

COUNCIL OF THE CITY OF PHILADELPHIA
SPECIAL COMMITTEE ON CRIMINAL
JUSTICE REFORM

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, November 14, 2016
1:20 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR.
KEIR BRADFORD-GREY, ESQ., Defender
Association
WILLIAM COBB, representative of formerly
incarcerated person
REVEREND ADAN MAIRENA, Ministry Director,
West Kensington Ministries at Norris
Square
ANN SCHWARTZMAN, PA Prison Society
WILFREDO ROJAS, Office of Community
Justice and Outreach (retired)
JULIE WERTHEIMER, Managing Director's
Office
JUDGE BENJAMIN LERNER, Deputy Managing
Director
TARIQ EL-SHABAZZ, ESQ., Criminal Justice
Attorney
RICHARD McSORLEY, Deputy Court
Administration - Criminal Trial

RESOLUTION 160101 - Resolution appointing
members to the "Special Committee on Criminal
Justice Reform," who will conduct public
hearings examining the Philadelphia criminal
justice system for the impact of current
policies, and offer recommended strategies for
reform that are in the best interest of public
safety and the public good.

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COUNCILMAN JONES: Good afternoon. This is a reconvening of the Special Committee on Criminal Justice Reform. With me on the panel I see just came in Keir Bradford-Grey. We have Tariq Shabazz, we have Reverend Mairena, we have William Cobb, we have Judge Lerner, we have Ann Schwartzman, we have Julie Wertheimer, we have Wilfredo Rojas, and we also are joined by Richard McSorley. We do have a quorum, so we can begin our business.

I just want to thank everybody on this Commission for their time, their talent, their interest in criminal justice reform and say that the process is better off because of it. That's a sincere thanks. And I want everybody that might be out there watching this to understand this was not a monolithic committee. We all have different life experiences, different professional experiences, different views of the world, but we came together for the

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 better and greater good, and for that, I
3 am truly thankful for your time and your
4 talent and, unfortunately, none of your
5 treasury. So we are going to convene.

6 Will the Clerk please read the
7 title of the resolution.

8 THE CLERK: Resolution No.
9 160101, a resolution appointing members
10 to the "Special Committee on Criminal
11 Justice Reform," who will conduct public
12 hearings examining the Philadelphia
13 criminal justice system for the impact of
14 current policies, and offer recommended
15 strategies for reform that are in the
16 best interest of public safety and the
17 public good.

18 COUNCILMAN JONES: Thank you,
19 Ms. Williams.

20 The purpose of today's hearing
21 is to review recommendations that the
22 Special Committee will put forth to all
23 of City Council this Thursday at their
24 next session, November 17th, 2016. These
25 recommendations are based on hearings and

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 field trips and information and testimony
3 that was submitted concerning pretrial
4 reform, which occurred on August 1st and
5 September 12th. These recommendations
6 will be presented today by all members of
7 our planning group, who worked hard on
8 reviewing all of this Committee's
9 transcripts and notes and reports that we
10 were able to gather in order to comprise
11 this Interim Report that we are
12 submitting today.

13 Before I begin, I would like to
14 offer my fellow Committee members an
15 opportunity to say something at this
16 juncture, if you choose.

17 MS. BRADFORD-GREY: I can.

18 COUNCILMAN JONES: Co-Chair
19 Grey.

20 MS. BRADFORD-GREY: Thank you,
21 Councilman Jones, and I want to thank the
22 work that you and Samantha have put in on
23 this Committee as well and helping us get
24 organized as we prepare for true criminal
25 justice reform measures.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 I really appreciate the
3 opportunity to explore our use of
4 pretrial bail. I think that there's a
5 movement across the nation to enhance
6 pretrial service delivery, and it
7 includes finding alternatives to
8 incarceration during pretrial visits,
9 one, as it is costly and it is not an
10 effective means to achieve public safety.

11 I think the recommendations put
12 forward in this report do reflect those
13 best practices around the country,
14 especially with the DC model. I know
15 that Philadelphia has to understand how
16 they're going to fund a lot of these
17 initiatives, but I really, really believe
18 that if a concerted effort is put forth,
19 we can start to pilot things and bring
20 them to scale once we understand the
21 impact of those pilot programs.

22 So I am really proud of the
23 work that we did in here. While I know
24 we still have ways to go, I think that
25 we're starting on a nice infrastructure

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 to deliver our criminal justice practices
3 in a more sensible way and one that makes
4 better use of taxpayer dollars.

5 COUNCILMAN JONES: I want to
6 thank you personally also. I think
7 without fear of successful contradiction,
8 you've coined a new phrase. We know what
9 reentry is, but now you've said it over
10 and over, pre-entry, and I think that's
11 going to become a part of our jargon, at
12 least in these Chambers, for some time to
13 come, and we thank you for that.

14 Will the clerk please provide
15 the names of witnesses who will be
16 testifying today.

17 THE CLERK: The first witnesses
18 will be Richard McSorley and Michael
19 Bouchard, who will testify to the first
20 two recommendations contained in the
21 Interim Report.

22 COUNCILMAN JONES: Would you
23 please approach -- wait a minute. Okay.
24 So you're on that side of the table
25 today?

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Will you please approach the
3 witness table, have a seat, bring the
4 mics close to you, and then state your
5 name for the record and begin your
6 testimony.

7 (Witnesses approached witness
8 table.)

9 MR. McSORLEY: Good morning,
10 Councilman Jones --

11 COUNCILMAN JONES: No. It's
12 afternoon.

13 MR. McSORLEY: Oh, it's
14 afternoon. See, when you work like I do,
15 it's just one big blur all day long.

16 COUNCILMAN JONES: Got it.

17 MR. McSORLEY: My name is
18 Richard McSorley. I'm the Deputy Court
19 Administrator for the Court of Common
20 Pleas - Criminal Trial Division.

21 MR. BOUCHARD: Good afternoon.
22 My name is Mike Bouchard. I'm the
23 Director of Pretrial Services for the
24 First Judicial District.

25 MR. McSORLEY: I am a member of

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 the Committee, which is why I'm doing the
3 presentment today, but because I have
4 been around long enough to know what I
5 don't know, I brought the Director of
6 Pretrial Services, Michael Bouchard, who
7 most of my presentation for this
8 initiative has been based on information
9 that he's provided. So we're going to be
10 discussing very briefly the first two
11 recommendations, that the City should
12 acquire more electronic monitoring units
13 for use as an alternative for pretrial
14 incarceration and also that the City
15 should increase funding for additional
16 Pretrial Services staff, which is
17 necessary to provide greater services to
18 individuals who will be released while
19 awaiting trial. And we're just talking
20 about the pretrial release staff, not
21 post-trial release.

22 So that said, I will turn it
23 over to Michael to briefly go over the
24 highlights of what these recommendations
25 are.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: Thank you
3 very much.

4 MR. BOUCHARD: So as
5 Mr. McSorley said, our first
6 recommendation is that the City should
7 acquire more electronic monitoring units
8 for use as an alternative to pretrial
9 incarceration. Our current system is
10 very outdated and needs to be replaced.
11 We need more EM units as well. Adding
12 these units will allow us to decrease the
13 length of stay for people who are going
14 to be placed on electronic monitoring.
15 They spend less time in jail. And those
16 who are previously ineligible will now be
17 able to be released due to the
18 technological updates the new system can
19 provide.

20 The EM conversion also includes
21 a new server, a redundant server at a
22 geographically separate location,
23 appropriately configured computers,
24 wireless electronic monitoring units,
25 updated landline units, annual

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 software/technical support and licensing
3 as well.

4 We will be increasing our
5 number of units with this transition by
6 about 22 percent. A lot of this --
7 several of these items are being funded
8 by the MacArthur grant, but additional
9 resources are needed on an annual basis
10 beyond what the grant will allow us to
11 do. That includes the annual
12 subscription to the cellular service as
13 required at an approximate cost of
14 166,075 a year and also for it to
15 maintain the 100 landline units. The
16 annual maintenance fee is approximately
17 \$8,500 a year. Also, two additional
18 staff members will be needed within the
19 Electronic Monitoring Field Team of
20 Pretrial Services to assist in the
21 transition of these units and the
22 maintenance of these units in the field,
23 which is approximately 64,892 for their
24 total salaries.

25 The second recommendation is

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 the City should increase funding for
3 additional Pretrial Services staff, which
4 is necessary to provide the greater
5 services to individuals who will be
6 released awaiting trial. As we know,
7 cash bail remains a significant factor in
8 a number of cases, with 60 percent of
9 individuals being arraigned receiving
10 cash bail in Philadelphia. Our current
11 Pretrial staff is not robust enough to
12 supervise the predicted number of
13 individuals that will be released from
14 the prison, so we need to increase those
15 numbers in order to properly supervise
16 those individuals in the community.
17 Again, part of this transition is being
18 funded by MacArthur but, again, we
19 require additional staffing resources
20 that exceed the resources available
21 through the MacArthur grant.

22 Additional range of conditions
23 will be included, including through
24 supervision, including, but not limited
25 to, released on recognizance, court

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 reminders, remote and in-person
3 reporting, and electronic monitoring.

4 All of this is the goal to
5 reduce the unnecessary pretrial
6 incarceration while maintaining public
7 safety and decreasing the number of
8 people who spend time in jail awaiting
9 trial. The goal is to reduce damaging
10 collateral consequences of incarceration
11 and future recidivism.

12 The additional funding required
13 include seven pretrial officers, whose
14 salaries are 37,428 per officer, which is
15 a total of \$261,996 a year. And, again,
16 the EM Field Team would also be part of
17 that staffing as cited before at 64,892.

18 MR. McSORLEY: I'd just like to
19 make two clarifications for the
20 Committee, and it's something that we
21 hear a lot. The first one is on EM. We
22 get asked why aren't we just expanding or
23 adding GPS and wireless to our existing
24 EM abilities, and it's because our EM
25 abilities right now hover around 600-plus

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 bracelets that are all landline. And I
3 think anybody who has been around
4 anywhere in the last five years knows
5 that landlines and that technology, most
6 people don't even have them in their
7 house anymore. So they're on their way
8 out to begin with. We have to prepare
9 for that inevitability, and it's just
10 technology that for us not only is
11 burdensome, takes more time, there's more
12 maintenance, but for the defendant
13 themselves, getting them on that system
14 takes longer to be released on an EM when
15 it's a landline base because of things
16 that Verizon has to do at a person's
17 house, and wireless and GPS will be much,
18 much faster. From the time it's ordered
19 by the Court to the time of release,
20 we're hoping to knock that down to one
21 day eventually.

22 And the other clarification,
23 just as Michael just spoke, is that we
24 realize that around 60 percent of the
25 people that go through the arrest to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 arraignment process might have bail set,
3 but only about 23 percent of those people
4 are actually held incarcerated on bail
5 only. The other percentage are people
6 that have other kinds of detainers, which
7 we talked about in this Committee many,
8 many times. However, they still are part
9 of this population for us, because if
10 somebody has a detainer or a bench
11 warrant and bail and they resolve the
12 detainer or the bench warrant and they're
13 then able to post bail, they would then
14 become that pretrial release, and it
15 might be another incentive for the Court
16 to say, I'm going to lift this detainer
17 because I know that this defendant will
18 post bail and we can put them on EM, so I
19 feel more comfortable lifting the
20 detainer for a future date or until
21 future cases are disposed of.

22 So I just wanted to make those
23 quick clarifications for the Committee.

24 COUNCILMAN JONES: If I could,
25 so I was remiss in not saying that the

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 purpose of all of these considerations,
3 one goal anyway, is to reform, and reform
4 means also reducing the number of people
5 generally that are held on State Road for
6 non-violent offenses and to figure out
7 non-economic ways to dispense justice.

8 That is an overarching goal. EM

9 monitors, electronic monitors, are one
10 arrow in the quiver of things we can do
11 practically. Many people have referred
12 to it as very low-hanging fruit, but very
13 effective fruit for this.

14 So with that said, describe for
15 me again the old technology and how many
16 units we actually had.

17 MR. BOUCHARD: On any given
18 day, the active number of units varies.
19 So I've seen it -- I've been in this
20 position for about a year and a half, and
21 I've seen it as low as 520 and as high as
22 620. So it ranges. We do have enough
23 units to manage those numbers. The
24 technology uses old copper analog phone
25 lines. So Verizon is going out to these

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 homes and having to run special lines.

3 No features, no call waiting, no caller

4 ID, nothing can be on the line or the

5 equipment doesn't function as it should.

6 Back to what Mr. McSorley said

7 is, there are -- Verizon is slowly doing

8 away with those, and there is a small

9 area in the City where they have

10 basically told us, We are no longer doing

11 this, and they said, Just so you know,

12 this is coming. Eventually we're going

13 to be eliminating it all across the

14 board, so...

15 COUNCILMAN JONES: So we're

16 dealing with an antiquated technology

17 anyway for those 500 to 600 units that

18 are available.

19 MR. BOUCHARD: Yes, sir.

20 COUNCILMAN JONES: Secondly, so

21 when we say we should move to this new

22 technology, it is Internet-based and what

23 other technological aspects should we

24 know about and what are the limitations

25 of those technologies?

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. BOUCHARD: I think that

3 it's important to discuss everything that
4 it will do. So currently what we'll get
5 is a server and a redundant server.

6 Currently we don't have a redundant
7 server. I think that's critical to put
8 that in place. The software that we're
9 going to be utilizing is Internet-based.

10 It's going to give the actual officers
11 who supervise these cases more hands-on
12 abilities compared to -- without getting
13 into the details, we have a monitoring
14 room who does a lot of 24/7 monitoring of
15 all the defendants. They have much more
16 access currently with this system than
17 the officers have. The officers are
18 going to be able to pull right up on
19 their computer at their work station any
20 information they need on the given
21 defendants. It's going to be able to
22 house wireless, updated landline. If in
23 the future we move into GPS, the server
24 is also going to be able to maintain GPS
25 units as well.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: So with this
3 technology, in a lightning storm and the
4 power goes out, what happens?

5 MR. BOUCHARD: There are
6 several different things in place if the
7 power goes out. Most of the equipment
8 has battery backups that will last X
9 number of hours. Generally that hasn't
10 been a problem. I've not seen a case yet
11 where the power has gone out and we
12 weren't able to still have monitoring
13 occurring. Via transmitters as well have
14 backup batteries where alerts will come
15 in two to three days ahead of time if the
16 battery is low. So they'll still be
17 functioning until they can make their way
18 into the office to have it changed.

19 MR. McSORLEY: I'll add to
20 that, being slightly older than Michael.
21 I'm not as tech savvy. And the one thing
22 I've noticed --

23 COUNCILMAN JONES: We drew that
24 when you kept referring to him on
25 technology. We figured that one out.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. McSORLEY: -- is that the
3 landline, the bottom line with the
4 landline system that our old phones we
5 have, if there's a problem with the phone
6 line, you need somebody to come out and
7 fix the phone line. It's not easy to do.
8 With this technology, like your cell
9 phone, if you have a problem with your
10 cell phone, it's easy to swap out,
11 replace. It's usually very, very
12 fixable.

13 And the other thing I've
14 noticed being in negotiations with the
15 vendor that the FJD is picking for these
16 new EM bracelets is that it appears --
17 and we have to always think about this
18 when we're writing these contracts now --
19 is that when those upgrades come out --
20 I'll need to use the analogy the iPhone 7
21 or 10 or whatever is going to be the next
22 Samsung --

23 COUNCILMAN JONES: You just
24 sound techie to me. Go ahead.

25 MR. McSORLEY: I can sound it.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 But when that happens, we can
3 easily upgrade our systems to follow the
4 technology. Whereas, today if all the
5 sudden, as I said, there's a landline
6 upgrade, which there never will be, we
7 couldn't do anything about it.

8 COUNCILMAN JONES: So it's like
9 when you upgrade from an iPhone 6 to a 7,
10 you'll be able to do that. And who
11 absorbs that cost?

12 MR. McSORLEY: Right now it's
13 part of the MacArthur initiative to get
14 it started, but it will be the First
15 Judicial District. It's our contract
16 with the vendor.

17 COUNCILMAN JONES: And how many
18 units are you recommending this Committee
19 endorse to Council? How many units?

20 MR. BOUCHARD: What the total
21 will be with the MacArthur --

22 COUNCILMAN JONES: Yes, total.

23 MR. BOUCHARD: -- plus these
24 recommendations will be 700 wireless
25 units and 100 landline units. So 800

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 total units.

3 COUNCILMAN JONES: 800 total

4 units, up from 600?

5 MR. BOUCHARD: Practically.

6 COUNCILMAN JONES: When someone

7 violates the terms and conditions of

8 their GPS house arrest, what happens?

9 MR. BOUCHARD: Just to be

10 clear, we do not have GPS yet.

11 COUNCILMAN JONES: Oh, right.

12 Whatever the --

13 MR. BOUCHARD: Essentially to

14 simplify the process, an alert comes into

15 our monitoring room. The staff will

16 investigate the alert, whether it's a

17 phone call or troubleshooting the

18 technology, determine what needs to

19 happen next, try to make contact with the

20 defendant, and if it's deemed a true

21 alert and a true violation, then a

22 warrant is drafted and sent to the

23 Sheriff's for execution.

24 COUNCILMAN JONES: So did we

25 used to have a warrant unit that would

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 instantly respond to these kinds of
3 violations?

4 MR. McSORLEY: We did and still
5 do. We had a court Pretrial Warrant Unit
6 that is now the Sheriff's Warrant Unit.
7 It's still a 24/7 warrant.

8 COUNCILMAN JONES: So it's
9 still in existence?

10 MR. McSORLEY: Yes.

11 COUNCILMAN JONES: And is that
12 a rapid response or let me call you
13 Tuesday when it happens on Thursday?

14 MR. McSORLEY: They have the
15 ability to go out 24/7. We have it so
16 that they can go into our Common Pleas
17 case management system, print out a
18 warrant with the judge's signature at 3
19 o'clock in the morning on a holiday
20 weekend and they can execute that warrant
21 as soon as they can get to the house.

22 COUNCILMAN JONES: The Chair
23 recognizes Ms. Grey.

24 MS. BRADFORD-GREY: Thank you.

25 Rich, I just wanted to add

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 comment on your discussion in terms of
3 the landline use. We just had a few
4 people that the judge made a house arrest
5 option available to them, but they did
6 not have landlines. And the feedback I
7 got from them after the discussion with
8 Verizon is that Verizon could not get out
9 to install one for four to six weeks. So
10 even though they're eligible and have
11 been deemed not to be a danger to the
12 community and they would practically come
13 back to court, they are still sitting in
14 jail for at least four to six weeks
15 incurring costs daily. So I do agree
16 with you on how the technology stifles
17 the movement of people in pretrial
18 status.

19 Secondly, I wanted to ask you,
20 while we are focusing on reducing our
21 population and utilizing monitoring
22 systems, will the Court entertain
23 opportunities to make referrals to
24 appropriate treatment options for those
25 who have more of those public health

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 issues coming into our justice system;
3 for example, the drug users and people
4 with mental health issues?

5 MR. McSORLEY: I'm going to
6 turn that over to Michael, because that
7 goes to the pretrial resources.

8 MR. BOUCHARD: What we do now
9 is if it seems to be an issue that needs
10 to be addressed, our pretrial officers
11 have a range of community options that
12 they pass on to the defendants. I think
13 that there needs to be more. I think
14 everybody will agree that there needs to
15 be more than that, and that's part of
16 Pretrial's work, and part of the
17 MacArthur grant in Year 2 is going to
18 include working on a needs assessment at
19 the pretrial level and also bringing in a
20 social worker, one to start, to really
21 develop that in a more efficient way.

22 MS. BRADFORD-GREY: And will
23 this be a part of any kind of pretrial
24 conditions or will we make it as -- it's
25 a voluntary condition that may go a long

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 way in your case outcome, but if you do
3 not do it, you will not be taken off the
4 street and be put into prison for it.

5 However, we would encourage people, all
6 partners in the system, the Defender
7 Association, I'm sure the District
8 Attorney as well as the Courts, to engage
9 in this level of services, because it
10 could have some significant impact in
11 their outcomes where they're on the right
12 path and they may not have to be jailed
13 at any point if they're beginning to do
14 what they're supposed to do on the
15 pre-entry side.

16 MR. McSORLEY: I believe the
17 way it's going to work out is just as you
18 said. Right now as it is, it's
19 voluntary. We encourage. We explain how
20 this will benefit you. I know that your
21 office explains to the client, Hey, if
22 you can tell the Court that you've been
23 doing all this work before going to
24 court, it's only going to benefit you.

25 As it being a condition, I

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 don't think we're in that place yet to
3 make it a condition. If we get to that
4 place, that will be a conversation we
5 would have with our judicial leadership
6 and decide do we want to make this a
7 condition that could be a violation or do
8 we just want to make it a condition and
9 if it's not followed, that will be up for
10 the Court at a later time to deal with.

11 MR. BOUCHARD: Additionally, I
12 think it's really important when we are
13 doing this and bringing forth services,
14 as everybody is aware, I think it's
15 extremely important to remember that
16 over -- giving too many rules,
17 regulations can lead to further
18 recidivism, penetrating the system even
19 more, and I think as we move into those
20 resources, making sure that we're
21 choosing the appropriate population to
22 receive those services is in the best
23 interest of everybody.

24 MS. BRADFORD-GREY: Thank you.

25 COUNCILMAN JONES: Tariq.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. EL-SHABAZZ: I'm a little
3 concerned about that last answer, because
4 I do understand and would even
5 acknowledge that too many rules have --
6 it's been demonstrated over the course of
7 time that too many rules can in fact put
8 us in the same situation that we're in;
9 that is, people violating and people
10 being incarcerated on crimes that --
11 pretrial on crimes in which they are
12 non-violent and they may be able to be
13 back into their communities. But at the
14 same time, what we have to have is some
15 type of incentive, and one of the
16 problems that we always run into when we
17 talk about a substance abuse is someone's
18 desire to get clean; for example,
19 someone's desire to seek help. If we're
20 offering the help and as part of the
21 incentive, if you will, for an individual
22 to take this help and that will release
23 them from jail, what is it that we're
24 having as a result of or what do we have
25 at our disposal based on the

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 recommendations that if that person says
3 I'm going to do it and then gets out and
4 doesn't do it but continues to abuse
5 drugs, for example, and that continuation
6 of abusing drugs may create other issues,
7 what do we have at our disposal as you
8 see it right now to deal with that aspect
9 with regard to electronic monitoring?

10 MR. McSORLEY: I think right
11 now we don't have a whole lot to deal
12 with that situation. If we have somebody
13 who is out on pretrial, we cannot make it
14 a condition to attend NA or AA or to go
15 into rehab or treatment. We can strongly
16 suggest. The Court can finally do that
17 when they put them into a Treatment Court
18 program or something like that. If we
19 get resources down the road and we say
20 we're now going to make this a condition,
21 we then have to not only deal with what
22 Mr. Bouchard said about over-supervision,
23 but we have to deal with the fact that
24 this is a pretrial case and this person
25 has not been found guilty of anything.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 So the carrot and the stick is more
3 difficult to say to them, You can be
4 released if you get treatment, when it
5 hasn't been determined yet really
6 essentially if they need treatment.

7 So it's going to be -- it's
8 going to be something that has to be
9 worked out with all the justice partners.
10 But to answer your question, right now if
11 someone is arrested for a narcotics case
12 and it's obvious the person needs
13 treatment and they go back out and abuse
14 their drugs again, most likely they're
15 going to get arrested because of their
16 addiction, and we don't have anything in
17 place to help that person avoid that
18 situation until their court date. We
19 just don't have the resources.

20 MR. EL-SHABAZZ: The concern I
21 have is that some of the petty offenses
22 that we talk about are the result of
23 addiction, are the result of alcoholism,
24 are the result of sometimes even mental
25 health issues. If in fact we're not

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 addressing that issue, we're just using
3 this as a term of letting someone out of
4 being incarcerated and it's still not
5 getting the services, do you see -- it
6 seems to me, in terms of Malcolm, a
7 vicious cycle, that we're just going to
8 be repeating that. But I did hear and I
9 would like to suggest that inclusive in
10 this presentation is that resources are
11 needed. So that if those resources are
12 needed and we do have to have some type
13 of supervision and we do have to have
14 some type of consequence, we can strongly
15 encourage -- how about that one --
16 strongly encourage -- is that a new
17 phrase that I can use -- strongly
18 encourage people to actually seek that
19 type of treatment. It just seems to me
20 defeating the purpose of saying, Okay,
21 we're going to use this, we don't want to
22 hold these people in because we don't
23 want the prison population to grow
24 financially to the end of it, all the
25 things I agree with -- I'm on this

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Committee for a reason. I agree with
3 that, but when we're not dealing with the
4 root issue, are we creating a vicious
5 cycle or are we really taking care of
6 anything?

7 MR. McSORLEY: I think you're
8 absolutely correct, and I think I can say
9 for one of the few times of my career
10 that the point of the District Attorney,
11 the Defender, and the Courts is all the
12 same. We all agree this is a vicious
13 cycle, and we don't have the resources to
14 address it in the way we would all like
15 to. The DA's Office doesn't want to have
16 to prosecute somebody because of their
17 addiction, the Defender doesn't want to
18 have to defend them because of it, and
19 the Courts don't want them to have a
20 criminal record and go to court because
21 of it. So if we can find an alternative
22 way to address it, we're all on board.

23 COUNCILMAN JONES: So we're
24 going to go to Judge Lerner first and
25 then we're going to go down to the other

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 end.

3 Judge.

4 JUDGE LERNER: I assure you
5 it's just a coincidence that the ex-judge
6 gets to speak on a subject after hearing
7 from the Chief Defender and the
8 soon-to-be First Deputy District Attorney
9 take opposite positions on this subject.

10 I think we are at a really
11 critical point in our discussion really
12 of several of the recommendations here.
13 First of all, we would waste a huge
14 opportunity under MacArthur and just
15 under general -- our general ideas of
16 criminal justice reform were we not to
17 really embrace fully Recommendation No. 4
18 here, which talks about what we've just
19 been talking about and, that is, using
20 the additional information about
21 defendants and their needs not only to
22 avoid pretrial incarceration, but to make
23 the earliest possible determination of
24 what type of treatment and rehabilitative
25 programs those defendants could benefit

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 from and then to take the next step and,
3 that is, to make those programs available
4 as early as possible in the process. Not
5 simply as early as possible in the life
6 of the criminal case but, as
7 Mr. El-Shabazz says, as early as possible
8 in the life of the defendant. We have
9 the bare bones of being able to do that
10 already in the MacArthur grant.

11 The Defender's bail advocates
12 are going to be in a much better position
13 to learn a lot more about the defendant's
14 life and the defendant's issues and the
15 defendant's needs and present that to the
16 initial bail-setting authority, and if
17 that doesn't work, present it to a judge
18 of the Municipal Court at the early bail
19 review. So we're going to have a lot
20 more information about rehabilitative
21 needs earlier in the process than we have
22 now.

23 Also, if we go to the expense
24 and the trouble, which I think we should,
25 of setting up day reporting centers, it

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 would be a terrible waste not to have
3 those day reporting centers equipped with
4 people who were able to steer defendants
5 to rehabilitative and treatment programs
6 that it was already determined they would
7 benefit from. Whether or not we could
8 expand those day reporting centers into
9 treatment centers also and have the
10 treatment, at least for some things,
11 available and the treatment providers
12 available at those centers, that's
13 another step forward which I hope at some
14 point we'll be able to take.

15 So in terms of what we all
16 agree on, I think that's what we all
17 agree on. What we don't necessarily all
18 agree on is the issue framed by Keir and
19 by Tariq, and I want to speak for a
20 moment on that.

21 There's nothing in the law that
22 I am aware of that prevents a
23 bail-setting authority from requiring as
24 a condition of bail, as a condition of
25 release pretrial that a defendant takes

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 certain steps which the bail-setting
3 authority has determined will improve
4 both the likelihood that the defendant
5 will appear and the likelihood that the
6 defendant will not present a risk of
7 further law breaking to the community.
8 As long as those steps don't interfere
9 with the presumption of innocence or the
10 defendant's right to have a complete and
11 full trial at which he or she is going to
12 assert his innocence, there's nothing in
13 the Constitution or the Rules of
14 Procedure in Pennsylvania or in the
15 statutory law that prevents us from
16 developing a system where reasonable
17 requirements with regard to treatment and
18 rehabilitation cannot be imposed as a
19 condition of pretrial release. And in my
20 judgment, although the devil is in the
21 details and we really got to be careful
22 not to intrude on somebody's right to a
23 full trial and their presumption of
24 innocence, we would make a mistake, a big
25 mistake, if we didn't take the advantage

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 that we have of coupling these two things
3 together.

4 COUNCILMAN JONES: Well said,
5 Your Honor.

6 I guess the Court has ruled on
7 you two.

8 MS. ROJAS: I need to be
9 enlightened. I have two questions.
10 Number one, if someone -- the inmates
11 that we met with at the House of
12 Correction, many of them had state-issued
13 detainers. What is going to be the
14 interfacing of the state detainer and the
15 supervision which usually comes from a
16 state parole officer and people that are
17 going to be -- first of all, how are you
18 going to get them in pretrial if they
19 have a state detainer?

20 MR. McSORLEY: Well, the state
21 detainer has to be resolved before they
22 can get into that pretrial population,
23 and as we discussed when we were up
24 there, that is an issue with the State
25 Probation and Parole Department. When

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 they contact us -- I can tell you from
3 personal experience doing the actual
4 scheduling of these cases. When a state
5 probation officer contacted me when I was
6 in Criminal Listings, I got that case
7 scheduled in front of the judge right
8 away. Now, what will happen with that
9 state detainer if there's open cases, if
10 there's other matters, it is a complex
11 situation. I would say that for this
12 discussion and for the population that
13 we're going to be addressing, those
14 people with state detainers are not going
15 to be easily added to our population
16 right now currently. That's going to
17 take -- it takes a lot of work to get the
18 state detainers resolved. In fact, if
19 it's a state detainer, there's always
20 that chance that the person is going to
21 wind up doing back time anyway. So you
22 don't want to go through all this work to
23 get the state detainer addressed, get
24 bail set and get them released, only to
25 find out that the back judge is going to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 sentence them to additional
3 incarceration.

4 MS. ROJAS: Do we have the
5 figures on the people that will be
6 eligible who don't have a state detainer?

7 MR. McSORLEY: The people who
8 are currently incarcerated who do not
9 have state detainers who will be eligible
10 for EM release?

11 MS. ROJAS: Right.

12 MR. McSORLEY: I mean, I can
13 tell you what we're doing right now.

14 MR. BOUCHARD: The range of
15 population -- are you referring to people
16 pretrial only?

17 MS. ROJAS: That don't have the
18 state detainer, so you don't have to go
19 through the --

20 MR. McSORLEY: And don't have
21 county detainers.

22 MR. BOUCHARD: With county
23 detainers, there is -- with the MacArthur
24 grant in the second year, we begin
25 addressing that population.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: I'm sorry.

3 I don't mean to interrupt, but for those
4 listening, can we elaborate a little bit
5 on detainers and causes of them and
6 difference between local and state.

7 MR. McSORLEY: Okay. A

8 detainer as opposed to a bench warrant.

9 A detainer is a violation of probation
10 where the defendant is on probation.

11 Whether a state sentence was imposed on
12 the defendant or a county sentence was
13 imposed on the defendant, he's on
14 probation. He has certain rules and
15 regulations. He has to come in and
16 report. He has to get his GED. As we
17 were just discussing, there's all kinds
18 of conditions for probation.

19 When a violation occurs,
20 there's two kinds of violations, direct
21 and technical. Direct violation is if
22 the defendant goes out and gets a new
23 arrest, that's kind of like one of the
24 conditions of probation, is that you
25 don't go out and get a new arrest.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 That's a direct violation. Technical is
3 if he's failed to do something. He has
4 hot urines or dirty urines, whatever you
5 want to call them, but he comes up
6 positive for use of narcotics in his
7 urine. He's not reporting. He's an
8 absconder. Things like that will become
9 a technical violation.

10 When the person has violated, a
11 determination is made whether to
12 incarcerate the defendant when we catch
13 up with him -- and that's who we're
14 talking about, those people that are
15 incarcerated.

16 So, again, it just shows the
17 complexity. If it's a state detainer,
18 it's one entity that has to be contacted
19 and addressed. The state people have to
20 be involved. If it's a county detainer,
21 it's Philadelphia County's people who
22 have to be involved. The case has to be
23 scheduled before a judge. It has to have
24 a review hearing called a Gagnon I and
25 then a Gagnon II. So the bottom line

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 is --

3 COUNCILMAN JONES: You have
4 to -- you can't use jargon. You have to
5 explain.

6 MR. McSORLEY: Everybody is
7 entitled to a violation review, and from
8 the time of incarceration, you have to
9 have the first initial review within ten
10 days. After that time, if it's
11 determined that it is a good hold, you
12 have to be in front of your judge, your
13 sentencing judge or a judge, within 21 or
14 22 days after that ten-day period. Right
15 now that process in Philadelphia runs
16 very well. We've worked very hard with
17 the Defenders Association, with Probation
18 and Parole to make sure that when someone
19 is incarcerated, the Court knows almost
20 the next working day. We're getting the
21 schedule for the first review timely.
22 We're getting the schedule for the second
23 review timely. The issue becomes when
24 the person has a detainer, they shouldn't
25 set bail. We won't accept bail for the

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 most part, because they won't be getting
3 out. We don't want them to put money in
4 our coffers when it's a chance that they
5 won't get out, because when that person
6 sees the judge, the judge could say,
7 Okay, it's minor, probation continued,
8 detainer lifted, no more hold. The judge
9 could say, This is major, I want to
10 review it, I'm going to continue this
11 case. The judge could say, This is bad,
12 I'm going to give you your back time now
13 and I'm sentencing you now, you're off
14 probation to the rest of your time.

15 So we don't know what's going
16 to happen until that hearing. So that's
17 why these detainers are complex.

18 COUNCILMAN JONES: So the
19 differences can be hours, weeks or months
20 depending on where those are of a stay of
21 a person on State Road.

22 MR. McSORLEY: Absolutely.

23 COUNCILMAN JONES: That's why
24 we have to get it right.

25 MS. ROJAS: I guess my other

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 question is, Philadelphia is a sanctuary
3 city. If someone who is not documented
4 gets arrested, are they going to be
5 processed for house arrest even though
6 they might be undocumented?

7 MR. McSORLEY: If they have no
8 detainer hold on them and they are a
9 pretrial-eligible person, we're not going
10 to look into the fact of whether -- what
11 their standing is. If they have a house,
12 we can verify it, we can set up the
13 monitoring. That's part of the sanctuary
14 city issue. It doesn't play into the
15 pretrial decision. If a defendant, he's
16 got their household, they have posted
17 their -- or they can't post their bail,
18 they have no other holds on them, there's
19 no immigration detainer on them, we will
20 accept them into the EM program. As soon
21 as there's a detainer on them, whether
22 it's from ICE or from somebody else,
23 they're not eligible for the EM unit.

24 MR. EL-SHABAZZ: It's important
25 to understand in response to that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 question that ICE or federal detainers
3 with regard to immigration is different
4 than things that are occurring in the
5 county. So that the county level or
6 state level is one jurisdiction. The
7 federal jurisdiction, for those that's
8 listening, is a different jurisdiction.
9 So even with the City being a sanctuary
10 city and with new administration coming
11 in in January, if in fact there is a
12 followthrough on the promises -- I'm
13 being very selective in my words -- that
14 the President-elect has indicated, his
15 look is going to be at those individuals
16 that he considers criminal element or
17 committed a crime to the end of it.
18 There may be a federal immigration
19 detainer in which whether or not we do
20 anything in this Chambers or anything in
21 this county would not be able to even
22 deal with with that regard, because
23 federal jurisdiction is different.

24 So I just wanted to kind of
25 clarify that, that this is a sanctuary

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 city. I think basically what we're
3 saying is as a county, we're not going to
4 look to lodge a detainer with regard to
5 an illegal alien or someone that is in
6 that category as indicated clearly by the
7 President-elect. However, federally
8 there is different jurisdiction, and
9 oftentimes you may have a detainer that
10 isn't listed with respect to someone
11 regarding City or even Commonwealth or
12 State, but may be listed in terms of
13 federally as it relates to immigration
14 status.

15 COUNCILMAN JONES: Are you
16 done?

17 MS. ROJAS: I'm done.

18 COUNCILMAN JONES: Okay. So
19 what is the -- if this Committee goes
20 with these recommendations and it is
21 approved by Council and it is adopted by
22 the City in its budget process, what will
23 be the net impact, in your opinion, on
24 the census on State Road?

25 MR. McSORLEY: I think the net

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 impact on the census on State Road will
3 be a positive impact, that we'll be able
4 to get more people who are qualified for
5 EM out of the prison faster than we can
6 do it now.

7 COUNCILMAN JONES: So give me a
8 sense of scale.

9 MR. BOUCHARD: I don't have the
10 numbers in front of me, but the MacArthur
11 team broke down each initiative that we
12 are looking to roll out over the next two
13 to three years, and in that report -- and
14 I'm not sure if you are privy to that
15 report, but it is out there. I'm not
16 sure. It's broken down by what our
17 estimates are that each initiative will
18 reduce the prison population by.

19 COUNCILMAN JONES: Give me a
20 ball park.

21 MR. BOUCHARD: Our overall goal
22 is 34 percent.

23 COUNCILMAN JONES: You're not
24 under oath. So 34 percent from the 75?

25 MR. BOUCHARD: 8,082, which was

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 our benchmark in July of 2015 when this
3 project started.

4 COUNCILMAN JONES: Got it.
5 Are there any other questions
6 for these panelists?

7 REVEREND MAIRENA: Is this all
8 just for adults or minors?

9 COUNCILMAN JONES: You got to
10 say your name for the record for the
11 stenographer.

12 REVEREND MAIRENA: Reverend
13 Adan Mairena from West Kensington
14 Ministries.

15 Is this just for adults or
16 including minors?

17 MR. McSORLEY: Just adults,
18 yes. We're only talking about the adult
19 system. The juvenile system is a
20 separate system who has their own EM
21 unit, their own probation, their own --
22 they have GPS in juvenile, by the way.

23 COUNCILMAN JONES: Any other
24 questions?

25 MS. BRADFORD-GREY: I just have

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 one comment. I think I take the words of
3 Tariq and Judge Lerner to heart when we
4 say we're going to be missing an
5 opportunity if we don't start something.
6 I think this is a time where we can get
7 more creative in bringing in those
8 organizations that already treat
9 individuals for certain addiction
10 problems or mental health issues. We
11 have those resources available to us.
12 It's just joining them together now in
13 this effort to focus on a population
14 where we are looking at and understanding
15 that putting them in jail is not solving
16 their addiction or mental health issues
17 anyway. So we're spending money
18 needlessly when we can be utilizing it in
19 a much more meaningful way with the
20 people who were trained to deal with this
21 properly.

22 My whole thing is that the
23 criminal justice system can't deal with
24 every issue, and it shouldn't be used as
25 such. We should deal with the issues

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 that it was meant to and designed to deal
3 with, which is the true threat to public
4 safety by threats of violence or whatever
5 it is that will rob people of their
6 security. But when we're dealing with it
7 on a net-widening type of fashion that we
8 have done, we are not seeing the return
9 on our investment.

10 So I will echo the sentiments
11 of Tariq El-Shabazz that we need to take
12 advantage of this opportunity, but we do
13 not want to make sure -- we want to make
14 sure, because we don't talk about this a
15 lot and people don't -- I don't even know
16 if it's a real reality. There is a
17 presumption of innocence. And so
18 everyone that comes into our system is
19 not guilty, and we need to make sure that
20 we don't put unnecessary conditions that
21 we will penalize them for. But we can
22 utilize these -- when people do take the
23 opportunity to get the help they need,
24 they still have to come for a final
25 disposition, and all of that information

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 of what they were doing and what they
3 have done will be used in a way for us to
4 find a better, I guess, deciding final
5 disposition for them.

6 I mean, so there is a carrot at
7 the end of it. If people want to take
8 advantage of and they do, you can come in
9 front of Judge Lerner or people like him
10 or used to be like him and present all
11 the things that they have been doing
12 pretrial, and that may really decide
13 whether or not they need to stay in this
14 system or just continue doing what you're
15 doing. So I think that we'll have that
16 ability.

17 MS. SCHWARTZMAN: I think
18 that's well said and basically what I was
19 going to add.

20 COUNCILMAN JONES: Say your
21 name for the record.

22 MS. SCHWARTZMAN: But I did
23 want to mention too that --

24 COUNCILMAN JONES: You have to
25 say your name for the record for the

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 stenographer.

3 MS. SCHWARTZMAN: I'm sorry.

4 Ann Schwartzman, Pennsylvania Prison
5 Society.

6 I did want to mention that
7 these two recommendations will also help
8 cut back on the consequences of
9 incarceration for people that end up
10 spending time inside, especially if
11 they're innocent, but also the impact
12 that that has on their families. Because
13 when people lose their homes, when they
14 lose their apartments, when they lose
15 their jobs, we're basically ensuring that
16 that cycle of incarceration or being in
17 trouble or being involved in the criminal
18 justice system will continue instead of
19 looking at ways to provide the resources
20 and the treatment and the different
21 stipulations that can help people have
22 better lives. So I think this is
23 incredibly important, and I'm glad we're
24 talking about it.

25 COUNCILMAN JONES: Well said.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Are there any other questions
3 germane to this issue?

4 (No response.)

5 COUNCILMAN JONES: Seeing none,
6 thank you for your work. Thank you for
7 your testimony.

8 MR. McSORLEY: Thank you for
9 the opportunity, Councilman.

10 COUNCILMAN JONES: Will the
11 Clerk please read the next witness to
12 testify.

13 THE CLERK: The next witnesses
14 to testify on Recommendations No. 3 and 4
15 will be Keir Bradford-Grey, Julie
16 Wertheimer, and Tariq El-Shabazz.

17 COUNCILMAN JONES: So does that
18 mean they have to go sit over there?

19 You're on the other side of the
20 table now.

21 MR. EL-SHABAZZ: You seem like
22 you got a problem with that, sir.

23 COUNCILMAN JONES: Yeah. I
24 don't want you to leave me.

25 (Witnesses approached witness

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 table.)

3 COUNCILMAN JONES: I'm going to
4 put you up for a talk show or something
5 like that, Point-Counterpoint, and we'll
6 use Judge Lerner.

7 MR. EL-SHABAZZ: So that the
8 record is clear, this is a very close
9 friend of mine, just so that you know.

10 COUNCILMAN JONES: You can have
11 difference of opinions between friends.

12 MR. EL-SHABAZZ: The fact that
13 we disagree doesn't mean that we're not
14 very close.

15 COUNCILMAN JONES: We'll have
16 Judge Lerner as the referee.

17 JUDGE LERNER: I'm just
18 delighted to see the two of them in the
19 position that I'm accustomed to seeing
20 the defense lawyer and the DA in, but,
21 Julie, I don't know how you're going to
22 get --

23 COUNCILMAN JONES: Julie, are
24 you okay?

25 JUDGE LERNER: They're such

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 good friends, she'd better be ready to
3 duck.

4 MS. WERTHEIMER: I can dive
5 under the table.

6 COUNCILMAN JONES: So will the
7 witnesses testify. State your name for
8 the record and begin your testimony,
9 please.

10 MS. BRADFORD-GREY: Keir
11 Bradford-Grey, Chief Defender of the
12 Defender Association of Philadelphia.

13 I will let Julie go first
14 because hers kind of opens the door to
15 some of the other information that we
16 will bring out.

17 COUNCILMAN JONES: That's fine.
18 Ms. Wertheimer.

19 MS. WERTHEIMER: Julie
20 Wertheimer, Chief of Staff to the Deputy
21 Managing Director for Criminal Justice.

22 MR. EL-SHABAZZ: I'm Tariq
23 Karim El-Shabazz. I am the Deputy of
24 Special Investigations for the
25 Philadelphia District Attorney's Office.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: Thank you
3 all for your service and work.

4 Ms. Wertheimer, would you begin
5 your testimony, please.

6 MS. WERTHEIMER: Sure. One of
7 the recommendations put forth in this
8 report is that the City should develop a
9 tool to be used in bail determinations,
10 with the goal of reducing our reliance on
11 monetary bail being assigned especially
12 to non-violent or low-level offenders.

13 The First Judicial District
14 plans to work with researchers at the
15 University of Pennsylvania to construct a
16 pretrial tool designed specifically for
17 Philadelphia, using its historical data
18 rather than the off-the-shelf tools that
19 a number of other jurisdictions have
20 adopted. However, since the tool has not
21 yet been designed, specifics about the
22 tool and the factors that we'll consider
23 are currently unavailable.

24 I think it's important to note
25 that during the hearings, we heard from a

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 number of different perspectives about
3 the challenges and opportunities that
4 come with a risk tool and the question of
5 bias and how it may or may not reduce or
6 perpetuate bias in the criminal justice
7 system. One of the major factors of
8 concern is zip code as well as race or
9 ethnicity, but there are other factors
10 that we are -- that were discussed as
11 well.

12 I think it's important to note
13 that while Dr. Richard Berk, who is the
14 researcher at Penn that testified before
15 the Committee and also is the one that
16 the First Judicial District intends to
17 contract with to develop the tool, he
18 suggested that it's up to the
19 jurisdiction about which factors can be
20 used, and while he made some comments
21 that it said it would likely sacrifice
22 the accuracy, I think it's important to
23 note that there could be some accuracy
24 sacrificed, but we really don't know
25 until the tool is developed and run. And

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 it's also important to note that national
3 researchers and academics have said that
4 well-developed risk tools can reduce
5 bias. It cannot erase bias entirely, but
6 it does add some level of parity, as the
7 tools consider the same factors as bail
8 magistrates do but do so in a more
9 systemic even fashion.

10 MS. BRADFORD-GREY: So my part
11 really picks up on that. I think as a
12 committee -- and I'm talking about the
13 MacArthur Committee -- we did agree that
14 some form of a risk assessment tool may
15 be utilized in this quest for balance so
16 we can have some uniformity in the way
17 we're making decisions. But I do want to
18 caution this Committee that what we are
19 doing today is really trying to eliminate
20 the inherent disproportionality. I do
21 understand that the criminal justice
22 system has its largest impact on
23 low-income communities of color.
24 However, that does not mean that we
25 should design a tool that has those

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 baked-in biases within them, and we can
3 do -- because we have a lot of
4 practitioners on this panel and a lot of
5 people that understand people and
6 neighborhoods and policing strategies in
7 communities, we can use that knowledge to
8 make sure that what we develop as a tool
9 and what the researchers suggest has
10 included an understanding of the way
11 Philadelphia city works in terms of
12 policing.

13 So let me give you an example
14 of what I'm talking about.

15 Some of the information that we
16 have discussed with other risk assessment
17 tools include arrests, not convictions
18 but just arrests. Arrests have nothing
19 to do with the future ability to
20 commit -- I'm sorry; with someone's
21 ability to commit a future crime because
22 of the inherent way it's based on police
23 practicing. Someone could be arrested
24 three, four, five times and never get a
25 conviction. That should not be used

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 against them in terms of predicting this
3 person's risk level. There should be a
4 lot of other factors that we turn to, and
5 maybe we should get rid of the fact that
6 we use arrests alone -- arrests in that
7 context as to give it a score of some
8 sort. Yes, it can go into a
9 determination, but putting it in a risk
10 assessment tool will provide
11 disproportionate outcomes for people who
12 do not get arrested or policed as heavily
13 as those in the inner cities.

14 So I just want to make sure
15 that we understand. We can all throw out
16 zip codes. Yes, that's glaring, right,
17 what zip code you live in. That's very
18 glaring. But other things such as using
19 arrests to us sounds reasonable, right,
20 but then you start examining how are
21 arrests developed in certain sections of
22 the City, how are they racked up by
23 people, and how often do those arrests
24 result in convictions. Those are the
25 things that we need to be mindful of.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Because I think what we are tasked to do
3 is to provide fundamental fairness within
4 our justice system, and fundamental
5 fairness does speak to the inherent bias
6 of our practices and our policies in the
7 system.

8 So if I do nothing more than
9 advocate for making sure that fundamental
10 fairness is within this, that's what I
11 will contribute to this, because I think
12 that that's very important. And we see
13 the disproportionality play out in the
14 way we deal with drug usage. I mean, the
15 heroin/opioid epidemic has been designed
16 to treat drug use as a public health
17 issue. Many counties are formulating
18 task forces where those individuals are
19 not even arrested. So when we look at
20 practices in the inner city where people
21 are still arrested in record numbers for
22 drug use only, we see the way our system
23 treats different people based on where
24 they live or what communities they come
25 from.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 So I'm just saying that while
3 the researcher told us as a committee
4 that the tool can be however we want it,
5 most people do accept the analysis of the
6 researcher because of the researcher's
7 level of knowledge and understanding
8 about these algorithms and the things
9 that go into this tool.

10 So I would call on us as a
11 committee to question and come up with
12 some guidelines as to what we would be --
13 want to be mindful of in this risk
14 assessment tool and putting this risk
15 assessment tool together and, therefore,
16 have him develop one with those things in
17 mind, if that makes much sense.
18 Hopefully it does.

19 COUNCILMAN JONES: Tariq.

20 MR. EL-SHABAZZ: Well, that was
21 Recommendation 3. I don't know if you
22 want to move on to Recommendation --

23 COUNCILMAN JONES: Oh, no. No.
24 I think we should deal with them, in my
25 opinion, separately.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MS. ROJAS: I have a question.

3 COUNCILMAN JONES: I'll

4 recognize you in a sec.

5 How accurate -- first, where
6 were they developed, for people who are
7 listening? And I have a sense of that.
8 And how accurate -- and you can respond
9 to this as well because of your vast
10 experience in dealing with it. When you
11 look at that form and it says somebody is
12 this risky, whatever that is, how
13 accurate is it of a tool currently and
14 how accurately do you predict -- how can
15 we get it right?

16 MS. BRADFORD-GREY: That's the
17 question, right, how do you predict
18 accuracy? And I think what has happened
19 in jurisdictions that we've seen,
20 especially in DC, the only way they
21 predict accuracy is I think -- I forget
22 what they call it, but every so often,
23 every few years, they measure it. They
24 understand what did it do. Did it really
25 do what it was designed to do? And that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 has to be a review period over a certain
3 period of time once we see how many
4 people we brought in and how many people
5 we predicted certain things about.

6 Whether or not those things were actually
7 accurate would only come with time. So
8 you would have to build in a way for a
9 review committee to understand the impact
10 of that tool.

11 So these are things that are
12 not set in stone. We don't know the
13 answer to a lot of them. And so when
14 someone or when a researcher tells us
15 that if we do this, it will decrease our
16 accuracy, how do we know that? You
17 cannot predict human behavior. You can
18 only study its patterns.

19 COUNCILMAN JONES: I just want
20 to ask, is it more accurate than my
21 horoscope?

22 MR. EL-SHABAZZ: Actually --

23 COUNCILMAN JONES: And I say it
24 as a joke, but I say it in true. Over
25 time how accurate have these --

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. EL-SHABAZZ: The problem
3 that we have is you're asking about
4 accuracy at the same time we're asking
5 about somebody's constitutional rights
6 and their presumption of innocence. The
7 fact that someone was arrested for a
8 crime and they were never convicted of
9 it, does it in fact put a veil on them as
10 if they are more apt than not or more
11 available than not to participate in
12 criminal activity. That's the
13 difference. That's the distinction
14 between it.

15 So what we're trying to stay
16 away from -- and I agree in part with
17 what Keir is saying and I disagree in
18 other part to what she's saying and, that
19 is, that we can't begin to use as a risk
20 assessment tool arrests and give it
21 certain value over other things. But to
22 neglect it, to ignore it, and not to
23 consider it at all is just as much a
24 vital mistake.

25 What we have to do when we're

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 looking at it, I would submit to you, and
3 we're viewing it, we have to view the
4 surroundings in which it occurred. For
5 example, we can go to particular maps --
6 and I know the Defenders have this within
7 their study -- where people are arrested
8 for particular activities more in
9 particular jurisdictions. Certain
10 districts --

11 COUNCILMAN JONES: Justice by
12 zip code. That's what I want to --

13 MR. EL-SHABAZZ: But it is and
14 it isn't. On a particular block, an
15 officer may know an individual. That
16 individual may have five arrests from
17 that particular officer. There are two
18 questions that you can get. One question
19 is, this guy hasn't learned his lesson
20 and he's still out there, or this officer
21 had identified this individual for
22 whatever reason and is arresting him over
23 and over again.

24 If in fact we use the five
25 arrests -- and let's use that as an

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 example -- of just occurring with a
3 particular officer or in a particular
4 jurisdiction, it makes the person seem
5 more apt to commit a crime because they
6 were arrested five times; however, never
7 convicted. But if we use it as a tool in
8 conjunction with other things, if I see
9 that, let me look at the area in which it
10 occurred, and I can assure you that the
11 Defenders Association would have at their
12 disposal that in this area, this many
13 people would be arrested and by this
14 particular unit, this particular tour of
15 duty, this particular police officer.
16 Because sometimes you have an officer,
17 you have somebody who has arrested
18 somebody six times, the same officer. So
19 you need to look at that, but to ignore
20 it altogether is a problem.

21 So what I just said to you in
22 answer to how accurate it is, it's just
23 as accurate as your horoscope. We don't
24 know. It's a tool. It is something that
25 we should look at and we should consider.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 So in considering it and looking at it,
3 the question becomes how much weight to
4 give it. Do we give it more weight than
5 other activity? For example, the person
6 works. He's never missed a day at work.
7 The person doesn't have any drug
8 addiction, any alcohol addiction or any
9 other problems. This person comes from a
10 community that people are speaking up for
11 him. The person has a family and the
12 family seems intact. But he's had seven
13 arrests, no convictions, seven arrests,
14 while he maintained those other four
15 things. You balance that, because that
16 may indicate that this person -- there's
17 some other underlying issue that exists
18 between this person's seven arrests.

19 Juxtapose that with an
20 individual that was arrested seven times,
21 unemployed, family background may be
22 problematic, may have a drug addiction,
23 may have other issues. His risk
24 assessment may be different. Does that
25 mean you put him in jail? That's not

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 what I'm saying, before anybody jumps off
3 the roof. But what I am saying is, that
4 is information that we take together.

5 It's kind of like making gumbo.
6 And I'm not a gumbo eater, but I seem to
7 recall that in New Orleans, depending on
8 the gumbo, it's always the secret
9 ingredient that people put in. In other
10 words, they put everything in, and then a
11 person that has real good gumbo may put
12 something a little different than the
13 other ten people that make gumbo, but at
14 the end of the day, you have the soup
15 with different ingredients. What I'm
16 indicating is that we look at all of the
17 ingredients. We take them into
18 consideration. We don't give more weight
19 to an arrest, because I think
20 constitutionally that is a violation.
21 It's an arrest; it's not a conviction.
22 And so regardless of what tool we want to
23 use, we got to follow the Constitution.
24 We have to follow the law. Despite what
25 our new President is talking about doing,

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 there's law that you have to follow.

3 So if you follow that law,
4 those seven arrests are irrelevant,
5 because the person was never convicted,
6 for a whole host of reasons. Maybe he
7 wasn't the person. Maybe he had a
8 problem with the officer and he mouthed
9 off and got arrested. Maybe in fact the
10 evidence, if any evidence was taken from
11 him, was taken from him illegally or
12 maybe he had a damn good lawyer.

13 Regardless of the reason why it happened,
14 it happened and the person has never been
15 convicted. To hold that against that
16 individual is problematic, is
17 problematic. To ignore it is
18 problematic. What we have to do is come
19 up with what is the balance, how much
20 weight do we give it, if any.

21 MS. BRADFORD-GREY: And I guess
22 what I'm asking for is for us to or the
23 Committee to come up with factors that we
24 know could have those things that
25 Mr. El-Shabazz is talking about, where it

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 could be something that's important or
3 it's something that may cause a
4 disproportionality in this risk
5 assessment tool, and then we bring it to
6 the researcher to figure out how do we
7 design a tool that takes into
8 consideration the totality of things that
9 I said as well as Mr. El-Shabazz said.

10 I don't think the fact that
11 someone is arrested is completely
12 ignored, but it doesn't have to be a
13 determining factor in a risk assessment
14 tool. You can use conviction data, and
15 that could get you exactly where you want
16 to be in terms of --

17 MR. EL-SHABAZZ: And I agree
18 with that comment, by the way. I agree
19 in total with the comment that it should
20 not be used as an overweighted tool in
21 making a decision. No. If we do that,
22 then we violate the Constitution.

23 COUNCILMAN JONES: Thank you
24 for sitting in between them.

25 Julie, go ahead.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. EL-SHABAZZ: But we're on
3 the same team today.

4 MS. BRADFORD-GREY: I thought
5 we seemed to have agreed.

6 MS. WERTHEIMER: To both of
7 their points, I think it's also important
8 to note not only are we talking about
9 which factors and what weight they would
10 have, but that what the risk tool
11 eventually tells us when the factors are
12 baked in is not the only piece of
13 information we use. There's still room
14 for other information to be gathered,
15 whether it's from a Defender or other
16 individuals who can advocate on behalf of
17 the person we're talking about. So it's
18 one piece of a puzzle that we're trying
19 to standardize and trying to figure out
20 how best to standardize, but it's never
21 going to be the end-all, be-all
22 decision-maker as well.

23 COUNCILMAN JONES: Mr. Cobb,
24 you haven't spoken, so we're going to go
25 with Mr. Cobb first.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. COBB: William Cobb,
3 redeemed.

4 I think that we've all had
5 ample amount of time to familiarize
6 ourself with Professor Berk's long
7 history of selling this tool across our
8 country. I agree that we don't -- we
9 obviously can't use anything by itself in
10 order to be able to make an accurate
11 predictor of human behavior, but what I
12 offer up is that there is no way of
13 predicting human behavior. I'm listening
14 to everybody offer up these factors that
15 need to be considered, but are woefully
16 neglect in thinking that we should talk
17 or measure the coacher of policing in
18 Philadelphia and across our nation,
19 because this doesn't indicate what a
20 person has done. This indicates how the
21 system responds to a particular group of
22 people, whether or not we use their
23 neighborhood, whether or not we use their
24 race.

25 So I just want to conclude this

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 brief statement with saying that let's be
3 mindful that Professor Berk said, quoted,
4 The policy position that is taken is that
5 it's much more dangerous to release Darth
6 Vader than it is to incarcerate Luke
7 Skywalker.

8 If this commission was charged
9 with dismantling the prison pipeline,
10 then what we're considering does
11 absolutely nothing but offer a bend in
12 that pipeline. We are not taking into
13 consideration that the reason that we're
14 reforming our criminal justice system is
15 because people in black and brown
16 communities have been a victim of a
17 system. So the goal and objective is to
18 increase public safety, but it's to stop
19 victimizing particular communities based
20 upon their race, their class, and their
21 income. We are not yet where we need to
22 be as a committee and really take into
23 consideration why we're here and if we
24 need to be doing these things.

25 Communities are being ravaged

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 because behavior is hyper-criminalized,
3 because communities are being
4 over-policed, and yet we're here offering
5 solutions that may not be accurate, but
6 are going to have an incredibly
7 detrimental or continue to have an
8 incredibly detrimental impact on
9 individuals' lives.

10 So it's great that we're
11 talking about pre-entry, but we haven't
12 taken the opportunity to address
13 post-reentry. So there's some
14 opportunities that still lie before this
15 Committee, and before we make investments
16 or before we offer up something to City
17 Council to this degree, I would suggest
18 that we pause, that we take greater
19 measure of what it is that we're going to
20 recommend and do a better job of thinking
21 about the fact that this Committee was
22 put together or a part of the reason or a
23 part of the mission was to dismantle the
24 prison pipeline.

25 COUNCILMAN JONES: I don't know

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 if that was the mission I got.

3 MR. EL-SHABAZZ: It wasn't the
4 mission I got either.

5 COUNCILMAN JONES: Wait a
6 minute. Let me finish. First of all,
7 thank you, because as I said in the
8 beginning, we all have different
9 perspectives on things. We all sit in
10 different seats. We all live in
11 different neighborhoods. We all have
12 different experiences that we're bringing
13 to this Committee. And what we hope to
14 do is not have a perfect document but
15 have a general direction in which we --
16 we're not going to get it all right, but
17 what I hope that we are able to do -- and
18 I appreciate your comments. I
19 appreciated your comments up at the
20 prison. I really listened to them. But
21 what we have to balance -- and I'm going
22 to use that word again, balance -- is the
23 fact that there are folk at home, many of
24 them live in my district, that don't
25 agree with any of us. They have been

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 victims of crime and they don't want to
3 hear about dismantling anything. They
4 don't want to hear about -- and I'm
5 telling you, I've met them in my barber
6 shop and in my grocery store. They say,
7 Yeah, I saw what you were talking about
8 and blah, blah, blah, blah, blah, but my
9 son was murdered and he ain't never
10 coming home. And you need to balance
11 that, and that's why the beauty of this
12 configuration of individuals, the Justice
13 League we've called it, is the fact that
14 we have to take all of those perspectives
15 into account and to try to come up with a
16 reform, and that's the key word in here
17 that I look at. We know we don't have it
18 right. We know we don't have it right,
19 but how we get to better and then
20 hopefully to best is a slow, methodical
21 process.

22 MS. BRADFORD-GREY: And I agree
23 with you, Councilman Jones.

24 And, William Cobb, I do not
25 disagree with what you're saying, but,

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 one, I disagree with this: This
3 Committee is charged with the task of
4 looking at our system frame by frame, and
5 right now we have -- we're on the frame
6 of what are we doing with pre-entry, who
7 is coming into our system to begin with
8 and how can we do -- or create reform
9 efforts to understand what we should be
10 doing with people.

11 So this is a large, complex
12 system and it's not going to take -- it's
13 going to take -- it could take years to
14 dissect all of the areas of practice, but
15 you want to make sure you're looking at
16 the distinct areas that could make a huge
17 difference.

18 One of the things that our
19 Committee wants to do is not make people
20 more desperate by our criminal justice
21 policies and practices, because that does
22 not achieve public safety. At the end of
23 the day, it does not. When you put
24 people in on a pretrial incarceration
25 status where they were not a threat to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 public safety or they had no ability to
3 flee, then you're taking away, one, their
4 ability to live in -- to live and also
5 keep employment, keep up with family
6 obligations and situations. You're kind
7 of destroying that mechanism if we don't
8 do this more mindfully as to who we're
9 bringing in and who we're giving an
10 opportunity to be released into their
11 community so that they don't lose so many
12 valuable things and, at the end of the
13 ordeal, come out of the system worse than
14 they came in. And I think that we have
15 to go through this in a step-by-step
16 process, and at each process, we are
17 looking at areas in which we do not want
18 to create the disproportionality that you
19 are talking about. That's why we are
20 talking about it in a fashion that we're
21 going to explore the opportunity to use
22 risk assessment tools, because it seems
23 to be a uniform way to understand who
24 we're bringing in and who we're not and
25 why.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 But I'd be remiss if I did not
3 say this: The Defender Association in
4 Philadelphia is including in the pretrial
5 process the use of bail advocates. That
6 will increase the ability to gather more
7 information about an individual so that
8 it will offset any decision made based on
9 the tools analysis. And we're doing this
10 as a pilot program, but we will be able
11 to see the effects of that, because we're
12 doing it in some areas and we're not
13 doing it in others. We have bail
14 hearings that go on 24/7 in the City of
15 Philadelphia. We are going to be using
16 bail advocates in a certain portion of
17 the day and we will not be using them in
18 others. So we'll be able to study the
19 effects of those things and did we make
20 smart decisions based on that.

21 But I would not say to you
22 that's the end-all, be-all. Because
23 we're looking at the opportunity to use
24 risk assessments, we then have to make
25 sure we put in the opportunity to review

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 how are they working for us, are people
3 being released and committing more crimes
4 or are people being held where they had
5 other factors that should have been
6 included in those determinations. So we
7 have to make sure that we review
8 everything that we do, and I think that
9 we have to move the needle. If we
10 paused, we will never get anything done.
11 We have to build the basic infrastructure
12 to create and collaborate on some of the
13 things that we're doing.

14 MR. EL-SHABAZZ: One of the
15 most interesting things about this
16 environment, this committee, is the
17 collection of individuals that have
18 different thought processes and come from
19 different experiences is that you have
20 extremes. You have extremes of people
21 that destroy everything, blow it all up,
22 it doesn't matter what anybody ever did,
23 don't ever put them in jail, and you have
24 the individual that doesn't matter what
25 anybody is accused of, keep them in jail.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 But the beauty of it is that through the
3 extremes, just like a diamond from the
4 pressure of coal being pushed on all of
5 the sides, the beauty of the diamond is
6 produced.

7 And so I am not one for
8 throwing the baby out with the bath
9 water. I am not one for reinventing a
10 wheel. I'm not one for standing on a
11 platform and just yelling about all the
12 things that I hate about the system that
13 keeps some people safe, because no one
14 has a problem with the system until their
15 mother is murdered. Then there's an
16 issue. Or their son is murdered. Then
17 it's an issue. Just like everyone has a
18 problem -- or don't have any problem with
19 the system until their son is arrested or
20 their mother is arrested or in fact they
21 are stopped and arrested. We have those
22 extremes.

23 The only thing that we are
24 charged with doing based upon my
25 understanding -- and my understanding may

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 be incorrect. I'm not the most
3 intelligent person to ever exist on the
4 planet earth, but by no stretch of the
5 imagination --

6 MR. COBB: Probably the second.

7 MR. EL-SHABAZZ: But by no
8 stretch of the imagination, any tool
9 short.

10 So what I'm submitting to you
11 is that there is a conglomeration of
12 everything that we're talking about.
13 There are some things that Mr. Cobb is
14 saying that I agree with wholeheartedly.
15 There's absolutely an industrial prison
16 complex. There absolutely was a design
17 to fill those prisons up. It absolutely
18 was done in rural counties where no
19 longer you could use coal or you could
20 use steel and there's a depressed economy
21 there. It was absolutely put in there
22 that every family works in the prison
23 whether or not they're a doctor, a
24 mechanic, a cook or a prison guard.
25 Those things were done. To ignore that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 is to ignore the truth, and nobody is
3 running from that. I'm certainly not
4 running from that.

5 However, there are people that
6 are in that prison complex that I'm glad
7 they're there. There are people that are
8 in that prison complex that shouldn't be
9 there. And there are people that are in
10 that prison complex that are in there
11 longer than they should be. That's the
12 reality of it.

13 It is my hope and my desire in
14 putting forth our platforms and putting
15 forth our position -- for anyone sitting
16 and say that they don't have a position
17 that they're putting forth, they're being
18 disingenuous. We all are putting forth
19 our platforms. But in putting forth our
20 platforms, what we should be clear about
21 is that the eye of the needle, the
22 goal -- and it's just as small as that
23 needle -- the goal is to come up with a
24 fair, a just system, with integrity, that
25 would evaluate what is going on and make

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 a determination whether or not you can be
3 safe, you can be secure, and you can be
4 treated right, you can be treated justly,
5 you can be not falsely accused, you
6 cannot be brutalized to the end of it.

7 And I think that this process is a
8 process that's going in that direction.

9 And just like Ms. Bradford and myself,
10 Bradford-Grey, I'm sorry, and myself,

11 Keir and I, just like Keir and I go back
12 and forth as we have this intellectual
13 debate over and over again about what we
14 think may be the best way or how we can
15 manipulate it, it is our hope that in
16 going through this, with respect for each
17 other's position, that we can come up
18 with something that is a working tool.

19 And like they always say the Constitution
20 is, as I end, that is a living, breathing
21 document, the criminal justice system
22 should be a living, breathing system that
23 changes when it needs to change, that
24 cuts out the cancer that it needs to cut
25 out from prison industrial complexes, but

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 deals with how to treat each individual
3 justly, correctly, with integrity, with
4 respect, with an eye towards keeping
5 people safe.

6 MR. COBB: I just want to read
7 the mission statement, because
8 individuals indicated that they were
9 unfamiliar with it.

10 MR. EL-SHABAZZ: No. I'm just
11 not familiar with that being the only
12 goal.

13 MR. COBB: So I'm just going to
14 read it verbatim.

15 MR. EL-SHABAZZ: I just want to
16 be clear.

17 MR. COBB: Special Committee on
18 Criminal Justice Reform --

19 MR. EL-SHABAZZ: Yeah, but
20 don't say that I'm saying I'm not
21 familiar with the mission statement.

22 MR. COBB: Okay.
23 Philadelphia City Council
24 working in partnership with the community
25 and stakeholders to improve our criminal

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 justice system, dismantle the pipeline to
3 prison, and reduce crime and recidivism
4 in Philadelphia. That's our mission.

5 MR. EL-SHABAZZ: You named
6 three goals. You only talked about one.
7 So the bottom line is although it
8 includes your platform, it also includes
9 mine as well, and that's the beauty of
10 it.

11 MR. COBB: I don't disagree.
12 I'm just indicating --

13 MR. EL-SHABAZZ: I got you,
14 bro.

15 MR. COBB: -- that dismantling
16 the prison pipeline is a part of the
17 reason why we're here.

18 MR. EL-SHABAZZ: And I'm
19 indicating improving the criminal justice
20 system is one of the reasons that we're
21 here.

22 COUNCILMAN JONES: And that's
23 why you're all here, because you bring
24 different perspectives. And believe it
25 or not, that's why this configuration is

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 so important. There's no monolithic view
3 of how this world works, and that's --
4 and in the agitation and back and forth,
5 I think we'll get progress, and that's
6 why it's an honor to be a part of this
7 Committee. I kid you not.

8 MR. EL-SHABAZZ: Well, that's
9 my brother. Let's be very clear.

10 COUNCILMAN JONES: I already
11 know that, and brothers argue the worst.
12 You should have seen it in my household.

13 Judge Lerner, and then we'll go
14 this way.

15 JUDGE LERNER: I'm not so good
16 at these statements of totality on one
17 side or the other, but I would say that
18 with regard to the three missions or the
19 three parts of the mission, this
20 commission as set forth in the resolution
21 which was just read to us again, the
22 decision about who should be in custody
23 pretrial and who shouldn't is a decision
24 that affects all three of the portions of
25 that mission statement. And just as

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Mr. El-Shabazz said with regard to people
3 who are in our prisons, there are people
4 who are arrested and charged with an
5 offense who should not be in custody
6 pretrial. There are people who are
7 arrested and charged with an offense who,
8 notwithstanding their presumption of
9 innocence for that offense, should be in
10 custody pretrial. And there are people
11 who are arrested and charged with an
12 offense who should not be in custody
13 pretrial provided that we can take
14 certain steps to reduce the risk that
15 they presently present with regard to
16 public safety or failure to appear
17 without keeping them locked up. And the
18 question is, once we finish all of the
19 overarching discussion, is how do we
20 decide.

21 Now, it's easy to say, because
22 it's accurate, that nobody can predict
23 individual human behavior. That
24 statement is for our purposes as
25 irrelevant as it is true, because we have

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 to decide -- we have a system that has to
3 decide among those arrested who is going
4 to be in custody pretrial and who is not,
5 and in making that decision, we are, to
6 the limited extent of human ability,
7 making some predictions about the
8 likelihood of human behavior in the
9 future, at least that person's behavior
10 in the future. Otherwise, we could just
11 flip a coin. You're heads, you're out;
12 you're tails, you're in.

13 So it seems to me that what we
14 really have to deal with is what are the
15 best resources we have for making the
16 most reliable determinations in what is
17 ultimately something for which no
18 assurance is possible.

19 I've done a lot of bail
20 reduction hearings in a lot of cases in
21 my life. I've done them as a defense
22 lawyer and I've done them as a judge, and
23 to me the most important element in
24 assuring a fair determination by a
25 magistrate, commissioner, judge, whatever

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 you want to call the person who has the
3 power to decide, is information, accurate
4 information, and in our system, that
5 information comes through effective
6 advocacy. That's why, in my view of all
7 of the steps called for in the MacArthur
8 grant, for me the single most important
9 is the development of a bail advocacy
10 system by the Defender Association, which
11 ultimately will give a determiner of in
12 or out all of the relevant information
13 that can be obtained about a defendant's
14 background, because we already have the
15 ability on the part of the District
16 Attorney's Office, although I know we
17 need more resources to enhance that
18 ability, to provide the other side of the
19 picture. And that it seems to me is what
20 we ought to be looking at, what are the
21 tools that will help the advocacy process
22 be most effective, most powerful, and
23 most accurate for each side in providing
24 the person who's got to make the
25 determination with the most information

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 in the most accurate way.

3 Let me just as one example use
4 this arrest issue. If I'm arrested in
5 Rittenhouse Square because I'm carrying a
6 loaded 9 millimeter and I don't have a
7 license to carry, I go to trial, but I
8 don't go to trial because I win that case
9 on a motion to suppress.

10 Tariq is arrested outside the
11 DA's Office -- well, no. Maybe in
12 Councilman Jones' neighborhood. He's
13 also charged with carrying a gun
14 illegally, although in your case it might
15 not be illegal, but let's just assume for
16 a second you don't have a license to
17 carry. He goes to trial and his defense
18 is, you know, that gun wasn't mine. It
19 was in the car that I was in, but it
20 wasn't my gun. He goes to trial. That's
21 the defense, and he's acquitted. Well,
22 in his case if he's arrested again, that
23 arrest should mean absolutely nothing.
24 In my case, I would submit to you, if I'm
25 arrested again, it does mean something.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 And that's the kind of information, the
3 distinction between what those two
4 arrests were all about, that ought to be
5 provided by advocates to a person who is
6 making the determination as to what
7 extent somebody's arrest record has to do
8 with what bail ought to be or their
9 conditions of release ought to be. These
10 are very, very specific issues, and I
11 suggest that except in the most general
12 terms, they need to be handled as
13 specific issues involving specific sets
14 of facts provided effectively to a
15 decision-maker by effective advocates.
16 And if we can do that and if we can use
17 whatever instruments will help us do
18 that, without overemphasizing the effect
19 of one instrument over another or one
20 issue over another, we'll go a long way
21 towards improving the criminal justice
22 system and putting a lot of roadblocks in
23 that pipeline.

24 MS. BRADFORD-GREY: Can I just
25 speak really quickly to that. I think

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 that's exactly what we're talking about,
3 not having it baked in a risk assessment
4 tool, but using it as a separate piece of
5 advocacy. There's nothing that stops the
6 DAs from saying, Your Honor, this person
7 has had multiple arrests for this, but
8 the only reason they haven't been
9 convicted is because the witnesses for
10 some reason keep failing to show up.
11 That's not in an assessment tool. That
12 is used for the advocates to provide
13 other additional information that's
14 outside of that tool. When we start
15 baking it into a tool, it bakes in that
16 inherent bias that we're talking about.
17 So we should stay away from arrest data
18 from a tool's perspective, but that
19 doesn't mean we can't bring it in from an
20 advocate standpoint.

21 I'm just talking about making
22 sure we have a tool, if we're going to
23 use a tool -- because, remember, tools
24 take out the humanizing factors of our
25 system, and that's why we got into this

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 situation to begin with. Because our
3 humanization of people have diminished to
4 a process. And so we're trying to make
5 sure that we don't over-account for one
6 thing in a tool where it could have
7 different meanings attached, and where it
8 does have different meanings attached,
9 advocates will do their job and provide
10 that information to a decision-maker as
11 to what meaning they should place on
12 that.

13 But I would submit to this
14 Committee that we need to have a tool
15 that is as bias-free as we can get it and
16 not rely on someone's opinion that it
17 will be less accurate, because this
18 should not be just the end-all, be-all of
19 our determination. We have to understand
20 how is this working out later. And when
21 we set up those practices that they were
22 set up in other jurisdictions that have a
23 successful model where they have a review
24 period every two years to figure out do
25 we need to adjust here or do we need to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 adjust there, that's when the real
3 information will come. But we need to
4 provide the infrastructure to start, and
5 I would just submit to the Committee to
6 create a tool that has not -- the glaring
7 stuff is already there, zip codes and
8 race, yes. When you see zip codes and
9 race, you know automatically that's going
10 to have some bias in it, but the other
11 things that we're talking about like
12 policing strategies in certain
13 neighborhoods, we need to be mindful of
14 that so when we're talking to a developer
15 about what tool they're going to develop
16 for us, we can ask them to take out
17 arrest data as a risk factor, maybe put
18 in conviction data -- I don't even know
19 if that will -- and I know, William, that
20 that is a little inaccurate too. And I
21 want to make sure we keep this
22 fundamental concept. A better use of
23 pretrial practices does give us more
24 accurate results in the end, because a
25 lot of issues with pretrial detention

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 results in sometimes forced police where
3 people are pleading to bargain for their
4 freedom. That does happen a lot. People
5 find themselves in situations where
6 they're sitting in custody pretrial and
7 they end up pleading guilty based on the
8 fact that they do not -- they no longer
9 want to sit. That does happen in a
10 portion of cases. It is true that people
11 plead guilty because they are guilty. I
12 get it.

13 The one thing we have to remain
14 is balance, and we can't have an extreme
15 position on either side. Criminal
16 justice evolution is about being
17 flexible, examining your own practices,
18 examining yourself, and figuring out how
19 do we move from this standpoint to a
20 different standpoint where we evaluate
21 the effects of that on mass incarceration
22 and disproportionality in our system
23 while achieving true public safety. And
24 we can't incarcerate our way to public
25 safety. So we've got to do a better job

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 with it.

3 COUNCILMAN JONES: You had a
4 comment.

5 MS. ROJAS: Next time my wife
6 says I talk too much, I said you should
7 come to one of these meetings.

8 MS. BRADFORD-GREY: She should.

9 MR. ROJAS: Anyway, I want to
10 get back to the original arrest. One of
11 the problems that I saw working in the
12 Prison System for 24-plus years is that
13 once you get that initial arrest, it's
14 like quicksand. Those detainers will
15 continue to pull you back and back. You
16 can get arrested for not paying a fine.
17 You didn't pay the fine, you can go to
18 jail. You can get arrested for being out
19 too late at night. There are a number of
20 factors that they put these conditions on
21 you, the Probation and the Parole
22 Department, where they can violate you.
23 You're reprocessed through the system
24 again. You go back to jail. And those
25 things will probably be showing up as

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 arrests when in fact they were
3 violations, be they technical violations
4 or be they direct violations.

5 The other thing is that when
6 you -- I used to sit on the Inmate
7 Disciplinary Board, and there's a lot of
8 crimes that are committed by incarcerated
9 people right inside the prison. They're
10 a lot of times not reported, like
11 stabbing an officer. There's a report
12 that is issued. Sometimes there's no
13 arrest. And I think that we have to when
14 we -- when I was a social work
15 supervisor, I would sign off on reports
16 to the judges. They were called Parole
17 Adjustment Summaries. That Parole
18 Adjustment Summary had a detailed account
19 of the inmate's work, education, and the
20 inmate's infractions, disciplinary
21 infractions within the actual Prison
22 System. That then went to the judge, and
23 they will determine whether or not this
24 individual was eligible to be paroled
25 based on that report. I think that we

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 should also look at that when making
3 these decisions, because if someone is
4 incarcerated and are practicing that same
5 behavior where they're stabbing a guard
6 or they're smuggling drugs in, that
7 should weigh more than these arrests that
8 are actually violations of probation and
9 parole.

10 MR. EL-SHABAZZ: I think maybe
11 they would if in fact during the time
12 that you're making a bail decision you
13 had at your disposal all of that
14 information. There's a lot of
15 information that people don't have and,
16 in fact, there's been suggestions made by
17 the Committee to get more information, to
18 give more information to the magistrate
19 or bail commissioner or judge that's
20 making the decision and to use that
21 information as a basis as to whether or
22 not someone should get pretrial release
23 to the end of it.

24 So the difficulty is although
25 that is absolutely excellent information

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 and vital information that any magistrate
3 would welcome, the question is how do you
4 get it in that short period of time when
5 someone is arrested. Now, hopefully
6 leaving the area of the technotard era,
7 we will be in a situation where we'll be
8 able to pull that up through the
9 information that we have at our disposal
10 through computers and networks to the end
11 of it. If we don't, then unfortunately
12 at that initial stage in terms of bail,
13 we won't have the ability to get that
14 information.

15 But any information -- and I
16 think that the Judge and Keir both kind
17 of touched on it. Any information that
18 we can gather to give us some insight
19 into that individual is good information
20 if it shows the type of individual that
21 that person is, because it allows you to
22 make some type of intelligent decision
23 that's not based upon opinion or based
24 upon a bias hopefully, but based upon the
25 evidence that you're receiving at that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 time.

3 COUNCILMAN JONES:

4 Ms. Schwartzman.

5 Are you done?

6 MS. ROJAS: Yeah.

7 COUNCILMAN JONES:

8 Ms. Schwartzman.

9 MS. SCHWARTZMAN: Just briefly,
10 this is the information age and it's
11 great we can use technology. There are
12 all kinds of possibilities with good
13 tools, things that we can use. And just
14 as you had mentioned on the panel, it
15 needs to be just part of the package.

16 But at the turn of the century
17 we had something called phrenology where
18 people came out saying that the way to
19 investigate whether or not a person is
20 going to act out or be a criminal or do
21 additional offenses was by the number of
22 lumps on his head. We've come a long way
23 from that, but the point is there's no
24 one magic way to do it, because we're all
25 human. Everything changes. Nobody

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 really knows. But we have to work
3 towards it, because there is inherent
4 bias right now and it's not good enough,
5 and I think we all recognize that. So to
6 work towards something that does include
7 as much information as possible in a way
8 that can constantly revamp, recheck,
9 evaluate so that everyone can really
10 think through is this doing what we need
11 to do is the way to go.

12 MS. WERTHEIMER: And I think
13 that's built in not just to the
14 recommendations we're talking about here,
15 but the majority, if not all, of the
16 reforms that we're currently pursuing.
17 We need to constantly look at what we're
18 doing. That's why several of them are
19 only pilots and not full-scale rollouts,
20 because if we don't know whether or not
21 something is going to work, it's more
22 prudent to make the small investment and
23 test it out first, then expand it if it's
24 effective. And so that's true for the
25 bail advocates. That's true for some

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 other programs not mentioned here like
3 our pre-arrest diversion pilots that will
4 be rolling out next year. And it's true
5 for whatever tools we decide to use in
6 decision-making going forward. We need
7 to continually evaluate, recalibrate, and
8 as was previously said, this is a living,
9 breathing system with people in it.
10 Things change, factors change, and we'll
11 need to continually account for that.

12 COUNCILMAN JONES: Thank you.

13 The Chair recognizes Mr. Cobb.
14 He has a time constraint and wants to
15 cast his vote now, and I'm going to
16 recognize him so that we will have an
17 official quorum when we do.

18 Mr. Cobb.

19 MR. COBB: William Cobb.

20 And for the record, I vote nay
21 for the recommendations as put forth
22 today.

23 COUNCILMAN JONES: Thank you,
24 Mr. Cobb, for your input, and we do
25 really sincerely appreciate it. It gives

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 us perspective and balance. Thank you.

3 All right. No further
4 questions for that item. Mr. Shabazz, I
5 understand you're going to bring up the
6 issue of day reporting centers.

7 MR. EL-SHABAZZ: That's
8 correct. The Committee came together and
9 recommended the fourth recommendation is
10 that the City should conduct a study on
11 the feasibility of opening three day
12 reporting centers by Fiscal Year '19 that
13 will offer services to pretrial
14 defendants as an alternative to pretrial
15 incarceration, and this is something that
16 CJAB is looking forward to as well.

17 There's, in fact, a subcommittee on CJAB
18 that's headed by the District Attorney,
19 Seth Williams, to explore the actual
20 implication of day reporting centers.

21 Now, it's important to say that
22 when we talk about day reporting centers,
23 we're talking about the centers that
24 could be utilized for non-violent and
25 low-level offenders who would otherwise

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 have been incarcerated because the amount
3 of bail that they had would not be able
4 to afford to do that while awaiting for
5 trial. It would be a place that they
6 would check in to. And the most
7 important aspect of the day reporting
8 centers that we're talking about is that
9 which was spoken to by Judge Lerner and,
10 that is, the services of community-based
11 treatment can be based in that area.

12 It's a center that we may be able to set
13 up drug treatment programs. We may be
14 able to set up counseling, even job
15 counseling. We may be able to set up
16 some type of mental health services. So
17 we would be able to actually deal with
18 those aspects. The person has to report
19 to the day reporting center, and as part
20 of them reporting to that center, they
21 have to avail themselves of one of those
22 treatments that an assessment would show
23 would be beneficial to them so that we
24 wouldn't see them again. Maybe we can
25 get rid of this particular case.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 These resources I think will be
3 very, very important to not only that
4 individual, but to the production of the
5 individual in society. They would be
6 opening three centers in three different
7 areas, and the Committee would be charged
8 with specific cost analysis as to these
9 centers. And I said that with a smile on
10 my face because I want Councilman Jones
11 to make sure that he mentions to his
12 colleagues that they can be one of the
13 individuals that vies for a center being
14 opened in their section.

15 COUNCILMAN JONES: Mr. Shabazz,
16 I'm sure they'll be lining up.

17 MR. EL-SHABAZZ: I know one is
18 going to be in the 4th Councilmanic
19 District.

20 And it should include visits to
21 other jurisdictions that already have
22 these type of services implemented and
23 try to determine how these programs are
24 successful. So we should do an analysis
25 of day reporting services in successful

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 jurisdictions and figure out how they are
3 successful and then, more importantly,
4 try to make their success applicable to
5 the surrounding circumstances in
6 Philadelphia. Philadelphia is a
7 different type of county, a different
8 type of city, a different type of animal.
9 So we need to be able to adapt whatever
10 we see from other jurisdictions that have
11 successful day reporting centers into
12 those things that will address the needs
13 of people in our community.

14 They need to concern
15 themselves -- and this is the Special
16 Committee that's appointed to assess
17 this. They need to consider and review
18 the data concerning the daily costs and
19 the recidivism rate of crime in those
20 areas where day reporting centers are
21 used. This will give us empirical data.
22 And it's always important to have numbers
23 and to look at things, especially when we
24 are talking about asking people to
25 finance what is the success rate of it,

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 does it really work, is it something that
3 sounds cute but it actually doesn't do
4 anything for recidivism, it doesn't do
5 anything for rehabilitation, it doesn't
6 do anything for the pre-entry because it
7 becomes a post-entry afterwards.

8 At the end of this feasibility
9 study, a report concluding the findings
10 of the study should be issued to Council
11 of the City of Philadelphia. The report
12 should include the City-based plan for
13 the operations of these centers within
14 all three selected districts and then
15 service individuals who would come from
16 and where the districts would be and
17 identify those particular services that
18 they can have. In other words, we have
19 to determine where they're going to be,
20 what are the costs, and the cost of
21 servicing them. It doesn't make sense to
22 have three day reporting centers if we're
23 not able to service them with people for
24 rehabilitation with respect to drugs,
25 with respect to alcohol, with respect to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 mental health, with respect to even
3 career and job placement. Some of those
4 things are the result of people being
5 arrested for things that are non-violent
6 and non-serious or low-level offenses.
7 So they would have to look at that in
8 that regard.

9 But there's an important aspect
10 of day reporting, and I want to read it
11 specifically from this recommendation.
12 The report should also include the
13 strategies to develop a good neighborhood
14 policy, a good neighbor policy. There
15 are going to be pushback. People are
16 going to say, I don't want these day
17 reporting centers in our neighborhood,
18 which is interesting to me because if
19 someone lives in that particular
20 neighborhood, they're able to make bail,
21 they will be back in the neighborhood.
22 At least in a day reporting center, we
23 will have, first of all, a check and
24 balance system and they have a place to
25 check in, in addition to seeing that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 these individuals are receiving the
3 services that we believe they need and
4 that may prevent them from even ever
5 entering in the criminal justice system.

6 We also would like the
7 Committee's report to include for the
8 communities to interact with the
9 development of that particular good
10 neighbor policy and the implementation of
11 any day reporting center within the City
12 in order to alleviate any fear or concern
13 that the public may have.

14 Now, we're going to get that.
15 There are going to be people -- whenever
16 someone talks about when they moved the
17 juvenile justice system -- or the Youth
18 Study Center, if you will, there were
19 complaints about where it would be. If
20 someone puts a halfway house or a rehab
21 center or anything that centers around
22 crime in particular neighborhoods, there
23 are pushback, but that pushback can be
24 addressed if the Committee does three
25 things. One, they have to take a census

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 of the community or the district that
3 they want to put this program in or this
4 day reporting center.

5 Two, they have to intelligently
6 advise the community of what this center
7 is, what will it do, what type of people
8 will come to this particular center, how
9 in fact will the center be supported,
10 what type of security strategies that are
11 in place to ensure that they don't have
12 to be concerned about whether or not
13 somebody is going to come into their
14 neighborhood and do anything. It is
15 important that when we do a project like
16 a day reporting center, that we do it not
17 in a vacuum but we do it with community
18 support. If we don't do it with
19 community support, it will not be
20 successful. We don't want to go into a
21 situation where the community is not
22 fully advised to what's going on.

23 And, lastly, assured that not
24 only will they be protected, but these
25 are individuals from their community that

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 will be serviced. If there is an
3 individual that they know that hangs
4 around in a particular corner that is
5 addicted to drugs, to narcotics, and that
6 individual always gives them a little
7 fear because they think that they may
8 break into their car or they may take
9 their tire or they may take a piece of
10 brass bar from a Union League, if these
11 individuals know that now this person is
12 being treated for a mental health
13 condition or for drugs and alcohol, being
14 counseled, being offered services, even
15 if it's career services, that seems to me
16 that that would alleviate and it should
17 alleviate some of that fear. Because
18 everyone that is accused of a crime, and
19 I would even submit may have been
20 convicted of a crime, doesn't do it
21 because they just want to do it.
22 Sometimes it's out of, unfortunately, the
23 necessity that they believe they have or
24 an addiction that they have.

25 The late Judge Conroy, who was

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 a Municipal Court judge when I first
3 arrived in Philadelphia and probably one
4 of the realest judges I've ever met in my
5 life, one with probably a tremendous
6 amount of common sense, said to me as a
7 young Assistant District Attorney when I
8 got into a rather lively debate with a
9 private attorney who was across the bar
10 from me about an issue of bail and the
11 judge made a determination as to issue
12 that particular bail, to my objection,
13 after the closing of the list, he called
14 me to the side and he said to me -- he
15 asked me a question. He said, If in fact
16 you were unemployed and you had three
17 babies at home and those babies were
18 hungry, didn't have any money coming in
19 and had no belief that you could get
20 money or earn money at that particular
21 point to feed the family, which was an
22 immediate need, would you go into a store
23 and shoplift? And then I hesitated,
24 because I'm saying to myself as a young
25 assistant, is this a trick question.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 Maybe I want to answer it correctly, even
3 if I believe something differently. He
4 said, Well, let me answer it for you. I
5 would absolutely shoplift. I would
6 shoplift so that I would feed my family.

7 However, is the shoplifter that
8 shoplifts to feed his family, although an
9 illegal action, the same as the
10 shoplifter that shoplifts just because
11 they don't want to work or they boof (ph)
12 because they don't want to work?

13 Sometimes retail theft, although it may
14 seem harmless, you go into that person's
15 apartment, they have another store in
16 their apartment of all the retail theft
17 that they've committed and all the
18 clothes that they have.

19 So what he was saying to me is
20 that there are different reasons that put
21 people in different circumstances and as
22 a result of those circumstances, people
23 may do things that ordinarily they would
24 not do. Should that person be held to
25 the same accountability? It's kind of

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 similar to the analogy that Judge Lerner
3 gave us. Well, those are the type of
4 analogies we have to give to people in
5 those districts where there are going to
6 be day reporting centers. We have to
7 humanize people. We have to indicate to
8 people that those individuals or all
9 individuals that have been arrested
10 doesn't mean that they're bad
11 individuals. And unless you have a
12 family member that's ever been addicted
13 to drugs, you don't understand the trauma
14 that the family goes through, a mother
15 that watches her son take everything out
16 of her house to sell because he's chasing
17 the crack.

18 (Off-the-record discussion
19 between Mr. El-Shabazz and Ms.
20 Bradford-Grey.)

21 MR. EL-SHABAZZ: And I'm glad
22 you said that, because now it brings me
23 to the conclusion, because I forgot the
24 point I was getting ready to make. I
25 really didn't, but I need to conclude.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 At the end of the day, we
3 believe that this is a prudent
4 recommendation. We believe that the
5 first step in this recommendation is a
6 feasibility study, and that feasibility
7 study should reflect all of the elements
8 and the ingredients that I've read thus
9 far, and those ingredients should be
10 tailored to what are the needs of the
11 populus of the City and County of
12 Philadelphia. And I've had an
13 opportunity prior to returning back to
14 the District Attorney's Office to try
15 cases in a tremendous amount of counties
16 in the Commonwealth of Pennsylvania. I
17 mean, some that were close to the border
18 of New York and some that were close to
19 the border of Delaware, and in those
20 particular counties, I've had an
21 opportunity to see a lot of different
22 things. And what I do know and I believe
23 to be true is that Philadelphia is a
24 different animal, different needs,
25 different understanding, a different

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 populus. Only Allegheny County may come
3 close in that type of mentality and
4 understanding. So we need to tailor that
5 to the needs of the individuals in the
6 City and County of Philadelphia, and we
7 need to seriously, seriously explore the
8 possibility of implementing the day
9 reporting centers.

10 MS. BRADFORD-GREY: Can I say
11 something on behalf of day reporting
12 centers.

13 MR. EL-SHABAZZ: I told her she
14 only can speak if it's on behalf of day
15 reporting centers.

16 MS. BRADFORD-GREY: I will.

17 I'm on the committee with Seth
18 Williams to explore day reporting
19 centers, and I wholeheartedly agree that
20 this step, one, after we understand how
21 we can implement it with the feasibility
22 study, will be the first step in us
23 gaining the intelligence about who is
24 coming into our system and how we can
25 better address their needs.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 I appreciate my brother William
3 Cobb's perspective and I know he has a
4 unique perspective on this Committee, but
5 I will say if we don't engage in
6 different ways to deliver our criminal
7 justice system's resources, we will not
8 ever gather the intelligence to
9 understand what we are doing with people
10 and what we can do differently. And I
11 think day reporting centers are a great
12 way to put the care of the needs of those
13 individuals who have these public health
14 issues, such as mental health and drug
15 addiction, in the hands of professionals
16 that were trained to deal with those
17 situations in a much better way than our
18 prison systems can.

19 And so I really think that
20 this -- the collateral benefits of day
21 reporting centers have yet to be
22 realized. I think that we could utilize
23 the community in a unique way for day
24 reporting centers, and I think that we
25 can understand that with the community

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 effort for certain populations, we can do
3 much better than we have been in the
4 past.

5 COUNCILMAN JONES: Julie, you
6 did a good job keeping them from -- but
7 seriously, let me just say that -- and
8 I'm couching my words, because I'm the
9 only one that has to go before the voters
10 and deal with those words. I support day
11 reporting centers, and I've been to some.
12 I've been to Brooklyn, New York where Red
13 Hook exists. I've been to Pittsburgh in
14 Allegheny County where they do a brisk
15 day reporting center with a myriad of
16 programs available to individuals. And I
17 understand there's a really good one in
18 Lancaster, which I hope to get to and be
19 a part of that road trip.

20 But let me say this, that those
21 day reporting centers, I've watched one
22 of my brave colleagues offer a day
23 reporting center and for political
24 reasons, with a small P, she was beset
25 with opposition for months as she tried

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 to assemble the resources. I think we
3 have to take a courageous position
4 irrespective of politics and do what is
5 right for everyone.

6 The belief that people are
7 going to return to nowhere is absurd.
8 They return to the zip codes that they
9 came from often, and they can return
10 unsupervised, unassisted, untreated or we
11 can put things around them, conditions on
12 them that make them three things, a
13 non-safety hazard, that folk are going to
14 operate within safety norms that society
15 puts on them.

16 Second thing is that it's
17 non-disruptive to a neighborhood. So say
18 what you want. You don't want to -- I
19 don't want to be next door to an
20 ambulance even though I know it does
21 good, but when that ambulance comes
22 screaming out of there, that would wreck
23 my peace and tranquility. So it has to
24 blend in.

25 And then the third thing, it

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 has to be, as you mentioned, a good
3 neighbor. There are Ready, Willing and
4 Able type places and facilities. There
5 are women's shelters that are in
6 neighborhoods. But for the fact that I
7 know they're there, the neighbors don't
8 know they're there. And when they do
9 realize that they're there -- in the case
10 of, I believe, in Kenyatta's district,
11 it's Ready, Willing and Able -- these
12 guys go out on snow days and shovel
13 people's snow. They go in alleys in warm
14 weather and cut down those nuisance weed
15 trees. They are good neighbors, and
16 people deserve that. And it's a part, in
17 my opinion, of readjusting back and
18 feeling a part of a community. Because
19 when someone who otherwise may have never
20 ever been thanked by their neighbor
21 actually gets thanked by their neighbor,
22 you want more of that. You want that
23 gratitude and self-esteem more.

24 So I wanted to say that.

25 Mr. Rojas, please take the mic.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 MS. ROJAS: I just wanted to
3 suggest, if possible, if we can include
4 like a paper to Council when we present
5 the document to Council on successful
6 reentry centers, and also if we can
7 arrange for a visit, either of this
8 Committee, members of this Committee, to
9 actually go and buttress that report so
10 when Council gets it, they have a
11 document that says, yes, they're
12 successful, they're working. Because
13 they're the ones that ultimately that are
14 going to have to decide to sell it to
15 their constituents.

16 COUNCILMAN JONES: Agreed.

17 MR. EL-SHABAZZ: And I would
18 suggest in light of that that when we
19 address it to Council or anyone else, we
20 remind people that we're talking about
21 human beings and that they're not any
22 different from any of us, with the
23 exception of the blessings that we may
24 receive or may have received or the
25 circumstances that we may have found

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 ourselves in.

3 It is oftentimes distracting, I
4 find, when we discuss issues like this,
5 especially as they relate to public
6 safety, is when we make a distinction
7 between the people that we're talking
8 about and the people that they're going
9 to be neighbors with. The bottom line
10 is, these are Philadelphians. These are
11 people that are born in Philadelphia or
12 some that transferred or become
13 transplants here and people that live in
14 these neighborhoods and that people that
15 had hopes and aspirations as well. Some
16 of them fall victim for a whole host of
17 reasons and some of them may be
18 problematic, but we're not talking about
19 those individuals. Remember, these are
20 low-level crimes and these are
21 non-violent crimes that we're talking
22 about putting in there.

23 And so when we address those,
24 especially with the pushback that I
25 believe that you may get, I'll be here to

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 hold your hand if you'd like.

3 COUNCILMAN JONES: I heard
4 you're moving in my district to support
5 me anyway.

6 MR. EL-SHABAZZ: Well, I don't
7 know if I'm moving into your district,
8 but --

9 MS. BRADFORD-GREY: See.

10 MR. EL-SHABAZZ: Because I live
11 in my own district.

12 MS. BRADFORD-GREY: Oh, okay.

13 MR. EL-SHABAZZ: But what I'm
14 saying is when you address even City
15 Council with respect to it, oftentimes I
16 find it's better to remind people that we
17 are talking about people. I mean, they
18 kind of are human beings, the son of
19 somebody, the daughter of somebody,
20 sometimes the mother or father of
21 somebody, and the brother or sister of
22 someone. And when you make people
23 reflective that you are talking about
24 human beings, sometimes they reflect on
25 their own family, and oftentimes when

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 they're stating a position, they forget
3 that they have a family member like Uncle
4 John that's at the barbecue every summer
5 and so drunk that you got to put him on
6 the couch but he wants to be behind the
7 wheel or someone who may be addicted to
8 drugs or someone who made a bad call, a
9 bad decision and they went to jail.

10 Sometimes when you bring it home, despite
11 people's starch position, it makes it a
12 little easier.

13 COUNCILMAN JONES: Are there
14 any questions for our distinguished
15 panelists and participants?

16 (No response.)

17 COUNCILMAN JONES: Seeing none,
18 thank you very much for your testimony,
19 input, and work.

20 Do we have any other witnesses
21 to testify?

22 (No response.)

23 COUNCILMAN JONES: Seeing none,
24 going once, going twice, gone. Thank you
25 very much.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 And now what we'll do is move
3 into the -- you guys can either choose to
4 stay there or come back and join us.

5 MR. EL-SHABAZZ: It depends on
6 what the vote is.

7 COUNCILMAN JONES: Well, we'll
8 see.

9 Thank you all for your input.
10 It was valuable.

11 So we will now go into our
12 public meeting to consider the actions to
13 be taken today on the Interim Report
14 under consideration by the Special
15 Committee on Criminal Justice Reform.

16 The Chair now recognizes
17 Ms. Bradford-Grey for a motion on the
18 Interim Report for the Special Committee
19 on Criminal Justice Reform as it has been
20 circulated to this Committee today.

21 MS. BRADFORD-GREY: Thank you,
22 Mr. Chairman. I move that the Interim
23 Report of the Special Committee, entitled
24 "A Shift from Re-Entry to Pre-Entry," as
25 it was considered by this Committee

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101
2 today, Monday, November 14th, 2016, be
3 issued by this Committee to the City
4 Council of Philadelphia with the approved
5 changes.

6 COUNCILMAN JONES: That was if
7 there were any.

8 MS. BRADFORD-GREY: If there
9 were any.

10 COUNCILMAN JONES: Is there a
11 second?

12 (Duly seconded.)

13 COUNCILMAN JONES: It has been
14 moved and properly seconded that the
15 Interim Report of the Special Committee,
16 entitled "A Shift from Re-Entry to
17 Pre-Entry," as it is considered by this
18 Committee today, Monday, November 14th,
19 2016, be issued by this Committee to the
20 City Council of the City of Philadelphia.

21 And all those in favor will say
22 aye.

23 (Aye.)

24 COUNCILMAN JONES: All those
25 opposed will say nay.

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 (No response.)

3 COUNCILMAN JONES: For the
4 record, Mr. Cobb was one and then
5 Mr. McSorley abstained because of his job
6 with the City.

7 So the ayes have it. The
8 motion carries. The report will be
9 issued to City Council at its next
10 session of Council, November 17th, 2016.

11 Before I conclude, I want to
12 thank the Committee members for their
13 excellent year of service, and we look
14 forward to continuing to ensure the City
15 implements the best practices in criminal
16 justice reform efforts for 2017.

17 Let me just say that this is in
18 time to start the budget process. That's
19 why there was an urgency of time.
20 Because you can make recommendations --
21 and I want to put on the record I want to
22 thank President Clarke. President Clarke
23 had the foresight to say that this was an
24 important issue, and put together an
25 interesting group -- I'll say it again --

1 11/14/16 - SPECIAL COMMITTEE - RES. 160101

2 interesting group of criminal justice
3 professionals, community advocates,
4 people who have been incarcerated, people
5 in law enforcement, defenders,
6 prosecutors, judges alike to ponder this
7 issue, and I think it's a beginning of a
8 good piece of work.

9 And with that, are there any
10 other comments from the Committee
11 members?

12 (No response.)

13 COUNCILMAN JONES: With that,
14 this concludes the business of the
15 Special Committee of Criminal Justice
16 Reform today. I thank you. We will
17 recess to the call of the Chair.

18 Thank you.

19 (Special Committee on Criminal
20 Justice Reform adjourned at 4:20 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, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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Special Committee on Criminal Justice Reform
November 14, 2016

A	114:25	29:16,23	111:22	alternative	107:4	29:11,15	assessments
AA 28:14	accuracy	31:17 48:9	advocacy	8:13 9:8	apply 130:21	43:4 58:23	79:24
abilities	56:22,23	48:16 67:8	90:6,9,21	31:21	appointed	59:12 60:19	assigned
12:24,25	62:18,21	67:8,22	93:5	104:14	107:16	60:21 64:7	55:11
17:12	63:16 64:4	112:24	advocate 60:9	alternatives	appointing	65:7 66:6	assist 10:20
ability 22:15	accurate 62:5	118:15	71:16 93:20	5:7	1:20 3:9	66:13,17	assistant
50:16 58:19	62:8,13	adding 9:11	advocates	altogether	appreciate	67:20 69:9	113:7,25
58:21 78:2	63:7,20,25	12:23	33:11 79:5	66:20	5:2 75:18	70:11 81:19	Association
78:4 79:6	66:22,23	addition	79:16 92:5	ambulance	103:25	81:20,21	1:10 25:7
89:6 90:15	72:10 74:5	109:25	92:15 93:12	120:20,21	118:2	88:4,7,11	41:17 54:12
90:18	88:22 90:3	additional	94:9 102:25	amount 72:5	appreciated	89:3 91:4	66:11 79:3
100:13	90:23 91:2	8:15 10:8	129:3	105:2 113:6	75:19	91:10,22,25	90:10
able 4:10	94:17 95:24	10:17 11:3	afford 105:4	116:15	approach	97:16,18	assume 91:15
9:17 14:13	accurately	11:19,22	afternoon 2:3	ample 72:5	6:23 7:2	100:5 109:5	assurance
17:18,21,24	62:14 130:5	12:12 32:20	7:12,14,21	analog 15:24	approached	115:9	89:18
18:12 20:10	accused	38:2 93:13	age 101:10	analogies	7:7 52:25	arresting	assure 32:4
27:12 33:9	80:25 84:5	101:21	agitation 87:4	115:4	appropriate	65:22	66:10
34:4,14	112:18	Additionally	agree 23:15	analogy	23:24 26:21	arrests 58:17	assured
44:21 46:3	accustomed	26:11	24:14 30:25	19:20 115:2	appropriat...	58:18,18	111:23
72:10 75:17	53:19	address 31:14	31:2,12	analysis 61:5	9:23	59:6,6,19	assuring
79:10,18	achieve 5:10	31:22 74:12	34:16,17,18	79:9 106:8	approved	59:21,23	89:24
100:8 105:3	77:22	107:12	57:13 64:16	106:24	45:21 127:4	64:20 65:16	attached 94:7
105:12,14	achieving	117:25	70:17,18	and/or	approximate	65:25 67:13	94:8
105:15,17	96:23	122:19	72:8 75:25	130:23	10:13	67:13,18	attend 28:14
107:9	acknowledge	123:23	76:22 82:14	animal 107:8	approximat...	69:4 92:4	attorney 1:17
108:23	27:5	124:14	117:19	116:24	10:16,23	93:7 98:2	25:8 31:10
109:20	acquire 8:12	addressed	agreed 71:5	Ann 1:13 2:9	apt 64:10	99:7	32:8 104:18
121:4,11	9:7	24:10 37:23	122:16	51:4	66:5	arrived 113:3	113:7,9
absconder	acquitted	40:19	ahead 18:15	annual 9:25	area 16:9	arrow 15:10	Attorney's
40:8	91:21	110:24	19:24 70:25	10:9,11,16	66:9,12	asked 12:22	54:25 90:16
absolutely	act 101:20	addressing	ain't 76:9	answer 27:3	100:6	113:15	116:14
31:8 42:22	action 114:9	30:2 37:13	alcohol 67:8	29:10 63:13	105:11	asking 64:3,4	August 4:4
73:11 82:15	actions	38:25	108:25	66:22 114:2	areas 77:14	69:22	authority
82:16,17,21	126:12	adjourned	112:13	114:4	77:16 78:17	107:24	33:16 34:23
91:23 99:25	active 15:18	129:20	alcoholism	antiquated	79:12 106:7	aspect 28:8	35:3
114:5	activities 65:8	adjust 94:25	29:23	16:16	107:20	105:7 109:9	automatical...
absorbs	activity 64:12	95:2	alert 21:14,16	anybody 13:3	argue 87:11	aspects 16:23	95:9
20:11	67:5	Adjustment	21:21	68:2 80:22	arraigned	105:18	avail 105:21
abstained	actual 17:10	98:17,18	alerts 18:14	80:25	11:9	aspirations	available
128:5	37:3 98:21	administrat...	algorithms	anymore 13:7	arraignment	123:15	11:20 16:18
absurd 120:7	104:19	1:18 44:10	61:8	anyway 15:3	14:2	assemble	23:5 33:3
abuse 27:17	Adan 1:12	Administra...	alien 45:5	16:17 37:21	arrange	120:2	34:11,12
28:4 29:13	47:13	7:19	alike 129:6	48:17 97:9	122:7	assert 35:12	48:11 64:11
abusing 28:6	adapt 107:9	adopted	Allegheny	124:5	arrest 13:25	assess 107:16	119:16
academics	add 18:19	45:21 55:20	117:2	apartment	21:8 23:4	assessment	avoid 29:17
57:3	22:25 50:19	adult 47:18	119:14	114:15,16	39:23,25	24:18 57:14	32:22
accept 41:25	57:6	adults 47:8	alleviate	apartments	43:5 68:19	58:16 59:10	awaiting 8:19
43:20 61:5	added 37:15	47:15,17	110:12	51:14	68:21 91:4	61:14,15	11:6 12:8
access 17:16	addicted	advantage	112:16,17	appear 35:5	91:23 92:7	64:20 67:24	105:4
account	112:5	35:25 49:12	alleys 121:13	88:16	93:17 95:17	70:5,13	aware 26:14
76:15 98:18	115:12	50:8	allow 9:12	appears	97:10,13	78:22 93:3	34:22
103:11	125:7	advise 111:6	10:10	19:16	98:13	93:11	aye 127:22,23
accountabil...	addiction	advised	allows 100:21	applicable	arrested	105:22	eyes 128:7

B	109:24	116:4,22	122:23	briefly 8:10	car 91:19	106:9	91:13 106:7
babies 113:17	ball 46:20	121:10	block 65:14	8:23 101:9	112:8	107:11,20	chasing
113:17	bar 112:10	123:25	blow 80:21	bring 5:19	care 31:5	108:13,22	115:16
baby 81:8	113:9	bench 14:10	blur 7:15	7:3 54:16	118:12	109:17	check 105:6
back 16:6	barbecue	14:12 39:8	board 16:14	70:5 86:23	career 31:9	110:21	109:23,25
23:13 27:13	125:4	benchmark	31:22 98:7	93:19 104:5	109:3	115:6 117:9	Chief 32:7
29:13 37:21	barber 76:5	47:2	bones 33:9	125:10	112:15	117:12,15	54:11,20
37:25 42:12	bare 33:9	bend 73:11	boof 114:11	bringing	careful 35:21	117:19	choose 4:16
51:8 84:11	bargain 96:3	beneficial	border	24:19 26:13	carries 128:8	118:11,21	126:3
87:4 97:10	base 13:15	105:23	116:17,19	48:7 75:12	carrot 29:2	118:24	choosing
97:15,15,24	based 3:25	benefit 25:20	born 123:11	78:9,24	50:6	119:11,21	26:21
109:21	8:8 27:25	25:24 32:25	bottom 19:3	brings 115:22	carry 91:7,17	122:6	circulated
116:13	58:22 60:23	34:7	40:25 86:7	brisk 119:14	carrying 91:5	century	126:20
121:17	73:19 79:8	benefits	123:9	bro 86:14	91:13	101:16	circumstan...
126:4	79:20 81:24	118:20	Bouchard	broke 46:11	case 18:10	certain 35:2	107:5
background	96:7 98:25	BENJAMIN	6:19 7:21	broken 46:16	22:17 25:2	39:14 48:9	114:21,22
67:21 90:14	100:23,23	1:16	7:22 8:6 9:4	Brooklyn	28:24 29:11	59:21 63:2	122:25
backup 18:14	100:24	Berk 56:13	15:17 16:19	119:12	33:6 37:6	63:5 64:21	cited 12:17
backups 18:8	105:11	73:3	17:2 18:5	brother 87:9	40:22 42:11	65:9 79:16	cities 59:13
bad 42:11	basic 80:11	Berk's 72:6	20:20,23	118:2	91:8,14,22	88:14 95:12	city 1:2,6
115:10	basically	beset 119:24	21:5,9,13	124:21	91:24	119:2	3:23 8:11
125:8,9	16:10 45:2	best 1:23 3:16	24:8 26:11	brothers	105:25	certainly 83:3	8:14 9:6
bail 5:4 11:7	50:18 51:15	5:13 26:22	28:22 38:14	87:11	121:9	CERTIFIC...	11:2 16:9
11:10 14:2	basis 10:9	71:20 76:20	38:22 46:9	brought 8:5	cases 11:8	130:2	43:3,14
14:4,11,13	99:21	84:14 89:15	46:21,25	63:4	14:21 17:11	certification	44:9,10
14:18 33:11	bath 81:8	128:15	bracelets	brown 73:15	37:4,9	130:20	45:2,11,22
33:18 34:24	batteries	better 2:18	13:2 19:16	brutalized	89:20 96:10	CERTIFY	55:8 58:11
37:24 41:25	18:14	3:2 6:4	Bradford	84:6	116:15	130:3	59:22 60:20
41:25 43:17	battery 18:8	33:12 50:4	84:9	budget 45:22	cash 11:7,10	certifying	74:16 79:14
55:9,11	18:16	51:22 54:2	Bradford-...	128:18	cast 103:15	130:24	85:23
57:7 79:5	be-all 71:21	74:20 76:19	1:10 2:6	build 63:8	catch 40:12	Chair 22:22	104:10
79:13,16	79:22 94:18	95:22 96:25	4:17,20	80:11	category 45:6	103:13	107:8
89:19 90:9	beauty 76:11	117:25	22:24 24:22	built 102:13	cause 70:3	126:16	108:11
92:8 99:12	81:2,5 86:9	118:17	26:24 47:25	burdensome	causes 39:5	129:17	110:11
99:19	beginning	119:3	52:15 54:10	13:11	caution 57:18	Chairman	116:11
100:12	25:13 75:8	124:16	54:11 57:10	business 2:13	cell 19:8,10	126:22	117:6
102:25	129:7	beyond 10:10	62:16 69:21	129:14	cellular 10:12	challenges	124:14
105:3	behalf 71:16	bias 56:5,6	71:4 76:22	buttness	census 45:24	56:3	127:3,20,20
109:20	117:11,14	57:5,5 60:5	84:10 92:24	122:9	46:2 110:25	Chambers	128:6,9,14
113:10,12	behavior	93:16 95:10	97:8 115:20	<hr/>	center 105:12	6:12 44:20	City-based
bail-setting	63:17 72:11	100:24	117:10,16	C	105:19,20	chance 37:20	108:12
33:16 34:23	72:13 74:2	102:4	124:9,12	call 16:3	106:13	42:4	CJAB 104:16
35:2	88:23 89:8	bias-free	126:17,21	21:17 22:12	109:22	change 84:23	104:17
baked 71:12	89:9 99:5	94:15	127:8	40:5 61:10	110:11,18	103:10,10	clarification
93:3	beings 122:21	biases 58:2	brass 112:10	62:22 90:2	110:21	changed	13:22
baked-in 58:2	124:18,24	big 7:15	brave 119:22	125:8	111:4,6,8,9	18:18	clarifications
bakes 93:15	belief 113:19	35:24	break 112:8	129:17	111:16	changes	12:19 14:23
baking 93:15	120:6	bit 39:4	breaking	called 40:24	119:15,23	84:23	clarify 44:25
balance 57:15	believe 5:17	black 73:15	35:7	76:13 90:7	centers 33:25	101:25	Clarke
67:15 69:19	25:16 86:24	blah 76:8,8,8	breathing	98:16	34:3,8,9,12	127:5	128:22,22
75:21,22	110:3	76:8,8	84:20,22	101:17	104:6,12,20	charged 73:8	class 73:20
76:10 96:14	112:23	blend 120:24	103:9	113:13	104:22,23	77:3 81:24	clean 27:18
104:2	114:3 116:3	blessings	brief 73:2	caller 16:3	105:8 106:6	88:4,7,11	clear 21:10
				cancer 84:24			

Special Committee on Criminal Justice Reform
November 14, 2016

53:8 83:20	80:17	11:1 12:1	99:1,17	community...	11:22 21:7	construct	Correction
85:16 87:9	color 57:23	12:20 13:1	100:1 101:1	105:10	24:24 39:18	55:15	36:12
clearly 45:6	come 6:13	14:1,7,23	102:1 103:1	compared	39:24 49:20	contact 21:19	correctly 85:3
clerk 3:6,8	18:14 19:6	15:1 16:1	104:1,8	17:12	92:9 97:20	37:2	114:2
6:14,17	19:19 23:12	17:1 18:1	105:1 106:1	complaints	120:11	contacted	cost 10:13
52:11,13	39:15 49:24	19:1 20:1	106:7 107:1	110:19	conduct 1:21	37:5 40:18	20:11 106:8
client 25:21	50:8 56:4	20:18 21:1	107:16	complete	3:11 104:10	contained	108:20
close 7:4 53:8	60:24 61:11	22:1 23:1	108:1 109:1	35:10	configuration	6:20 130:5	costly 5:9
53:14	63:7 69:18	24:1 25:1	110:1,24	completely	76:12 86:25	context 59:7	costs 23:15
116:17,18	69:23 76:15	26:1 27:1	111:1 112:1	70:11	configured	continually	107:18
117:3	78:13 80:18	28:1 29:1	113:1 114:1	complex	9:23	103:7,11	108:20
closing	83:23 84:17	30:1 31:1,2	115:1 116:1	37:10 42:17	conglomera...	continuation	couch 125:6
113:13	95:3 97:7	32:1 33:1	117:1,17	77:11 82:16	82:11	28:5	couching
clothes	101:22	34:1 35:1	118:1,4	83:6,8,10	conjunction	continue	119:8
114:18	108:15	36:1 37:1	119:1 120:1	complexes	66:8	42:10 50:14	Council 1:2
Co-Chair	111:8,13	38:1 39:1	121:1 122:1	84:25	Conroy	51:18 74:7	3:23 20:19
4:18	117:2 126:4	40:1 41:1	122:8,8	complexity	112:25	97:15	45:21 74:17
coacher	comes 21:14	42:1 43:1	123:1 124:1	40:17	consequence	continued	85:23
72:17	36:15 40:5	44:1 45:1	125:1 126:1	comprise	30:14	42:7	108:10
coal 81:4	49:18 67:9	45:19 46:1	126:15,18	4:10	consequences	continues	122:4,5,10
82:19	90:5 120:21	47:1 48:1	126:20,23	computer	12:10 51:8	28:4	122:19
Cobb 1:11	comfortable	49:1 50:1	126:25	17:19	consider	continuing	124:15
2:8 71:23	14:19	51:1 52:1	127:1,3,15	computers	55:22 57:7	128:14	127:4,20
71:25 72:2	coming 16:12	53:1 54:1	127:18,19	9:23 100:10	64:23 66:25	contract	128:9,10
72:2 76:24	24:2 44:10	55:1 56:1	128:1,12	concept 95:22	107:17	20:15 56:17	Councilman
82:6,13	76:10 77:7	56:15 57:1	129:1,10,15	concern	126:12	contracts	1:9 2:2 3:18
85:6,13,17	113:18	57:12,13,18	129:19	29:20 56:8	consideration	19:18	4:18,21 6:5
85:22 86:11	117:24	58:1 59:1	Committee's	107:14	68:18 70:8	contradiction	6:22 7:10
86:15	comment	60:1 61:1,3	4:8 110:7	110:12	73:13,23	6:7	7:11,16 9:2
103:13,18	23:2 48:2	61:11 62:1	committing	concerned	126:14	contribute	14:24 16:15
103:19,19	70:18,19	63:1,9 64:1	80:3	27:3 111:12	considerati...	60:11	16:20 18:2
103:24	97:4	65:1 66:1	common 7:19	concerning	15:2	control	18:23 19:23
128:4	comments	67:1 68:1	22:16 113:6	4:3 107:18	considered	130:23	20:8,17,22
Cobb's 118:3	56:20 75:18	69:1,23	Commonwe...	concerted	72:15	convene 3:5	21:3,6,11
code 56:8	75:19	70:1 71:1	45:11	5:18	126:25	conversation	21:24 22:8
59:17 65:12	129:10	72:1 73:1	116:16	conclude	127:17	26:4	22:11,22
codes 59:16	commission	73:22 74:1	communities	72:25	considering	conversion	26:25 31:23
95:7,8	2:15 73:8	74:15,21	27:13 57:23	115:25	67:2 73:10	9:20	36:4 39:2
120:8	87:20	75:1,13	58:7 60:24	128:11	considers	convicted	41:3 42:18
coffers 42:4	commissioner	76:1 77:1,3	73:16,19,25	concludes	44:16	64:8 66:7	42:23 45:15
coin 89:11	89:25 99:19	77:19 78:1	74:3 110:8	129:14	constantly	69:5,15	45:18 46:7
coincidence	commit 58:20	79:1 80:1	community	concluding	102:8,17	93:9 112:20	46:19,23
32:5	58:21 66:5	80:16 81:1	1:14 11:16	108:9	constituents	conviction	47:4,9,23
coined 6:8	committed	82:1 83:1	23:12 24:11	conclusion	122:15	58:25 68:21	50:20,24
collaborate	44:17 98:8	84:1 85:1	35:7 67:10	115:23	Constitution	70:14 95:18	51:25 52:5
80:12	114:17	85:17 86:1	78:11 85:24	condition	35:13 68:23	convictions	52:9,10,17
collateral	committee	87:1,7 88:1	107:13	24:25 25:25	70:22 84:19	58:17 59:24	52:23 53:3
12:10	1:3,20 2:4	89:1 90:1	111:2,6,17	26:3,7,8	constitutional	67:13	53:10,15,23
118:20	2:22 3:1,10	91:1 92:1	111:19,21	28:14,20	64:5	cook 82:24	54:6,17
colleagues	3:22 4:1,14	93:1 94:1	111:25	34:24,24	constitution...	copper 15:24	55:2 61:19
106:12	4:23 5:1 6:1	94:14 95:1	118:23,25	35:19	68:20	corner 112:4	61:23 62:3
119:22	7:1 8:1,2	95:5 96:1	121:18	112:13	constraint	correct 31:8	63:19,23
collection	9:1 10:1	97:1 98:1	129:3	conditions	103:14	104:8 130:8	65:11 70:23

Special Committee on Criminal Justice Reform
November 14, 2016

71:23 74:25	Courts 25:8	84:24	41:10,14	35:6 39:10	designed 49:2	90:11	94:3
75:5 76:23	31:11,19	121:14	121:12	39:12,13,22	55:16,21	determining	direct 39:20
86:22 87:10	crack 115:17	cute 108:3	DC 5:14	40:12 43:15	60:15 62:25	70:13	39:21 40:2
91:12 97:3	create 28:6	cuts 84:24	62:20	defendant's	desire 27:18	detrimental	98:4 130:23
101:3,7	77:8 78:18	cycle 30:7	deal 26:10	33:13,14,15	27:19 83:13	74:7,8	direction
103:12,23	80:12 95:6	31:5,13	28:8,11,21	35:10 90:13	desperate	develop 24:21	75:15 84:8
106:10,15	creating 31:4	51:16	28:23 44:22	defendants	77:20	55:8 56:17	Director 1:12
119:5	creative 48:7		48:20,23,25	17:15,21	despite 68:24	58:8 61:16	1:16 7:23
122:16	crime 44:17	D	49:2 60:14	24:12 32:21	125:10	95:15	8:5 54:21
124:3	58:21 64:8	DA 53:20	61:24 89:14	32:25 34:4	destroy 80:21	109:13	Director's
125:13,17	66:5 76:2	DA's 31:15	105:17	104:14	destroying	developed	1:15
125:23	86:3 107:19	91:11	118:16	Defender	78:7	56:25 59:21	dirty 40:4
126:7 127:6	110:22	daily 23:15	119:10	1:10 25:6	detailed	62:6	disagree
127:10,13	112:18,20	107:18	dealing 16:16	31:11,17	98:18	developer	53:13 64:17
127:24	crimes 27:10	damaging	31:3 49:6	32:7 54:11	details 17:13	95:14	76:25 77:2
128:3	27:11 80:3	12:9	62:10	54:12 71:15	35:21	developing	86:11
129:13	98:8 123:20	damn 69:12	deals 85:2	79:3 90:10	detainer	35:16	disciplinary
Councilma...	123:21	danger 23:11	debate 84:13	Defender's	14:10,12,16	development	98:7,20
106:18	criminal 1:3	dangerous	113:8	33:11	14:20 36:14	90:9 110:9	discuss 17:3
counseled	1:17,18,20	73:5	decide 26:6	defenders	36:19,21	devil 35:20	123:4
112:14	1:21 2:4,16	Darth 73:5	50:12 88:20	41:17 65:6	37:9,19,23	diamond 81:3	discussed
counseling	3:10,13	DAs 93:6	89:2,3 90:3	66:11 129:5	38:6,18	81:5	36:23 56:10
105:14,15	4:24 6:2	data 55:17	103:5	defense 53:20	39:8,9	difference	58:16
counties	7:20 31:20	70:14 93:17	122:14	89:21 91:17	40:17,20	39:6 53:11	discussing
60:17 82:18	32:16 33:6	95:17,18	deciding 50:4	91:21	41:24 42:8	64:13 77:17	8:10 39:17
116:15,20	37:6 44:16	107:18,21	decision	degree 74:17	43:8,19,21	differences	discussion
country 5:13	48:23 51:17	date 14:20	43:15 70:21	Delaware	44:19 45:4	42:19	23:2,7
72:8	54:21 56:6	29:18	79:8 87:22	116:19	45:9	different 2:22	32:11 37:12
county 38:21	57:21 64:12	daughter	87:23 89:5	delighted	detainers	2:23,24	88:19
38:22 39:12	73:14 77:20	124:19	99:12,20	53:18	14:6 36:13	18:6 44:3,8	115:18
40:20 44:5	84:21 85:18	day 7:15	100:22	deliver 6:2	37:14,18	44:23 45:8	disingenuous
44:5,21	85:25 86:19	13:21 15:18	125:9	118:6	38:9,21,23	51:20 56:2	83:18
45:3 107:7	92:21 96:15	33:25 34:3	decision-ma...	delivery 5:6	39:5 42:17	60:23 67:24	dismantle
116:11	101:20	34:8 41:20	71:22 92:15	demonstrat...	44:2 97:14	68:12,15	74:23 86:2
117:2,6	110:5 118:6	67:6 68:14	94:10	27:6	detention	75:8,10,11	dismantling
119:14	126:15,19	77:23 79:17	decision-ma...	Department	95:25	75:12 80:18	73:9 76:3
County's	128:15	104:6,11,20	103:6	36:25 97:22	determinati...	80:19 86:24	86:15
40:21	129:2,15,19	104:22	decisions	depending	32:23 40:11	94:7,8	dispense 15:7
coupling 36:2	critical 17:7	105:7,19	57:17 79:20	42:20 68:7	59:9 84:2	96:20 106:6	disposal
courageous	32:11	106:25	99:3	depends	89:24 90:25	107:7,7,8	27:25 28:7
120:3	current 1:22	107:11,20	decrease 9:12	126:5	92:6 94:19	114:20,21	66:12 99:13
course 27:6	3:14 9:9	108:22	63:15	depressed	113:11	116:21,24	100:9
court 1:18	11:10	109:10,16	decreasing	82:20	determinati...	116:24,25	disposed
7:18,19	currently	109:22	12:7	Deputy 1:16	55:9 80:6	116:25	14:21
11:25 13:19	17:4,6,16	110:11	deemed 21:20	1:18 7:18	89:16	118:6	disposition
14:15 22:5	37:16 38:8	111:4,16	23:11	32:8 54:20	determine	122:22	49:25 50:5
23:13,22	55:23 62:13	115:6 116:2	defeating	54:23	21:18 98:23	differently	disproporti...
25:22,24	102:16	117:8,11,14	30:20	describe	106:23	114:3	57:20 60:13
26:10 28:16	CURTIS 1:9	117:18	defend 31:18	15:14	108:19	118:10	70:4 78:18
28:17 29:18	custody 87:22	118:11,20	defendant	deserve	determined	difficult 29:3	96:22
31:20 33:18	88:5,10,12	118:23	13:12 14:17	121:16	29:5 34:6	difficulty	disproporti...
36:6 41:19	89:4 96:6	119:10,15	21:20 33:8	design 57:25	35:3 41:11	99:24	59:11
113:2	cut 51:8	119:21,22	34:25 35:4	70:7 82:16	determiner	diminished	dissect 77:14
		days 18:15					

distinct 77:16	drug 24:3	1:17 27:2	encourage	eventually	explains	60:5,10	figuring
distinction	60:14,16,22	29:20 33:7	25:5,19	13:21 16:12	25:21	fall 123:16	96:18
64:13 92:3	67:7,22	43:24 49:11	30:15,16,18	71:11	explore 5:3	falsely 84:5	fill 82:17
123:6	105:13	52:16,21	end-all 71:21	everybody	78:21	familiar	final 49:24
distinguished	118:14	53:7,12	79:22 94:18	2:14,19	104:19	85:11,21	50:4
125:14	drugs 28:5,6	54:22,23	endorse	24:14 26:14	117:7,18	familiarize	finally 28:16
distracting	29:14 99:6	61:20 63:22	20:19	26:23 41:6	extent 89:6	72:5	finance
123:3	108:24	64:2 65:13	enforcement	72:14	92:7	families 51:12	107:25
district 7:24	112:5,13	69:25 70:9	129:5	evidence	extreme	family 67:11	financially
20:15 25:7	115:13	70:17 71:2	engage 25:8	69:10,10	96:14	67:12,21	30:24
31:10 32:8	125:8	75:3 80:14	118:5	100:25	extremely	78:5 82:22	find 31:21
54:25 55:13	drunk 125:5	82:7 85:10	enhance 5:5	130:4	26:15	113:21	37:25 50:4
56:16 75:24	duck 54:3	85:15,19	90:17	evolution	extremes	114:6,8	96:5 123:4
90:15	due 9:17	86:5,13,18	enlightened	96:16	80:20,20	115:12,14	124:16
104:18	Duly 127:12	87:8 88:2	36:9	ex-judge 32:5	81:3,22	124:25	finding 5:7
106:19	duty 66:15	99:10 104:7	ensure	exactly 70:15	eye 83:21	125:3	findings
111:2 113:7		106:17	111:11	93:2	85:4	far 116:9	108:9
116:14	E	115:19,21	128:14	examining		fashion 49:7	fine 54:17
121:10	earlier 33:21	117:13	ensuring	1:21 3:12	face 106:10	57:9 78:20	97:16,17
124:4,7,11	earliest 32:23	122:17	51:15	59:20 96:17	facilities	faster 13:18	finish 75:6
districts	early 33:4,5,7	124:6,10,13	entering	96:18	121:4	46:5	88:18
65:10	33:18	126:5	110:5	example 24:3	fact 27:7	father 124:20	first 6:17,19
108:14,16	earn 113:20	elaborate	entertain	27:18 28:5	28:23 29:25	favor 127:21	7:24 8:10
115:5	earth 82:4	39:4	23:22	58:13 65:5	37:18 43:10	fear 6:7	9:5 12:21
dive 54:4	easier 125:12	electronic	entirely 57:5	66:2 67:5	44:11 53:12	110:12	20:14 31:24
diversion	easily 20:3	8:12 9:7,14	entitled 41:7	91:3	59:5 64:7,9	112:7,17	32:8,13
103:3	37:15	9:24 10:19	126:23	exceed 11:20	65:24 69:9	feasibility	36:17 41:9
Division 7:20	easy 19:7,10	12:3 15:9	127:16	excellent	70:10 74:21	104:11	41:21 54:13
doctor 82:23	88:21	28:9	entity 40:18	99:25	75:23 76:13	108:8 116:6	55:13 56:16
document	eater 68:6	element	environment	128:13	81:20 96:8	116:6	62:5 71:25
75:14 84:21	echo 49:10	44:16 89:23	80:16	exception	98:2 99:11	117:21	75:6 102:23
122:5,11	economy	elements	epidemic	122:23	99:16	features 16:3	109:23
documented	82:20	116:7	60:15	execute 22:20	104:17	federal 44:2,7	113:2 116:5
43:3	education	eligible 23:10	equipment	execution	111:9	44:18,23	117:22
doing 8:2	98:19	38:6,9	16:5 18:7	21:23	113:15	federally 45:7	Fiscal 104:12
16:7,10	effect 92:18	43:23 98:24	equipped	exist 82:3	121:6	45:13	five 13:4
25:23 26:13	effective 5:10	eliminate	34:3	existence 22:9	factor 11:7	fee 10:16	58:24 65:16
37:3,21	15:13 90:5	57:19	era 100:6	existing 12:23	70:13 95:17	feed 113:21	65:24 66:6
38:13 50:2	90:22 92:15	eliminating	erase 57:5	exists 67:17	factors 55:22	114:6,8	fix 19:7
50:11,14,15	102:24	16:13	especially	119:13	56:7,9,19	feedback	fixable 19:12
57:19 68:25	effectively	EM 9:11,20	5:14 51:10	expand 34:8	57:7 59:4	23:6	FJD 19:15
73:24 77:6	92:14	12:16,21,24	55:11 62:20	102:23	69:23 71:9	feel 14:19	flee 78:3
77:10 79:9	effects 79:11	12:24 13:14	107:23	expanding	71:11 72:14	feeling	flexible 96:17
79:12,13	79:19 96:21	14:18 15:8	123:5,24	12:22	80:5 93:24	121:18	flip 89:11
80:13 81:24	efficient	19:16 38:10	ESQ 1:10,17	expense	97:20	fellow 4:14	focus 48:13
102:10,18	24:21	43:20,23	essentially	33:23	103:10	field 4:2	focusing
118:9	effort 5:18	46:5 47:20	21:13 29:6	experience	facts 92:14	10:19,22	23:20
dollars 6:4	48:13 119:2	embrace	estimates	37:3 62:10	failed 40:3	12:16	folk 75:23
door 54:14	efforts 77:9	32:17	46:17	experiences	failing 93:10	figure 15:6	120:13
120:19	128:16	empirical	ethnicity 56:9	2:23,24	failure 88:16	70:6 71:19	follow 20:3
Dr 56:13	either 75:4	107:21	evaluate	75:12 80:19	fair 83:24	94:24 107:2	68:23,24
drafted 21:22	96:15 122:7	employment	83:25 96:20	explain 25:19	89:24	figured 18:25	69:2,3
drew 18:23	126:3	78:5	102:9 103:7	41:5	fairness 60:3	figures 38:5	followed 26:9
	El-Shabazz						

Special Committee on Criminal Justice Reform
November 14, 2016

followthrou... 44:12	fundamental 60:3,4,9	78:9	33:12,19	33:10 38:24	happens 18:4	55:17	humanize
forced 96:2	95:22	glad 51:23	35:11 36:13	90:8	20:2 21:8	history 72:7	115:7
forces 60:18	funded 10:7	83:6 115:21	36:17,18	gratitude	22:13	hold 30:22	humanizing
foregoing	11:18	glaring 59:16	37:13,14,16	121:23	hard 4:7	41:11 42:8	93:24
130:7,20	funding 8:15	59:18 95:6	37:20,25	great 74:10	41:16	43:8 69:15	hungry
foresight	11:2 12:12	go 5:24 8:23	42:10,12,15	101:11	harmless	124:2	113:18
128:23	further 26:17	13:25 19:24	43:4,9	118:11	114:14	holds 43:18	hyper-crimi...
forget 62:21	35:7 104:3	22:15,16	44:15 45:3	greater 3:2	hate 81:12	holiday 22:19	74:2
125:2	future 12:11	24:25 28:14	48:4 50:19	8:17 11:4	hazard	home 75:23	
forgot 115:23	14:20,21	29:13 31:20	53:3,21	74:18	120:13	76:10	I
form 57:14	17:23 58:19	31:24,25	71:21,24	Grey 4:19	head 101:22	113:17	ICE 43:22
62:11	58:21 89:9	33:23 37:22	74:6,19	22:23	headed	125:10	44:2
formerly 1:11	89:10	38:18 39:25	75:16,21	grocery 76:6	104:18	homes 16:2	ID 16:4
formulating		52:18 54:13	77:12,13	group 4:7	heads 89:11	51:13	ideas 32:15
60:17	G	59:8 61:9	78:21 79:15	72:21	health 23:25	honor 36:5	identified
forth 3:22	Gagnon	65:5 70:25	83:25 84:8	128:25	24:4 29:25	87:6 93:6	65:21
5:18 26:13	40:24,25	71:24 78:15	84:16 85:13	129:2	48:10,16	Hook 119:13	identify
55:7 83:14	gaining	79:14 84:11	89:3 93:22	grow 30:23	60:16	hope 34:13	108:17
83:15,17,18	117:23	87:13 91:7	95:9,15	guard 82:24	105:16	75:13,17	ignore 64:22
83:19 84:12	gather 4:10	91:8 92:20	101:20	99:5	109:2	83:13 84:15	66:19 69:17
87:4,20	79:6 100:18	97:17,24	102:21	guess 36:6	112:12	119:18	82:25 83:2
103:21	gathered	102:11	103:6,15	42:25 50:4	118:13,14	hopefully	ignored 70:12
forward 5:12	71:14	111:20	104:5	69:21	hear 12:21	61:18 76:20	II 40:25
34:13 103:6	GED 39:16	113:22	106:18	guidelines	30:8 76:3,4	100:5,24	illegal 45:5
104:16	general 32:15	114:14	108:19	61:12	heard 55:25	hopes 123:15	91:15 114:9
128:14	32:15 75:15	119:9	109:15,16	guilty 28:25	124:3	hoping 13:20	illegally
found 28:25	92:11	121:12,13	110:14,15	49:19 96:7	hearing 3:20	horoscope	69:11 91:14
122:25	generally	122:9	111:13,22	96:11,11	32:6 40:24	63:21 66:23	imagination
four 23:9,14	15:5 18:9	126:11	115:5 120:7	gumbo 68:5,6	42:16	host 69:6	82:5,8
58:24 67:14	geographic...	goal 12:4,9	120:13	68:8,11,13	hearings 1:21	123:16	immediate
fourth 104:9	9:22	15:3,8	122:14	gun 91:13,18	3:12,25	hot 40:4	113:22
frame 77:4,4	germane 52:3	46:21 55:10	123:8	91:20	55:25 79:14	hours 18:9	immigration
77:5	getting 13:13	73:17 83:22	125:24,24	guy 65:19	89:20	42:19	43:19 44:3
framed 34:18	17:12 30:5	83:23 85:12	good 1:23 2:2	guys 121:12	heart 48:3	house 13:7,17	44:18 45:13
freedom 96:4	41:20,22	goals 86:6	3:2,17 7:9	126:3	heavily 59:12	17:22 21:8	impact 1:22
friend 53:9	42:2 115:24	goes 18:4,7	7:21 41:11	H	held 14:4	22:21 23:4	3:13 5:21
friends 53:11	give 17:10	24:7 39:22	54:2 68:11	15:5 80:4	114:24	36:11 43:5	25:10 45:23
54:2	42:12 46:7	45:19 91:17	69:12 87:15	114:24	help 27:19,20	43:11	46:2,3
front 37:7	46:19 58:13	91:20	100:19	help 27:19,20	27:22 29:17	110:20	51:11 57:22
41:12 46:10	59:7 64:20	115:14	101:12	49:23 51:7	51:21 90:21	115:16	63:9 74:8
50:9	67:4,4	going 3:5	102:4	hand 124:2	92:17	household	implement
fruit 15:12,13	68:18 69:20	5:16 6:11	109:13,14	handled	helping 4:23	43:16 87:12	117:21
full 35:11,23	90:11 95:23	8:9 9:13	110:9 119:6	92:12	heroin/opioid	hover 12:25	implementa...
full-scale	99:18	14:16 15:25	119:17	hands 118:15	60:15	huge 32:13	110:10
102:19	100:18	16:12 17:9	120:21	hands-on	hesitated	77:16	implemented
fully 32:17	107:21	17:10,18,21	121:2,15	17:11	113:23	human 63:17	106:22
111:22	115:4	17:24 19:21	129:8	hangs 112:3	Hey 25:21	72:11,13	implementi...
130:5	given 15:17	25:17,23,24	GPS 12:23	happen 21:19	high 15:21	88:23 89:6	117:8
function 16:5	17:20	28:3,20	13:17 17:23	37:8 42:16	highlights	89:8 101:25	implements
functioning	gives 103:25	29:7,8,15	17:24 21:8	96:4,9	8:24	122:21	128:15
18:17	112:6	30:7,21	21:10 47:22	happened	historical	124:18,24	implication
fund 5:16	giving 26:16	31:24,25	grant 10:8,10	62:18 69:13		humanizati...	104:20
			11:21 24:17	69:14		94:3	important
							17:3 26:12

Special Committee on Criminal Justice Reform
November 14, 2016

26:15 43:24	included	111:25	initiatives	interfere 35:8	123:4	63:23 65:11	jumps 68:2
51:23 55:24	11:23 58:10	112:11	5:17	Interim 4:11	item 104:4	70:23 71:23	juncture 4:16
56:12,22	80:6	115:8,9,11	Inmate 98:6	6:21 126:13	items 10:7	74:25 75:5	jurisdiction
57:2 60:12	includes 5:7	117:5	inmate's	126:18,22		76:23 86:22	44:6,7,8,23
70:2 71:7	9:20 10:11	118:13	98:19,20	127:15	J	87:10 97:3	45:8 56:19
87:2 89:23	86:8,8	119:16	inmates	Internet-ba...	jail 9:15 12:8	101:3,7	66:4
90:8 104:21	including	123:19	36:10	16:22 17:9	23:14 27:23	103:12,23	jurisdictions
105:7 106:3	11:23,24	individuals'	inner 59:13	interrupt	48:15 67:25	106:10,15	55:19 62:19
107:22	47:16 79:4	74:9	60:20	39:3	80:23,25	119:5	65:9 94:22
109:9	inclusive 30:9	industrial	innocence	intrude 35:22	97:18,24	122:16	106:21
111:15	income 73:21	82:15 84:25	35:9,12,24	investigate	125:9	124:3	107:2,10
128:24	incorrect	ineligible	49:17 64:6	21:16	jailed 25:12	125:13,17	justice 1:4,14
importantly	82:2	9:16	88:9	101:19	January	125:23	1:17,21,22
107:3	increase 8:15	inevitability	innocent	Investigatio...	44:11	126:7 127:6	2:4,17 3:11
imposed	11:2,14	13:9	51:11	54:24	jargon 6:11	127:10,13	3:13 4:25
35:18 39:11	73:18 79:6	information	input 103:24	investment	41:4	127:24	6:2 15:7
39:13	increasing	4:2 8:8	125:19	49:9 102:22	job 74:20	128:3	24:2 29:9
improve 35:3	10:4	17:20 32:20	126:9	investments	94:9 96:25	129:13	32:16 48:23
85:25	incredibly	33:20 49:25	inside 51:10	74:15	105:14	Jones' 91:12	51:18 54:21
improving	51:23 74:6	54:15 58:15	98:9	involved	109:3 119:6	JR 1:9	56:6 57:21
86:19 92:21	74:8	68:4 71:13	insight	40:20,22	128:5	judge 1:16	60:4 65:11
in-person	incurring	71:14 79:7	100:18	51:17	jobs 51:15	2:8 23:4	73:14 76:12
12:2	23:15	90:3,4,5,12	install 23:9	involving	John 125:4	31:24 32:3	77:20 84:21
inaccurate	indicate	90:25 92:2	instantly 22:2	92:13	join 126:4	32:4 33:17	85:18 86:2
95:20	67:16 72:19	93:13 94:10	instrument	iPhone 19:20	joined 2:11	37:7,25	86:19 92:21
incarcerate	115:7	95:3 99:14	92:19	20:9	joining 48:12	40:23 41:12	96:16 110:5
40:12 73:6	indicated	99:15,17,18	instruments	irrelevant	joke 63:24	41:13,13	110:17
96:24	44:14 45:6	99:21,25	92:17	69:4 88:25	Jones 1:9 2:2	42:6,6,8,11	118:7
incarcerated	85:8	100:2,9,14	intact 67:12	irrespective	3:18 4:18	48:3 50:9	126:15,19
1:11 14:4	indicates	100:15,17	integrity	120:4	4:21 6:5,22	53:6,16,17	128:16
27:10 30:4	72:20	100:19	83:24 85:3	issue 24:9	7:10,11,16	53:25 87:13	129:2,15,20
38:8 40:15	indicating	101:10	intellectual	30:2 31:4	9:2 14:24	87:15 89:22	justly 84:4
41:19 98:8	68:16 86:12	102:7	84:12	34:18 36:24	16:15,20	89:25 98:22	85:3
99:4 105:2	86:19	infractions	intelligence	41:23 43:14	18:2,23	99:19	juvenile
129:4	individual	98:20,21	117:23	48:24 52:3	19:23 20:8	100:16	47:19,22
incarceration	27:21 65:15	infrastruct...	118:8	60:17 67:17	20:17,22	105:9	110:17
5:8 8:14 9:9	65:16,21	5:25 80:11	intelligent	81:16,17	21:3,6,11	112:25	Juxtapose
12:6,10	67:20 69:16	95:4	82:3 100:22	91:4 92:20	21:24 22:8	113:2,11	67:19
32:22 38:3	79:7 80:24	ingredient	intelligently	104:6	22:11,22	115:2	
41:8 51:9	85:2 88:23	68:9	111:5	113:10,11	26:25 31:23	judge's 22:18	K
51:16 77:24	98:24	ingredients	intends 56:16	128:24	36:4 39:2	judges 98:16	Karim 54:23
96:21	100:19,20	68:15,17	interact	129:7	41:3 42:18	113:4 129:6	keep 78:5,5
104:15	106:4,5	116:8,9	110:8	issued 98:12	42:23 45:15	judgment	80:25 93:10
incentive	112:3,6	inherent	interest 1:23	108:10	45:18 46:7	35:20	95:21
14:15 27:15	individuals	57:20 58:22	2:16 3:16	127:3,19	46:19,23	judicial 7:24	keeping 85:4
27:21	8:18 11:5,9	60:5 93:16	26:23	128:9	47:4,9,23	20:15 26:5	88:17 119:6
include 12:13	11:13,16	102:3	interesting	issues 24:2,4	50:20,24	55:13 56:16	keeps 81:13
24:18 58:17	44:15 48:9	initial 33:16	80:15	28:6 29:25	51:25 52:5	Julie 1:15	Keir 1:10 2:6
102:6	60:18 71:16	41:9 97:13	109:18	33:14 48:10	52:10,17,23	2:10 52:15	34:18 52:15
106:20	76:12 80:17	100:12	128:25	48:16,25	53:3,10,15	53:21,23	54:10 64:17
108:12	85:8 106:13	initiative 8:8	129:2	67:23 92:10	53:23 54:6	54:13,19	84:11,11
109:12	108:15	20:13 46:11	interfacing	92:13 95:25	54:17 55:2	70:25 119:5	100:16
110:7 122:3	110:2	46:17	36:14	118:14	61:19,23	July 47:2	Kensington
					62:3 63:19		1:12 47:13

Kenyatta's 121:10	landlines 13:5 23:6	35:4,5 89:8	109:7	67:14	52:18 53:13	met 36:11	113:20
kept 18:24	large 77:11	limitations 16:24	128:13	maintaining 12:6	57:24 60:14	76:5 113:4	monitoring 8:12 9:7,14
key 76:16	largest 57:22	limited 11:24	looking 46:12	maintenance 10:16,22	67:25 91:23	methodical 76:20	9:24 10:19
kid 87:7	lastly 111:23	89:6	48:14 51:19	13:12	91:25 93:19	mic 121:25	12:3 17:13
kind 24:23	late 97:19	line 16:4 19:3	65:2 67:2	Mairena 1:12	115:10	Michael 6:18	17:14 18:12
39:23 44:24	112:25	19:6,7	77:4,15	2:7 47:7,12	116:17	8:6,23	21:15 23:21
54:14 68:5	law 34:21	40:25 86:7	78:17 79:23	47:13	124:17	13:23 18:20	28:9 43:13
78:6 92:2	35:7,15	123:9	90:20	major 42:9	meaning 94:11	24:6	monitors 15:9
100:16	68:24 69:2	lines 15:25	104:16	56:7	meaningful 48:19	MICHELE 130:14	15:9
114:25	69:3 129:5	16:2	lose 51:13,14	majority 102:15	meanings 94:7,8	mics 7:4	monolithic 2:21 87:2
124:18	lawyer 53:20	lining 106:16	51:14 78:11	making 26:20	means 5:10	Mike 7:22	months 42:19
kinds 14:6	69:12 89:22	list 113:13	lot 5:16 10:6	57:17 60:9	15:4 130:22	millimeter 91:6	119:25
22:2 39:17	lead 26:17	listed 45:10	12:21 17:14	68:5 70:21	meant 49:2	mind 61:17	morning 7:9
39:20	leadership 26:5	45:12	28:11 33:13	89:5,7,15	measure 62:23 72:17	mindful 59:25 61:13	22:19
101:12	League 76:13	listened 75:20	33:19 37:17	92:6 93:21	74:19	mindfully 78:8	mother 81:15
knock 13:20	112:10	listening 39:4	49:15 58:3	99:2,12,20	measures 4:25	73:3 95:13	81:20
know 5:14,23	learn 33:13	44:8 62:7	58:4 59:4	Malcolm 30:6	mechanic 82:24	mine 53:9	115:14
6:8 8:4,5	learned 65:19	72:13	63:13 89:19	manage 15:23	mechanism 78:7	86:9 91:18	124:20
11:6 14:17	leave 52:24	Listings 37:6	89:20 92:22	management 22:17	meeting 126:12	Ministries 1:12 47:14	motion 91:9
16:11,24	leaving 100:6	little 27:2	95:25 96:4	Managing 1:15,16	meetings 97:7	minor 42:7	126:17
25:20 42:15	length 9:13	39:4 68:12	98:7,10	54:21	member 7:25	minors 47:8	128:8
49:15 53:9	Lerner 1:16	95:20 112:6	99:14	manipulate 84:15	47:16	minute 6:23	mouthed 69:8
53:21 56:24	2:9 31:24	125:12	116:21	80:24 130:7	115:12	75:6	move 16:21
61:21 63:12	32:4 48:3	live 59:17	low 15:21	matters 37:10	125:3	missed 67:6	17:23 26:19
63:16 65:6	50:9 53:6	60:24 75:10	18:16	McSORLEY 1:18 2:12	members 1:20 3:9 4:6	missing 48:4	61:22 80:9
65:15 66:24	53:16,17,25	75:24 78:4	low-hanging 15:12	6:18 7:9,13	4:14 10:18	mission 74:23	96:19 126:2
69:24 74:25	53:16,17,25	78:4 123:13	low-income 57:23	7:17,18,25	122:8	47:16	126:22
76:17,18	87:13,15	124:10	low-level 55:12	9:5 12:18	128:12	minor 42:7	moved 110:16
87:11 90:16	105:9 115:2	lively 113:8	104:25	16:6 18:19	129:11	minors 47:8	127:14
91:18 95:9	lesson 65:19	lives 51:22	109:6	19:2,25	mental 24:4	minutes 6:23	movement 5:5 23:17
95:18,19	let's 65:25	74:9 109:19	123:20	20:12 22:4	29:24 48:10	75:6	126:22
102:20	73:2 87:9	living 84:20	Luke 73:6	22:10,14	48:16	mission 74:23	moving 124:4
106:17	91:15	84:22 103:8	lumps 101:22	24:5 25:16	105:16	75:2,4 85:7	124:7
112:3,11	letting 30:3	loaded 91:6	M	28:10 31:7	109:2	85:21 86:4	multiple 93:7
116:22	level 24:19	local 39:6	MacArthur 10:8 11:18	36:20 38:7	112:12	87:19,25	Municipal 33:18 113:2
118:3	25:9 44:5,6	location 9:22	11:21 20:13	38:12,20	118:14	missions 87:18	murdered 76:9 81:15
120:20	57:6 59:3	locked 88:17	20:21 24:17	39:7 41:6	109:2	35:24,25	81:16
121:7,8	61:7	lodge 45:4	32:14 33:10	42:22 43:7	112:12	64:24	MURPHY 130:14
124:7	license 91:7	long 7:15 8:4	38:23 46:10	45:25 47:17	118:14	model 5:14	myriad 119:15
knowledge 58:7 61:7	91:16	24:25 35:8	57:13 90:7	52:8 128:5	mentality 117:3	94:23	named 86:5
knows 13:4	licensing 10:2	72:6 92:20	magic 101:24	52:8 128:5	mention 50:23 51:6	moment 34:20	names 6:15
41:19 102:2	lie 74:14	101:22	magistrate 89:25 99:18	52:8 128:5	mentioned 101:14	Monday 1:7	
L	life 2:22 33:5	101:22	100:2	52:8 128:5	mentions 103:2 121:2	127:2,18	name 7:5,17
L 130:14	33:8,14	longer 13:14	magistrates 57:8	52:8 128:5	106:11	monetary 55:11	7:22 47:10
Lancaster 119:18	89:21 113:5	16:10 82:19	maintain 10:15 17:24	52:8 128:5		money 42:3	50:21,25
landline 9:25	lift 14:16	83:11 96:8	maintained	52:8 128:5		48:17	54:7
10:15 13:2	lifted 42:8	60:19 62:11		52:8 128:5		113:18,20	named 86:5
13:15 17:22	lifting 14:19	66:9,19,25		52:8 128:5			names 6:15
19:3,4 20:5	light 122:18	68:16 76:17		52:8 128:5			
20:25 23:3	lightning 18:3	99:2 102:17		52:8 128:5			
	likelihood	107:23		52:8 128:5			

narcotics 29:11 40:6 112:5	negotiations 19:14	55:12 104:24	occurs 39:19	19:4	organized 4:24	27:20 42:2 43:13 57:10	14:5 15:4 15:11 23:4
nation 5:5 72:18	neighbor 109:14 110:10	109:5 123:21	Off-the-rec... 115:18	older 18:20	original 97:10	64:16,18 74:22,23	23:17 24:3 25:5 27:9,9
national 57:2	121:3,20,21	norms 120:14	off-the-shelf 55:18	63:3 88:18 97:13	Orleans 68:7	86:16 87:6 90:15	30:18,22 34:4 36:16
nay 103:20 127:25	neighborho... 72:23 91:12	Norris 1:12	offenders 55:12 104:25	ones 122:13	other's 84:17	101:15 105:19	37:14 38:5 38:7,15
necessarily 34:17	109:13,17 109:20,21	note 55:24 56:12,23 57:2 71:8	offense 88:5,7 88:9,12	open 37:9 opened 106:14	ought 90:20 92:4,8,9	119:19 121:16,18	40:14,19,21 46:4 48:20
necessary 8:17 11:4	111:14 120:17	notes 4:9 130:6	offenses 15:6 29:21	opening 104:11 106:6	outcome 25:2 25:11 59:11	participants 125:15	49:5,15,22 50:7,9 51:9
necessity 112:23	neighborho... 58:6 75:11	noticed 18:22 19:14	101:21 109:6	opens 54:14 operate 120:14	outdated 9:10 Outreach 1:14	participate 64:11	51:13,21 58:5,5
need 9:11 11:14 17:20 19:6,20 29:6 36:8 49:11,19,23 50:13 59:25 66:19 72:15 73:21,24 76:10 90:17 92:12 94:14 94:25,25 95:3,13 102:10,17 103:6,11 107:9,14,17 110:3 113:22 115:25 117:4,7	95:13 110:22 121:6 123:14	notwithstan... 88:8 November 1:7 3:24 127:2,18 128:10	offer 1:22 3:14 4:14 72:12,14 73:11 74:16 104:13 119:22	oper 108:13 opinion 45:23 61:25 94:16 100:23 121:17	over 91:10 93:14 over-account 94:5 over-policed 74:4 over-super... 28:22 overall 46:21 overarching 15:8 88:19 overempha... 92:18 overweighted 70:20	particular 65:5,8,9,14 65:17 66:3 66:3,14,14 66:15 72:21 73:19 105:25 108:17 109:19 110:9,22 111:8 112:4 113:12,20 116:20	59:11,23 60:20,23 61:5 62:6 63:4,4 65:7 66:13 67:10 68:9,13 72:22 73:15 77:10,19,24 80:2,4,20 81:13 83:5 83:7,9 85:5 88:2,3,6,10 94:3 96:3,4 96:10 98:9 99:15 101:18 103:9 107:13,24 108:23 109:4,15 110:15 111:7 114:21,22 115:4,7,8 118:9 120:6 121:16 122:20 123:7,8,11 123:13,14 124:16,17 124:22 129:4,4
needed 10:9 10:18 30:11 30:12	new 6:8 9:18 9:21 16:21 19:16 30:16	number 10:5 11:8,12 12:7 15:4 15:18 18:9 36:10 55:19 56:2 97:19 101:21	offering 112:14 27:20 74:4 office 1:14,15 18:18 25:21 31:15 54:25 90:16 91:11 116:14	opportunities 23:23 56:3 74:14 opportunity 4:15 5:3 32:14 48:5 49:12,23 52:9 74:12 78:10,21 79:23,25 116:13,21	over 25:2 outcomes participants participate particular outside 91:10 93:14 over-account 94:5 over-policed 74:4 over-super... 28:22 overall 46:21 overarching 15:8 88:19 overempha... 92:18 overweighted 70:20	partners 25:6 29:9 partnership 85:27 parts 87:19 pass 24:12 path 25:12 patterns 63:18 pause 74:18 paused 80:10 pay 97:17 paying 97:16 peace 120:23 penalize 49:21 penetrating 26:18 Penn 56:14 Pennsylvania 1:6 35:14 51:4 55:15 116:16 people 9:13 12:8 13:6 13:25 14:3	96:10 98:9 99:15 101:18 103:9 107:13,24 108:23 109:4,15 110:15 111:7 114:21,22 115:4,7,8 118:9 120:6 121:16 122:20 123:7,8,11 123:13,14 124:16,17 124:22 129:4,4
needle 80:9 83:21,23	39:22,25 44:10 68:7	numbers 11:15 15:23 46:10 60:21 107:22	officer 12:14 36:16 37:5 65:15,17,20 66:3,15,16 66:18 69:8 98:11	opposed 39:8 127:25 opposite 32:9 opposition 119:25 option 23:5 options 23:24 24:11 ordeal 78:13 order 4:10 11:15 72:10 110:12 ordered 13:18 ordinarily 114:23 organizations 48:8	P P 119:24 p.m 1:7 129:20 PA 1:13 package 101:15 panel 2:5 58:4 101:14 panelists 47:6 125:15 paper 122:4 parity 57:6 park 46:20 parole 36:16 36:25 41:18 97:21 98:16 98:17 99:9 paroled 98:24 part 6:11 11:17 12:16 14:8 20:13 24:15,16,23	partners 25:6 29:9 partnership 85:27 parts 87:19 pass 24:12 path 25:12 patterns 63:18 pause 74:18 paused 80:10 pay 97:17 paying 97:16 peace 120:23 penalize 49:21 penetrating 26:18 Penn 56:14 Pennsylvania 1:6 35:14 51:4 55:15 116:16 people 9:13 12:8 13:6 13:25 14:3	96:10 98:9 99:15 101:18 103:9 107:13,24 108:23 109:4,15 110:15 111:7 114:21,22 115:4,7,8 118:9 120:6 121:16 122:20 123:7,8,11 123:13,14 124:16,17 124:22 129:4,4
needlessly 48:18	116:18 119:12	objection 113:12	official 103:17	opposite 32:9 opposition 119:25 option 23:5 options 23:24 24:11 ordeal 78:13 order 4:10 11:15 72:10 110:12 ordered 13:18 ordinarily 114:23 organizations 48:8	overall 46:21 overarching 15:8 88:19 overempha... 92:18 overweighted 70:20	partners 25:6 29:9 partnership 85:27 parts 87:19 pass 24:12 path 25:12 patterns 63:18 pause 74:18 paused 80:10 pay 97:17 paying 97:16 peace 120:23 penalize 49:21 penetrating 26:18 Penn 56:14 Pennsylvania 1:6 35:14 51:4 55:15 116:16 people 9:13 12:8 13:6 13:25 14:3	118:9 120:6 121:16 122:20 123:7,8,11 123:13,14 124:16,17 124:22 129:4,4
needs 9:10 21:18 24:9 24:13,14,18 29:12 32:21 33:15,21 84:23,24 101:15 107:12 116:10,24 117:5,25 118:12	nice 5:25 night 97:19 non-disrupt... 120:17 non-econo... 15:7 non-safety 120:13 non-serious 109:6 non-violent 15:6 27:12	objections 130:4 objective 73:17 obligations 78:6 obtained 90:13 obvious 29:12 obviously 72:9 occurred 4:4 65:4 66:10 occurring 18:13 44:4 66:2	offset 79:8 oftentimes 45:9 123:3 124:15,25 Oh 7:13 21:11 61:23 124:12 okay 6:23 30:20 39:7 42:7 45:18 53:24 85:22 124:12 old 15:15,24	opposed 39:8 127:25 opposite 32:9 opposition 119:25 option 23:5 options 23:24 24:11 ordeal 78:13 order 4:10 11:15 72:10 110:12 ordered 13:18 ordinarily 114:23 organizations 48:8	overall 46:21 overarching 15:8 88:19 overempha... 92:18 overweighted 70:20	partners 25:6 29:9 partnership 85:27 parts 87:19 pass 24:12 path 25:12 patterns 63:18 pause 74:18 paused 80:10 pay 97:17 paying 97:16 peace 120:23 penalize 49:21 penetrating 26:18 Penn 56:14 Pennsylvania 1:6 35:14 51:4 55:15 116:16 people 9:13 12:8 13:6 13:25 14:3	118:9 120:6 121:16 122:20 123:7,8,11 123:13,14 124:16,17 124:22 129:4,4
neglect 64:22 72:16	15:6 27:12	occuring 18:13 44:4 66:2	old 15:15,24	organized 48:8	24:15,16,23	13:25 14:3	46:24

Special Committee on Criminal Justice Reform
November 14, 2016

percentage 14:5	113:3 116:12,23	96:7 Pleas 7:20	84:17 96:15 120:3 125:2	63:17 88:22 predicted	104:13,14 Pretrial's	proceedings 130:4	11:4 51:19 59:10 60:3
perfect 75:14	117:6	22:16	125:11	11:12 63:5	24:16	process 2:17	90:18 93:12
period 41:14	123:11	please 3:6	positions 32:9	predicting	pretrial-elig...	14:2 21:14	94:9 95:4
63:2,3	127:4,20	6:14,23 7:2	positive 40:6	59:2 72:13	43:9	33:4,21	provided 8:9
94:24 100:4	Philadelphi...	52:11 54:9	46:3	predictions	prevent 110:4	41:15 45:22	88:13 92:5
perpetuate	123:10	55:5 121:25	possibilities	89:7	prevents	76:21 78:16	92:14
56:6	phone 15:24	plus 20:23	101:12	predictor	34:22 35:15	78:16 79:5	providers
person 1:11	19:5,7,9,10	point 25:13	possibility	72:11	previously	84:7,8	34:11
28:2,24	21:17	31:10 32:11	117:8	prepare 4:24	9:16 103:8	90:21 94:4	providing
29:12,17	phones 19:4	34:14	possible	13:8	print 22:17	128:18	90:23
37:20 40:10	phrase 6:8	101:23	32:23 33:4	present 1:9	prior 116:13	processed	prudent
41:24 42:5	30:17	113:21	33:5,7	33:15,17	prison 1:13	43:5	102:22
42:21 43:9	phrenology	115:24	89:18 102:7	35:6 50:10	11:14 25:4	processes	116:3
66:4 67:5,7	101:17	Point-Coun...	122:3	88:15 122:4	30:23 46:5	80:18	public 1:21
67:9,11,16	picking 19:15	53:5	post 14:13,18	presentation	46:18 51:4	produced	1:23,23
68:11 69:5	picks 57:11	points 71:7	43:17	8:7 30:10	73:9 74:24	81:6	3:11,16,17
69:7,14	picture 90:19	police 58:22	post-entry	presented 4:6	75:20 82:15	production	5:10 12:6
71:17 72:20	piece 71:12	66:15 96:2	108:7	presently	82:22,24	106:4	23:25 49:3
82:3 90:2	71:18 93:4	policed 59:12	post-reentry	88:15	83:6,8,10	professional	60:16 73:18
90:24 92:5	112:9 129:8	policies 1:22	74:13	presentment	84:25 86:3	2:23	77:22 78:2
93:6 100:21	pilot 5:19,21	3:14 60:6	post-trial	8:3	86:16 97:12	professionals	88:16 96:23
101:19	79:10	77:21	8:21	President	98:9,21	118:15	96:24
105:18	pilots 102:19	policing 58:6	posted 43:16	68:25	118:18	129:3	110:13
112:11	103:3	58:12 72:17	power 18:4,7	128:22,22	prisons 82:17	Professor	118:13
114:24	pipeline 73:9	95:12	18:11 90:3	President-el...	88:3	72:6 73:3	123:5
person's	73:12 74:24	policy 73:4	powerful	44:14 45:7	private 113:9	program	126:12
13:16 59:3	86:2,16	109:14,14	90:22	pressure 81:4	privy 46:14	28:18 43:20	130:15
67:18 89:9	92:23	110:10	practically	presumption	probably	79:10 111:3	pull 17:18
114:14	Pittsburgh	political	15:11 21:5	35:9,23	82:6 97:25	programs	97:15 100:8
personal 37:3	119:13	119:23	23:12	49:17 64:6	113:3,5	5:21 32:25	purpose 3:20
personally	place 17:8	politics 120:4	practice	88:8	probation	33:3 34:5	15:2 30:20
6:6	18:6 26:2,4	ponder 129:6	77:14	pretrial 4:3	36:25 37:5	103:2	purposes
perspective	29:17 94:11	population	practices	5:4,6,8 7:23	39:9,10,14	105:13	88:24
93:18 104:2	105:5	14:9 23:21	5:13 6:2	8:6,13,16	39:18,24	106:23	pursuing
118:3,4	109:24	26:21 30:23	60:6,20	8:20 9:8	41:17 42:7	119:16	102:16
perspectives	111:11	36:22 37:12	77:21 94:21	10:20 11:3	42:14 47:21	progress 87:5	pushback
56:2 75:9	placed 9:14	37:15 38:15	95:23 96:17	11:11 12:5	97:21 99:8	project 47:3	109:15
76:14 86:24	placement	38:25 46:18	128:15	12:13 14:14	problem	111:15	110:23,23
petty 29:21	109:3	48:13	practicing	22:5 23:17	18:10 19:5	promises	123:24
ph 114:11	places 121:4	populations	58:23 99:4	24:7,10,19	19:9 52:22	44:12	pushed 81:4
Philadelphia	plan 108:12	119:2	practitioners	24:23 27:11	64:2 66:20	properly	put 3:22 4:22
1:2,6,21	planet 82:4	populus	58:4	28:13,24	69:8 81:14	11:15 48:21	5:11,18
3:12 5:15	planning 4:7	116:11	pre-arrest	32:22 34:25	81:18,18	127:14	14:18 17:7
11:10 40:21	plans 55:14	117:2	103:3	35:19 36:18	problematic	prosecute	25:4 27:7
41:15 43:2	platform	portion 79:16	pre-entry	36:22 38:16	67:22 69:16	31:16	28:17 42:3
54:12,25	81:11 86:8	96:10	6:10 25:15	43:15 50:12	69:17,18	prosecutors	49:20 53:4
55:17 58:11	platforms	portions	74:11 77:6	55:16 77:24	123:18	129:6	55:7 64:9
72:18 79:4	83:14,19,20	87:24	108:6	79:4 87:23	problems	protected	67:25 68:9
79:15 85:23	play 43:14	position	126:24	88:6,10,13	27:16 48:10	111:24	68:10,11
86:4 107:6	60:13	15:20 33:12	127:17	89:4 95:23	67:9 97:11	proud 5:22	74:22 77:23
107:6	plead 96:11	53:19 73:4	predict 62:14	95:25 96:6	Procedure	provide 6:14	79:25 80:23
108:11	pleading 96:3	83:15,16	62:17,21	99:22	35:14	8:17 9:19	82:21 95:17

Special Committee on Criminal Justice Reform
November 14, 2016

97:20	ravaged	103:7	53:8 54:8	regulations	98:11,25	15:1 16:1	121:1 122:1
103:21	73:25	recall 68:7	60:21 92:7	26:17 39:15	105:18	17:1 18:1	123:1 124:1
111:3	Re-Entry	receive 26:22	103:20	rehab 28:15	108:9,11	19:1 20:1	125:1 126:1
114:20	126:24	122:24	128:4,21	110:20	109:12	21:1 22:1	127:1 128:1
118:12	127:16	received	Red 119:12	rehabilitation	110:7 122:9	23:1 24:1	129:1
120:11	read 3:6	122:24	redeemed	35:18 108:5	126:13,18	25:1 26:1	researcher
125:5	52:11 85:6	receiving	72:3	108:24	126:23	27:1 28:1	56:14 61:3
128:21,24	85:14 87:21	11:9 100:25	reduce 12:5,9	rehabilitative	127:15	29:1 30:1	61:6 63:14
puts 110:20	109:10	110:2	46:18 56:5	32:24 33:20	128:8	31:1 32:1	70:6
120:15	116:8	recess 129:17	57:4 86:3	34:5	reported	33:1 34:1	researcher's
putting 48:15	readjusting	recheck	88:14	reinventing	98:10	35:1 36:1	61:6
59:9 61:14	121:17	102:8	reducing 15:4	81:9	reporter	37:1 38:1	researchers
83:14,14,17	ready 54:2	recidivism	23:20 55:10	relate 123:5	130:24	39:1 40:1	55:14 57:3
83:18,19	115:24	12:11 26:18	reduction	relates 45:13	reporting	41:1 42:1	58:9
92:22	121:3,11	86:3 107:19	89:20	release 8:20	12:3 33:25	43:1 44:1	resolution
123:22	real 49:16	108:4	redundant	8:21 13:19	34:3,8 40:7	45:1 46:1	1:20,20 3:7
puzzle 71:18	68:11 95:2	recognizance	9:21 17:5,6	14:14 27:22	104:6,12,20	47:1 48:1	3:8,9 87:20
	realest 113:4	11:25	reentry 6:9	34:25 35:19	104:22	49:1 50:1	resolve 14:11
	reality 49:16	recognize	122:6	38:10 73:5	105:7,19,20	51:1 52:1	resolved
Q	83:12	62:4 102:5	referee 53:16	92:9 99:22	106:25	53:1 54:1	36:21 37:18
qualified 46:4	realize 13:24	103:16	referrals	released 8:18	107:11,20	55:1 56:1	resources
quest 57:15	121:9	recognizes	23:23	9:17 11:6	108:22	57:1 58:1	10:9 11:19
question	realized	22:23	referred	11:13,25	109:10,17	59:1 60:1	11:20 24:7
29:10 43:2	118:22	103:13	15:11	13:14 29:4	109:22	61:1 62:1	26:20 28:19
44:2 56:4	really 5:2,17	126:16	referring	37:24 78:10	110:11	63:1 64:1	29:19 30:10
61:11 62:2	5:17,22	recommend	18:24 38:15	80:3	111:4,16	65:1 66:1	30:11 31:13
62:17 65:18	24:20 26:12	74:20	reflect 5:12	relevant	115:6 117:9	67:1 68:1	48:11 51:19
67:3 88:18	29:5 31:5	recommend...	116:7	90:12	117:11,15	69:1 70:1	89:15 90:17
100:3	32:10,11,17	9:6 10:25	124:24	reliable 89:16	117:18	71:1 72:1	106:2 118:7
113:15,25	35:21 50:12	32:17 61:21	reflective	reliance	118:11,21	73:1 74:1	120:2
questions	56:24 57:11	61:22 104:9	124:23	55:10	118:24	75:1 76:1	respect 45:10
36:9 47:5	57:19 62:24	109:11	reform 1:4,21	rely 94:16	119:11,15	77:1 78:1	84:16 85:4
47:24 52:2	73:22 75:20	116:4,5	1:23 2:5,17	remain 96:13	119:21,23	79:1 80:1	108:24,25
65:18 104:4	89:14 92:25	recommend...	3:11,15 4:4	remains 11:7	reports 4:9	81:1 82:1	108:25
125:14	102:2,9	3:21,25 4:5	4:25 15:3,3	remember	98:15	83:1 84:1	109:2
quick 14:23	103:25	5:11 6:20	32:16 76:16	26:15 93:23	representat...	85:1 86:1	124:15
quickly 92:25	108:2	8:11,24	77:8 85:18	123:19	1:11	87:1 88:1	respond 22:2
quicksand	115:25	20:24 28:2	126:15,19	remind	reprocessed	89:1 90:1	62:8
97:14	118:19	32:12 45:20	128:16	122:20	97:23	91:1 92:1	responds
quiver 15:10	119:17	51:7 52:14	129:16,20	124:16	reproduction	93:1 94:1	72:21
quorum 2:12	reason 31:2	55:7 102:14	reforming	reminders	130:21	95:1 96:1	response
103:17	65:22 69:13	103:21	73:14	12:2	require 11:19	97:1 98:1	22:12 43:25
quoted 73:3	73:13 74:22	128:20	reforms	remiss 14:25	required	99:1 100:1	52:4 125:16
	86:17 93:8	recommend...	102:16	79:2	10:13 12:12	101:1 102:1	125:22
R	93:10	1:22 3:14	regard 28:9	remote 12:2	requirements	103:1 104:1	128:2
race 56:8	reasonable	104:9	35:17 44:3	repeating	35:17	105:1 106:1	129:12
72:24 73:20	35:16 59:19	recommend...	44:22 45:4	30:8	requiring	107:1 108:1	rest 42:14
95:8,9	reasons 69:6	20:18	87:18 88:2	replace 19:11	34:23	109:1 110:1	result 27:24
racked 59:22	86:20	reconvening	88:15 109:8	replaced 9:10	RES 3:1 4:1	111:1 112:1	29:22,23,24
range 11:22	114:20	2:3	regarding	report 4:11	5:1 6:1 7:1	113:1 114:1	59:24 109:4
24:11 38:14	119:24	record 7:5	45:11	5:12 6:21	8:1 9:1 10:1	115:1 116:1	114:22
ranges 15:22	123:17	31:20 47:10	regardless	39:16 46:13	11:1 12:1	117:1 118:1	results 95:24
rapid 22:12	recalibrate	50:21,25	68:22 69:13	46:15 55:8	13:1 14:1	119:1 120:1	96:2
rate 107:19							
107:25							

Special Committee on Criminal Justice Reform
November 14, 2016

retail 114:13 114:16	risky 62:12 Rittenhouse 91:5 road 15:5 28:19 42:21 45:24 46:2 119:19 roadblocks 92:22 rob 49:5 robust 11:11 Rojas 1:14 2:10 36:8 38:4,11,17 42:25 45:17 62:2 97:5,9 101:6 121:25 122:2 roll 46:12 rolling 103:4 rollouts 102:19 roof 68:3 room 1:6 17:14 21:15 71:13 root 31:4 RPR-Notary 130:15 ruled 36:6 rules 26:16 27:5,7 35:13 39:14 run 16:2 27:16 56:25 running 83:3 83:4 runs 41:15 rural 82:18 <hr/> S <hr/>	120:14 123:6 salaries 10:24 12:14 Samantha 4:22 Samsung 19:22 sanctuary 43:2,13 44:9,25 savvy 18:21 saw 76:7 97:11 saying 14:25 30:20 45:3 61:2 64:17 64:18 68:2 68:3 73:2 76:25 82:14 85:20 93:6 101:18 113:24 114:19 124:14 says 28:2 33:7 62:11 97:6 122:11 scale 5:20 46:8 schedule 41:21,22 scheduled 37:7 40:23 scheduling 37:4 Schwartzm... 1:13 2:9 50:17,22 51:3,4 101:4,8,9 score 59:7 screaming 120:22 seat 7:3 seats 75:10 sec 62:4 second 10:25 38:24 41:22 82:6 91:16 120:16 127:11 seconded	127:12,14 Secondly 16:20 23:19 secret 68:8 section 106:14 sections 59:21 secure 84:3 security 49:6 111:10 see 2:5 7:14 28:8 30:5 53:18 60:12 60:22 63:3 66:8 79:11 95:8 105:24 107:10 116:21 124:9 126:8 seeing 49:8 52:5 53:19 109:25 125:17,23 seek 27:19 30:18 seen 15:19,21 18:10 62:19 87:12 sees 42:6 selected 108:14 selective 44:13 self-esteem 121:23 sell 115:16 122:14 selling 72:7 sense 46:8 61:17 62:7 108:21 113:6 sensible 6:3 sent 21:22 sentence 38:2 39:11,12 sentencing 41:13 42:13 sentiments 49:10 separate 9:22 47:20 93:4	separately 61:25 September 4:5 seriously 117:7,7 119:7 server 9:21 9:21 17:5,5 17:7,23 service 5:6 10:12 55:3 108:15,23 128:13 serviced 112:2 services 7:23 8:6,16,17 10:20 11:3 11:5 25:9 26:13,22 30:5 104:13 105:10,16 106:22,25 108:17 110:3 112:14,15 servicing 108:21 session 3:24 128:10 set 14:2 37:24 41:25 43:12 63:12 87:20 94:21,22 105:12,14 105:15 Seth 104:19 117:17 sets 92:13 setting 33:25 seven 12:13 67:12,13,18 67:20 69:4 Shabazz 2:7 104:4 106:15 she'd 54:2 shelters 121:5 Sheriff's 21:23 22:6 Shift 126:24 127:16	shop 76:6 shoplift 113:23 114:5,6 shoplifter 114:7,10 shoplifts 114:8,10 short 82:9 100:4 shovel 121:12 show 53:4 93:10 105:22 showing 97:25 shows 40:16 100:20 side 6:24 25:15 52:19 87:17 90:18 90:23 96:15 113:14 sides 81:5 sign 98:15 signature 22:18 significant 11:7 25:10 similar 115:2 simplify 21:14 simply 33:5 sincere 2:19 sincerely 103:25 single 90:8 sir 16:19 52:22 sister 124:21 sit 52:18 75:9 96:9 98:6 sitting 23:13 70:24 83:15 96:6 situation 27:8 28:12 29:18 37:11 94:2 100:7 111:21 situations 78:6 96:5 118:17	six 23:9,14 66:18 Skywalker 73:7 slightly 18:20 slow 76:20 slowly 16:7 small 16:8 83:22 102:22 119:24 smart 79:20 smile 106:9 smuggling 99:6 snow 121:12 121:13 social 24:20 98:14 society 1:13 51:5 106:5 120:14 software 17:8 software/tec... 10:2 solutions 74:5 solving 48:15 somebody 14:10 19:6 28:12 31:16 43:22 62:11 66:17,18 111:13 124:19,19 124:21 somebody's 35:22 64:5 92:7 someone's 27:17,19 58:20 94:16 son 76:9 81:16,19 115:15 124:18 soon 22:21 43:20 soon-to-be 32:8 sorry 39:2 51:3 58:20 84:10 sort 59:8	sound 19:24 19:25 sounds 59:19 108:3 soup 68:14 speak 32:6 34:19 60:5 92:25 117:14 speaking 67:10 special 1:3,20 2:4 3:1,10 3:22 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1,2 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 54:24 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1
--------------------------------	---	--	--	--	---	---	--

Special Committee on Criminal Justice Reform
November 14, 2016

84:1 85:1	stakeholders	34:13 116:5	successful 6:7	swap 19:10	110:25	71:3	52:6,8 55:2
85:17 86:1	85:25	117:20,22	94:23	system 1:22	112:8,9	tech 18:21	70:23 75:7
87:1 88:1	standardize	step-by-step	106:24,25	3:13 9:9,18	115:15	techie 19:24	103:12,23
89:1 90:1	71:19,20	78:15	107:3,11	13:13 17:16	120:3	technical	104:2
91:1 92:1	standing	steps 35:2,8	111:20	19:4 22:17	121:25	39:21 40:2	125:18,24
93:1 94:1	43:11 81:10	88:14 90:7	122:5,12	24:2 25:6	taken 25:3	40:9 98:3	126:9,21
95:1 96:1	standpoint	stick 29:2	sudden 20:5	26:18 35:16	69:10,11	technological	128:12,22
97:1 98:1	93:20 96:19	stifles 23:16	suggest 28:16	47:19,19,20	73:4 74:12	9:18 16:23	129:16,18
99:1 100:1	96:20	stipulations	30:9 58:9	48:23 49:18	126:13	technologies	thanked
101:1 102:1	starch 125:11	51:21	74:17 92:11	50:14 51:18	130:6	16:25	121:20,21
103:1 104:1	start 5:19	stone 63:12	122:3,18	56:7 57:22	takes 13:11	technology	thankful 3:3
105:1 106:1	24:20 48:5	stop 73:18	suggested	60:4,7,22	13:14 34:25	13:5,10	thanks 2:19
107:1,15	59:20 93:14	stopped	56:18	72:21 73:14	37:17 70:7	15:15,24	theft 114:13
108:1 109:1	95:4 128:18	81:21	suggestions	73:17 77:4	talent 2:16	16:16,22	114:16
110:1 111:1	started 20:14	stops 93:5	99:16	77:7,12	3:4	18:3,25	thing 18:21
112:1 113:1	47:3	store 76:6	Summaries	78:13 81:12	talk 27:17	19:8 20:4	19:13 48:22
114:1 115:1	starting 5:25	113:22	98:17	81:14,19	29:22 49:14	21:18 23:16	81:23 94:6
116:1 117:1	state 7:4 15:5	114:15	Summary	83:24 84:21	53:4 72:16	101:11	96:13 98:5
118:1 119:1	36:14,16,19	storm 18:3	98:18	84:22 86:2	97:6 104:22	technotard	120:16,25
120:1 121:1	36:20,24	strategies	summer	86:20 89:2	talked 14:7	100:6	things 5:19
122:1 123:1	37:4,9,14	1:22 3:15	125:4	90:4,10	86:6	tell 25:22	13:15 15:10
124:1 125:1	37:18,19,23	58:6 95:12	supervise	92:22 93:25	talking 8:19	37:2 38:13	18:6 30:25
126:1,14,18	38:6,9,18	109:13	11:12,15	96:22 97:12	32:19 40:14	telling 76:5	34:10 36:2
126:23	39:6,11	111:10	17:11	97:23 98:22	47:18 51:24	tells 63:14	40:8 44:4
127:1,15	40:17,19	street 25:4	supervision	103:9	57:12 58:14	71:11	50:11 59:18
128:1 129:1	42:21 44:6	stretch 82:4,8	11:24 30:13	109:24	68:25 69:25	ten 41:9	59:25 61:8
129:15,19	45:12,24	strongly	36:15	110:5,17	71:8,17	68:13	61:16 63:5
specific 92:10	46:2 54:7	28:15 30:14	130:23	117:24	74:11 76:7	ten-day 41:14	63:6,11
92:13,13	state-issued	30:16,17	supervisor	system's	78:19,20	term 30:3	64:21 66:8
106:8	36:12	study 63:18	98:15	118:7	82:12 93:2	terms 21:7	67:15 69:24
specifically	statement	65:7 79:18	support 10:2	systemic 57:9	93:16,21	23:2 30:6	70:8 73:24
55:16	73:2 85:7	104:10	111:18,19	systems 20:3	95:11,14	34:15 45:12	75:9 77:18
109:11	85:21 87:25	108:9,10	119:10	23:22	102:14	58:11 59:2	78:12 79:19
specifics	88:24	110:18	124:4	118:18	104:23	70:16 92:12	80:13,15
55:21	statements	116:6,7	supported	T	105:8	100:12	81:12 82:13
spend 9:15	87:16	117:22	111:9	table 6:24 7:3	107:24	terrible 34:2	82:25 95:11
12:8	stating 125:2	stuff 95:7	supposed	7:8 52:20	122:20	test 102:23	97:25
spending	station 17:19	subcommitt...	25:14	53:2 54:5	123:7,18,21	testified	101:13
48:17 51:10	status 23:18	104:17	suppress 91:9	tailor 117:4	124:17,23	56:14	103:10
spoke 13:23	45:14 77:25	subject 32:6	sure 25:7	tailored	talks 32:18	testify 6:19	107:12,23
spoken 71:24	statutory	32:9	26:20 41:18	116:10	110:16	52:12,14	109:4,5
105:9	35:15	submit 65:2	46:14,16	tails 89:12	Tariq 1:17	54:7 125:21	110:25
Square 1:13	stay 9:13	91:24 94:13	49:13,14,19	take 27:22	2:7 26:25	testifying	114:23
91:5	42:20 50:13	95:5 112:19	55:6 58:8	32:9 33:2	34:19 48:3	6:16	116:22
stabbing	64:15 93:17	submitted 4:3	59:14 60:9	34:14 35:25	49:11 52:16	testimony 4:2	120:11,12
98:11 99:5	126:4	submitting	77:15 79:25	37:17 48:2	54:22 61:19	7:6 52:7	think 5:4,11
staff 8:16,20	steel 82:20	4:12 82:10	80:7 93:22	49:11,22	91:10	54:8 55:5	5:24 6:6,10
10:18 11:3	steer 34:4	subscription	94:5 95:21	50:7 68:4	task 60:18	125:18	13:3 17:2,7
11:11 21:15	stenographer	10:12	106:11,16	68:17 73:22	77:3	thank 2:14	19:17 24:12
54:20	47:11 51:2	substance	surrounding	74:18 76:14	tasked 60:2	3:18 4:20	24:13 26:2
staffing 11:19	stenographic	27:17	107:5	77:12,13,13	taxpayer 6:4	4:21 6:6,13	26:12,14,19
12:17	130:6	success 107:4	surroundings	88:13 93:24	team 10:19	9:2 22:24	28:10 31:7
stage 100:12	step 33:2	107:25	65:4	95:16	12:16 46:11	26:24 52:6	31:8 32:10

Special Committee on Criminal Justice Reform
November 14, 2016

33:24 34:16	42:14 48:6	20:22 21:2	trick 113:25	89:17 90:11	16:17 17:25	23:21 48:18	voluntary
45:2,25	51:10 63:3	21:3 70:19	tried 119:25	122:13	20:18,19,25		24:25 25:19
48:2,6	63:7,25	totality 70:8	trip 119:19	unassisted	20:25 21:2	V	vote 103:15
50:15,17	64:4 72:5	87:16	trips 4:2	120:10	21:4	vacuum	103:20
51:22 55:24	97:5 99:11	touched	trouble 33:24	unavailable	University	111:17	126:6
56:12,22	100:4 101:2	100:17	51:17	55:23	55:15	Vader 73:6	voters 119:9
57:11 60:2	103:14	tour 66:14	troubleshoo...	Uncle 125:3	unnecessary	valuable	
60:11 61:24	128:18,19	trained 48:20	21:17	underlying	12:5 49:20	78:12	W
62:18,21	timely 41:21	118:16	true 4:24	67:17	unsupervised	126:10	wait 6:23
68:19 70:10	41:23	tranquility	21:20,21	understand	120:10	value 64:21	75:5
71:7 72:4	times 14:8	120:23	49:3 63:24	2:21 5:15	untreated	varies 15:18	waiting 16:3
78:14 80:8	31:9 58:24	transcript	88:25 96:10	5:20 27:4	120:10	vast 62:9	want 2:14,19
84:7,14	66:6,18	130:8,21	96:23	43:25 57:21	updated 9:25	veil 64:9	4:21 6:5
87:5 92:25	67:20 98:10	transcripts	102:24,25	58:5 59:15	17:22	vendor 19:15	26:6,8
98:13,25	tire 112:9	4:9	103:4	62:24 63:9	updates 9:18	20:16	30:21,23
99:10	title 3:7	transferred	116:23	77:9 78:23	upgrade 20:3	verbatim	31:15,17,19
100:16	today 4:6,12	123:12	130:7	94:19 104:5	20:6,9	85:14	34:19 37:22
102:5,10,12	6:16,25 8:3	transition	truly 3:3	115:13	upgrades	verify 43:12	40:5 42:3,9
106:2 112:7	20:4 57:19	10:5,21	truth 83:2	117:20	19:19	Verizon	49:13,13
118:11,19	71:3 103:22	11:17	try 21:19	118:9,25	urgency	13:16 15:25	50:7,23
118:22,24	126:13,20	transmitters	76:15	119:17	128:19	16:7 23:8,8	51:6 52:24
120:2 129:7	127:2,18	18:13	106:23	understand...	urine 40:7	vicious 30:7	57:17 59:14
thinking	129:16	transplants	107:4	48:14 58:10	urines 40:4,4	31:4,12	61:4,13,22
72:16 74:20	today's 3:20	123:13	116:14	61:7 81:25	usage 60:14	victim 73:16	63:19 65:12
third 120:25	told 16:10	trauma	trying 57:19	81:25	use 5:3 6:4	123:16	68:22 70:15
thought 71:4	61:3 117:13	115:13	64:15 71:18	116:25	8:13 9:8	victimizing	72:25 76:2
80:18	tool 55:9,16	treasury 3:5	71:19 94:4	117:4	19:20 23:3	73:19	76:4 77:15
threat 49:3	55:20,22	treat 48:8	Tuesday	undocumen...	30:17,21	victims 76:2	78:17 85:6
77:25	56:4,17,25	60:16 85:2	22:13	43:6	40:6 41:4	vies 106:13	85:15 90:2
threats 49:4	57:14,25	treated 84:4	turn 8:22	unemployed	53:6 58:7	view 65:3	95:21 96:9
three 18:15	58:8 59:10	84:4 112:12	24:6 59:4	67:21	59:6 60:16	87:2 90:6	97:9 106:10
46:13 58:24	61:4,9,14	treatment	101:16	113:16	60:22 64:19	viewing 65:3	109:10,16
86:6 87:18	61:15 62:13	23:24 28:15	twice 125:24	unfamiliar	65:24,25	views 2:24	111:3,20
87:19,24	63:10 64:20	28:17 29:4	two 6:20 8:10	85:9	66:7 68:23	violate 70:22	112:21
104:11	66:7,24	29:6,13	10:17 12:19	unfortunat...	70:14 71:13	97:22	114:2,11,12
106:6,6	68:22 70:5	30:19 32:24	18:15 36:2	3:4 100:11	72:9,22,23	violated	120:18,18
108:14,22	70:7,14,20	34:5,9,10	36:7,9	112:22	75:22 78:21	40:10	120:19
110:24	71:10 72:7	34:11 35:17	39:20 46:12	uniform	79:5,23	violates 21:7	121:22,22
113:16	82:8 84:18	51:20	51:7 53:18	78:23	82:19,20	violating 27:9	128:11,21
120:12	93:4,11,14	105:11,13	65:17 92:3	uniformity	91:3 92:16	violation	128:21
throw 59:15	93:15,22,23	treatments	94:24 111:5	57:16	93:23 95:22	21:21 26:7	wanted 14:22
throwing	94:6,14	105:22	type 27:15	Union 112:10	99:20	39:9,19,21	22:25 23:19
81:8	95:6,15	treats 60:23	30:12,14,19	unique 118:4	101:11,13	40:2,9 41:7	44:24
Thursday	tool's 93:18	trees 121:15	32:24 49:7	118:23	103:5	68:20	121:24
3:23 22:13	tools 55:18	tremendous	100:20,22	unit 21:25	users 24:3	violations	122:2
time 2:15 3:3	57:4,7	113:5	105:16	22:5,6	uses 15:24	22:3 39:20	wants 77:19
6:12 9:15	58:17 78:22	116:15	106:22	43:23 47:21	usually 19:11	98:3,3,4	103:14
12:8 13:11	79:9 90:21	trial 1:18	107:7,8,8	66:14	36:15	99:8	125:6
13:18,19	93:23	7:20 8:19	111:7,10	units 8:12 9:7	utilize 49:22	violence 49:4	warm 121:13
18:15 26:10	101:13	11:6 12:9	115:3 117:3	9:11,12,24	118:22	visit 122:7	warrant
27:7,14	103:5	35:11,23	121:4	9:25 10:5	utilized 57:15	visits 5:8	14:11,12
37:21 41:8	total 10:24	91:7,8,17		10:15,21,22	104:24	106:20	21:22,25
41:10 42:12	12:15 20:20	91:20 105:5		15:16,18,23	utilizing 17:9	vital 64:24	22:5,6,7,18
			U			100:2	22:20 39:8
			ultimately				

Special Committee on Criminal Justice Reform
November 14, 2016

wasn't 69:7 75:3 91:18 91:20 waste 32:13 34:2 watched 119:21 watches 115:15 watching 2:20 water 81:9 way 6:3 13:7 18:17 24:21 25:2,17 31:14,22 47:22 48:19 50:3 57:16 58:10,22 60:14,22 62:20 63:8 70:18 72:12 78:23 84:14 87:14 91:2 92:20 96:24 101:18,22 101:24 102:7,11 118:12,17 118:23 ways 5:24 15:7 51:19 118:6 we'll 17:4 34:14 46:3 50:15 53:5 53:15 55:22 79:18 87:5 87:13 92:20 100:7 103:10 126:2,7 we're 5:25 8:9 8:19 13:20 16:12,15 17:8 19:18 26:2,20 27:8,19,23 28:20 29:25 30:2,7,21 31:3,22,23 31:25 33:19 37:13 38:13	40:13 41:20 41:22 43:9 45:2,3 47:18 48:4 48:17 49:6 51:15,23 53:13 57:17 64:4,15,25 65:3 71:2 71:17,18,24 73:10,13,23 74:4,10,19 75:12,16 77:5 78:8,9 78:20,24,24 79:9,11,12 79:23 80:13 82:12 86:17 86:20 93:2 93:16,22 94:4 95:11 95:14 101:24 102:14,16 102:17 104:23 105:8 108:22 110:14 122:20 123:7,18,21 we've 32:18 41:16 62:19 72:4 76:13 96:25 101:22 weather 121:14 weed 121:14 weekend 22:20 weeks 23:9,14 42:19 weigh 99:7 weight 67:3,4 68:18 69:20 71:9 welcome 100:3 well-develo... 57:4 went 98:22 125:9	weren't 18:12 Wertheimer 1:15 2:10 52:16 54:4 54:18,19,20 55:4,6 71:6 102:12 West 1:12 47:13 wheel 81:10 125:7 wholeheart... 82:14 117:19 wife 97:5 Wilfredo 1:14 2:10 William 1:11 2:8 72:2 76:24 95:19 103:19 118:2 Williams 3:19 104:19 117:18 Willing 121:3 121:11 win 91:8 wind 37:21 wireless 9:24 12:23 13:17 17:22 20:24 witness 7:3,7 52:11,25 witnesses 6:15,17 7:7 52:13,25 54:7 93:9 125:20 woefully 72:15 women's 121:5 word 75:22 76:16 words 44:13 48:2 68:10 108:18 119:8,10 work 4:22 5:23 7:14 17:19 24:16 25:17,23	33:17 37:17 37:22 52:6 55:3,14 67:6 98:14 98:19 102:2 102:6,21 108:2 114:11,12 125:19 129:8 worked 4:7 29:9 41:16 worker 24:20 working 24:18 41:20 80:2 84:18 85:24 94:20 97:11 122:12 works 58:11 67:6 82:22 87:3 world 2:25 87:3 worse 78:13 worst 87:11 wouldn't 105:24 wreck 120:22 writing 19:18 <hr/> X X 18:8 <hr/> Y Yeah 52:23 76:7 85:19 101:6 year 10:14,17 12:15 15:20 24:17 38:24 103:4 104:12 128:13 years 13:4 46:13 62:23 77:13 94:24 97:12 yelling 81:11 York 116:18 119:12 young 113:7 113:24 Youth 110:17	<hr/> Z <hr/> zip 56:8 59:16,17 65:12 95:7 95:8 120:8 <hr/> 0 <hr/> 1 <hr/> 1:20 1:7 10 19:21 100 10:15 20:25 11/14/16 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1	84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 12th 4:5 14 1:7 14th 127:2,18 160101 1:20 3:1,9 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1	57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 166,075 10:14 17th 3:24 128:10 19 104:12 1st 4:4 <hr/> 2 <hr/> 2 24:17 2015 47:2 2016 1:7 3:24 127:2,19 128:10 2017 128:16 21 41:13 22 10:6 41:14 23 14:3	24-plus 97:12 24/7 17:14 22:7,15 79:14 261,996 12:15 <hr/> 3 <hr/> 3 22:18 52:14 61:21 34 46:22,24 37,428 12:14 <hr/> 4 <hr/> 4 32:17 52:14 4:20 129:20 400 1:6 4th 106:18 <hr/> 5 <hr/> 500 16:17 520 15:21 <hr/> 6 <hr/> 6 20:9 60 11:8 13:24 600 16:17 21:4 600-plus 12:25 620 15:22 64,892 10:23 12:17 <hr/> 7 <hr/> 7 19:20 20:9 700 20:24 75 46:24 <hr/> 8 <hr/> 8,082 46:25 8,500 10:17 800 20:25 21:3 <hr/> 9 <hr/> 9 91:6
--	---	---	--	---	--	---	--