair recognizes Councilman
5 Jones.

6 COUNCILMAN JONES: Thank you,
7 Madam President.

8 And thank you for the
9 quantitative analysis of what you're
10 doing. I think that's helpful to us.
11 It's too often not good enough to just do
12 good; you have to show that doing good
13 pays off. And what I'm intrigued about
14 is the idea of some of the diversion
15 programs, some of the minimal sentencing
16 or charging aspects of what impact
17 economically does it have, both on your
18 budget but the rippling effects to other
19 budgets, the reduction of inmates up in
20 State Road. A lot of people the prisons
21 would have you -- or have us believe that
22 somehow they shut the doors to the
23 prisons and just wouldn't accept new
24 clients, but I think it starts with your
25 Charging Unit that has had an impact also

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2 on the Prison System.

3 So whether we're talking about
4 the CJAB as a whole, it's like a circle
5 of impacts and it's hard to tell where it
6 actually begins, but I can see or we're
7 beginning to see the benefits rippling
8 throughout each department. And I wonder
9 if in fact there is an expert, budget
10 expert, that's going to be able to, in a
11 data-driven manner, kind of guide us on
12 what works, what is not working, not just
13 from the social service aspect of it but
14 from the budget impact aspect of it.

15 MR. WILLIAMS: Thank you,
16 Councilman. That's a very good point.
17 We're trying to do all that we can. You
18 mention to have more than just
19 anecdotal information. And so one of the
20 platform ideas I ran on also and we've
21 implemented, I have a Chief Performance
22 Officer. But more than just having one
23 person, we received the federal grants
24 for technology and now our IT Department
25 comes under our Pretrial Unit, so that we

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2 can gather the specific data. They'll be
3 able to chart our performance measurement
4 by what we're doing, how many cases are
5 being disposed of on their merits, how
6 many are being disposed of because of
7 non-meritorious reasons.

8 You mentioned the diversionary
9 programs. It's very, very important for
10 people to understand that if we were to
11 make a crime pyramid, only about eight to
12 five percent of those cases, the top of
13 the pyramid, are what would be the lead
14 story on Action News. The supermajority
15 of the cases in the criminal justice
16 system are part of that 95 percent of the
17 cases of the arrest, but the 70 to 75
18 thousand arrests a year are not something
19 that you would hear about on TV, but
20 they're the quality-of-life crimes that
21 drive people out of the City.

22 I tell people that my wife has
23 an unhealthy appreciation of Brad Pitt
24 and George Clooney and their movie Oceans
25 Eleven and Twelve. So in those movies,

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2 these criminals spend months preparing
3 the robbery of the Bellagio in Vegas.
4 The majority of crimes are crimes of
5 opportunity, just Pook and your man-man
6 (ph) are walking down the street, they
7 see you left your garage door open and
8 they steal your lawnmower and they sell
9 it for crack, or Center City too often
10 people leave their cell phone charging or
11 their attache and their laptop on their
12 seat. Somebody breaks into the car and
13 takes it.

14 So there are patterns of crimes
15 based on geography, but these crimes, for
16 the most part, are those most likely to
17 be reduced through community-based
18 prosecution, working with communities,
19 empowering them to prevent crime, and
20 having smart methods of diverting these
21 cases so that the defendant can get the
22 help that he or she needs so as not to
23 become a repeat offender.

24 All of the defendants that were
25 charged with murdering the police, that

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2 we had a spade of five homicides in a
3 very short period of time of police
4 officers, all of those defendants started
5 their criminal careers as truants. But
6 doing all we can to help those people the
7 first time they get arrested will help us
8 prevent recidivism, will help us help
9 victims heal in a quicker way, and it's
10 just cost effective.

11 COUNCILMAN JONES: I just want
12 us to --

13 MR. WILLIAMS: So we can get
14 those out of the system and that we can
15 fight cat and dog with any criminal
16 defense attorney on cases that we need to
17 be fighting cats and dogs with, the
18 shooting cases, the robberies, the rapes
19 and the homicides.

20 COUNCILMAN JONES: We agree a
21 hundred percent and I've had an
22 opportunity to share in some of your
23 philosophy and listen to some of your
24 theory about community-based
25 prosecutions. We travel out to some of

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2 the neighborhoods to see how that kind of
3 in-depth understanding of a neighborhood
4 can impact people coming forth, feeling
5 confident in the process. So I agree
6 with that.

7 Last night, Councilwoman
8 Blackwell and myself had the unfortunate
9 task of going to a parent's home, who the
10 young man was shot to death on his porch.
11 His father had to deal with the fact that
12 the accused knocked on the door, asked
13 for his son. He was polite enough to
14 say, Wait, I'll go check. He came back
15 out and they shot his son twice in the
16 chest, killing him dead.

17 I guess I say that that is the
18 most difficult part of my job.
19 Councilwoman Blackwell went with me out
20 there, and it was one of the saddest
21 duties any official, any person will ever
22 have to do, to tell and explain why a
23 parent has to bury their child.

24 I guess what I'm leading to is
25 that I read that crime is up nine

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2 percent, yet our jails are down a
3 thousand people. So the diversion
4 programs, I'm assuming, are part of that
5 reasoning why it's working. Is it
6 getting better or is it getting worse? I
7 mean, I've been on board, you've been on
8 board a while. In your mind, is it
9 getting better? Is it getting worse?
10 And are the conviction rates getting
11 better in the process?

12 MR. WILLIAMS: Yes. And you
13 mention the conviction rates.
14 Unfortunately when I took office, we had
15 the lowest conviction rate of the 40
16 largest urban areas. We had not only the
17 lowest rate of cases being held for
18 court, it was twice the national average,
19 that 59 percent of cases not being held
20 for court. So we're making tremendous
21 changes, but it's going to take a while,
22 of course, to show a long-term effect.

23 But, again, I share with you
24 the feeling that the most difficult part
25 of my job or is the emotional toll is

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2 having two BlackBerries that go off all
3 day with the worst of our human
4 experience, of every rape, shooting,
5 every murder, the fact that about two or
6 three Philadelphians every day commit
7 suicide. So it takes a great toll. And
8 the most difficult part of my job so far
9 is when I had to go to the funeral for a
10 young woman who graduated from Central
11 High School last year on June the 17th.
12 That Friday she went to the Oak Lane Jazz
13 Festival, had come home and was shot in a
14 cross fire.

15 So I understand your pain.

16 That's my pain as well. I believe that
17 the changes that we're making, if we
18 begin to get more defendants helped
19 sooner, if we are more efficient in being
20 able to handle the very violent cases, we
21 hopefully will be able to see a change in
22 that turn-style at the Criminal Justice
23 Center, the revolving door, and also
24 allow us to spend more of our resources
25 focusing on -- I was about to look to my

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2 friend Councilman Clarke -- on getting
3 these illegal guns off our streets.

4 But it has to be a holistic
5 approach, and there's no magic wand to
6 make it happen quickly, because we have
7 to change the culture as well of those
8 young men who we say would rather spark
9 it out than talk it out. So we have to
10 change their mindset and the culture that
11 addresses that.

12 But we can -- I've used my own
13 resources to hire a young woman who is a
14 school teacher, she was a principal, she
15 even went and got her Ph.D. in education.
16 She went to the University of
17 Pennsylvania Law School, where she was
18 the President of the Black Law Students
19 Association. She was a clerk for a
20 federal judge, and she was only like 36,
21 and I hired her to help us run our
22 Project Go to work with the School
23 District and Dr. Ackerman, to work with
24 the courts and Judge Dougherty, to work
25 with the Department of Human Services,

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2 Commissioner Ambrose, to reduce truancy.

3 So having that holistic approach I

4 believe will have the long-term effect.

5 And you asked about the prison

6 population. Well, a lot of that is a

7 result of us having a more expedited

8 manner in handling the violations of

9 probation and parole, by having more

10 reasonable pretrial policies and

11 protocol, by having the SMART program, by

12 having SAM and AMP. I believe all of

13 those are having the effect of having

14 fewer people incarcerated on State Road.

15 And hopefully the same thing that was

16 true -- I want everybody to understand, I

17 want to have the right people in jail.

18 The right people have to have a timeout,

19 and by expanding our Charging Unit and

20 the numbers that we have, it has taken a

21 serious toll on our Trial Division, but I

22 believe that that investment is

23 worthwhile, and all of these investments,

24 Mr. Councilman, will have long-term

25 effects as our goal. And if they don't,

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2 as a result of us analyzing real data and
3 not just wanting to pat myself on the
4 back or to talk tough stuff here in front
5 of you or when we meet at McCormick &
6 Schmick's or anywhere, by having real
7 data for us to analyze, if we see that
8 something isn't working, then we'll have
9 to change it and find out what the best
10 practice is to implement here in
11 Philadelphia.

12 COUNCILMAN JONES: It is -- for
13 the record, we do not believe the
14 District Attorney's Office, Deputy Mayor
15 for Public Safety or the Police
16 Commissioner are in charge of crime.
17 You're in charge of crime prevention. So
18 we don't place the blame of increased
19 crime or homicide on you. It is all of
20 our jobs to deal with it, including the
21 community; most importantly, the
22 community.

23 Our hope is that by using these
24 programs of diversion to get non-violent
25 offenders out of the way, that more

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2 resources can be concentrated on those
3 people who don't want the right hand of
4 fellowship but are looking for the left
5 hand of punishment. Because last night
6 what was interesting to me, most
7 interesting, was that the people in that
8 community just want it to stop.
9 Punishment is fine. You know, preventive
10 is fine. They just want it to stop,
11 because it is not the way to live.

12 The lady that struck me most --
13 and then I'll turn it over to my
14 colleagues -- said that her son had
15 buried close to 20-plus people in his
16 adult life, which is more people than
17 she's buried in her whole life, meaning
18 that he begun to think that burying your
19 friends was normal, and she kept telling
20 him after each funeral, No, this isn't
21 normal, this isn't normal, and that last
22 night -- I think Councilwoman heard
23 her -- she was beginning to say, Well,
24 maybe this is normal, and we had to
25 reaffirm to her, No, this is not normal.

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2 It is not expected of your children to
3 think it's normal, and that we have to do
4 something about it.

5 So, again, as much as I support
6 community courts -- and you know that I
7 do -- the other end of the spectrum is
8 that folks who don't get it need to get
9 an understanding that it won't be
10 tolerated by citizens and communities.

11 MR. WILLIAMS: Right. And,
12 Councilman, that's an excellent point,
13 and the goal -- I've given you a copy of
14 Smart on Crime. I think I've given
15 Councilwoman Blondell Reynolds Brown a
16 copy. I think I might have given
17 Councilman Goode a copy. If not, I will.
18 Being smart on crime, by focusing and
19 getting these misdemeanor cases out of
20 the system and dealing with them in a
21 more efficient way will allow us to
22 better use our resources to go after
23 those people that are violent and to
24 ensure that we're holding more of them
25 for court, that we're getting more of

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2 them convicted and held accountable for
3 their atrocities and the violations of
4 the peace and dignity of all
5 Philadelphians.

6 COUNCILMAN JONES: Thank you,
7 Madam President.

8 COUNCIL PRESIDENT VERNA:
9 You're welcome.

10 I see Councilman Clarke's light
11 is on. However, he's not in the room.

12 I just want to say that I
13 applaud you and your staff for doing such
14 a fabulous job. And when you started
15 your testimony, it brought days back when
16 an Assistant DA would have a case
17 assigned to him. If for some reason the
18 case was not heard, it would be put back
19 into the pending files. At least five or
20 six Assistant DAs would eventually be in
21 charge of handling that same case, which
22 I think is just ridiculous. And I think
23 that your changing that around alone
24 certainly meant so much, both for the
25 victim, the defendant and certainly it

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2 saves a lot of money for the City.

3 Talking about money, let's just
4 talk about money for a minute.

5 MR. WILLIAMS: Certainly.

6 COUNCIL PRESIDENT VERNA: You
7 concluded your testimony, you say, I
8 recommend that between now and the time
9 this budget is approved, Council should
10 request that our Criminal Justice
11 Advisory Board identify and formulate a
12 justice reinvestment plan for your
13 review, and you go on to mention about
14 Councilman Green being involved in that.

15 Am I misinterpreting that or
16 are you asking that we certainly put more
17 money into the reinvestment plan?

18 MR. WILLIAMS: Well, of course,
19 I would love you just to give me more
20 money, but --

21 COUNCIL PRESIDENT VERNA: Let's
22 just --

23 MR. WILLIAMS: But I think my
24 goal of reinvestment I think would be an
25 incentive. My goal, of course, is public

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2 safety, first and foremost, and there's
3 no way to quantify or put a dollar amount
4 on that mother who lost her child I think
5 on Irving Street --

6 COUNCIL PRESIDENT VERNA: We
7 all understand that.

8 MR. WILLIAMS: But I think my
9 goal is to suggest a method, a policy or
10 protocol that could be created by Council
11 so that if there is a savings as a result
12 of a reduction in prison costs and a
13 reduction in court overtime, that those
14 monies that are saved --

15 COUNCIL PRESIDENT VERNA: Be
16 reinvested.

17 MR. WILLIAMS: Not all of it,
18 because the City needs lots of other
19 things. We have to ensure that we have
20 libraries and that we have to have
21 recreation centers, I understand that,
22 and we have to fill potholes, but that a
23 percentage of that be considered by
24 Council and the Mayor and CJAB to be
25 reinvested into the Courts, into the

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2 District Attorney's Office, into all of
3 those members of CJAB that really have
4 been driving the savings in this area.
5 And, of course, you know better than I.
6 I believe that public safety is close to
7 50 percent maybe of the City's budget, if
8 you take out the pensions and everything
9 else.

10 So I think if we can work
11 together collectively, as we have been,
12 it would be an incentive again for us to
13 continue to work together to find
14 efficiencies, the best practices and that
15 hopefully some of that money would be
16 reinvested into the criminal justice
17 system.

18 I'll be making a pitch in
19 Harrisburg that if we have 200 people in
20 our The Choice is Yours program, instead
21 of those 200 people being in state prison
22 at \$40,000 a year at a cost of \$8 million
23 to taxpayers, if we were to have those
24 200 people in this program -- that would
25 be about a million dollars -- there would

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2 be a savings of \$7 million to the state
3 for having fewer people in state prison.

4 So my goal would be, of course,
5 we need to do lots of things with that,
6 give money to Penn State, I understand
7 that, but some of that money should be
8 reinvested into other methods that will
9 help us better prevent crime.

10 COUNCIL PRESIDENT VERNA: Thank
11 you.

12 The Chair recognizes
13 Councilwoman Brown.

14 COUNCILWOMAN BROWN: Good
15 afternoon, Madam President.

16 Good afternoon, gentlemen.

17 MR. WILLIAMS: You like how I
18 mentioned Penn State?

19 COUNCILWOMAN BROWN: Yes,
20 absolutely. And we would have to give
21 honor to some others, right?

22 Let me underscore President
23 Verna's observations about the work you
24 all have done in launching how we need to
25 work smarter and actually looking at best

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2 practices around the country to see what
3 we can adopt and thus allow us to make
4 even more efficiencies.

5 The truancy question was
6 discussed a lot during the hearings of
7 DHS Commissioner, and there are a number
8 of us on City Council who, like you, are
9 still perplexed as to why we're not doing
10 better with, I'm told, about 11,000
11 children each year that are grappling
12 with this thing called truancy.

13 So short term, what is the
14 strategic plan, action plan or thinking
15 around the stakeholders you just
16 mentioned a few moments ago?

17 MR. WILLIAMS: Well, I'm very
18 fortunate, I attended a meeting I think
19 within the last month that the Mayor
20 coordinated. The Police Commissioner was
21 there, Ms. Trombetta, Roberta Trombetta,
22 was there on behalf of --

23 COUNCILWOMAN BROWN: School
24 District?

25 MR. WILLIAMS: No; on behalf of

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2 Judge Kevin Dougherty. Dr. Ackerman was
3 present, representatives of the
4 Department of Human Services were present
5 to really begin to work on a more
6 concerted effort to address truancy. And
7 regrettably, as with many problems in
8 Philadelphia, all the different players
9 are so entrenched that if you have three
10 players and you ask them, Well, what's
11 the problem, they'll point to the other
12 two and say, Well, we would be making
13 progress but for those two. And so in
14 the criminal justice system, we just have
15 to get rid of a lot of the problems and
16 we have to stop pointing fingers at the
17 other people too and just come up with
18 the solutions.

19 And so I'm hopeful that working
20 together now with the Mayor there banging
21 on the table, that we'll come up with
22 better ideas and kind of get rid of some
23 of the baggage of whatever happened in
24 1932, why people are still mad today.

25 But what we hope to assist

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2 with -- because unfortunately all too
3 often the DA's Office is the social
4 worker of last resort. What we hope is
5 through Project Go, we will be able to be
6 involved with the program and the
7 process, so that if parents do not avail
8 themselves of all of the services that
9 DHS wants to provide or the court wants
10 to provide or that the School District is
11 trying to provide, that we'll then start
12 holding some parents accountable for
13 children who are in grade school who are
14 chronically truant. And you can't tell
15 me that the third grader who is
16 chronically truant is choosing not to go
17 to school.

18 COUNCILWOMAN BROWN: Yes.

19 MR. WILLIAMS: If we start
20 holding some of those parents accountable
21 and have them on the front page of the
22 newspaper and being charged with
23 endangering the welfare of a child, that
24 hopefully that will have -- that's the
25 part that we can play. But, again, it's

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2 much more important to prevent that and
3 to get more students to go to school to
4 get the benefit of the education and also
5 to prevent the crime that occurs often
6 when kids aren't in school, to prevent
7 all of the teen pregnancies that we see
8 are the result of kids not being in
9 school.

10 COUNCILWOMAN BROWN: Correct.

11 MR. WILLIAMS: So, again, it
12 has to be a holistic approach, and I
13 think from what I've witnessed so far
14 from the Police Commissioner and Dr.
15 Ackerman and Anne Marie Ambrose, people
16 who really want to work together, we're
17 going to have to continue to make that a
18 reality then, because there are a lot of
19 roadblocks and a lot of histories amongst
20 all these different players --

21 COUNCILWOMAN BROWN: And
22 systems that you've got to pierce
23 through.

24 MR. WILLIAMS: -- and system
25 problems that have to be changed.

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2 COUNCILWOMAN BROWN: Yes. So

3 let me ask that as you all proceed to
4 consider -- I know Councilwoman Jannie
5 Blackwell cares about this deeply, as
6 well as Councilman Jim Kenney. Invite
7 us, if you will, because we want to be a
8 part of what we ultimately -- what we get
9 out of this crystal ball that we're
10 trying to shape here on behalf of kids.

11 So let's fast forward. We lose
12 these children, and then before they drop
13 out, 45 percent dropping out, where is
14 the department yet with police in the
15 schools? Because that too was a very
16 great exchange between Councilmembers and
17 the Police Commissioner.

18 MR. WILLIAMS: Well, I have
19 mixed emotions about this, and my
20 long-held belief is that really we need
21 to empower the school teachers and the
22 non-teaching assistants to be the first
23 line of defense and the primary
24 disciplinarians in schools. I had lunch
25 with the Police Commissioner, and he

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2 really believes that we need to have more
3 police officers in schools, and I'm going
4 to defer to him on how he deploys police.
5 He's a police officer. I never went to
6 the Police Academy. I never had to chase
7 people and get paid for it, to jump on
8 them, do all those things. So I'm going
9 to let him -- I defer to him on what he
10 thinks is the best way to deploy his
11 officers.

12 It would be my hope that we
13 don't then begin to like more militarize
14 schools and have kids get arrested for
15 things which, for the most part, might be
16 better handled by the non-teaching
17 assistants and the teachers disciplining
18 the children in school.

19 But the reality -- and
20 Councilman Jones was talking about it --
21 the reality is that there are a lot of
22 kids, though, that only respect the
23 person with the nine millimeter on their
24 hip, and that's a reality in
25 unfortunately too many schools. And as a

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2 result of that, we might have to have the
3 Police Commissioner identify, with the
4 help of Dr. Ackerman, those schools that
5 are most chronically violent and to have
6 something different going on there. But,
7 again, we would hope that we have fewer
8 children being suspended and staying
9 home, but have more suspensions in
10 schools to keep them engaged in the
11 educational process.

12 COUNCILWOMAN BROWN: Okay.

13 Just a couple of more questions. The
14 Family Justice Center, if you would give
15 us an update on where you are, what the
16 short-term vision is and where you see
17 yourself 24, 48 months from now.

18 MR. WILLIAMS: Certainly.

19 And, Madam President, for those
20 who aren't familiar, Family Justice
21 Center is to deal with the phenomena that
22 unfortunately far too many Philadelphians
23 when they have been the victim of
24 domestic violence or their child has been
25 a victim of sexual assault, the young

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2 woman, who is already possibly in a
3 dysfunctional environment, has to put the
4 little child's snowsuit on, catch one or
5 two means of public transportation to get
6 to see their social worker, tell their
7 story there, then put the kid's snowsuit
8 back on and go to Children's Hospital or
9 the Philadelphia Children's Alliance.

10 It's just tiring thinking about it, and
11 the cost of the tokens and transit, all
12 these things. And so in other
13 jurisdictions such as Brooklyn, in San
14 Antonio, in San Diego, they have Family
15 Justice Centers where under one roof --
16 and I know Deputy Mayor Gillison and Anne
17 Marie Ambrose from DHS are very hopeful
18 of trying to create this type of a
19 co-located facility where we'd have DHS
20 representatives or social workers, where
21 we'd have members from our Special
22 Victims Unit of the Police Department,
23 where we would have counselors or people
24 from the Philadelphia Children's
25 Alliance, Assistant District Attorneys,

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2 where we'd have members of the clergy,
3 again, not for evangelical purposes but
4 for pastoral care, counseling, to provide
5 under one location a lot of these
6 services that would help these victims
7 heal and help them through the process
8 and help -- because many of these victims
9 become perpetrators of these same crimes
10 unfortunately themselves.

11 So the Family Justice Center,
12 we were able to receive from the state a
13 grant of \$200,000 to apply towards if we
14 were to get a lease for a facility. And
15 so we have that money. What we hope to
16 do in the short term is to be able to
17 help more victims receive restraining
18 orders in a much more effective and
19 efficient way.

20 The goal long term would be to
21 have a facility that would be not
22 perceived by any one community to be,
23 Well, that's just for the people that
24 live in Hunting Park or that's just for
25 the people that live in North Philly, but

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2 something that all Philadelphians would
3 know that they had equal access to and we
4 could provide services to those
5 communities that need those preventive
6 strategies and co-located strategies.

7 So hopefully within the 24
8 months, we would be able to have a much
9 more holistic facility. I know that
10 Deputy Mayor Gillison has identified a
11 couple that we could possibly expand.

12 COUNCILWOMAN BROWN: Okay.
13 That's very, very exciting. The
14 potential of it is enormous.

15 You talk about low-risk
16 non-violent drug offenders will go
17 through an educational course on the
18 impact of drugs in the community. Who
19 are the teachers? Who is handling that?
20 Just a summary of what that means, what
21 that looks like.

22 MR. WILLIAMS: We have several
23 different diversionary programs for drug
24 users, from those that are just the
25 recreational kid from the suburbs or from

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2 the City that just happened to have
3 something, to those that are in need of
4 real addiction abatement. So one program
5 you heard is SAM. So you might have not
6 walked in yet. SAM is for Small Amounts
7 of Marijuana, where we divert people that
8 possess less than 30 grams.

9 Do you want to talk more about
10 it?

11 MR. McCANN: That program is
12 run by the First Judicial District in
13 Municipal Court.

14 COUNCILWOMAN BROWN: How old is
15 it?

16 MR. McCANN: It just started
17 last year. It's not even a full -- a
18 little over a full year old, and it's
19 been about 4,500 cases have gone through
20 that. The one problem that we have --
21 and I don't know if the First Judicial
22 District said that today -- is that we
23 need to expand to have more classes,
24 because we're having a little bit of a
25 problem with compliance in terms of

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2 people going to the class. If we had
3 more classes, it's our sense that more
4 people will comply and go to the classes.
5 The First Judicial District has
6 counselors come in.

7 COUNCILWOMAN BROWN: So it's
8 not a year old yet, therefore. Is this a
9 practice too that's done in other
10 municipalities?

11 MR. McCANN: Most
12 municipalities do not have defendants who
13 are arrested for small amounts of
14 marijuana go through the entirety of the
15 criminal justice system. So when the
16 District Attorney took over, he basically
17 put us in line with what other
18 jurisdictions have already been doing. A
19 lot of jurisdictions, if someone is
20 stopped on the street with a small amount
21 of marijuana, all they get is a ticket
22 and a court appearance. They have to
23 appear in court, but they're not taken
24 into the criminal justice system. Our
25 cases previously to the District Attorney

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2 taking over in January 2010, those cases
3 were actually going through arraignment
4 and being listed in court on multiple
5 occasions to basically get a disposition
6 which, as the District Attorney said, was
7 no further penalty.

8 COUNCILWOMAN BROWN: Okay. I
9 presume that Councilman Goode will get
10 into the issue of contracting and the
11 like. I will say having done the tour a
12 year ago or whatever it was and when I
13 look at the composition of your
14 professional team, it looks like
15 Philadelphia. That's one thing that we
16 are paying attention to as well. Those
17 of us in leadership have a duty, I
18 believe, to make sure that their
19 professional team looks like the city
20 they serve. So congratulations to you on
21 that.

22 MR. WILLIAMS: Thank you very
23 much.

24 COUNCILWOMAN BROWN: Thank you
25 very much.

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2 Thank you, Madam Chair.

3 COUNCIL PRESIDENT VERNA: Thank
4 you.

5 Are there any other questions
6 from members of the Committee?

7 (No response.)

8 COUNCIL PRESIDENT VERNA:
9 Seeing none, thank you very much.

10 MR. WILLIAMS: Thank you. Have
11 a good day.

12 MR. McPHERSON: The Law
13 Department is next.

14 (Witnesses approached witness
15 table.)

16 COUNCIL PRESIDENT VERNA: Good
17 afternoon.

18 MS. SMITH: Good afternoon.

19 COUNCIL PRESIDENT VERNA:
20 Please identify yourself for the record
21 and proceed with your testimony.

22 MS. SMITH: Yes, ma'am. Good
23 afternoon, Madam Chair, members of City
24 Council. I am City Solicitor Shelley R.
25 Smith. With me today are Donna Mouzayck,

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2 First Deputy City Solicitor; Dan
3 Cantu-Hertzler, Chair of our Corporate
4 and Tax Group; Elizabeth Mattioni, Chair
5 of Litigation; Barbara Ash, Chief Deputy
6 of Child Welfare; Lynda Moore, Chief
7 Deputy of Health and Adult Services; and
8 Suki Kazahaya, Director of
9 Administration.

10 I am pleased to have this
11 opportunity to testify in support of the
12 Law Department's FY12 budget request.
13 Here is how our FY12 budget request
14 compares to estimated FY11 obligations:
15 For the General Fund, the Law Department
16 requests \$6,685,874 in Class 100;
17 \$6,174,037 in Class 200; \$221,069 in
18 Class 300; and \$38,265 in Class 400, for
19 a total of \$13,119,245 in the General
20 Fund, a net decrease of \$4,799,616 from
21 estimated obligations for FY11, of which
22 \$4,599,616 is attributable to the
23 transfer of Law's Tax Unit to the Revenue
24 Department in FY12. The Department will
25 decrease its General Fund budgeted staff

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2 levels from 190 for FY11 to 148 for FY12.

3 The Law Department requests
4 \$3,039,948 in the Water Fund, a decrease
5 of \$240,135 from estimated obligations
6 for FY11, which, again, is attributable
7 to the transfer of Law's Tax Unit to the
8 Revenue Department in FY12.

9 The Law Department requests
10 \$1,878,074 in the Aviation Fund, same as
11 estimated obligations in FY11.

12 The Department requests
13 \$198,350 in the Community Development
14 Fund, a decrease of \$10,439 from
15 estimated obligations for FY11.

16 And the Department requests
17 \$842,820 in the Grants Revenue Fund, a
18 decrease of \$21 million -- I'll get the
19 corrected number for you; I'm sorry --
20 from estimated obligations in FY11, which
21 is attributable to the transfer of the
22 Law's Tax Unit to the Revenue Department
23 in FY12.

24 As we say each year at this
25 time, the mission of the Law Department

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2 is to provide high-quality and timely
3 legal advice to all officials,
4 departments, boards and commissions
5 within the City. The work of the Law
6 Department is largely responsive, as we
7 are required under the Philadelphia Home
8 Rule Charter to provide legal
9 representation to all City departments,
10 boards and commissions and to all City
11 officials and employees in matters
12 arising from the performance of their
13 official duties.

14 Last year we realized that the
15 Law Department's delinquent tax
16 collections would be down as a result of
17 the economy and of amnesty, because some
18 taxpayers would have advanced payment to
19 Revenue's amnesty administrator instead
20 of to the Law Department during amnesty
21 and because there would be some delays in
22 resuming normal collections activities
23 following amnesty. We estimated that we
24 could collect \$69 million in delinquent
25 taxes for FY10. However, I am pleased to

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2 report that despite those challenges, our
3 delinquent collections for FY10 totaled
4 \$116.98 million, and we currently project
5 collections of approximately \$91 million
6 for FY11.

7 Amnesty and restarted
8 collections after amnesty remained a
9 major focus for much of the current
10 fiscal year. We successfully worked on a
11 number of other initiatives with Revenue
12 that I identified in last year's
13 testimony. Mandatory e-filing and
14 e-payment are now a reality, and we are
15 working with Revenue to expand both. We
16 have continued with competitive
17 procurement of collection firms and are
18 simplifying some of our contracts and
19 procedures. Our program to write
20 taxpayers before bringing large
21 collection actions against them continues
22 to show success. Other initiatives are
23 also proceeding.

24 As the Revenue Commissioner has
25 testified, he and I have agreed to take

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2 further steps to enhance the cooperation
3 of our departments with respect to tax
4 collections. We jointly appointed a
5 Chief Counsel for Revenue, Frances
6 Beckley, and expect to be moving all Tax
7 Unit personnel into close proximity to
8 Revenue this summer. All Tax Unit
9 personnel already report to the Chief
10 Counsel, who will also coordinate all
11 collections contracts and will report
12 both to the Commissioner and to me.

13 The Commissioner has testified
14 to details of our plans to enhance
15 collections in these ways under his
16 leadership. In addition, in the area of
17 taxes, Law will be defending the City's
18 interest in the action concerning
19 property assessments and will be
20 counseling the Office of Property
21 Assessment as well as the Board of
22 Revision of Taxes, Councilmembers and
23 others as the City moves to assess
24 properties more systematically based on
25 their actual value.

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2 Reflecting reduced economic
3 activity generally and, more
4 particularly, in the real estate market,
5 the Code Enforcement Division experienced
6 a significant drop-off in the amounts it
7 collected last year. A total of
8 approximately \$1,746,344 was collected in
9 Fiscal Year '10, down from approximately
10 \$2,872,872 in 2009. Because much of what
11 comes in occurs when property owners seek
12 to sell or transfer real estate, these
13 collections generally ebb and flow within
14 larger economic currents. By the end of
15 FY11, we expect \$925,848 in code
16 collections and another \$250,000
17 collected by our Regulatory Affairs
18 attorneys. Also, our General Litigation
19 Unit has recovered a total of \$560,000.
20 As a result of these efforts, we project
21 that the overall non-tax collections by
22 the Law Department for FY11 will be in
23 excess of \$1.7 million. It is difficult
24 to assess the projection for FY12 because
25 environmental collections and other

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2 recoveries vary year to year, but we are
3 hoping those collections will be in
4 excess of \$1 million.

5 The Law Department continues
6 cost-effective representation overall.
7 In FY11, budgeted indemnity costs reached
8 a three-year high of 42 million as a
9 result of both an increased number of
10 cases filed against the City and of the
11 cost of a very few very large litigation
12 matters settled in FY10 and FY11. These
13 cases included Lawrence, the paramedic
14 overtime case, which settled for a total
15 of \$7.5 million. From a relative low of
16 1,010 new cases in Fiscal Year '05, we
17 have seen a steady increase in new cases
18 since Fiscal Year '08, when 1,487 new
19 cases were filed, with 1,324 new cases in
20 Fiscal Year '09, 1,518 new cases in
21 Fiscal Year '10 and a projected 1,989 new
22 cases by the close of Fiscal Year '11.
23 These additional lawsuits have resulted
24 in an increase in payments and indemnity
25 costs. From Fiscal Year '05 through

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2 Fiscal Year '07, the average number of
3 cases closed was 1,136. In contrast,
4 from Fiscal Year '08 through Fiscal Year
5 '10, the average number of closed cases
6 increased to 1,323. Thus, the Law
7 Department has closed 16.5 percent more
8 cases over the past three years.
9 Specifically, in Fiscal Year '10, 1,246
10 cases were closed, and we project that by
11 the end of Fiscal Year '11, nearly 1,742
12 cases will be closed. By the end of
13 Fiscal Year '12, we anticipate closing
14 1,513 cases.

15 As of December 31st, 2010, the
16 Law Department was defending 2,316 active
17 litigation cases. During just the first
18 half of Fiscal Year '11, the Law
19 Department closed a total of 871 cases.
20 These cases had a total risk assessment
21 of nearly \$29.6 million, and the Law
22 Department paid out just 27.1 percent of
23 its risk assessment. The Law Department
24 resolved 65.8 percent, a total of 573
25 cases, without payment and 34.2 percent,

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2 298 cases, were closed without payment.
3 Despite the fact that a vast majority of
4 these suits are ultimately deemed to be
5 without merit, the Law Department is
6 still obligated to spend resources to
7 defend the City and to budget funds that
8 may be needed to pay out claims.

9 Last year, the Civil Rights
10 Unit once again successfully defended
11 more than ten cases at trial in federal
12 and state court, including two
13 high-profile cases involving fatalities.
14 In addition to the successful defenses at
15 trial, Civil Rights attorneys through
16 motion practice disposed of over 100
17 cases without any City payment and
18 resolved, at little cost, the Williams
19 versus City of Philadelphia prison triple
20 cell and overcrowding class action.
21 After two years of litigation, the
22 Williams case resolved for just \$35,000,
23 with no capital expenditures or ancillary
24 monitoring agreement and no future
25 payments to counsel for the class. The

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2 Claims Unit tried six cases to verdict
3 during the past year and four cases
4 resulted in defense verdicts. In one of
5 the cases that resulted in a verdict for
6 plaintiff, the verdict was half the
7 amount of the compulsory arbitration
8 award that the plaintiff chose to appeal.
9 Claims also won 79 percent of those cases
10 resolved through arbitration. Had these
11 units not been as successful based on the
12 injuries and damages reported, the City
13 would have been facing payments in the
14 millions of dollars.

15 This year, the Housing Division
16 of the Law Department negotiated and
17 prepared a Grant Agreement with the
18 Pennsylvania State Treasury for Project
19 Energy Smart. The agreement leverages \$5
20 million in stimulus funds received by the
21 City from the U.S. Department of Energy.
22 Project Energy Smart is a program loaning
23 funds to homeowners to retrofit their
24 homes to become more energy efficient.

25 With guidance from the Law

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2 Department, the City developed a method
3 of purchasing electricity on a wholesale
4 basis. The method required a City
5 ordinance and an Executive Order to
6 facilitate long-term purchases. The City
7 anticipates a savings of approximately \$5
8 million annually when compared to a
9 retail option.

10 Commercial Law Unit attorneys
11 working closely with the Office of the
12 Director of Finance created a new
13 citywide RFP template for use by
14 departments, including detailed
15 instructions for developing scope of work
16 documents. The template will be posted
17 on eContract Philly and will improve the
18 quality of City RFPs and the resulting
19 contracts and will enhance the efficiency
20 of department RFP preparation.

21 Commercial Law Unit attorneys
22 also worked with the Managing Director's
23 Office and the Procurement Department to
24 develop Charter amendments that will make
25 the City's procurement procedures more

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2 efficient and cost effective. As a
3 result, the City will be able to take
4 advantage of cooperative purchasing
5 arrangements with other governmental
6 agencies where doing so will save
7 procurement costs and implement
8 electronic bidding and contracting
9 procedures which will substantially lower
10 the transaction costs for issuing and
11 awarding bids.

12 For the second fiscal year, the
13 Law Department continued to keep outside
14 counsel expenditures down. By keeping as
15 many legal matters as possible in-house
16 at a fraction of the cost of outside
17 counsel, the Law Department has been able
18 to reduce outside counsel obligations.
19 Excluding labor negotiations obligations,
20 the Fiscal '11 General Fund legal
21 obligations for outside counsel are
22 decreased from 3.8 million in Fiscal '09
23 to 2.2 million in Fiscal '10. Outside
24 counsel expenditures are projected at 2.7
25 million for Fiscal '11, a decrease of 1.1

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2 million, or 48 percent, from Fiscal '09
3 to Fiscal '11.

4 Since Fiscal Year '04, as a
5 result of electronic filing, e-mail and
6 the increased technological proficiency
7 of our attorneys, the Law Department has
8 reduced support staff on the General Fund
9 by 25.5 percent, from 98 to 73 on staff
10 in Fiscal Year '11. In Fiscal Year '12,
11 there will be a decrease resulting from
12 the Tax Unit transfer by 15 persons, thus
13 the number of staff persons will be 57.

14 In addition, the Law Department has
15 reduced its paper costs by 37 percent,
16 from an average of \$75,000 in Fiscal Year
17 '07 through Fiscal Year '08 to an
18 estimated 47,000 in Fiscal Year '11. We
19 expect these savings to level off in
20 Fiscal Year '12.

21 Finally, improvements to the
22 Law Department's case management system
23 include a link which permits Law
24 Department staff to directly enter
25 payment agreements into the Department of

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2 Revenue's database, better tracking
3 systems for contract expenditures and
4 electronic reporting for human resource
5 functions.

6 The Law Department is committed
7 to support the Administration's goal of
8 25 percent minority, women and
9 disabled-owned business participation in
10 citywide contracting. We have worked
11 closely with the OEO to set participation
12 goals on all of the Department's
13 contracting opportunities. In 20 percent
14 of the opportunities posted, the Law
15 Department selected a secondary minority
16 or woman contractor with awards totalling
17 \$785,000. Based on the Law Department's
18 available contracting opportunities for
19 Fiscal Year '11, OEO set the Department's
20 participation goal at 20 percent of the
21 contract awards. We are proud of our
22 continued commitment to diversity
23 contracting, which resulted in 42.74
24 percent of contract dollars being
25 obligated to minority and women

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2 contractors in Fiscal Year '11. In
3 addition, we remain committed to the
4 maintenance of a highly professional Law
5 Department that both reflects the
6 diversity and exceeds the expectations of
7 the citizens of Philadelphia we serve.
8 Of the total Law Department staff of 309
9 as of January 2011, which includes
10 attorneys, legal assistants and support
11 staff, 43.7 percent are minority and 66.7
12 percent are women.

13 Thank you for the opportunity
14 to testify today on the Law Department's
15 Fiscal Year '12 budget request. I look
16 forward to continuing to work with
17 members of City Council in the
18 performance of my duties as City
19 Solicitor, and should any Councilmember
20 wish to engage in further discussion on
21 any of these matters, my staff and I are
22 happy to meet with Councilmembers at
23 their convenience.

24 COUNCIL PRESIDENT VERNA: Thank
25 you.

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2 The Chair recognizes Councilman
3 Goode.

4 COUNCILMAN GOODE: Thank you,
5 Madam President.

6 Good afternoon, Solicitor.

7 MS. SMITH: Good afternoon,
8 Councilman Goode.

9 COUNCILMAN GOODE: Last year I
10 asked you to provide the legal framework
11 for our business diversity policy. Thank
12 you for forwarding it. I thought it was
13 an excellent job. This year I'm asking
14 you to provide a legal framework for our
15 living wage and benefits policy. So if
16 you could provide that through the Chair
17 in writing. And I guess the question
18 related to that is --

19 MS. SMITH: Could I ask you to
20 speak up a little bit louder and a little
21 more slowly.

22 COUNCILMAN GOODE: Sure.

23 MS. SMITH: Thank you.

24 COUNCILMAN GOODE: Will all
25 City contracts contain a living wage and

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2 benefits provision in the FY12 terms and
3 conditions?

4 MS. SMITH: Yes.

5 COUNCILMAN GOODE: And speaking
6 of legal framework, what is the legal
7 framework regarding the City's policy on
8 payroll deductions for contributions to
9 PACs by members of the FOP?

10 MS. SMITH: The City's policy
11 is that under the Charter, members of the
12 Police Department are not permitted to
13 make political contributions, so
14 political contributions will not be
15 facilitated by the City as payroll
16 deductions.

17 COUNCILMAN GOODE: And is that
18 the same for the firefighters?

19 MS. SMITH: The firefighters
20 won the right to make political
21 contributions in litigation in 2006.

22 COUNCILMAN GOODE: So how might
23 members of the FOP win the same right?
24 They would have to sue?

25 MS. SMITH: Well, if they

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2 follow the firefighters' path, they would
3 file a lawsuit, and if they are
4 successful, then they could obtain the
5 same right.

6 COUNCILMAN GOODE: So there's
7 no belief that because the firefighters
8 won that lawsuit, that it would also
9 apply to the FOP?

10 MS. SMITH: No. Firefighters'
11 lawsuit -- the rationale of the
12 firefighters' lawsuit was specific to the
13 firefighters.

14 COUNCILMAN GOODE: Can you
15 explain that?

16 MS. SMITH: I can explain that
17 the facts that were adduced -- it
18 actually was my case. The facts that the
19 firefighters claimed in support of their
20 argument that they should be permitted to
21 make political contributions were
22 specific to the firefighters, and all of
23 the arguments, all of the factual
24 arguments relating to history of the
25 Charter prohibition against political

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2 contributions for police officers and
3 firefighters were made specific to
4 firefighters in that case. So all of the
5 facts that are the basis for the decision
6 are facts that specifically relate to
7 firefighters. They don't relate to
8 police officers.

9 COUNCILMAN GOODE: I'm just not
10 that familiar with the difference between
11 why one is allowed and one is not
12 allowed. So I'm just asking you to tell
13 me the facts of the case in terms of why
14 specifically firefighters are allowed.

15 MS. SMITH: Well, you mean what
16 the rationale of the case was?

17 COUNCILMAN GOODE: Yes.

18 MS. SMITH: I don't remember
19 the specific language the court used, but
20 I could tell you in summary that the
21 court was not persuaded that the history
22 as it pertained to firefighters
23 political -- as it pertained to the
24 prohibition against firefighter political
25 contributions still had any current

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2 application or any current relevance.

3 COUNCILMAN GOODE: Because the
4 Charter provision was created in the
5 '50s?

6 MS. SMITH: I don't know that
7 it was specifically because the Charter
8 prohibition was created in the '50s. I
9 think that it was a fact-specific
10 analysis of whether the concerns that
11 were presented that led to the Charter
12 provision at that time still existed
13 today with respect to firefighters. And
14 I can tell you that there's significant
15 disagreement and -- there's significant
16 disagreement among us as to whether the
17 court's decision was correct, but it
18 doesn't have any precedential value.
19 It's specifically a District Court case
20 based on the facts only applicable to
21 firefighters.

22 COUNCILMAN GOODE: Okay. So
23 you do not believe that the police would
24 be similarly successful challenging a
25 Charter provision that was created in the

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2 1950s?

3 MS. SMITH: I can't speak -- I
4 mean, I can't say -- I can't predict how
5 a court would rule on the issue. What I
6 can tell you is that factually the duties
7 of firefighters are very, as you know of
8 course, the duties of -- as anyone knows,
9 the duties of firefighters are very
10 different from the duties of police
11 officers, and the history of the Charter
12 and the contemporaneous discussion of the
13 need to prohibit political contributions,
14 I would suggest, has different currency
15 with respect to police officers' duties
16 and their ability to restrict people's
17 liberty than it might to the
18 firefighters, whose duties are simply to
19 fight fires and rescue people. Very
20 summarily put.

21 COUNCILMAN GOODE: I'm not sure
22 how that relates to political
23 contributions as opposed to political
24 activity, because a political
25 contribution is not the same as political

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2 activity. Someone can restrict a
3 political activity to a contribution, so
4 beyond a contribution it can't be assumed
5 that they're involved in political
6 activity.

7 MS. SMITH: Well, the Charter
8 prohibits it as to police. The police
9 have not sued and obtained the right.
10 Therefore, the City cannot facilitate
11 political contributions for police. If
12 the police sue and are successful, then
13 that may be a different story, and we
14 will cross that bridge if and when we get
15 to it.

16 COUNCILMAN GOODE: Okay. Let
17 me move to a different line of
18 questioning. How much is spent on
19 outside law firms on an annual basis?

20 MS. SMITH: We have -- in
21 Fiscal Year '11, our estimated
22 obligations for outside counsel,
23 including labor negotiations, are \$3.3
24 million total. In Fiscal Year '10, our
25 expenditures, our actual expenditures,

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2 were \$3.4 million.

3 COUNCILMAN GOODE: And offhand
4 do you know what percentage of those
5 dollars or contracts go to businesses
6 located inside the City versus outside
7 the City?

8 MS. SMITH: We don't have that
9 information.

10 COUNCILMAN GOODE: Could you
11 forward that information through the
12 Chair?

13 MS. SMITH: Yes.

14 COUNCILMAN GOODE: Who monitors
15 the billable hours by the outside law
16 firms?

17 MS. SMITH: The attorneys in
18 whose discipline the matters fall. So
19 with civil rights conflict matters, for
20 example, our Civil Rights, the Chief of
21 our Civil Rights Unit, would be
22 responsible for those matters and would
23 review the outside counsel billing for
24 those. For labor negotiations, they're
25 reviewed by a combination of our Director

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2 of Labor Relations and our Chief of Labor
3 Relations and our Litigation Chair,
4 depending.

5 COUNCILMAN GOODE: How many
6 outside law firms are involved in the
7 defense of medical claims by City
8 employees?

9 MS. SMITH: You mean injury
10 medical claims?

11 COUNCILMAN GOODE: Heart and
12 lung, those type of things.

13 MS. SMITH: I'm not sure,
14 because that's overseen through Risk
15 Management. I think at this point the
16 number is -- I'd have to get that
17 information for you.

18 COUNCILMAN GOODE: But Risk
19 Management would not see whether we have
20 the internal capacity to defend?

21 MS. SMITH: You might recall
22 that in the early -- well, up until the
23 early '90s the City had a workers'
24 comp -- this is essentially a workers'
25 comp area. Up until the early/mid-ish

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2 '90s, the City had a Workers' Comp Unit
3 in the Law Department, but that unit was
4 dissolved in the '90s and now the work is
5 all handled by outside counsel as part of
6 the contracting for the claims management
7 process.

8 COUNCILMAN GOODE: And so --

9 MS. SMITH: So we don't have
10 the capacity at all to handle workers'
11 comp.

12 COUNCILMAN GOODE: So the
13 capacity does not exist?

14 MS. SMITH: We don't have that
15 capacity at all.

16 COUNCILMAN GOODE: What is the
17 turnover and attrition rate for lawyers
18 in the City Solicitor's Office?

19 MS. SMITH: I'm sorry. Could
20 you repeat that?

21 COUNCILMAN GOODE: What is the
22 turnover and attrition rate for lawyers
23 in the City Solicitor's Office?

24 MS. SMITH: The turnover -- the
25 attrition rate this year is projected to

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2 be 11 percent. Last year it was six
3 percent.

4 COUNCILMAN GOODE: And as is
5 generally asked, how much does that
6 contribute to the need to hire outside
7 counsel?

8 MS. SMITH: I would say at this
9 point not so very much. We had pretty
10 significant turnover -- the place, other
11 than conflict civil rights counsel, the
12 place where we typically hire outside
13 counsel is for labor matters, because
14 that's where we historically have the
15 highest and most rapid turnover. This
16 year we were fortunate enough to be able
17 to fill the positions fairly quickly, so
18 I think we were able to hold it off so
19 that we didn't have to suffer a
20 significant increase in outside counsel,
21 and, in fact, I think you see from the
22 numbers and what I said in my testimony,
23 what I testified was that we've actually
24 been able to maintain our reduction in
25 outside counsel costs. I think so far

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2 we've been able to hold the line even
3 with an increase in attrition because of
4 where we've seen the changes.

5 COUNCILMAN GOODE: So is most
6 of that turnover and attrition still
7 within the Labor and Employment Unit?

8 MS. SMITH: I think it was more
9 across the board. I think we had
10 significant -- we had some attrition in
11 Labor and Employment, but we also had
12 some in Civil Rights and we had some in
13 Child Welfare and we had some in Claims.
14 So pretty much across the board in our
15 litigation units we had attrition, we
16 suffered some attrition, but --

17 COUNCILMAN GOODE: What
18 percentage was in the Labor and
19 Employment Unit; do you know?

20 MS. SMITH: I don't think I
21 have that number here, but I can get that
22 for you.

23 COUNCILMAN GOODE: Could you
24 forward that through the Chair?

25 MS. SMITH: Yes.

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2 COUNCILMAN GOODE: Just in a
3 related question, how involved is your
4 staff in terms of internal capacity in
5 contract negotiations and how much do you
6 contract out? Is it all contracted out?

7 MS. SMITH: Labor negotiations?
8 It's all contracted out. We oversee it.
9 The Litigation Chair and I oversee it,
10 but the bulk of the sort of day-to-day
11 work of it is all contracted out.

12 COUNCILMAN GOODE: And to what
13 extent might you want to build capacity
14 there?

15 MS. SMITH: I'd want to talk to
16 you about that privately, because it's a
17 strategic issue and I don't want to --
18 it's a labor strategic issue and I don't
19 want to disclose it here, but I'm happy
20 to talk to you about that privately.

21 COUNCILMAN GOODE: Okay. Just,
22 lastly, while you're forwarding
23 information in terms of work data that is
24 contracted out, because it's not just an
25 issue of whether there is internal

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2 capacity or we're contracting out, but
3 also when we're contracting out, what
4 exists in terms of business diversity and
5 what exists in terms of local
6 participation. So if you could forward
7 all that data in terms of what's
8 contracted out so we can get a look at
9 the business diversity and the local
10 participation, that would be helpful.

11 MS. SMITH: Sure. Yes.

12 COUNCILMAN GOODE: Thank you.

13 MS. SMITH: You're welcome.

14 COUNCILMAN GOODE: Thank you,
15 Madam President.

16 COUNCIL PRESIDENT VERNA:
17 You're welcome.

18 The Chair recognizes
19 Councilwoman Brown.

20 COUNCILWOMAN BROWN: Thank you,
21 Madam President.

22 Point of information for my
23 colleague, Councilman Goode. When you
24 say "business diversity," you're
25 referring to?

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2 COUNCILMAN GOODE: MBE/WBE.

3 COUNCILWOMAN BROWN: Amongst
4 law firms?

5 COUNCILMAN GOODE: Yes.

6 COUNCILWOMAN BROWN: Good
7 morning.

8 MS. SMITH: Good afternoon.

9 COUNCILWOMAN BROWN: Oh, it is
10 that, isn't it?

11 MS. SMITH: It is. Time flies
12 when you're having fun.

13 COUNCILWOMAN BROWN: The last
14 page of your testimony, the last page,
15 next-to-the-last paragraph, you mention
16 that 42 percent plus of the contract
17 dollars are obligated to minority and
18 women contractors. Are these strictly
19 law firms?

20 MS. SMITH: No. These are --
21 in fact, they're primarily collections
22 firms for tax collections.

23 COUNCILWOMAN BROWN: Okay. Tax
24 collection firms.

25 MS. SMITH: I'm just looking

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2 through the list. A portion of it goes
3 to two law firms that are responsible for
4 tax collections and some of it goes to a
5 law firm that handles code enforcement,
6 zoning matters, but the bulk of it is for
7 collections. We have one for civil
8 rights, a law firm that handles civil
9 rights conflicts, and then the bulk of it
10 is tax collection work.

11 COUNCILWOMAN BROWN:

12 Procedurally what or how does a law firm
13 move to be considered for potential
14 business opportunities with the Law
15 Department? What are the procedures?

16 MS. SMITH: We post an
17 opportunity on the website and we e-mail
18 notice that that opportunity has been
19 posted to everybody who has expressed an
20 interest in doing business with the City.
21 So any law firm, any lawyer that has
22 expressed, reached out to any of us with
23 an interest in doing work for the City,
24 we add that name, contact information, to
25 our e-mail list and they receive a notice

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2 of the opportunity that it's been posted,
3 and then --

4 COUNCILWOMAN BROWN:

5 Irrespective of type of opportunity?
6 They just get a notice of all of them?

7 MS. SMITH: Unless they've been
8 real specific about what they could or
9 couldn't do. But, yes, generally
10 speaking, we send them all notices of
11 everything.

12 And then firms respond, and
13 we -- primarily my First Deputy in
14 consultation with the unit that needs the
15 help, that has the specialty expertise,
16 reviews the proposals to determine
17 whether the firm really seems to have the
18 capacity to do the work, whatever it is,
19 whether they have a record of having
20 performed doing the kind of work that's
21 needed. We look at their billing rates,
22 although pretty much the billing rate is
23 fairly standard. Some people come in
24 lower, but we have a max. And then makes
25 a decision based on all of those factors.

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2 We try to -- we also factor in the
3 diversity component, because --

4 COUNCILWOMAN BROWN: Diversity
5 of the firm?

6 MS. SMITH: Yes. I mean, we
7 look at whether the firm is diverse. For
8 example, we have contracted with a firm
9 Ahmad & Zaffarese, which is a diverse
10 firm, minority owned, I believe, to do
11 civil rights conflict. They're a small
12 firm. Sometimes we have conflicts off of
13 conflicts and we need a smaller -- those
14 can be handled by a smaller firm. And we
15 choose based on all those, a combination
16 of all those factors.

17 COUNCILWOMAN BROWN: And the
18 "we" are the professionals from your
19 department and the head of that City
20 department?

21 MS. SMITH: No, no, no. My
22 executive staff and the chief of
23 whichever unit in the Law Department has
24 the subject matter expertise to figure
25 out the capacity, and then we consult

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2 with OEO to look at the diversity either
3 contribution or potential.

4 COUNCILWOMAN BROWN: Okay. I
5 was having a sidebar with my colleague
6 Councilman Goode, who is my expert on
7 these matters, and I want to frame it
8 properly.

9 MS. SMITH: Don't listen to
10 him.

11 COUNCILWOMAN BROWN: A
12 repeated, some might say, criticism that
13 I hear is lawyers in majority firms --
14 lawyers --

15 MS. SMITH: Diverse lawyers in
16 majority firms?

17 COUNCILWOMAN BROWN: Exactly.
18 And how and if, A, it's appropriate; B,
19 possible for those lawyers to have access
20 to opportunity, because typically if the
21 majority firm gets the job, the minority
22 or female lawyer sees no opportunity at
23 all.

24 MS. SMITH: Right. I can tell
25 you that is a huge problem. I can tell

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2 you from my own personal experience
3 that's a huge problem, and we do try to
4 make sure -- a lot of times the diverse
5 lawyer in the large firm will be the
6 lawyer that reaches out to us to explore
7 the potential opportunity. I've recently
8 had some contact from people who are
9 about to be moving around from one firm
10 to the next who have reached out and
11 asked to be on our list at the new firm.
12 In particular, at Ballard the lead -- the
13 billing partner for our labor
14 negotiations matters is Shannon Farmer.
15 She's female. She understands -- she's
16 worked with the City a long time. She
17 understands the City's commitment to
18 diversity, as does Ballard, which has
19 done work for the City for a while, and
20 makes an effort. Though with the
21 demographics of Ballard, it's challenging
22 for her even to try to diversify. There
23 are a lot of women, not so many
24 minorities.

25 We have a contract with

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2 Stradley Ronon to do some labor and
3 employment work or conflict work where we
4 need the help. Danielle Banks, who is an
5 African American female, is the billing
6 partner on that work.

7 COUNCILWOMAN BROWN: The
8 relationship then is vital with a
9 particular personnel type in those law
10 firms? You just called the title of
11 the --

12 MS. SMITH: The way firms --
13 it's a matter of internal firm credit.
14 This is what you're talking about, I
15 think. It's a matter of internal firm
16 credit. How people in addition to just
17 making their billable hours, how lawyers
18 and law firms get sort of credit for
19 being productive contributing members to
20 the firm's bottom line, they get credit
21 for being a relationship partner or a
22 billing partner or whatever the case may
23 be.

24 At Archer & Greiner, we have
25 worked with -- the relationship partner

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2 there is Jeff Kolansky, who is a white
3 male, but we have worked with him for
4 years and he has increased the number of
5 minority or diverse, I'll say, lawyers
6 who work on those matters, because he too
7 understands the City's commitment. And
8 in addition, this year with Archer we
9 were able to do two things that helped us
10 on a number of -- on a couple of fronts.
11 One was, we negotiated a flat fee
12 arrangement with them to create a ceiling
13 on the amount of money that they charged
14 us for handling our civil rights conflict
15 matters. But equally importantly, the
16 contract has a component by which Archer
17 will work with Temple Law School to
18 create a diverse City scholarship program
19 that will -- by which they will try to
20 attract more diverse lawyers to the firm
21 and encourage those lawyers to split a
22 summer with Archer and the City and also
23 post-graduation hire those lawyers, who
24 will then do significant work on City
25 matters, because one of my goals has been

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2 to try to -- you have to sort of try to
3 find creative ways to attack this issue,
4 and one of the things that I wanted to do
5 here, because Archer is a firm that has a
6 lot of former City attorneys, they have a
7 unique ability to train lawyers in how
8 the City -- in how to represent the City
9 properly. And so it was really helpful
10 for us to be able to make this -- come up
11 with this plan with Archer, because
12 they're sort of uniquely suited to really
13 teach lawyers how to do litigation work
14 for a client that is more likely to try
15 cases, which means they'll get meaningful
16 civil trial experience, which you don't
17 necessarily get working for a private
18 client in a law firm. So I think -- and
19 Carlton Johnson and John Kahn from Archer
20 & Greiner are actually here, if anybody
21 has any more detailed questions from
22 their perspective.

23 COUNCILWOMAN BROWN: How old is
24 the practice? How old is that
25 relationship?

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2 MS. SMITH: The relationship
3 with Archer actually through Jeff
4 Kolansky goes back 20 years, because Jeff
5 Kolansky when he had his own firm was
6 conflict counsel in FOP matters. So he
7 was conflict counsel in civil rights
8 cases. And then his firm in the early
9 2000's, if I'm not mistaken, became a
10 part of Archer & Greiner, in fact became
11 its Philadelphia office, because it had
12 been a New Jersey firm. And so our
13 relationship with the people goes back
14 two decades, but the addition of the City
15 attorneys goes back six or seven years
16 now.

17 COUNCILWOMAN BROWN: Okay.
18 Well, thank you for your testimony.

19 MS. SMITH: You're welcome.

20 COUNCILWOMAN BROWN: Thank you,
21 Madam President.

22 COUNCIL PRESIDENT VERNA:
23 You're welcome.

24 The Chair recognizes
25 Councilwoman Blackwell.

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2 COUNCILWOMAN BLACKWELL: Thank
3 you. Thank you, Madam President.

4 Good afternoon.

5 MS. SMITH: Good afternoon.

6 COUNCILWOMAN BLACKWELL: I
7 wanted to follow up on an issue
8 Councilman Goode raised with regard to
9 Bill No. 060181 that former Mayor John
10 Street passed and we passed -- I
11 introduced it; Council passed it; the
12 former Mayor signed it -- about the
13 payroll deduction. We were talking about
14 then, of course -- we have the bill. We
15 pulled it, from the FOP Lodge No. 5 to
16 authorize payroll deductions for
17 contributions to COPAC, and obviously
18 there's some -- we want to know why we
19 can't get you to enforce this legislation
20 since it was passed.

21 MS. SMITH: Because it would
22 violate the Charter.

23 COUNCILWOMAN BLACKWELL: So
24 that is why you took -- but it seems to
25 me, as was already said, that -- why does

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2 everybody have to pay all this money?

3 The firefighters took the City to court
4 and won. So it would force them to do
5 all of this. I don't know why we fight
6 ourselves. If the firefighters took it
7 to court and won, there is a precedence
8 then.

9 MS. SMITH: No, there is not.

10 It's a District Court case that only
11 applies to its own facts. It does not
12 have any precedential value as to any
13 other case, even as to just another judge
14 on the same court. It is not
15 precedential.

16 COUNCILWOMAN BLACKWELL: Well,
17 for us it's two City departments. One
18 didn't get it, so they took the City to
19 court and won. Now there's another City
20 department. So in our eyes -- and this
21 other City department will take the City
22 to court and then win again. So we spend
23 all of this extra time and money when it
24 seems to me that once a bill is passed
25 and signed, then -- obviously the former

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2 Mayor was a lawyer. It seems to me he
3 would know the law. We all know him. We
4 know that he does know the law. And I
5 don't understand the -- would you explain
6 your criteria for non-enforcement of this
7 law again?

8 MS. SMITH: The Charter
9 prohibits political contributions as to
10 police officers. It prohibited them as
11 to firefighters as well, but the
12 firefighters sued successfully to get the
13 right to make political contributions,
14 and, therefore, the City can facilitate
15 political contributions for firefighters.
16 Police officers are -- in addition to the
17 fact that the Charter provision remains
18 in effect as to the police officers --
19 and with all due respect, I have to
20 differ with you about City departments
21 fighting. This is unions fighting the
22 City. This is not City departments
23 fighting. The Police Department is not
24 suing us to try to get political
25 contributions for its members. The union

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2 is suing. And just like the firefighters
3 union sued, not the Fire Department.

4 COUNCILWOMAN BLACKWELL: I
5 stand corrected in that regard.

6 MS. SMITH: But the political
7 contribution prohibition remains in
8 effect as to police officers, and if we
9 were to facilitate political
10 contributions for police officers, we
11 would be in violation of the Charter.

12 COUNCILWOMAN BLACKWELL: So
13 you're saying the police have to go
14 through the exact same thing the
15 firefighters did with regard to political
16 contributions?

17 MS. SMITH: And they may not
18 win.

19 COUNCILWOMAN BLACKWELL: Well,
20 frankly, it doesn't make sense to me. I
21 don't understand why you assume that this
22 lawsuit would turn out differently than
23 the Fire Department, nor do I understand
24 why the City should spend more money
25 preventing unions, as I stand corrected,

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2 preventing this bill to be enforced when
3 we've gone that road before. I mean, you
4 were Deputy City Solicitor back then,
5 but --

6 MS. SMITH: No. I was actually
7 the lawyer who tried the case, who
8 litigated the case, and I can tell you as
9 the lawyer who litigated the case, that
10 the facts -- it's my legal judgment, it
11 is our collective legal judgment, because
12 there's been a lot of discussion about
13 this case in my office over the years,
14 it's our collective legal judgment both
15 that the District Court's opinion is not
16 necessarily legally correct and that the
17 police officers are factually
18 distinguishable from firefighters for
19 purposes of this Charter provision. So
20 we think that the City has sound
21 arguments in defense of the Charter
22 provision, and it is our obligation to
23 defend the Charter provision.

24 COUNCILWOMAN BLACKWELL: Well,
25 I will tell you that we disagree. When

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2 we introduce legislation, when we pass
3 it, when a Mayor signs it, then to me
4 when we talk about Charter and what's
5 supposed to happen, once we pass a bill
6 and a bill is signed, that's right at the
7 very heart and the core of what
8 government is and what it should be. I
9 can speak to my constituents and tell
10 them I don't agree with you, but I will
11 abide by the will of the majority. That
12 is what we have to do as a Council.

13 Now, the Mayor cannot sign, let
14 it become law, or the Mayor can sign it.
15 The Mayor has -- every Mayor has rights,
16 as does Council, but certainly we don't
17 enact legislation and don't have it
18 passed and not expect that to be
19 enforced. So when you're talking about
20 the Charter, we operate under the same
21 Charter, but we expect that when we sign
22 bills, I mean, it's -- I mean, this is in
23 '06. Nobody came back and said, We have
24 a problem, there is this legal -- there
25 is something wrong.

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2 We are serious about the
3 Charter. We are sworn by it. It is our
4 Bible as well. But we do not take
5 lightly the fact that we sign a bill, the
6 Mayor signs it and then -- not you
7 individually, not you specifically
8 personally, but that your department
9 decides or that there's no enforcement.
10 We have a real, real, real issue with
11 that and we have a real problem with
12 that. We don't agree. We believe that
13 this bill should have been enforced, that
14 it should be enforced now, and we find it
15 just ridiculous that the FOP will sue the
16 City and when we waste all this time and
17 money and we end up where we are now.

18 Thank you, Madam President.

19 COUNCIL PRESIDENT VERNA: Thank
20 you.

21 Any further questions from
22 members of the Committee?

23 COUNCILMAN GOODE: One final
24 question.

25 COUNCIL PRESIDENT VERNA: Yes.

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2 Councilman Goode.

3 COUNCILMAN GOODE: Thank you,
4 Madam President.

5 Solicitor, just for my own
6 edification, it's not against state or
7 federal law, is it?

8 MS. SMITH: Political
9 contributions? I don't remember whether
10 there was -- what I remember is that
11 there are other local governments who
12 prohibit classes of public employees from
13 various components of political activity
14 and those prohibitions have been upheld.
15 I don't remember, though, whether or
16 not -- I don't remember what the specific
17 interplay is of federal or state law.

18 COUNCILMAN GOODE: But as far
19 as we know, we are not prohibited by
20 state or federal law?

21 MS. SMITH: That's what I'm
22 saying, I can't tell you today --

23 COUNCILMAN GOODE: That's not
24 the reason --

25 MS. SMITH: I can't tell you

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2 today that we are, but that's not the
3 issue here. The issue here is that it
4 violates the Charter.

5 COUNCILMAN GOODE: So separate
6 from this particular case, if a state or
7 federal law preempts the Charter and The
8 Philadelphia Code, can we then pass a law
9 that is consistent with the state law and
10 federal law without amending the Charter?

11 MS. SMITH: I think essentially
12 what you're asking, if I'm understanding
13 you correctly -- and if I'm not, let me
14 know -- is if the Charter is somehow
15 preempted by state or federal law, then
16 could you pass a law that's consistent
17 with that state or federal law and have
18 it be enforceable, essentially. I think
19 the answer to that is yes. If the
20 Charter itself is somehow preempted by
21 state or federal law, like if state or
22 federal law prohibited the Charter from
23 imposing certain restrictions or
24 something like that, then, yeah.

25 COUNCILMAN GOODE: So a state

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2 law allows such contributions?

3 MS. SMITH: No.

4 COUNCILMAN GOODE: Would that
5 preempt the Charter?

6 MS. SMITH: No, because there
7 is some latitude that local governments
8 have that relates to the ability of
9 public employers to regulate the conduct
10 of their employees.

11 COUNCILMAN GOODE: Related to
12 payroll deductions and related to
13 political activity, but not necessarily
14 related to campaign finance.

15 MS. SMITH: Related to
16 political contributions. It relates to
17 political activity generally. Local
18 governments, like other governments, have
19 certain latitude to regulate the
20 political activity of their employees.

21 COUNCILMAN GOODE: I'm actually
22 making a distinction between political
23 contributions and political activity, and
24 believe that there is a distinction.

25 MS. SMITH: Yeah, there's a

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2 distinction, but it's a distinction that
3 derives from the fact that political
4 contributions are a form of political
5 activity.

6 COUNCILMAN GOODE: Because if
7 an employee is simply giving money to a
8 political action committee and that that
9 political action committee is making
10 decisions, that employee is not engaging
11 in political activity aside from
12 contributing to a political action
13 committee.

14 MS. SMITH: Well, I don't want
15 to get into a debate with you here on the
16 floor of Council.

17 COUNCILMAN GOODE: I'm not
18 debating it.

19 MS. SMITH: I don't think it's
20 helpful. Again, it's our obligation to
21 defend the Charter, and I believe that we
22 have very sound defenses on this issue.
23 I don't want to get into a debate with
24 you about the various components of the
25 argument or the merits of it. I'm happy,

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2 again, to talk to you privately about it,
3 but you know I don't want to reveal legal
4 strategy here at all in a public forum
5 like this. I'm happy to talk to you
6 about it privately, but I don't want to
7 get into a debate with you about what the
8 various components are of the analysis.

9 COUNCILMAN GOODE: It's
10 actually not a debate. It's actually I'm
11 asking legal counsel what applies and
12 what does not apply, and the question is
13 whether there's a distinction between
14 political contributions and political
15 activity, and then there's a question
16 related to who is engaged in political
17 activity and who is not, and just you
18 made the distinction between whether it
19 was the department or the union. Because
20 it's a union, then it's not an employee
21 or department that's engaged in the
22 activity, and so there's a question about
23 what political activity is being
24 regulated.

25 MS. SMITH: But we're not

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2 regulating the ability of the union to do
3 anything. What we're regulating is the
4 ability of the individual union members,
5 who happen in this case to be police
6 officers, from making contributions to
7 the union's political activity committee.
8 It's the employees' contributions that
9 are at issue here. There's no -- the
10 legislation doesn't address the ability
11 of the union to contribute anywhere to
12 anything.

13 COUNCILMAN GOODE: My only
14 question -- and it was a question, it
15 wasn't a debate. My only question at the
16 end of the day was whether that falls
17 under state campaign finance law or
18 whether it falls under those provisions
19 you think relate to how you can restrict
20 political activity.

21 MS. SMITH: Right. Like I
22 said --

23 COUNCILMAN GOODE: And it was a
24 question.

25 MS. SMITH: Okay. And I'm

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2 happy to answer it privately.

3 COUNCILMAN GOODE: Okay.

4 Thank you, Madam President.

5 COUNCIL PRESIDENT VERNA:

6 You're welcome.

7 The Chair recognizes Councilman
8 Rizzo.

9 COUNCILMAN RIZZO: Good
10 afternoon, Solicitor.

11 MS. SMITH: Good afternoon.

12 COUNCILMAN RIZZO: Could you --
13 I don't have it written down, but I'm
14 just doing this from memory. There was
15 recently the Pipe and Drum Corps from the
16 Police and Fire, there was legislation, a
17 bill passed in the Council to allow for
18 payroll deductions and there was
19 something that developed that the
20 Administration said that that can't be
21 enacted. Are you familiar with that?

22 MS. SMITH: What they were just
23 asking me about? Yeah. The police --

24 COUNCILMAN RIZZO: No, not
25 about the political contributions. I'm

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2 talking about the ceremonial Pipe and
3 Drum Band.

4 MS. SMITH: Oh, no. I'm not
5 familiar with that at all.

6 COUNCILMAN RIZZO: You're not
7 familiar with that at all?

8 MS. SMITH: No, I'm not.

9 COUNCILMAN RIZZO: I'll get
10 more information and find out what that's
11 about.

12 MS. SMITH: Yeah. That doesn't
13 even --

14 COUNCILMAN RIZZO: Because we
15 were told that the piece of
16 legislation -- and I might have it wrong.
17 I'm doing it from memory, pretty good
18 memory, but I was told that after this
19 was signed by the Mayor, that there was
20 some legal reason that that -- can you
21 just give me a two-second recess here and
22 I'll get the information?

23 (Pause.)

24 COUNCILMAN RIZZO: We'll have
25 to get back with you. Apparently there

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2 was some reason that after this passed,
3 that in fact couldn't be enacted for some
4 reason, and I'm not familiar -- that's
5 what I wanted to know, but I'll get back
6 to you with better detail.

7 MS. SMITH: Okay.

8 COUNCILMAN RIZZO: Thank you
9 very much.

10 MS. SMITH: You're welcome.

11 COUNCILMAN RIZZO: Thank you,
12 Madam President.

13 COUNCIL PRESIDENT VERNA: Are
14 there any further questions?

15 (No response.)

16 COUNCIL PRESIDENT VERNA:
17 Seeing none, thank you very much.

18 MS. SMITH: Thank you.

19 COUNCIL PRESIDENT VERNA: This
20 Committee will stand in recess until
21 tomorrow, Wednesday, April the 27th at
22 10:00 a.m.

23 Thank you.

24 (Committee of the Whole
25 adjourned at 3:30 p.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 on April 26, 2011, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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