

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

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, September 12, 2016
1:15 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR.
KEIR BRADFORD-GREY, ESQ., Defenders
Association
WILLIAM COBB, representative of formerly
incarcerated person
ANN SCHWARTZMAN, PA Prison Society
KEVIN BETHEL, Philadelphia Police
Department (retired)
WILFREDO ROJAS, Office of Community
Justice and Outreach (retired)
JULIE WERTHEIMER, Managing Director's
Office
JUDGE BENJAMIN LERNER, Deputy Managing
Director
DEAN JOHN HOLLWAY, ESQ., Quattrone
TARIQ EL-SHABAZZ, ESQ., Criminal Justice
Attorney
GEORGE MOSEE, ESQ., First Deputy DA
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, everyone. This is a hearing
called to order. We are reconvening the
Special Committee on Criminal Justice
Reform. I recognize the presence of a
quorum by Committee members that are
here.

Will the Clerk please read the
title of the resolution.

THE CLERK: Resolution No.
160101, a 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.

COUNCILMAN JONES: Thank you.
Thank you, Ms. Williams, for all the work
you've done over the summer, by the way,
to keep us coordinated.

I want to thank everybody for

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 joining us here today. Over the past few
3 months, all Committee members on the
4 Special Committee have been dedicated to
5 fact-finding, data-gathering, and
6 exploring options and alternatives to
7 addressing the issue of pretrial
8 incarceration and bail.

9 As we learned through many of
10 these meetings and hearings, that more
11 than half of the individuals on State
12 Road are awaiting trial. Many of them
13 there cannot afford to post a cash bail.

14 Today we are exploring many of
15 the alternatives available in the City
16 and in the nation in an effort to try to
17 decrease the number of individuals
18 incarcerated on State Road. We will be
19 hearing from doctors, researchers, and
20 program administrators on what works and
21 what things we should consider in the
22 court system.

23 While we hear more testimony,
24 gather information, and work towards
25 making recommendations, I want to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 reiterate during my tenure as Councilman

3 and in this position as a Co-Chair of

4 this body, that number one is public

5 safety. Number one is public safety.

6 I'm going to say it for a third time.

7 Number one is public safety. And then I

8 want to say that we also have concerns

9 for people that are not convicted being

10 incarcerated when there is so much at

11 stake when they are. People who have

12 been found innocent often have lost jobs,

13 families, homes, residences as a result

14 of that.

15 The second thing -- third thing

16 that we want to emphasize is that this

17 process should not unduly be biased and

18 discriminatory or prejudiced against

19 people not so much -- there are two

20 types. There's the prejudice of the

21 individual who have preconceived notions

22 about an individual, but also there's

23 statistical anomalies, zip codes and

24 other things, that pre-determine people's

25 outlook on people from a neighborhood,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the difference between Southwest
3 Philadelphia and often the perception of
4 East Mount Airy and other places like
5 that. One justice system. One set of
6 rules. And we are going to try to help
7 reenforce that.

8 With that, I'd like to turn it
9 over to my Co-Chair.

10 MS. BRADFORD-GREY: Thank you.
11 Thank you, Councilman Jones.

12 I want to welcome everyone who
13 is here today to testify about new and
14 creative models for assigning
15 alternatives to cash bail. I know that
16 there have been models that we have been
17 looking at throughout the nation that
18 have deemed to have some great results in
19 terms of public safety and making sure
20 that people and individuals return to
21 court.

22 So with that said, I think we
23 will start with our first person who will
24 be testifying today from the Quattrone
25 Center. You may introduce yourself.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: Welcome.

3 MR. HEATON: Thanks. It's a
4 pleasure to be here. It's great to be
5 before such a distinguished group. My
6 name is Paul Heaton. I'm the Academic
7 Director of the Quattrone Center for the
8 Fair Administration of Justice, the
9 University of Pennsylvania. Our center
10 is a center which is focused on trying to
11 find systems, approaches, ways to improve
12 the criminal justice system so as to
13 prevent errors and to improve fairness,
14 and what I'll be sharing with you today
15 is some recent research that's been done
16 at the Quattrone Center and also by other
17 academic researchers nationwide which
18 bears on the issue of cash bail and
19 pretrial detention, in particular that
20 helps us to understand what the
21 implications of policies that might
22 adjust the level of pretrial detention or
23 who gets detained.

24 So as we think about a
25 multi-pronged strategy to improve the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 criminal justice system here in
3 Philadelphia, obviously one area of
4 opportunity is making smart changes to
5 our decisions about who we detain prior
6 to trial. And as we make those changes,
7 as we take some pools of defendants who
8 previously may have been detained and
9 released them, it would be important and
10 valuable for this Committee and other
11 justice policy stakeholders to understand
12 what the likely impacts of those changes
13 to pretrial detention would be. So the
14 research that I'm going to talk about
15 today is focused on that very issue,
16 trying to help us understand if we do
17 something different, what will the
18 long-run and short-run impacts be.

19 If you don't mind advancing to
20 the next slide.

21 So this basic question of if we
22 make changes to pretrial detention, what
23 does it do is one that's been around for
24 a long time, and there have been a number
25 of academic studies on this general

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 topic, but recently what we see is that
3 there's been -- in fact, actually within
4 the past six months or so -- a number of
5 new, very high-quality studies which shed
6 new light and understanding on this basic
7 question, and I'll talk about a few of
8 those.

9 Now, what differentiates this
10 research from some of the prior work
11 that's been done is on a few dimensions.
12 So first of all, the modern research that
13 I'll discuss with you today tends to use
14 large and very contemporary datasets. So
15 a number of the studies I'll cite use
16 datasets that comprise all of the
17 criminal cases that have occurred here in
18 Philadelphia. So hundreds of thousands
19 of individual cases.

20 Other studies focusing on other
21 jurisdictions, again, look at tens of
22 thousands or even hundreds of thousands
23 of cases. And these are studies which
24 use very rich administrative data which
25 help us to understand characteristics of

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 the defendant, things about the
3 procedural posture offenses, other case
4 outcomes, and also allow us to look
5 forward and examine other outcomes
6 outside of the criminal justice system.
7 So the first distinction is better data.

8 So the second advantage of some
9 of these recent studies is that they
10 allow us to say something more definitive
11 about what the actual causal effects of
12 detention are. And what I mean by that
13 is, let's imagine that we have one
14 defendant and we choose to release that
15 person and then we look forward and see
16 how their life goes, what future contact
17 they have with the criminal justice
18 system, what their employment and
19 earnings look like, and we would compare
20 that to a situation where we have that
21 same defendant but now we detain that
22 person and we could look forward and see
23 how their life progresses.

24 The difference between those
25 two worlds is what researchers would call

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the effect of detention. It's something
3 that we want to be very interested in as
4 we think about making adjustments to
5 detention policy.

6 Now, it's very difficult to
7 measure that difference in outcomes, but
8 this new wave of research uses convincing
9 methodologies, something that I won't get
10 into today unless there are questions,
11 called natural experiments that go beyond
12 just measuring the correlation between
13 detention and outcomes and actually
14 measure what the effects of changing
15 policies directed at detention are.

16 So the final distinction of
17 this new research is that typically in
18 the past, people have focused on what the
19 effects of detention are in the immediate
20 case. So for example, if we detain
21 someone, does that increase the
22 likelihood that they'll plead guilty in
23 their case. This new generation of
24 research looks certainly at the immediate
25 case, but also looks at outcomes further

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 out. So we look at recidivism and
3 people's future contacts with the
4 criminal justice system, for example.

5 Researchers have very
6 creatively linked criminal justice data
7 with other data on things like tax
8 records, unemployment records,
9 utilization of social services that allow
10 us to get a more comprehensive portrait
11 of what the effects of detention are, not
12 only on the criminal justice system but
13 on other measures of economic well-being.
14 And so I'll talk about a few of those
15 results today.

16 If you want to go to the next
17 slide.

18 So here are some of the
19 findings from some of these
20 next-generation studies. So this slide
21 actually describes some of the key
22 results from a study that was done by one
23 of our researchers at the Quattrone
24 Center, Megan Stevenson, that focuses
25 here on Philadelphia and actually

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 analyzes seven years worth of criminal
3 justice data. So Megan uses the fact
4 that the magistrate to make bail
5 decisions are randomly assigned as a sort
6 of natural experiment to measure what the
7 effects of bail are.

8 Now, what did she find? She
9 finds that pretrial detention has an
10 adverse, at least from the perspective of
11 the defendant, impact on convictions and
12 jail sentences in the immediate case. So
13 for example, those who are detained are
14 about 6 percentage points or about 12
15 percent more likely to plead guilty in
16 their cases as a result of being
17 detained.

18 Now, that actually makes sense
19 when you realize that there are some
20 defendants who, after they spent a
21 certain amount of time in pretrial
22 detention, if they're willing to plead
23 guilty, are going to be given time served
24 and can walk out of jail, and if they
25 want to continue to assert their

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 innocence, they actually have to prolong
3 their period of detention in order to get
4 to a trial and be able to argue for their
5 innocence. So there are some incentives
6 built into the system which can lead to
7 guilty pleas and potentially wrongful
8 convictions.

9 Megan's research also indicates
10 that detention actually increases the
11 amount of the sentence. So if you look
12 at the chart, you'll see that those who
13 are detained as compared to
14 observationally identical people who are
15 not detained have sentences that are
16 almost twice as long.

17 Now, again, this is important
18 because if you think about what this
19 tells us, it means that if we were to
20 enact policies which were to reduce
21 pretrial detention, there would be a
22 potential benefit not only at the front
23 end where we have less incarceration
24 pretrial but also further on down the
25 line as these defendants actually

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 ultimately get more lenient sentences
3 from the court and, therefore, don't have
4 to spend as much time in jail later on.
5 So potentially there are some substantial
6 benefits of reforms in terms of the
7 amount that we spend on incarcerating
8 people here in the City.

9 You can go to the next slide,
10 please.

11 So in addition to looking at
12 the immediate case, we can also measure
13 what the effects of detention are on
14 future outcomes. So these are results
15 from a study done by Will Dobbie and
16 co-authors, again, focusing on data here
17 in Philadelphia. So one of the troubling
18 findings of Will's study is that
19 detention ultimately actually increases
20 rates of rearrest. So keep in mind,
21 we're detaining people because we want to
22 preserve public safety, and in a short
23 run, that's true. We incapacitate
24 people. But as we look out over the two
25 years after their bail hearings, what we

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 see is that ultimately these defendants
3 go on to offend more. Detention is
4 actually criminogenic.

5 Now, this is good news in the
6 sense that if we were to improve our
7 system for pretrial detention, we have an
8 ability to release more people but
9 actually increase public safety, because
10 what we're seeing here is the detention
11 actually slightly increases people's
12 criminal activity. And there's a variety
13 of reasons why that might be true.

14 Certainly detention can lead to job loss,
15 loss of housing, other life disruptions
16 that can kind of put individuals on the
17 path towards additional future criminal
18 behavior.

19 So Will's research also
20 suggests that detention actually reduces
21 employment and reduces earnings of the
22 defendants who are detained. So in
23 addition to having impacts on the
24 criminal justice system itself, there's
25 also spillover impacts that are going to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 affect other City agencies and ultimately
3 will affect the economy of the City as
4 these individuals go on, whether or not
5 they're innocent or guilty, to actually
6 earn less and have more difficulty being
7 employed. And the slide shows the
8 magnitude of some of those differences.

9 So in work done with my
10 colleague Sandy Mayson, who is here with
11 us, as well as Megan focusing on a
12 different context, although I think these
13 results would likely generalize to many
14 cities, including Philadelphia, we see
15 that the adverse effects of detention are
16 particularly pronounced among those
17 involved in misdemeanor cases. So in a
18 study focusing on Harris County where
19 Houston is located, we saw a substantial
20 increase in conviction rates, a more than
21 doubling of jail sentences, and about a
22 30 percent increase in felony offending
23 coming as a result of detention.

24 So, again, I think this is
25 important as we think about reform,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 because one of the things it suggests is
3 liberalizing pretrial release for
4 misdemeanor populations could -- and
5 these are the populations who are likely
6 the least risk to public safety and
7 represent the least concern about flight
8 risk, those could potentially have some
9 outside benefits.

10 So what are some of the
11 solutions that have been tried in other
12 places that ought to be on the table?
13 There's a few that I would raise. First
14 of all, for some defendants we detain
15 them today often because they can't
16 afford small amounts of bail, when
17 probably the better solution would just
18 be to release people outright. So I
19 think the experience of Washington, DC is
20 illustrative. So there in the mid '90s
21 they faced a substantial problem with
22 jail overcrowding, and as a result, they
23 reformed their pretrial process. Today
24 in DC if we were to look across all
25 offenders, so both misdemeanor and

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 felony, they release about 90 percent of
3 offenders, and rates of failure to appear
4 and pretrial offending are about 10
5 percent. So actually lower than what we
6 experience in Philadelphia today.

7 So what their experience
8 suggests is that it is possible to
9 implement a policy in which the vast
10 majority of defendants are released while
11 still preserving public safety and
12 encouraging appearance in court.

13 Some other solutions that ought
14 to be on the table, moving away from cash
15 bail towards the use of alternatives.
16 Things like electronic monitoring, for
17 example, might be more appropriate for
18 some defendants.

19 Better risk assessment. So
20 right now when we make bail decisions,
21 it's often judges relying on very limited
22 information about defendants as well as
23 their own experience. Folks like my
24 colleague Richard Berk have introduced
25 scientifically-based actuarial risk

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 assessment tools that can provide better
3 information for magistrates making these
4 decisions to allow them to identify
5 defendants who may be at low risk and
6 release them.

7 I think another way to improve
8 the quality of risk assessment that I
9 imagine Mark will tell us more about
10 today is providing better quality defense
11 counsel at bail hearings so that we have
12 an additional person who can bring
13 information to the light of the court,
14 which would allow judges to make better
15 decisions in identifying who the riskiest
16 defendants are.

17 And then, finally, a number of
18 jurisdictions have used improved reminder
19 systems, essentially methods that help
20 defendants, some of whom may be
21 organizationally challenged, to just
22 know, hey, you've got to show up at a
23 certain time and a certain place for
24 court hearings, and have had success in
25 using those methods to reduce failure to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 appear.

3 So let me end with a bit of a
4 cautionary note. So back in the mid
5 1990s, the City had problems with jail
6 overcrowding. We were actually under
7 federal oversight, and a number of
8 criminal justice stakeholders teamed with
9 some very smart criminologists, John
10 Goldkamp and Michael White, to try and
11 implement some reforms to the pretrial
12 detention system. Sound familiar? At
13 the time, they identified a number of
14 what they viewed as very promising
15 reforms, including a telephone-based
16 reminder system, a new system for
17 identifying higher risk offenders and
18 putting them under more intensive
19 supervision, as well as a notification
20 system regarding early violations and
21 some targeted enforcement to take -- to
22 identify people who didn't show up for
23 their earliest appointments with pretrial
24 services and try and track them down. So
25 these were all pilot programs that were

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 implemented actually using randomized
3 controlled trials so they could do a very
4 good job measuring the impacts, and for
5 all three of those promising approaches,
6 it turned out that they didn't have a
7 measurable impact on either failure to
8 appear or arrest rates.

9 Now, why is that? The
10 researchers highlight in their analysis
11 of these innovations that implementation
12 was a problem and none of these new
13 programs was implemented in a way that
14 conformed to best practices.

15 So the message we should take
16 from that is, we explore these potential
17 solutions. We really need to think very
18 carefully about the details of
19 implementation in order to make sure that
20 they'll be successful.

21 In that respect, I'm actually
22 very excited to hear from the other
23 panelists, because you've brought
24 together some experts who know a lot
25 about how to implement the sorts of

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 programs I've suggested today, and I
3 think we're going to benefit a lot from
4 their insights.

5 So just to summarize the main
6 takeaways from the research, what this
7 new wave of academic research tells us is
8 that there can be some great benefits for
9 the City to improving our system for
10 pretrial detention, including the
11 possibility of reducing, perhaps
12 substantially, our expenditures on jail
13 and incarceration. We can actually do
14 that if we make pretrial detention
15 smarter in a way that lowers crime at the
16 same time, and ultimately this can have
17 some ripple effects for the defendants
18 and improve their economic circumstances
19 in a measurable way that's going to
20 benefit all of the citizens of the City.

21 There are a number of viable
22 options for reform. Those include notice
23 and reminder systems, increased use of
24 alternatives to cash bail, liberalization
25 of release on recognizance for low-risk

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 offenders, and better risk assessment
3 either through actuarial risk assessment
4 tools or better quality representation.

5 But as we explore and then begin to
6 implement some of these solutions, we
7 need to pay a lot of attention to the
8 details of implementation, because that's
9 going to be key to success.

10 That's what I had to share with
11 the Committee. Thanks for your time and
12 attention.

13 COUNCILMAN JONES: Thank you so
14 much. Many of us on this Committee had
15 an opportunity to, A, go to Washington,
16 DC and take a tour of their program.
17 Future, we are looking at the State of
18 New Jersey just passed a no bail system,
19 but immediately, linchpin to all of that,
20 is risk assessment.

21 I think if there's one thing we
22 can do that matters the most is to
23 attempt to modernize and determine
24 without prejudice who constitutes a
25 danger to themselves, society, and then

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 who does not. If you can make that kind
3 of educated guess, because it's never
4 perfect, you can impact a lot of these
5 critical impacts both in the community
6 and society and to individuals if we get
7 it right.

8 So you don't look old enough to
9 have done the first assessment that I
10 think was done in the '80s. Is that
11 right? Was it you?

12 MR. HEATON: Not me, no, but,
13 yeah, there have been, including here in
14 Philadelphia, some pretty high-quality
15 assessments of various risk assessment
16 tools. I think one area where there's
17 still more to learn is, risk assessment
18 has been widely used in the kind of
19 parole/probation context. Translating
20 that to the pretrial context, it's still
21 a work in progress, but one where I have
22 a lot of confidence, as you say, we can
23 make some real progress due to work of
24 folks like Richard and others who are
25 real experts and who have developed

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 principles that can help us design a fair
3 and useful actuarial tool for the person.

4 COUNCILMAN JONES: So most of
5 the members on this Committee have had a
6 lot more experience at risk assessment
7 than I have, and I think that's a fair
8 statement, but we most recently, several
9 members of this body, have been a part of
10 other government entities that are
11 considering risk assessment, and one of
12 the things that jumped out at me that
13 scared me and gave me a sense of caution
14 was that zip codes were actually being
15 considered as a part of the assessment,
16 like where you come from. Me and my
17 brothers and cousins, we all live in the
18 same zip code. I think it's safe to say
19 that. We couldn't be more different. So
20 I don't -- and they, to their credit,
21 eventually eliminated that component of
22 it. But what components are you
23 considering, without tipping what your
24 final product is? What things should be
25 considered in a risk assessment?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. HEATON: Yeah. I mean, I
3 think that there are some different tools
4 that are out there. Obviously you want
5 to avoid using factors that are going to
6 lead to racial or disparities for
7 protected characteristics. Using race
8 directly is obviously problematic, but as
9 you point out, there may be other things
10 like zip codes that look a lot like a
11 proxy for race, and that would be
12 concerning I think to many.

13 Past risk assessments have
14 focused on things like age, like prior
15 criminal history. The sequence of types
16 of offenses that someone has committed
17 over time in some cases can be
18 predictive. There's definitely a
19 trade-off, and as one thinks about
20 developing these risk assessments, on the
21 one hand you want something that's fairly
22 simple to administer, which means you're
23 not necessarily going to have a huge
24 number of items or you want to rely on
25 information that can be cold from

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 hopefully reliable databases that capture
3 things like prior criminal history, but
4 at the same time, the fewer variables
5 that are input into a risk assessment,
6 the less individualized that risk
7 assessment can be.

8 So I think you're asking the
9 right questions, which is what are the
10 sort of factors that we want to begin to
11 think about, and there's kind of a
12 statistical part of that but then there's
13 also the values part that comes to play,
14 as you mentioned, with the issue about
15 and your concerns about zip codes.

16 COUNCILMAN JONES: Okay. One
17 other question and I'll turn it over. In
18 the Washington program, there seemed to
19 be always some immediate consequence,
20 meaning that you didn't just appear and
21 then they said you're not a danger and
22 we're going to let you go. It almost
23 seemed like there was an attachment.
24 We'd like you to work on these things.
25 And if it was someone who was picked up

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 for public intoxication, then a
3 recommendation to go to a 12-step program
4 during the period between arrest and
5 release and trial. There always seemed
6 to be some pretrial condition that was
7 put. It might have even meant a
8 stay-away order in cases of violence, a
9 bar fight -- resulted in a bar fight.
10 There was a young lady. I hope I'm not
11 violating her rights, but she handled
12 herself obviously in this big bar fight
13 and she was given a stay-away order and
14 anger management. It seemed as though
15 the cases we observed had an interim
16 needs assessment and follow-up. How
17 important is that?

18 MR. HEATON: I think that can
19 be very important. So if we were to look
20 back at the Goldkamp study that I cited
21 earlier, probably the biggest weakness
22 that they noted in implementation is at
23 the time due to limitations of personnel
24 and availability and other things, often
25 as a practical matter there were actually

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 very few consequences for failure. So
3 for example, when they said we're going
4 to have heightened supervision of certain
5 offenders, yeah, we'd send out some folks
6 to actually try and track them down when
7 they didn't show up, but if we couldn't
8 find them, we're too busy, we'll go on to
9 something else. And so they attribute
10 some of the failure of those programs to
11 the fact that there weren't any sort of
12 consequences. So I do think that that
13 could be an important component.

14 Now, I think the question that
15 the City Council and those who want to
16 implement these reforms need to grapple
17 with is, this begins to implicate other
18 parts of the City, right? So if we're
19 going to make conditions on people to
20 say, hey, we need to have drug treatment,
21 we need to have anger management, and
22 those are the programs which have been
23 shown for certain populations to be
24 effective, we also have to be prepared to
25 make those services available to people

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 in a timely way.

3 And so to the extent that we
4 want to have that sort of intermediate
5 requirement and then enforcement, we have
6 to make sure that resources are available
7 to the relevant parts of the City in
8 order to make that work. And so that
9 goes beyond just the criminal justice
10 system in some cases.

11 COUNCILMAN JONES: Chairwoman.

12 MS. BRADFORD-GREY: Thank you.

13 I wanted to ask, you've studied
14 Philadelphia's system, correct, in coming
15 up with some of your analysis today?

16 MR. HEATON: Yes. Yes.

17 MS. BRADFORD-GREY: And so you
18 know how large the system is and how much
19 we process arrests. Some of the
20 suggestions that you've made in terms of
21 Philadelphia's system, what would have to
22 happen for us to have a real robust bail
23 advocacy system or structure? I know you
24 looked at risk assessments, but in
25 hearing and in your comments, risk

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 assessment shouldn't be the only thing
3 that we should look at. There should
4 also be some advocacy in terms of
5 humanizing and individualizing people.
6 But is that process practical based on
7 the system that we currently have and, if
8 not, what would we need to develop?

9 MR. HEATON: Yeah. I mean, I
10 guess there's a few different levels of
11 practicality that one might think about,
12 and I would probably advocate given -- I
13 agree with you, it's a big complicated
14 system. We could think about kind of
15 incremental change as we kind of move
16 closer to the sort of very high-quality
17 advocacy that I think would ultimately be
18 the goal.

19 First of all, I think one of
20 the important implications that I didn't
21 highlight but I'll mention now of our
22 study is that not all jurisdictions
23 actually believe that there should be a
24 right to counsel at a bail hearing. The
25 Supreme Court juris prudence on this is a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 little bit uncertain. Is this, what
3 lawyers would call, a critical stage?
4 And I think one of the things our
5 research clearly points to is given that
6 the bail hearing and what happens there
7 has these clear causal impacts on what
8 happens later on in the case, it's very
9 difficult to argue that there isn't a
10 Sixth Amendment right to counsel, that
11 this shouldn't qualify as a critical
12 stage.

13 Now, that being said, as a
14 practical matter, how does one then
15 implement that? I think that there are
16 different models that we see throughout
17 the country. I think places that are
18 trying to start this kind of can begin
19 with the sort of nurse practitioner
20 model. So we bring attorneys-in-training
21 to handle these hearings at the
22 beginning, but I think ultimately we want
23 to move beyond that and try and look at
24 organizations like your own, the Defender
25 Association, that have I think more

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 capable training and oversight ability
3 for attorneys. But that, of course, you
4 know, requires resources in order to do
5 that well and it also requires good
6 coordination, because to get the right
7 people there in the courtrooms and
8 there's lots of kind of logistical
9 hurdles that the Defender Association and
10 those who would represent these
11 defendants and the courts and the judges,
12 everyone is going to have to be on the
13 same page.

14 But you can think about
15 incrementally trying pilot programs, as I
16 know we're doing, where we expand
17 representation, as those are successful,
18 trying to roll that out to a greater
19 number of defendants.

20 So to summarize, I would say an
21 incremental model, but a model which I
22 think we ultimately want to get to given
23 these findings where we have attorneys of
24 the quality that we have beyond the bail
25 hearing in the courtroom there at the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 very beginning. And, again, I think one
3 of the messages is that if we make those
4 investments in the front end, ultimately
5 it may not cost us as much as we think,
6 because it translates into better
7 outcomes for the defendants that are
8 earnings, et cetera.

9 MS. BRADFORD-GREY: Thank you.

10 COUNCILMAN JONES: Please get
11 to the -- you have to get to the mic.

12 MR. MOSEE: So I have a
13 question about the research. The
14 research concludes that all these
15 negative outcomes are attributable to the
16 single variable of detention. There's an
17 awful lot that goes into determining
18 whether somebody should be detained in
19 addition to and over and above the cash
20 bail.

21 How does the research weed out
22 all of those other variables, including
23 things like prior record score, the
24 seriousness of the offense, the certainty
25 that the person will be found guilty?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 All those things are taken into
3 consideration, and it seems to me that
4 they would have just as great a potential
5 impact on things like the length of the
6 ultimate sentence and the negative
7 outcomes further down the road.

8 COUNCILMAN JONES: Mr. Mosee,
9 state your name and title for the record.

10 MR. MOSEE: My name is George
11 Mosee. I'm the First Assistant in the
12 Philadelphia DA's Office.

13 MR. HEATON: Thanks. So that's
14 a very perceptive and an excellent
15 question and, again, I think one of the
16 things that differentiates the studies
17 I've cited from past research is, I do
18 think they do a better job. And the
19 analogy I'll give to you as to how we do
20 that is, let's think about if we had some
21 sort of a new drug that we thought was
22 going to be helpful for cancer. We know
23 there's all sorts of things that affect
24 people's health. How would we know for
25 sure what the effect of that drug was?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 We'd want a clinical trial. We'd
3 actually run an experiment where we give
4 some people the drug. Other randomly
5 selected people wouldn't get the drug,
6 and we'd be able to compare outcomes, and
7 the difference in outcomes, if we ran our
8 experiment correctly, would be
9 attributable to the drug and not any of
10 those other factors.

11 So it turns out because of the
12 way we assign bail magistrates, we're
13 actually running an experiment like that
14 right now in Philadelphia. So these
15 studies I describe actually exploit the
16 random assignment of defendants to
17 particular magistrates, and it turns out
18 that there are some magistrates who are a
19 little bit more likely to detain certain
20 types of defendants and others who
21 aren't. And so that's the variation,
22 that random experimental variation that
23 we use to actually measure the effects of
24 bail.

25 So from the researcher

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 perspective, we're actually fairly
3 confident in these studies that we are
4 able to abstract the effect of detention
5 from other factors, notwithstanding the
6 truth of what you say, which is that of
7 course there's a myriad of factors that
8 feed into something like the ultimate
9 sentence.

10 COUNCILMAN JONES: Are there
11 any other questions from members of the
12 panel?

13 (No response.)

14 COUNCILMAN JONES: If not,
15 thank you so very much.

16 MS. BRADFORD-GREY: I'm sorry.
17 I have one last question, basically
18 piggybacking off of what First Assistant
19 Mosee said.

20 Did your research determine
21 that most of the detained individuals
22 were more of the misdemeanor type cases,
23 the ones that inherently those types of
24 charges did not pose an extreme danger to
25 the community?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. HEATON: Yeah. I'd
3 actually have to look back at the
4 specific numbers. In the paper I cited
5 by Megan, we do actually have the kind of
6 misdemeanor versus felony detention
7 rates, but I don't remember that off the
8 top of my head. But, yeah, I can give
9 you that number later.

10 MS. BRADFORD-GREY: Thank you.

11 COUNCILMAN JONES: Just one
12 other quick follow-up. At the end of
13 this study plan, there will be some type
14 of algorithm that we plug all this data
15 into and it would then be given to a
16 judge to say what the risk assessment is.
17 It will be a tool, not an absolute,
18 correct?

19 MR. HEATON: I mean, I'll let
20 someone who is more of an expert, which
21 is probably Richard, speak to that
22 specifically, but as I've seen risk
23 assessment employed in other contexts,
24 yeah, that's exactly right. So
25 essentially what happens is, you have a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 questionnaire or something, a series of
3 factors that are fed into a tool, and
4 then you get kind of a risk score in some
5 places. So something kind of like a
6 credit score that you might get, so it's
7 a continuous number. Other jurisdictions
8 actually just like to kind of divide
9 people into categories and say, hey, if
10 your risk is above a certain threshold,
11 we're going to say you're a high-risk
12 person. They vary in the types of
13 information, but the tool itself has the
14 ability to either provide these kind of
15 categorical classifications or to just
16 give you a number which provides a more
17 nuance to view.

18 COUNCILMAN JONES: One of the
19 interesting things about being here is
20 you hear different hearings, and things
21 that are in one subject have almost
22 implication in another. And one of the
23 tools being used by a lot of employers
24 and HR people is this automatic
25 assessment of resumes. Some people don't

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 get interviewed based on the fact that
3 the algorithm kicked them right out of
4 the interview process. And I know
5 there's no algorithm can determine
6 someone's heart, initiative, things like
7 that, and drive to make a good employee.
8 So I don't want the algorithms to be
9 absolute, almost like a credit score, but
10 more a useful tool to sort through
11 individuals and cases.

12 MR. HEATON: I mean, I agree
13 with that, and I think a good read of the
14 Constitution and the juris prudence
15 around this issue would suggest that we
16 do need a truly individualized process,
17 and I think that's what you're
18 suggesting. Now, there's disagreements
19 about what exactly that means, but
20 certainly in my mind, it would encompass
21 trying to take into account the unique
22 characteristics of defendants as well as
23 in a cash bail system if people are
24 really kind of still insistent on using
25 cash bail despite its limitations, an

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 inquiry into people's ability to pay, and
3 that needs to be part of the calculation.

4 In my view, it seems likely
5 that furnishing judges with this
6 additional information is going to be
7 helpful, particularly since the
8 alternative is just letting people kind
9 of fly by the seat of their pants and
10 make their own judgments. And while I
11 have great respect for the experience of
12 our magistrates, I think what we know
13 about human psychology is there's all
14 sorts of extraneous things that can come
15 in and affect our judgment.

16 COUNCILMAN JONES: I trust
17 Judge Lerner's seat and his pants. I
18 don't necessarily feel that way about
19 everybody, you know.

20 JUDGE LERNER: I haven't worked
21 midnight to 8:00 a.m. shift in a long
22 time, but when I did, it was as a public
23 defender, not as a judge.

24 COUNCILMAN JONES: Okay.

25 Are there any other questions?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 (No response.)

3 COUNCILMAN JONES: Seeing none,
4 thank you for your testimony.

5 MR. HEATON: Thank you.

6 COUNCILMAN JONES:

7 Ms. Williams, will you please read the
8 next name of the witness.

9 THE CLERK: Our next witness
10 will be Richard McSorley. He's a member
11 of the Committee. He'll be speaking on
12 current pretrial services programs and
13 expansion of electronic monitoring.

14 COUNCILMAN JONES: Thank you
15 very much. Will the witnesses please
16 approach.

17 (Witness approached witness
18 table.)

19 COUNCILMAN JONES: Thank you.
20 You took the ride with us, right?

21 MR. McSORLEY: Good afternoon,
22 Councilman and panel. I'll get right to
23 it. I think I'll be as brief as I can
24 be. My name is Richard McSorley. I'm
25 the Deputy Court Administrator for the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 Court of Common Pleas, the Criminal Trial
3 Division. Pretrial Services as well as
4 the Adult Probation and Parole Unit are
5 part of that Criminal Trial Division. So
6 I'm here to speak on behalf of Pretrial.
7 The Director's name is Michael Bouchard.
8 He got married this past Saturday and
9 asked for off today, so...

10 COUNCILMAN JONES: I think it's
11 appropriate.

12 MR. McSORLEY: I gave him the
13 whole day.

14 But I do have with me the
15 Deputy Director, Sharon Malvestuto, and
16 the head of the EM Unit, Sam Turner, if
17 there's any follow-up questions that I
18 can't answer.

19 I think the most important way
20 to begin this statement is to ensure the
21 panel that they understand the mission of
22 Pretrial Services nationwide. We are
23 focused on maximizing public safety and
24 ensuring the appearance in court of the
25 defendant, while holding true to the need

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 for pretrial justice for each and every
3 defendant.

4 The mission statement of the
5 Philadelphia Pretrial Services Division
6 is to provide services and supervision to
7 clients and maximize community safety
8 while promoting court appearances. A lot
9 of what we have discussed -- and I'm on
10 the Committee -- we've been talking about
11 is what we hope happens in the future.
12 I'm here to tell the panel and discuss
13 what we are currently doing and some of
14 what we would like to do in the future.

15 The groundwork for our
16 department begins with our Bail
17 Interviewing Unit. This unit interviews
18 every defendant who is arrested and
19 charged 24/7/365 over a video system
20 prior to the arraignment in order to
21 gather demographic, court and criminal
22 history, along with personal information
23 about the defendant that is used by the
24 Arraignment Court magistrate while making
25 a bail determination. This information

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 is also sent to the District Attorney and
3 Public Defender in the Arraignment Court.
4 So we interview about 35,000 to 40,000
5 defendants annually, and all this
6 information becomes part of the case
7 file.

8 Philadelphia's current pretrial
9 supervision has an array of levels. To
10 begin, the information gathered by the
11 Bail Interviewing Unit allows us to send
12 out those court reminders that were just
13 discussed by the last presenter. We are
14 actually doing robo calls now. This
15 happens when the defendant is released on
16 ROR or with supervision or on bail or in
17 just in any type whatsoever. This
18 technology is not currently used by many
19 of the surrounding counties and
20 jurisdictions.

21 And as a side note, I will say
22 I am old enough that I was around during
23 the Goldkamp days and there was
24 implementation problems. I wasn't with
25 Pretrial then, but when I became the DCA

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 three years ago, we immediately ramped up
3 the robo call system. We put it in place
4 very quickly, and we're making thousands
5 a calls a month, by text, by e-mail, and
6 by phone call. So it's technology that's
7 been out there for a while and we just
8 started using it about the last two
9 years, I believe.

10 The next level of supervision
11 in Pretrial is when you're released on
12 ROSC Type I or Type II. These
13 supervisory programs make the defendant
14 come in for the initial orientation or
15 they have to make a phone call to
16 Pretrial. The officer explains to the
17 defendant what the requirements are,
18 tells them to appear in court, tell them
19 they have to stay in touch with the court
20 system. Due to our volume, the call is
21 received by an automated system if you're
22 released just on having to make a phone
23 call. Every defendant is instructed on
24 how to use the system. They also do
25 receive a list of service providers if

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 they would like to take advantage of that
3 type, but as we saw in Washington when I
4 went there with you, Councilman, we don't
5 have that time for the one-on-one talk
6 with the defendants. We don't have the
7 time to really get into a needs
8 assessment, which is something we are
9 looking into doing hopefully in the
10 future.

11 The officers who oversee these
12 defendants that are released on ROSC Type
13 I and Type II have a high volume of
14 cases, so the oversight is very limited.
15 It would be ideal to have more resources
16 and one-on-one contact with each
17 defendant in order to provide more
18 information and answer questions, but
19 that would require additional staffing.
20 And also you have to remember that we do
21 all of this -- we do our arraignments,
22 unlike a lot of jurisdictions, 24/7/365,
23 no holidays, no weekends off.

24 The next level of supervision
25 is direct supervision. At this level,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the defendant is required to check in in
3 person with an assigned pretrial officer
4 each week. There is flexibility at this
5 level of supervision to accommodate those
6 who are in school, who are employed or
7 who have other time constraints. The
8 caseload limit for each pretrial officer
9 is limited mostly due to the need of time
10 that this level of oversight requires.
11 If this type of supervision were to be
12 used more frequently by the court, we
13 would need additional funding and have to
14 fund more positions due to the oversight.
15 Currently, each Pretrial
16 Services direct supervision officer has a
17 caseload of up to 25 to 30 defendants.
18 The maximum amount should not exceed 35
19 if we're following the national pretrial
20 standards. So any increase in the number
21 puts strain on the Direct Supervision
22 Unit. However, it's hoped that with the
23 MacArthur initiatives and additional
24 funding in the future, this higher level
25 of supervision cannot only be increased

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 but those services that we've talked
3 about before can be expanded and offered
4 at an earlier level.

5 The highest level of
6 supervision, which is discussed a lot in
7 this Committee, is the electronic
8 monitoring. This is an area where the
9 court requested and received actually a
10 line item budget amount of \$92,000 last
11 year from City Council in order to
12 increase our ankle bracelet volume. The
13 fact that this was approved by Council
14 shows how important it is to fund this.

15 Currently, we are limited on
16 the number of ankle monitors we have, so
17 this form of supervision is generally
18 reserved for those defendants needing a
19 high level of supervision and for Rule
20 600 cases. Quick explanation, Rule 600
21 cases, if a defendant is incarcerated
22 from the time the complaint is filed to
23 the trial date over 180 days, he should
24 be released on nominal bail or SOB bail.
25 There are some cases where it's over 180

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 days and the request is made for more
3 stringent oversight, and that would
4 become house arrest.

5 Defendants are put on a very
6 strict schedule when they're on house
7 arrest, and if they fail to return to
8 their home at an assigned time, an alert
9 goes off. Every alert is investigated to
10 some degree by the EMU, the Electronic
11 Monitoring Unit, which operates 24/7/365.
12 This too is unique to Philadelphia. Many
13 jurisdictions do not monitor 24/7.
14 There's a lot of misinformation out there
15 that people think that you're on EM and
16 any time of the day or night something
17 happens, SWAT comes through the windows
18 and snatches the person up. That is not
19 the case. But in Philadelphia, we do
20 monitor 24/7, and we don't just wait
21 until the next business day, which is
22 what a lot of counties do. In fact, I
23 think all the other counties in
24 Philadelphia that have EM do not operate
25 24/7 -- I mean in Pennsylvania.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 The EMU in 2015 processed
3 52,306 alerts. Each of these has to be
4 recorded, documented and, to some degree,
5 investigated. Still it's our hope to
6 expand the use of EM in Pretrial and
7 convert to better technology. Pretrial
8 just recently, because of the MacArthur
9 grant, issued an RFP for new technology
10 and is in the process of selecting a
11 vendor to update our technology to
12 wireless and GPS units. This is in part
13 due to MacArthur, but it's also the
14 direction that the First Judicial
15 District has been headed for some time.
16 We knew that landline technology is
17 coming to an end. It's going to be a day
18 very quickly that people are not going to
19 have phones in their houses anymore, and
20 we're trying to get ready for that.

21 So we would like to expand the
22 use of GPS and wireless, which we feel is
23 absolutely necessary, but that's going to
24 mean an increase in funding, because a
25 lot of the funding we're getting right

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 now is just to replace the archaic
3 equipment to GPS and wireless.

4 It is our opinion that Pretrial
5 is going to play a critical role in the
6 criminal justice reformation. In fact,
7 the majority of the MacArthur initiatives
8 and grants are Pretrial initiatives.

9 There's a critical need to improve and
10 increase our services that will require
11 dedicated funding. Director Bouchard and
12 I recently joined you, Councilman Jones,
13 and other members of the panel when we
14 went to Washington.

15 I'd just like to point out the
16 Washington trip, because I think we have
17 to realize that we are talking somewhat
18 about apples and oranges when we're
19 talking about Philadelphia and
20 Washington. Washington has a
21 phenomenally federally funded agency that
22 allows them to release over 90 percent of
23 their defendants arrested on some type of
24 pretrial supervisory program while
25 providing intense social services, and as

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 we saw, they provide those services
3 immediately, before you're even
4 arraigned. In a sense, they have
5 eliminated cash bail and instead use a
6 proven risk tool to determine who is
7 released and who must remain in custody.
8 They do have support from all their
9 justice partners and have been
10 functioning this way for over 15 years.

11 However, they also have a
12 budget that's nearly ten times that of
13 Philadelphia, with a population that is
14 less than half the size of Philadelphia,
15 but nevertheless their model is one that
16 we have looked at for a long time, we
17 strive to achieve, and we hope as more
18 resources are dedicated to pretrial
19 supervision instead of incarceration, we
20 will be able to eliminate cash bail and
21 increase pretrial release while ensuring
22 public safety. And you did say,
23 Councilman Jones, public safety, public
24 safety, public safety. We're well aware
25 of that commitment.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 Lastly, I just want to touch on
3 and as I know will be discussed later
4 that there's been much discussion about
5 the use of day reporting centers. These
6 centers are currently used in Allegheny
7 County. We have explored them. We also
8 know that Allegheny County due to their
9 own funding constraints only staff these
10 day centers on a very limited basis and
11 limited times. Pretrial Services, along
12 with its partners in Adult Probation and
13 Parole, are willing to work with the
14 Philadelphia Prison System and the City
15 to explore this option. It could be a
16 powerful resource, but one that needs to
17 be fully explored and funded so that it
18 can be tailored to meet the needs of
19 Philadelphia's population.

20 Being in this system for over
21 32 years, from Municipal Court to the
22 Court of common Pleas, I have learned one
23 thing when I've gone to other
24 jurisdictions to look at any kind of
25 model, whether it's the way the district

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 attorney does cases, the way the defender
3 does cases, the way the court does cases,
4 that every jurisdiction -- you could have
5 a base model, but everything has to be
6 tailored to that jurisdiction.

7 Philadelphia is not Pittsburgh. It is
8 not Ohio City in Pennsylvania. It is not
9 Ohio. We have different people,
10 different needs, different responses, and
11 we all have to be aware of that as we
12 look at another model. We can't just
13 say, well, let's just take what they do,
14 dump it over here and it's going to work.

15 All this is going to take
16 working together. And what will be
17 critical as the jail population decreases
18 is that our agency is going to be tasked
19 with the critical role of supervising
20 more and more defendants on various
21 levels of supervision, which means more
22 supervision resources and more social
23 services resources.

24 Along with this Committee,
25 though, the Court of Common Pleas, the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 Pretrial Services Division is focused on
3 the mission which is paramount to all of
4 us: public safety, reduction of our
5 pretrial prison population, and
6 appearance in court. It is our hope that
7 as this national focus on pretrial
8 release and non-cash bail gains momentum,
9 that the Philadelphia Pretrial Division
10 will be ready to accept the challenges
11 and become a model in the future for
12 other jurisdictions.

13 That's my statement, if there's
14 any questions.

15 COUNCILMAN JONES: So for me
16 this is the most I've ever heard you
17 talk, and it was well worth waiting for.

18 Did I see you push your button?

19 MR. COBB: After you, sir.

20 COUNCILMAN JONES: No. You go
21 first.

22 MR. COBB: Thank you for your
23 testimony.

24 Depending on who you ask, it
25 costs the City of Philadelphia somewhere

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 between \$125 to \$140 a day. What is the
3 cost for your highest -- what's the
4 highest cost output on a daily basis for
5 the services that you provide?

6 MR. McSORLEY: Well, the
7 equipment cost for putting somebody on EM
8 is going to be \$1,300. That's with the
9 ankle bracelet and with the monitoring
10 device. But that's a one-time cost for
11 the equipment. The monitoring of each
12 defendant is going to be the salary of
13 somebody who is working that day of the
14 EM Unit people. It's going to -- I don't
15 have it broken down by dollar amount, but
16 it's not going to be nearly what it is to
17 incarcerate somebody on a daily basis.

18 MR. ROJAS: In listening to
19 your testimony, one of the things that I
20 see -- that I would like to see, because
21 I see an absence of it, is what role does
22 the family support system play in your
23 plans to actually keep somebody out and
24 do the supervision? Because a lot of
25 times family pressure and family

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 interactions have something to do on an
3 individual's behavior.

4 MR. McSORLEY: Well, obviously
5 family is going to be paramount. My own
6 personal experience of working in this
7 criminal justice system for over 30 years
8 is that if you have family that supports
9 you, you're more likely not to
10 recidivate. You're more likely to show
11 up.

12 From a pretrial perspective, if
13 family gets involved with the
14 client/defendant early on, we're going to
15 have somebody who is going to help us
16 that when we direct the person to go to
17 AA, when we direct the person to go to
18 NA, when we direct the person to have to
19 show up in court, if there's somebody in
20 the family that is going to be there to
21 assist them, I think that when we do our
22 intake interview and we will realize
23 that, that would be something as we
24 develop programs for something like a
25 step-down program. You're arrested,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 you're on high supervision, we've learned
3 more about you, we learn about the
4 family, we have more contact, we start to
5 see that you're doing the things that
6 you're supposed to be doing, you're going
7 into counseling, whatever it takes, and
8 it's not even the trial date yet, there
9 could be a possibility that we would go
10 to court with the defense counsel or with
11 the Commonwealth and say, We believe that
12 this person could be on a step-down
13 program.

14 For EM, I can tell you that
15 family is paramount, because without the
16 family's approval many times, we can't
17 even put the person on an EM bracelet.
18 And in fact, I have some stats that I
19 just got from Mr. Turner this morning
20 that we have about 118 pending court
21 orders for people on EM; 48 had no
22 contact information, 13 there's phone
23 issues, one family refused to have the
24 person put on EM. So when it comes to
25 pretrial, that's one of the resources

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 that we do take into account that we
3 would use in the future, and I think it's
4 a powerful one if we can use it, but it's
5 also -- I don't want it to ever become
6 something that's used against the
7 defendant, though, if there is no family
8 support. So it's just one of those
9 factors that's taken into account when
10 we're doing our assessment of the
11 defendant and his release and what
12 supervision he's going to need.

13 MR. ROJAS: So it is included
14 in the risk assessment?

15 MR. McSORLEY: I'm not talking
16 about the risk assessment tool now,
17 because that hasn't been developed yet.
18 But I think after the risk assessment is
19 initially stepped -- first of all, all
20 this information we take in in Pretrial
21 now. We ask the people while they're in
22 lockup before the arraignment, how long
23 have you lived in Philadelphia, do you
24 have a family here, do you have children,
25 do you have education, are you in the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 military. We have all these questions so
3 that the person going before a
4 Philadelphia Arraignment Court
5 magistrate, there's a wealth of
6 information that they have, knowing
7 already the roots of that person's ties
8 to the community. And with the new risk
9 assessment, I'm not -- I can't speak to
10 that because it's still in development,
11 but I'm sure that those kind of things
12 are going to be taken into account.

13 MR. ROJAS: Okay.

14 COUNCILMAN JONES: And thank
15 you for taking the trip to DC with us.
16 Big differences, and help me out with
17 this, between our current pretrial, their
18 pretrial. Number one, DC is a subsidiary
19 of the federal government. Big price tag
20 came with that. I think it was \$83
21 million in pretrial end of it. So if you
22 were to look at two models, ours and
23 theirs, they shifted money on the front
24 end to make sure that their process had
25 some follow-up and follow-through. So

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 instead of somebody saying you're out and
3 we want you to go and hopefully you'll go
4 and maybe you will and even if you don't,
5 oh, well, they really kind of put an onus
6 and urgency of a case -- if a social
7 worker and a probation officer had a
8 baby, it would be their case managers.
9 So they're tough loving you, but they're
10 loving you, and they're making sure you
11 go to your appointed rounds, and if you
12 violate that, there's an immediate
13 consequence. So you're like, man, this
14 is the father I didn't have. This is the
15 monitor I need. And so a lot of times
16 that immediate observation keeps people
17 on the path. Is that what you found?

18 MR. MCSORLEY: That's what I
19 found. But I will -- there's caveats to
20 everything. With our increased volume,
21 one of the things that they do that we
22 don't do is that you sit until those
23 assessments and all that information and
24 the social worker can talk to the
25 defendant, and then they're held in their

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 county prison and then they're
3 transferred to the arraignment courtroom
4 that we saw. So if you're arrested on a
5 Friday night, you're probably going to
6 sit until Monday, where if you're
7 arrested on a holiday, you're probably
8 going to sit. Whereas in Philadelphia,
9 there's need to make sure that we have
10 very timely arraignments, and that's why
11 we do them 24/7.

12 So I guess to answer that
13 question, even if I had their budget, I
14 would probably need more than their
15 budget because I would want to do what
16 they do --

17 COUNCILMAN JONES: We know
18 you'd be way more efficient than them.
19 We understand that. That's a given.

20 MR. McSORLEY: But we would
21 want to do all those things 24/7/365. I
22 don't think we ever want to go back to
23 the days of keeping somebody over a
24 weekend just to have some sort of bail
25 hearing.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 But their needs assessment and
3 their ability to get involved in the
4 defendant's life right away was very
5 impressive. And I would love to be able
6 to have every defendant that gets
7 released on non-monetary bail report to
8 Pretrial within 48 hours of their release
9 and we jump right into it and open a case
10 file and have a meeting and discuss what
11 their needs are, but we don't have the
12 space, we don't have the people, we don't
13 have the time.

14 COUNCILMAN JONES: The other
15 exception to holding people was
16 extradition. If you were wanted in
17 another county, you got held. There was
18 no release. And that was an observation
19 that we made.

20 MR. McSORLEY: That's another
21 difference with us. We actually set bail
22 on people that are wanted for
23 extradition, because we do have a lot of
24 cases that they're wanted in Camden and
25 it's a retail theft charge, and I know

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 from my experience in Municipal Court
3 we're not going to set a high bail on
4 that kind of extradition case. But
5 you're right. In Washington, though,
6 they just got pushed right over to the
7 side and they're held.

8 COUNCILMAN JONES: Do you have
9 any insight as to the recent legislation
10 passed in New Jersey? Are you looking
11 at --

12 MR. McSORLEY: I have read
13 about it. I have gone to the national
14 pretrial conferences -- not the national;
15 the Pennsylvania and met some of our
16 counterparts in Jersey. The only insight
17 I can give you is that they are
18 struggling like we are struggling. They
19 have a timeline. They're trying to get
20 things up and running as quickly as
21 possible.

22 I think Mr. Heaton made a
23 comment about implementation. When the
24 Goldkamp study was done in Philadelphia,
25 there was a lot of things like ROSC that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 were put out there but not implemented
3 properly. Either the resources or the
4 time and the effort might not have been
5 made correctly.

6 New Jersey is going to be
7 interesting to watch, because I think
8 they're trying to do a whole lot very
9 quickly, and their implementation of
10 their pretrial remains to be seen and
11 what the outcomes are going to be and how
12 they're going to be measured remains to
13 be seen.

14 COUNCILMAN JONES: So one of
15 the things that -- I can only speak for
16 myself -- is this is not a quick fix.
17 You would have to shift -- it's like a
18 giant ocean turning, and it's not a speed
19 boat. You have to shift resources. You
20 have to re-appropriate budgets. You have
21 to make sure job descriptions are -- and
22 not to mention civil service and union
23 rules that you have to figure out. But
24 however and nevertheless, it seems to be
25 working in DC. Is that your assessment?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. McSORLEY: Yes. And I
3 think that's the path we want to go down.
4 I will be candid and say Philadelphia's
5 pretrial mission several years ago was
6 more of if you don't show up, we will
7 come and find you and get you if we can
8 find you and get you. That was our
9 number one priority. Now I'd like to
10 shift that culture to release the people
11 that we can release and provide them the
12 services and what they need in order that
13 they show up and not have that mindset of
14 everybody who is arrested is danger to
15 the community and is going to be
16 released. If they're released, then we
17 have to go out and do something about it.

18 So I like the way we're
19 shifting, but even within the Pretrial
20 Services Division in Philadelphia, it has
21 been a shift to go back to that mission
22 statement of we are here to serve our
23 clients, maximize public safety, and get
24 the people to appear in court instead of
25 reacting to the people when they don't

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 appear in court.

3 COUNCILMAN JONES: I'd love to
4 hear your opinion and that gentleman down
5 at the end --

6 MR. EL-SHABAZZ: I bet you
7 would.

8 COUNCILMAN JONES: -- on the
9 record on this concept.

10 MS. BRADFORD-GREY: Well, I
11 just want to ask, basically when we
12 discuss looking at the way we administer
13 bail here in Philadelphia, you say we do
14 a lot based on risk because we look at
15 the charges and, of course, the history
16 and extract. You said we haven't yet got
17 into looking at needs, but that is the
18 way to go.

19 I wanted to ask you in terms of
20 the people that are released on ROR,
21 where we do have some further options or
22 opportunities to provide services, have
23 we assessed what that recidivism rate has
24 produced?

25 MR. McSORLEY: For the people

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 released on ROR, what the recidivism rate
3 is?

4 MS. BRADFORD-GREY: Where we've
5 been able to get pretrial services to
6 them and give them some kind of
7 opportunity to address their issues, have
8 we found what rate of return we had on
9 that in terms of reduced recidivism?

10 MR. McSORLEY: Well, first, if
11 the person is released on ROR, there's
12 almost no pretrial contact except for the
13 robo call. So they're not being offered
14 anything or told anything. They're just
15 hopefully showing up.

16 MS. BRADFORD-GREY: I mean in
17 some form of ROR where you say it's -- in
18 your statement it says Pretrial Services
19 provides a list of service providers if
20 they would like to take advantage of any
21 social services. Basically what I'm
22 asking, based on all the things you have
23 in here where you say that people are
24 trying to have the opportunity to address
25 their needs, have you found that that has

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 actually happened and, if so, what rate
3 of return have we had in terms of reduced
4 recidivism?

5 MR. McSORLEY: We do not have
6 an answer to what the success rate is
7 because of the volume, because we don't
8 have the ability to follow up. If the
9 person is released on special conditions
10 and they self-disclose that there's
11 issues and we have literally a list of
12 resources, we can say, Here's your list
13 of resources, but I've now already spent
14 as much time as I can with you because I
15 have a line going out the door. So good
16 luck, and I hope you use those resources.
17 Whether the people follow up or not or
18 use them and whether those people show up
19 in court as opposed to other people, we
20 have not had the ability to measure that
21 impact at all. That is, again, something
22 that as we go down with this new way of
23 pretrial, we need to be able to measure
24 our outcomes so we can see what works.

25 We don't want to over-supervise

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 somebody, make people go into counseling
3 that don't need counseling if they just
4 need to have a resource made to them, but
5 it's something that we just can't answer
6 now. And it's one of our struggles that
7 we have to overcome, that we don't know
8 what happens after the person leaves, to
9 see if they follow up and go to court.
10 The only thing we do know is that we have
11 about 38,000 outstanding bench warrants
12 in Philadelphia, so we have a lot of
13 people who don't show up in court.

14 MS. BRADFORD-GREY: And do we
15 understand the reasons why for those
16 bench warrants? I know that as a
17 practitioner, I understand that there's
18 often information generated that don't go
19 to the addresses that the people are
20 actually living at or they have a
21 stay-away order from the address that
22 they were living at, so they're living
23 somewhere else. There's a lot of
24 logistics that go into that as well. But
25 I know that we do have right now a pilot

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 program where we're doing early bail
3 reviews.

4 MR. McSORLEY: Right.

5 MS. BRADFORD-GREY: And in
6 terms of that pilot program, where
7 someone is held in custody on \$50,000
8 bail or less with certain offenses, not
9 inherently violent offenses, they are
10 given a five-day review hearing. And
11 that's only been going for, I think, a
12 few weeks, maybe a little over a month,
13 but we've had some great successes in
14 terms of people getting where they needed
15 to be with a more in-depth interview or
16 discussion in terms of their terms of
17 release for bail purposes or not in order
18 to avoid bail.

19 MR. McSORLEY: Right.

20 MS. BRADFORD-GREY: So it seems
21 like the more we put into the bail
22 hearing process, the more people feel
23 like they've been treated fairly and in
24 terms they are willing to, I guess,
25 follow the directions and do what is

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 necessary. Because I do know we do have
3 people who are homeless who make it into
4 their Pretrial Service providers or their
5 Pretrial Services Unit to report. So the
6 psychology seems to be playing -- it
7 plays a factor. If people are processed
8 over a screen where it's less humanizing,
9 they have less incentive to adhere to the
10 conditions, but where we see that people
11 are actually given the time and given an
12 opportunity to express their needs or
13 opportunities to address their needs,
14 they actually are following through.

15 MR. MCSORLEY: And I think
16 that's a very good point but, again,
17 there's always a trade-off. If we -- I
18 worked in the days, because I'm old
19 enough, that we used to bring everybody
20 to the Roundhouse when I was a clerk
21 there and I started in the Municipal
22 Court, and everybody was handcuffed 20 at
23 a time together and brought into the
24 courtroom, and it was all in person,
25 except for some limited CCTV hearings.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 And when we went to the Criminal Justice
3 Center and video, the Defenders
4 Association and others had the concern
5 about video. The trade-off was, though,
6 we're not transporting defendants from
7 all over the City to one location, and
8 instead of being incarcerated or held in
9 police custody for 24 to 30 hours waiting
10 for an arraignment, we're now down to six
11 to ten hours, because we are doing it via
12 video. So for this type of hearing, it
13 was felt that using the technology that's
14 available and getting the person out of
15 custody as fast as possible or at least
16 have a hearing as fast as possible
17 outweighed that one-to-one, face-to-face
18 a lot more information that you're going
19 to get later.

20 Now, with the bail review, that
21 kind of thing is starting to happen. I
22 have heard promising numbers. That's
23 under the Philadelphia Municipal Court
24 with President Judge Neifield, and a lot
25 of those defendants are being released on

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 direct supervision. And Mr. Bouchard as
3 the Director has been keeping me up to
4 date and letting me know it seems to be
5 working, but now we're moving towards a
6 way from that cash bail to direct
7 supervision. So now the pretrial
8 resources are getting taxed more and more
9 and more. This is just one review pilot
10 program. If it started to spread down
11 the road, which I'm not saying wouldn't
12 be a good thing, that's a lot of direct
13 supervision that all the sudden we
14 wouldn't be able to handle. So it's a
15 lot of moving parts all at the same time,
16 and as the Councilman said, it is turning
17 that ocean liner around in the bay
18 without trying to knock over a few piers,
19 because then you know you have pier
20 pressure.

21 MR. EL-SHABAZZ: If we can
22 bring it back to reality, one of the
23 things is that we're talking about money.
24 I heard you say that over and over again.
25 We're talking about money. Even in that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 pilot program, the District Attorney's
3 Office is not being financed. No one is
4 funding Assistant District Attorneys to
5 come over to that particular room to do
6 anything. So we are limited in
7 resources, and being limited in
8 resources, you have to pick your
9 important issues.

10 For example, do you send
11 someone to a preliminary hearing on a
12 felony charge or do you send them to the
13 room where just the Public Defender is
14 arguing at this point. Well, this is
15 review. So if the funding is available,
16 then we can support that particular room.
17 That's the first thing.

18 The second thing is, you asked
19 a question about the people that fail to
20 appear, the bench warrants, and then you
21 were giving, well, some people go to the
22 wrong address, and it does. Some people
23 are homeless and there's no address, and
24 that happens too, but then there are
25 other people that just abscond, they

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 don't come, they leave. So if you're
3 going to do the research on that as to
4 what's the numbers on the people where it
5 goes to the wrong address or the numbers
6 on the people that are homeless, we have
7 to have the numbers or that type of
8 study, and based on your testimony, I
9 didn't hear you say that you have the
10 study on that. So we don't even know
11 what that is. It could be 10 percent of
12 the people it goes to the wrong address
13 and 90 percent of the people are
14 absconding. We don't know that at this
15 time because there's no research.

16 So what you're basically saying
17 is that although we're looking at
18 Washington, DC, although we're looking at
19 these other places that seem to have some
20 success, one of the things that makes
21 them successful are the resources, the
22 funds, the ability to have the social
23 workers, the ability to have the
24 programs, the ability to have all of
25 those things in place. My question is,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 has anyone made you aware of the source
3 of funding in the City and County of
4 Philadelphia that would allow you and
5 allow us to put all these things in place
6 so that now we have resources, we have
7 the individualized counselors that can
8 counsel people, we have all the social
9 services that are available so that we
10 can actually put this in place or is that
11 a major stumbling block? It doesn't mean
12 that we don't explore issues. It doesn't
13 mean that we don't look at particular
14 benefits of changing this program, but we
15 have to deal with the reality. Without
16 the resources, the trained individuals,
17 the social service programs, those
18 individuals that we need to have in
19 place, even the electronic monitoring
20 system and having enough of them, we're
21 just talking hypothetically at this time.

22 MR. McSORLEY: Correct.

23 MR. EL-SHABAZZ: Okay.

24 MR. McSORLEY: I do want to
25 make one point, though, because the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 address thing keeps coming up. In
3 Philadelphia we don't use a summons under
4 the rules where they do in a lot of other
5 jurisdictions and counties. If it's a
6 misdemeanor, the police release you and
7 then they send you a summons for your
8 date. In Philadelphia, every single
9 misdemeanor to felony defendant is
10 arraigned and handed a subpoena with
11 their next court date. So if the address
12 is bad, if they're homeless, if they
13 move, their initial date was given to
14 them. So they know what their date is,
15 without question. Now, if they move
16 later and there's continuances and stuff,
17 there is that rule out there that says
18 that the defendant has -- the burden is
19 on the defendant to make sure that he
20 stays in touch with the court system.

21 I understand things happen,
22 people move, you're sleeping on couches
23 all over the place, you lose your
24 subpoenas, you sober up three days later
25 and you don't even know that you were

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 arraigned. I understand all those
3 things, but a lot of people think that
4 we're sending out subpoenas to the wrong
5 address. We might be sending out the
6 subpoenas to the wrong address, but not
7 for that initial appearance.

8 MR. EL-SHABAZZ: So at the end
9 of the day, what we're talking about
10 reforming is more than just looking at a
11 model and trying to get rid of cash bail.
12 It's actually using that ocean liner,
13 that big ocean liner, and it's turning
14 slowly. And so some of the things that
15 have to happen is trained individuals,
16 right, social service programs developed,
17 alcohol, drug treatment, domestic
18 violence training, whatever it may be,
19 which costs money, all of the -- having
20 the bail review but having the District
21 Attorney's Office as well as, I think,
22 the Public Defender's Office is financed
23 for it, but I don't know if they are or
24 not.

25 MS. BRADFORD-GREY: Yes, we

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 are.

3 MR. EL-SHABAZZ: They're
4 financed; we're not financed.

5 MS. BRADFORD-GREY: No, we're
6 not financed. I'm sorry. We're there.

7 MR. EL-SHABAZZ: Well, whether
8 they're there or not, we don't have
9 enough people in the District Attorney's
10 Office to service that particular area.
11 We can hire some more, but it's economic.
12 So at the end of the day, we're talking
13 about locating a funding stream, as I
14 think the Councilman said so eloquently,
15 and taking money from some place else and
16 reallocating it. Now, I just want to
17 know where that money is.

18 COUNCILMAN JONES: That's why
19 I'm so glad he's on this side of the
20 table now. He's joined the ranks of
21 government and understands how difficult
22 it is to make something happen.

23 MR. McSORLEY: I think he was
24 looking at me but talking to you,
25 Councilman.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: I know he
3 was. So were you. You mentioned money
4 five, ten times. I get it. I get it.

5 MR. EL-SHABAZZ: I just wanted
6 that to be on video. Is that on video?
7 Do I have it on audio too? Money.

8 COUNCILMAN JONES: It's on
9 video.

10 So here's the thing. The
11 process and why we are here is to say
12 what the needs are, and something you
13 said earlier in my ear, not on the
14 record, was if it was a perfect world,
15 what would we want. And the reason why
16 President Clarke empowered this
17 commission was to do that in time on a
18 timeline for January. That's why there's
19 a sense of urgency of this Committee
20 doing this work, because that begins the
21 budget process.

22 And so, no, we're not going to
23 get all we want. We could --

24 MR. EL-SHABAZZ: So can you
25 write that down, Councilman?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: You can
3 write --

4 MR. EL-SHABAZZ: Funding to the
5 District Attorney.

6 COUNCILMAN JONES: I think the
7 press is there and the stenographer is
8 there.

9 MR. McSORLEY: I think you're
10 talking about funding for the court
11 system.

12 COUNCILMAN JONES: We will not
13 get everything we want, but we can begin
14 the process.

15 I remember sitting in this
16 Chamber three years ago when
17 then-President Judge Dougherty said with
18 about \$150,000 investment, we could get
19 GPS technology that would reduce -- and I
20 remember hearing it echoed through these
21 halls, and nobody was paying attention.
22 What has changed? President Obama has
23 said this is a priority. The Mayor of
24 the City of Philadelphia said this is a
25 priority. The President of City Council

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 said this is a priority. And all three
3 of them control the purse strings of our
4 budgets. So what they want is not
5 just -- you know what I think this is.
6 What this panel has decided to do was to
7 research it, get evidence to it, so that
8 when I have to convince nine colleagues
9 why you need more money, I have some
10 grounds other than the fact that Tariq is
11 there.

12 MR. EL-SHABAZZ: I can supply
13 you with whatever you need to convince
14 your colleagues that we need more money
15 over there.

16 COUNCILMAN JONES: Co-Chair.

17 MS. BRADFORD-GREY:

18 Mr. McSorley, I think too -- I don't want
19 to get away from what our goals are, but
20 our goals are to increase public safety,
21 and what we heard from the first
22 testifier was that detention doesn't do
23 that. So if our goal is to increase
24 public safety and we understand the
25 models that help us get there, then why

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 can't we find the money to do so?
3 Because what we're doing is not working.
4 We can't incarcerate our way into public
5 safety. We continue to do this and get
6 the same results. So now it's time to
7 figure out what pilot programs work,
8 study that through research, and continue
9 to increase those resources to that end.
10 Because I have to believe that when we
11 release someone, it's pulling from a
12 budget from somewhere else where we've
13 been incarcerating them. And I know
14 Mr. Cobb asked a great question. It's
15 about \$125 to \$145 a day to incarcerate.
16 We really don't know the exact number,
17 but if you have certain medical needs,
18 it's even more. And so in terms of
19 understanding that type of financial
20 outcome or impact, why can't we then look
21 at a better model that will give us
22 better returns on our efforts? Our
23 taxpayers dollars are really going into a
24 system that is not allowing people to
25 continue to contribute to the tax base

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 because they're detained and losing jobs,
3 that are not necessarily giving us more
4 increased public safety, and sometimes
5 making people more desperate and that
6 they are losing really valuable public, I
7 guess, benefits that they had going in
8 and once they are released, they have to
9 start all over. Many people lose mental
10 health medication or things of that
11 nature that is required for them to
12 function.

13 So I think if we stop looking
14 at this like it's only a money gain, we
15 have to look at it is that it's a goal to
16 increase public safety and what do we
17 need to do to get there. And so that's
18 kind of where I would like to see what is
19 better practice in terms of increasing
20 public safety, reducing recidivism, and
21 helping people stay employed if they were
22 so when they went in.

23 MR. EL-SHABAZZ: And I would
24 like to see how we can do that without
25 money. Now, if you can find a way to do

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 it without money, we can do it. I just
3 want to find a way to do it. No one is
4 saying -- and I've never said and I
5 haven't heard anyone else on this panel
6 say -- we're not dealing with the
7 humanistic standpoint at all. And anyone
8 that knows me know that's not what it's
9 about. At the end of the day, we're
10 talking about putting together programs
11 and talking about putting together
12 resources that make them available to a
13 community so that the community can
14 benefit. I understand what we're talking
15 about. The question is, where can we
16 draw from? Where can we get that from so
17 that we can begin to do that? That's
18 what I'm saying.

19 COUNCILMAN JONES: The
20 assumption is that it has to cost money.
21 It does not have to cost more money. It
22 does not.

23 MR. EL-SHABAZZ: I don't care
24 where we get it from.

25 COUNCILMAN JONES: So it is a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 shift sometimes from one column to the
3 other in reducing one cost and increasing
4 another by way of service. And I think
5 there is at least some belief within this
6 body that some of the redirection of
7 resources, whether it's in DHS, big cost
8 center of ours, Prisons, big cost --
9 one-third of all of our budget is in
10 police, courts, and prisons. We can't do
11 anything without looking at how we
12 administer those funds. It may mean some
13 increases in grants from something, but
14 at some point, it's going to take major
15 shifts.

16 One of the things we noticed in
17 DC was they saved some resources, but
18 they didn't reduce the staff and cost of
19 the prisons, and that was an
20 accommodation that was made between labor
21 and management. And those are things
22 that are reality that we are going to
23 have to navigate in this big ocean of
24 change. And I'm saying to you, yes, it's
25 going to cost. Where it comes from, all

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of those details will be determined as we
3 move along. But if we stay and continue
4 to do what we've done all along --

5 MR. EL-SHABAZZ: I don't think
6 we said that, though, Councilman.

7 COUNCILMAN JONES: I know, but
8 I'm saying that for the record we're not
9 saying that. I want for the record we're
10 going down a course right now that
11 everybody from the President on down has
12 said this isn't the way to go.

13 MR. COBB: I actually have one
14 question just for the record, and you may
15 not be able to answer this. It's my
16 estimation that cash bail simply doesn't
17 work, but my question would be is, what
18 percentage of people actually show up in
19 court because they do not want to forfeit
20 whatever cash bail they put forward as
21 opposed to the people who don't have cash
22 bail as an incentive to actually show up
23 in court? Do we have that data anywhere?

24 MR. McSORLEY: Not to my
25 knowledge we don't have that data at this

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 time.

3 MR. COBB: Thank you. So we're
4 doing something to create a person to
5 engage in an activity, but we don't know
6 if that thing that we're doing is
7 actually driving them to engage in that
8 activity.

9 COUNCILMAN JONES: All right.
10 So this is going to be an internal --

11 MR. EL-SHABAZZ: Do we have
12 anybody that has that? He asked the
13 question as if he has some information
14 about it. So if you have some
15 information and some numbers that
16 indicate that the cash bail doesn't do it
17 or does do it or what percentage is,
18 share it with us so we all can have it
19 since you asked that question.

20 COUNCILMAN JONES: So we can --

21 MR. EL-SHABAZZ: Not an
22 estimation. Tell us the numbers.

23 COUNCILMAN JONES: We could do
24 this internally, but we need our
25 witnesses to be able to -- they came in

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 from out of town.

3 MR. EL-SHABAZZ: I'm clicking
4 off the red light.

5 MR. McSORLEY: I thought I was
6 going to be the short presentation.

7 COUNCILMAN JONES: We thought.

8 MR. ROJAS: I have one last
9 question. How do you separate the people
10 who are arrested and detained who are on
11 probation or parole from the people that
12 are arrested that you can bail out?

13 MR. McSORLEY: Well, actually,
14 we do separate them. We've been looking
15 at that for a while now, and to that
16 point, there has been a statement that is
17 out there over and over and over again in
18 the press that 60 percent of the people
19 in prisons are there on pretrial. That
20 is incorrect. Currently, as of last
21 month -- we're keeping monthly stats -- I
22 think it's 28 point something percent are
23 there just for cash bail. Then there are
24 people there with a bench warrant. Then
25 there are people there with a bench

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 warrant and detainer. So we do know.
3 It's very time consuming and laborious
4 with our current technology and the
5 different databases that we have.
6 There's a lot of work that goes into this
7 data, but we do know month to month who
8 is being held and why they're being held.

9 MR. ROJAS: And another
10 question. What percentage of that money
11 does the state provide for the people
12 that are under state supervision who
13 violate their parole or their probation?

14 MR. McSORLEY: That would be a
15 question I have to take back to my
16 probation department. So I can't tell
17 you that at this time, but I can ask that
18 question.

19 MR. ROJAS: Thank you.

20 COUNCILMAN JONES: So are there
21 any other questions for this witness?

22 (No response.)

23 COUNCILMAN JONES: If not, can
24 Ms. Williams, can you tell us our next
25 person to testify.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 THE CLERK: The next witnesses
3 will be Michael Barry, Deputy District
4 Attorney, Pretrial Division of the
5 Philadelphia District Attorney's Office,
6 and Mark Houldin, Policy Director from
7 the Defender Association of Philadelphia.

8 (Witnesses approached witness
9 table.)

10 COUNCILMAN JONES: Thank you so
11 much for your patience and our internal
12 deliberations, but we're really
13 struggling with this. So if you'll state
14 your name for the record and begin your
15 testimony.

16 MR. BARRY: My name is Michael
17 R. Barry. I'm the Deputy District
18 Attorney at the Philadelphia District
19 Attorney's Office in charge of the
20 Pretrial Division.

21 I know many of the parties here
22 know this, but the Pretrial Division of
23 the District Attorney's Office covers the
24 Charging Unit, which charges initial
25 processing, arraignment, and bail, things

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of that matter, as well as all of our
3 diversion and reentry programs and what
4 we call our Pretrial Unit, which is sort
5 of keeping the trains running, the people
6 who do all the case processing and early
7 offers.

8 I've been in this position
9 since February. As part of this
10 position, I'm also my office's point man
11 on the MacArthur Safety and Justice
12 Challenge, which, of course, as you all
13 know, touches on a lot of these programs.
14 And I've been an ADA for 17 years.

15 From speaking with Ms.
16 Williams, I think she wanted me just to
17 roll into it and then speak to
18 Mr. Houldin.

19 I don't mean to cut you off.

20 So I'm here specifically to
21 talk about the early bail review program,
22 which has been brought up and discussed
23 already. Before I do that, though, I
24 just want to on the record reaffirm my
25 office's commitment to justice in all

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 levels of the criminal justice system,
3 from the moment somebody becomes a
4 suspect through arrest, bail,
5 arraignment, charging. These are the
6 things I supervise. But also through
7 trial, through release, through reentry,
8 which is another area I supervise, to
9 make sure we make the public more safe.
10 And there's many ways to look at making
11 the public more safe, but I think we all
12 agree that the number one way we can look
13 at making the public more safe is to make
14 sure an individual is not going to be an
15 individual who commits a crime that hurts
16 them self or hurts somebody else in the
17 future.

18 To that effect, I'd also like
19 to reaffirm a commitment that I've heard
20 brought up many times here, which is that
21 there's a tension between long-term
22 solutions for problems and making sure we
23 talk about individuals and individual
24 cases. And while my office will always
25 be committed to working with the other

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 criminal justice partners like the
3 Managing Director's Office, the Public
4 Defender's Office, the Police Department,
5 the Prisons at long-term solutions, we'll
6 never give up our commitment to
7 individual justice, individual decisions.
8 And that can mean a lot of different
9 things for people different, and honestly
10 as a District Attorney, some days that
11 means I look at a person and say, I know
12 the safer thing would be to keep this guy
13 in jail, but that's not the right thing
14 to do. And other times it means I'm
15 going to fight with everybody else in the
16 room saying a person needs to stay
17 incarcerated. That's the reality of
18 things.

19 Early bail review actually
20 started in early July. The way it works
21 is, upon arrest, every individual who
22 gets \$50,000 or less bail and fits a
23 certain number of qualifying offenses,
24 most of which are misdemeanors, however
25 we did include ten different felony

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 crimes, including possession with intent
3 to deliver and commercial burglary in
4 that group, which is not necessarily the
5 easiest thing for my office to do, but we
6 did it, within three days the list is
7 populated so that we know who these
8 people are and both parties, the
9 Defenders Association and my office, can
10 begin researching this population, and
11 then there's a hearing four or five days
12 after arraignment depending -- the
13 weekends we have to add two days.

14 According to my charging chief,
15 Norma Waird (ph), who mans these rooms,
16 because there is no specific funding for
17 us to hire an additional DA to do that,
18 so I do have to send a chief, on average
19 as of the first month, 67 percent of the
20 people put on this list were released,
21 many of whom with agreement.

22 One thing that is happening is
23 prior to the list forming -- well, one
24 thing that's happening is people are
25 paying their bail. A second thing that's

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 happening is we're finding that there are
3 a lot of individuals with detainers who
4 are also on probation and, therefore,
5 sometimes retainers don't hit as quickly
6 as this list hits. That's just a
7 functional thing. So sometimes we find
8 the detainers after the fact.

9 Another thing that is happening
10 unfortunately is we're finding a
11 percentage of this population is
12 re-offending sometimes for the second or
13 third time within months. Sometimes
14 they're already on bail for two or three
15 other cases. It could be very hard for
16 us to not fight bail if somebody has paid
17 that same bail amount twice, and in our
18 eyes is a reason why they're here unable
19 to pay bail is because they already paid
20 it twice in the past three months.

21 However, I think anybody who
22 has worked in this process will agree
23 that although parties will always be
24 advocates and fight for their side, that
25 for the large part we're working to make

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 sure this is as efficient and as
3 effective a program as can be and have
4 come to a lot of agreements. Just this
5 morning as I was walking out the door, we
6 agreed to add some fraud charges to the
7 early bail review list, which had not
8 previously been considered, on the
9 suggestion of Mr. Innes from the Defender
10 Association. And this is sort of the
11 atmosphere we're working in, where we're
12 going to continue to work with this pilot
13 program and try to make it better and try
14 to make sure it meets all of our goals.

15 I think it's also important to
16 note that this is not happening in a
17 vacuum, and although this early bail
18 review pilot program has sort of been one
19 of the first ones out of the gate to get
20 going, we think it's going to get much
21 better with other programs that are in
22 the works, the risk assessment tool,
23 which has been mentioned by many people
24 here already. And, again, I can't
25 emphasize enough -- and it's funny,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 actually, Mark and I spend a lot of times
3 at meetings talking about some of these
4 programs, and the thing we almost always
5 find ourselves on the same side pushing
6 for is the need for individual justice
7 and not to just hand something over to a
8 risk assessment tool. But that tool is
9 going to give us a lot more information
10 for these hearings.

11 The Defenders Association is
12 actually working very hard for two
13 programs for them, which we think will be
14 of great help here. One is that they're
15 having bail advocates that are going to
16 be working on these cases between arrest
17 and this early bail hearing, and we're
18 hoping coming to information with us,
19 which will help the process, help
20 understand the process. In many cases we
21 hope it will make us more comfortable
22 with a release. Tell us about their
23 family, as has been mentioned here
24 earlier. And if not about our release,
25 about the needs that have to be met to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 help assure that we're not sending a
3 person out there when nobody feels
4 they're going to come back for court.

5 Another process that the
6 Defender Association has been working on
7 is fixing their processes so that -- not
8 fixing, but improving their processes so
9 that they can talk about and meet with
10 people who are on probation who have
11 detainers and see about looking at this
12 person holistically in terms of their
13 detainers and what they're facing, if the
14 judge is going to violate them on their
15 detainer in addition to their current
16 case. And as that program becomes more
17 robust, we think that will help us with
18 what has, I think, proven to be the
19 biggest difficulty with early bail
20 review, which is detainers.

21 COUNCILMAN JONES: Repeat that.

22 MR. BARRY: Detainers, a person
23 ending up in the early bail review who
24 also has to be on probation being held by
25 a judge. I reiterate what Mr. McSorley

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 said earlier, which is a lot of times the
3 statistics that get placed out about the
4 amount of people who are on pretrial
5 detention, while not necessarily
6 inaccurate because they are in pretrial,
7 don't recognize that a lot of them are
8 not in because of their cash bail, but
9 they're in because of their detainer.
10 And it's an issue that can be hard to
11 deal with.

12 And, finally -- and I know
13 everybody here is committed to this, but
14 alternatives to cash bail. Electronic
15 monitors. I love to say day reporting
16 centers, although anybody who pays
17 attention to money has reemphasized to me
18 that they don't just fall out of the sky.
19 There's not a money tree where we get the
20 money for the day reporting centers,
21 although they sound very interesting.

22 An example where this works
23 well is actually -- so Philadelphia has a
24 very respected and robust Mental Health
25 Court due to the work of people like

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 Judge Woods-Skipper and Judge Neifield
3 and people from my office and the
4 Defenders Association. A lot of these
5 individuals who have a high risk for
6 re-offending or not making it to court
7 who we have issues with letting out on
8 bail, it's because of mental health
9 issues. We found that the existence of a
10 good, healthy Mental Health Court and
11 just the coincidence that Judge Neifield
12 tends to be the judge doing the early
13 bail review has put us in a situation
14 where if they'll go to this Mental Health
15 Court, we are more comfortable releasing.
16 And that's a good example of having the
17 other program there changes our mind
18 completely. It's hard. It's hard when
19 you're a prosecutor and you're sitting in
20 a courtroom and you see somebody -- one
21 of the first cases we had was an
22 individual who would approach people
23 asking for tokens on SEPTA platforms for
24 money, but had this habit as the day got
25 along of getting angry and screaming at

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 people or pushing them, and it's hard to
3 let that person out for the second or
4 third time, even though ultimately the
5 crime may not be what other crimes are.
6 If that person has a mental health
7 problem that's requiring them or causing
8 them to act that way, it's comforting to
9 know Mental Health Court is there.

10 If we can have more programs,
11 social service programs, drug and alcohol
12 programs that are as robust as Mental
13 Health Court, it would make our job a lot
14 easier when it comes to agreeing to let
15 people out.

16 And, finally, I just point out
17 something I've worked -- I'm working very
18 hard with Mr. Bethel on. It's still
19 weird for me to say Mr. Bethel -- is as
20 part of the MacArthur Safety and Justice
21 Grant, we're doing a comprehensive racial
22 and ethnic disparity diagnostic review,
23 and bail and the attainment of bail is
24 one of the points we're studying very
25 closely. And we just had the opportunity

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 in a meeting to reaffirm our commitment
3 to a very robust diagnostic examination
4 of the racial and ethnic practices in the
5 criminal justice system, and I'm hoping
6 that in areas of bail and all other areas
7 we can see where the problems are and
8 work to commit ourselves to fix them.

9 I think I've spoken enough
10 about what's going on with early bail
11 review. The issues that are out there,
12 individuals with multiple open charges,
13 individuals with detainers, individuals
14 who have needs that need to be met really
15 are paramount. I certainly agree with
16 Mr. El-Shabazz and I appreciate he's the
17 one who brought it up so I didn't have to
18 be so impolite, but our office is doing
19 everything on MacArthur without funding,
20 every single program we're involved in.
21 If you look at the budget sheet for
22 MacArthur, there's a zero next to the
23 DA's Office, which we agreed to, but it
24 could be difficult.

25 But more important than our own

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 personal funding, it's also very
3 important that there's a commitment to
4 having these alternatives. A lot of
5 times you can sit there when it comes to
6 bail and both parties agree that the
7 biggest problem with sending somebody
8 back out there is that you're setting
9 them up to fail, that if the person
10 doesn't have a social service net or
11 mental health treatment or drug or
12 alcohol treatment or the things they
13 need, the things that cause them to
14 commit this misdemeanor in the first
15 place, what are we doing. We're just --
16 you know, we're racking up charges until
17 the point maybe they're going to face a
18 state sentence. They're still sort of
19 living on the street. Again, I know,
20 money, but I think the best way to make
21 all these bail systems work is to really
22 pay attention to what the needs are of
23 these people, why they're committing the
24 crimes so that all parties can feel
25 comfortable letting them out and not

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 think we're just going to be sitting
3 there across the court from them again in
4 a week.

5 COUNCILMAN JONES: So I know
6 for the record Mr. Shabazz has left and
7 he's left it in capable of hands of you
8 to carry on his message, but let me say
9 this. I don't think we're at cross
10 purposes. We agree that money is needed.
11 We don't always agree that more money is
12 needed. There are ways to direct
13 resources that currently exist for a
14 purpose like this. So that's number one.

15 Number two, day reporting
16 centers, you're right. They don't fall
17 out of the trees, but a creative
18 partnership with community-based
19 organizations right now could reduce the
20 amount of cost based on what we all agree
21 is housing people at State Road. Instead
22 of Joe-Joe going to State Road, he might
23 report to the local church which is set
24 up with a combined resource of maybe the
25 probation officer and the social worker

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 that had a baby being the staffer there,
3 monitoring that. What we also keep
4 hearing is we let them go and we say, on
5 your honor, on your honor system, go to
6 rehab. On your honor system, stay out of
7 that neighborhood. On the honor
8 system -- well, it doesn't work so well.
9 Sometimes people need to be coaxed. And
10 I know with my kids -- and not equating
11 them with kids -- sometimes I was so
12 tired coming out of this place, I
13 couldn't turn a page of a homework, but I
14 threatened to do it and I said I want it
15 out on that table and if it didn't look
16 neat, I'd send it back. But sometimes
17 when people see that you're paying
18 attention, they do better.

19 And so you mentioned in your
20 comments that sometimes they're arrested
21 and then they're out on bail and they're
22 rearrested with new bail. Well, that gap
23 in between is where the services belong,
24 because whatever those causes -- and
25 sometimes it's not a cause. It's just a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 way of life. But if there are causes
3 that we can correct, maybe we reduce
4 those times that they get rearrested.

5 So we know it takes money. We
6 don't think the criminal justice fairy
7 from the sky is going to give us manna.
8 We initiated this Committee to assess
9 where resources are needed.

10 Every year I listen to the
11 District Attorney's Office, and I'm one
12 of the few Councilpeople that actually
13 fought for more money for you guys,
14 because -- it wasn't in reentry, but it
15 was in witness protection, and I fought
16 for another couple of shekels to go that
17 way. But I'm willing to fight for maybe
18 short-term increases to create long-term
19 gains.

20 Thank you.

21 MS. BRADFORD-GREY: I just want
22 to say this one thing. I really
23 appreciate your testimony, because it
24 shows that we know what's needed. And I
25 think that -- what I would hope for this

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 Committee is that we don't let the
3 thought that because we don't have money,
4 we can't do anything. I was so excited
5 to come back to Philadelphia at this time
6 because we were taking more progressive
7 approaches to criminal justice
8 reformation, but it seems like sometimes
9 the psychology of it all needs to change
10 as well. Not just the practice, but the
11 psychology in terms of what are we trying
12 to do. And if we're trying to be a
13 hamster in a wheel, then we're achieving
14 that, but if we're trying to create new
15 inroads and understand what impact that
16 has, then we have to start. And like
17 Councilman Jones said, let's just be
18 creative and start, see where that gets
19 us. Just like Mental Health Court, it
20 didn't start with a big pool of money.
21 It started with an idea. It started with
22 people doing the work and then measuring
23 the impact, and then the money came. And
24 so that is -- I think that's where we
25 need to say -- I know Tariq El-Shabazz

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 was very adamant, without money, we can't
3 do anything. I don't believe that. I
4 believe we can start anything and I
5 believe that it will then -- we can show
6 the impact, and it will take money to
7 increase or bring it to scale.

8 So I really do hope that we're
9 thinking about the psychology behind this
10 in terms of what can we just start
11 figuring out how we implement a better
12 model that gives us better returns on our
13 tax dollars and the outcomes in terms of
14 public safety.

15 COUNCILMAN JONES: If there are
16 no further questions, thank you for your
17 testimony.

18 Would you state your name for
19 the record and begin your testimony.

20 MR. HOULDIN: Thank you,
21 Councilman. My name is Mark Houldin. I
22 am the Director of Policy with the
23 Defender Association of Philadelphia.
24 Thank you for putting on this hearing.
25 And I think the one thing I want to say

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 at the outset is that what I find
3 reassuring -- and I've heard public
4 safety mentioned a number of times -- is
5 that we're moving from the old era of
6 criminal justice reform where there were
7 false dichotomies, and I think we're
8 seeing now that public safety and the
9 individual rights can coexist, and I
10 think a focus on both of them is
11 appropriate and they are not mutually
12 exclusive.

13 I want to talk a bit about the
14 role of counsel, and I'll keep my
15 comments brief and I'll jump right to
16 research on the role of counsel. And
17 Dr. Heaton talked about research around
18 pretrial incarceration and the natural
19 experiment. Folks in Baltimore used a
20 similar natural design to provide counsel
21 at bail hearings where counsel hadn't
22 been provided before and found that
23 individuals who had counsel were more
24 likely to be released, more likely to
25 have lower amounts of cash bail, spend

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 less time in jail before being released,
3 and more likely to have ROR. But it goes
4 beyond those specific outcomes, and
5 there's an important piece about the
6 impact on fairness and the adherence to
7 conditions of release.

8 Interviews were conducted with
9 people who were represented, and those
10 that were represented had more favorable
11 reports on the fairness of the overall
12 process than those who were not
13 represented. That's important because
14 perceptions of fairness, the procedural
15 justice research has shown, correlates to
16 future compliance with release and
17 desistance from criminal conduct. So
18 providing counsel can help reduce
19 recidivism in the future.

20 Defendants represented were
21 more likely to feel the court spent
22 enough time on their case and that they
23 were treated fairly. But perhaps most
24 striking has to do with whether
25 individuals said they planned to abide by

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the release conditions that the court
3 mandated that they follow. Only
4 two-thirds of defendants that were not
5 represented said in an interview right
6 afterwards that they would actually
7 follow the conditions that were given to
8 them. Over 90 percent of represented
9 defendants said the same, said that they
10 would actually follow the conditions that
11 were mandated. And I think that has an
12 important impact as we're thinking about
13 rolling out alternatives to cash bail
14 that are very condition heavy. And the
15 role of counsel in a cash bail system is
16 important for the reasons that I
17 mentioned and also because the Department
18 of Justice has recently said that a bail
19 system that does not take account of
20 individualized ability to pay is
21 unconstitutional. And so we need that
22 information, and that information needs
23 to come from an advocate.

24 But also if we're talking about
25 a risk assessment-based structure, group

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 information, which is what risk
3 assessments are, they're based on group
4 data for similar individuals, that can
5 have a role in decision-making, but it
6 certainly can't be the only information.
7 And as my colleague Mr. Barry said, we
8 need individualized information. And we
9 certainly need -- I think the least we
10 can do for folks who are going to be
11 subject to have decisions based upon what
12 other people have done is to provide them
13 with an avenue through which they can
14 talk about themselves and what they have
15 done, so that they're not defined by
16 simply one allegation but the whole
17 picture of their life and their
18 circumstance.

19 And so briefly I'll talk about
20 five-day review, and I'll say for the
21 record, we don't have funding for
22 five-day review. But that's okay. We'll
23 work with it. We conduct the interview
24 usually within two days of the arrest,
25 and the focus isn't so much on the facts

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of the case, but it's about the person,
3 their life circumstance. Then we have to
4 make phone calls. We make phone calls to
5 verify information. If someone is
6 working, we try to verify that
7 information. And we also make calls to
8 get family and community to come to
9 court, because we find that that's
10 important for people to see that there's
11 a support network.

12 And we spot drug treatment and
13 mental health issues. We've increased
14 the number of referrals that we make as a
15 result of early bail review and have
16 someone at the prison as well to talk
17 with the individual about any issues that
18 they have. And perhaps this is
19 potentially the most important, but it's
20 the most obvious at the same time, is to
21 help clients understand, at a very
22 stressful time, the information that's
23 being delivered to them.

24 So I'll end with this. I
25 filled in at the prison one day during

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 these hearings, and one of my clients was
3 being released and the judge very
4 carefully and slowly articulated what he
5 was to do, that he was to show up in
6 person in two days, and he was given a
7 piece of paper with the same information.
8 And I said, Do you understand what you
9 need to do?

10 And he said, Yeah, I call next
11 week. And so I had to redirect him and
12 slow him down and show him and re-explain
13 what he had to do and then confirm that
14 he understood it. And that might seem
15 silly, but at such a stressful time when
16 your liberty is on the line, I think it's
17 important that we take time and we make
18 sure folks understand the process and not
19 just base that on whether they were told
20 but actually base it on whether they
21 understand.

22 Thanks.

23 MS. BRADFORD-GREY: Mark -- I'm
24 sorry. Mr. Houldin, I wanted to just
25 kind of reiterate something that you

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 said. You said based on the bail review
3 process, we are making -- "we" as you and
4 the Defender Association -- are making
5 more social service referrals. So the
6 things that we were talking about in
7 terms of understanding needs, that is
8 being done in this pilot program?

9 MR. HOULDIN: Yes. That's what
10 we're doing, yes. I think we can
11 certainly improve that, but we've
12 certainly taken this opportunity to do it
13 sooner than we otherwise would be able
14 to.

15 COUNCILMAN JONES: I'm sorry.
16 I had to step away. How many people in
17 the pilot program for participants?

18 MR. HOULDIN: In early bail
19 review?

20 COUNCILMAN JONES: Yes.

21 MR. HOULDIN: That's a good
22 question. I don't have a specific -- I
23 don't know. Sometimes it will be two a
24 day, sometimes it will be eight.

25 COUNCILMAN JONES: See, the key

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of it is, you can do a good thing at a
3 micro level to bring it to scale, to mass
4 produce it in a meaningful way that
5 impacts both budget and outcomes. You
6 have to beta test it, then roll it out
7 and do it in ways, and you get these
8 glimmers of success. But the key is
9 being able to bring it to scale so that
10 it is impactful. So we anxiously want to
11 know those numbers so that we can know
12 how to roll it out.

13 MS. BRADFORD-GREY: Just for
14 the record, they said the Defender did
15 not get any additional funding, just for
16 the record.

17 COUNCILMAN JONES: Those words
18 are a repetitive theme.

19 MR. ROJAS: In talking about
20 funding, a lot of people that are in jail
21 have some great legal skills, and I
22 remember when I worked at Community Legal
23 Services, rather than getting down to the
24 people who had housing problems, we
25 actually went out and started legal

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 clinics to teach people how to do the
3 appeal process and actually appear before
4 a judge without an attorney.

5 Is your office or have you ever
6 thought of going in and doing clinics
7 with the incarcerated individuals to
8 teach them how to do the bail reduction
9 petitions, how to submit them, et cetera?

10 MR. HOULDIN: Not to my
11 knowledge, but I really like the idea, so
12 thank you.

13 COUNCILMAN JONES: Are there
14 any other questions for this panel?

15 (No response.)

16 COUNCILMAN JONES: Seeing none,
17 thank you so very much for your
18 testimony.

19 MR. BARRY: Thank you.

20 COUNCILMAN JONES:
21 Ms. Williams, would you please read the
22 names of the next panel of witnesses to
23 testify.

24 THE CLERK: Our next witness is
25 going to be Dr. Richard Berk from the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 University of Pennsylvania.

3 (Witness approached witness
4 table.)

5 COUNCILMAN JONES: So now
6 you're --

7 DR. BERK: I'm in the hot seat,
8 yes. My name is Richard Berk. I am a
9 Professor at the University of
10 Pennsylvania in the Department of
11 Criminology and in the Department of
12 Statistics. I've been doing criminal
13 justice risk assessments for 20 years for
14 all kinds of agencies across the country,
15 even around the world. And what I
16 thought I would do today is talk very
17 briefly about what a risk assessment is,
18 because there's some misunderstanding,
19 and then basically leave time for
20 questions, because I can already tell you
21 have lots, and I think that's probably
22 the most productive use of the few
23 minutes I have.

24 So let me talk about risk
25 assessments. You actually are all

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 experts. You go into a restaurant. You
3 look at the menu. Ravioli. Should I
4 order ravioli? So you think back to
5 ravioli you had in the past. You think
6 about previous visits to this restaurant.
7 Yeah, that ravioli was pretty good.

8 You're making a group judgment about lots
9 of experience, and then based on that
10 experience, you place a bet. That bet
11 basically is the bill you're going to
12 pay. And you're making a forecast that
13 if you pay that money, you're going to
14 have a good meal. You've done a risk
15 assessment, and you built that risk
16 assessment based on experience you have
17 had and things that people have told you
18 about ravioli or about this particular
19 restaurant.

20 Suppose you go to a physician.
21 You've had, let's say, some abdominal
22 pain. You want the physician to diagnose
23 your problem, if you have one, and
24 suggest what course of treatment makes
25 sense. The physician is doing a risk

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 assessment. The physician looks at you,
3 gets your symptoms, thinks back to his or
4 her experiences with patients in the
5 past, some of them are like you, some of
6 them are different, thinks back to the
7 many hours this physician spent doing
8 general rounds and all the patients that
9 that particular physician has seen, puts
10 all that information together and then
11 makes a forecast, a guess, but it's a
12 forecast based on lots of experience that
13 you do or do not have some sort of
14 problem that requires an intervention.
15 That's a risk assessment.

16 Judges do the same thing. They
17 have a particular convicted offender
18 appearing before them within the bounds
19 of statutory requirements and perhaps
20 sentencing guidelines. The judge thinks
21 back, I've seen people like this before,
22 some quite similar, some quite different.
23 I know how they have done, let's say, on
24 probation. This particular individual,
25 yeah, like a lot of those folks who did

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 well on probation, I'm going to sentence
3 the individual to probation. That's a
4 risk assessment. That's no different
5 from what we've been talking about in the
6 context of the discussions today. What
7 feels different to some is that these
8 risk assessments use numbers, but they're
9 still group based.

10 We've heard a lot of talk about
11 individual decision-making. Judges make
12 them, doctors make them, you make them
13 when you go to a restaurant, but the fact
14 of the matter is, you're aggregating lots
15 and lots of similar experiences in the
16 past to make good judgments about the
17 future. Okay?

18 What makes numbers different?
19 Some people don't like numbers much, but
20 what they allow you to do is to be
21 transparent about that risk assessment.
22 It's right there in black and white for
23 you to read. But also you also get
24 greater accuracy. Why do you get greater
25 accuracy? When you go to the restaurant,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 you can think about three or four factors
3 that maybe guided your insight about
4 whether this is going to be good ravioli.
5 The computer can look at hundreds. You
6 may base your experience on 10 or 15
7 dishes of ravioli in the past. The
8 computer can look at hundreds of
9 thousands. Because the computer has
10 better experiential base than you do and
11 can weigh many more factors, there's a
12 good chance the computer is going to do a
13 better job in the sense of being more
14 accurate.

15 Now, I also appreciate that
16 there are widespread concerns and there
17 are legitimate concerns about fairness,
18 and I understand that that's where a lot
19 of the questions have been coming from.
20 A couple of points to make.

21 First is, there's all kinds of
22 fairness. I give you a simple example.
23 We'd like our risk assessment instruments
24 to be equally accurate for all groups.
25 So let's talk about men and women. That

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 kind of lowers the threshold of the
3 dialogue a little bit. Let's talk about
4 men and women. If we have men and women,
5 we would like very much to have our risk
6 assessment instrument be equally accurate
7 for men and women, and we can do that.
8 But it turns out that there are more men
9 who are going to fail, let's say, on
10 probation than women, and they're also
11 going to fail for more violent crimes.
12 So when we apply our instrument, which is
13 equally accurate for men and women, we
14 will project many more males than females
15 will fail on probation. Is that evidence
16 of bias? It's a tough call. I don't
17 have the answer to that, but there are a
18 lot of subtleties in how we think about
19 what fairness is given the realities of
20 the way crimes occur.

21 There are, therefore,
22 trade-offs between different kinds of
23 fairness. I as a statistician don't make
24 those trade-offs. You have to make them.
25 They're not easy. That's why I'm glad

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 you're going to do them and not me. But
3 you have to make those calls.

4 You also have to make another
5 very, very difficult call. If we strive
6 for fairness, unfortunately we're going
7 to lose some accuracy. That's a price.
8 It's a price we may choose to pay, but
9 one of the risks of that choice is you
10 will make everybody equally worse off.

11 In the case of an arraignment,
12 we will make more mistakes such that
13 individuals who should not be detained
14 are and we will make more mistakes such
15 as individuals who should not be released
16 are. We will make more of those. Now,
17 we'll make them equally for men and women
18 or for African Americans or Hispanics or
19 Asians and whites. It will be equal, but
20 we'll all be equally worse off. Now,
21 that's a trade-off you have to consider.
22 That's, again, something I cannot solve
23 for you.

24 The advantage of these risk
25 assessments is not then that they're just

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 accurate and more transparent, but they
3 put the burden back on policymakers like
4 yourself to make these hard choices.

5 Our current discussions sweep
6 that under the rug. You can't have it
7 all. You can't have an accurate risk
8 assessment, or as accurate as it could
9 be, and at the same time achieve all of
10 these different levels of fairness.
11 Can't be done. There are important
12 trade-offs that you have to make.

13 And that's really all I have to
14 say at the moment. I can give you
15 examples more of some of those
16 trade-offs. For example, the instance of
17 domestic violence where we've looked at
18 it with respect to pretrial, if you'd
19 like, or I can certainly go right to the
20 questions that you might have.

21 COUNCILMAN JONES: So I'm a
22 little geeked out, because you're
23 actually a rock star in my mind.

24 DR. BERK: Oh, my goodness.

25 COUNCILMAN JONES: We did bail

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 hearings. I think Councilman DiCicco was
3 with us when we were looking at guns and
4 risk assessment for the very first time.

5 You can't hear me?

6 MR. DiCICCO: I'm 70 years old.

7 COUNCILMAN JONES: Oh, I'm
8 sorry.

9 So the first time I heard about
10 your work was with bail assessments on
11 gun violence, and you were referred to as
12 someone who had originally tweaked a risk
13 assessment that we use currently.

14 My first question is, has since
15 that time to now statistical calculations
16 changed or has society changed to make
17 risk assessment different? I guess
18 that's a better way of phrasing it.

19 DR. BERK: Well, what's
20 happened -- and it's been a gradual
21 evolution. Risk assessments, as I'm sure
22 you know, began in the 1920s with parole.
23 We've doing risk assessments for almost a
24 hundred years. What's happened over that
25 time is that the risk assessments have

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 been increasingly numerical, like
3 insurance companies do, and we can do
4 that better and better because of larger
5 datasets that are publicly available,
6 better algorithms, bigger computers. So
7 we've gotten quantitatively more skilled
8 at this over time, but it's not as if
9 there's some dramatic change in the basic
10 approach that we use.

11 COUNCILMAN JONES: So
12 exonerating you for the time being while
13 you testify from any stereotype of you
14 being a racist or this or that or any
15 ism, I'm going to ask you a series of
16 questions.

17 DR. BERK: Sure.

18 COUNCILMAN JONES: Does a zip
19 code matter in a risk assessment?

20 DR. BERK: I'm glad you ask
21 that, because I have an answer for you.
22 Let me give you a hypothetical. We have
23 two individuals. Both are males. Both
24 are 25 years old. Both have three prior
25 convictions for burglary. Both have a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 steady job. Both are married, and a
3 variety of other ways they're absolutely
4 identical. We're deciding whether to
5 release them. We know that if we release
6 one of them, we're going to release them
7 to my neighborhood in Mount Airy. The
8 other one if we're going to release them
9 perhaps not in such a pleasant area,
10 perhaps Germantown, three miles away.

11 COUNCILMAN JONES: Neither one
12 of them are in my district.

13 DR. BERK: Who do you think is
14 going to be more likely to be a victim of
15 a crime? Who do you think is going to be
16 more likely to commit a crime? Identical
17 people put in different environments.
18 Why? Some neighborhoods have more access
19 to firearms. Some neighborhoods have
20 peer pressure which set up circumstances
21 where people commit crimes. Some
22 neighborhoods are policed differently
23 than others. There's lots of things
24 going on. All that a zip code does is it
25 takes two people who are identical and

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 envisions what would happen if we put
3 them in two different environments.
4 Environment matters.

5 Now, therefore, it's
6 predictive. You have to decide whether
7 it's worth it from an ethical point of
8 view. That's not my call. That's too
9 hard for me. That's above my pay grade.

10 DEPUTY COMMISSIONER BETHEL:

11 The challenge with that is that when you
12 go into those zip codes, I'll take you
13 back into Germantown and I'll put you in
14 a half a million dollar home and I'll
15 take you a block away and I'll put you in
16 a home that's not. I'll put you in Mount
17 Airy and I'll take you through the 1400
18 block of Johnson or I'll take you -- so
19 how do you account for those within those
20 zip codes? I mean, I could take you to
21 his district. You can go from one end to
22 the lowest end of poverty to the highest
23 of employment and occupancy and
24 millionaires, I mean, where you go to
25 some of those properties. So how do you

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 account for that?

3 DR. BERK: We could do that if
4 you would let me.

5 DEPUTY COMMISSIONER BETHEL: Is
6 that what it is?

7 DR. BERK: We have addresses.
8 We can GPS longitude and latitude right
9 down to the block. But there's
10 resistance, and I understand it's
11 legitimate. We can't right now because
12 we're not allowed. I'm not saying you
13 have to include that. I'm just saying
14 there's a trade-off.

15 DEPUTY COMMISSIONER BETHEL:
16 But that's just fair. I mean, that's
17 fair because that's the reality. Our
18 city is so diverse. I mean, you can go
19 to the north of Center City, just go a
20 few blocks north and you're in a totally
21 different economic setting.

22 DR. BERK: Absolutely.

23 DEPUTY COMMISSIONER BETHEL: So
24 how do you account for that is the
25 challenge, right?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 DR. BERK: Yes.

3 MS. BRADFORD-GREY: Good

4 afternoon, Dr. Berk.

5 DR. BERK: Good afternoon.

6 MS. BRADFORD-GREY: I'm a

7 little, I guess, confused about a few

8 things. And I know that you said if we

9 want to be fundamentally fair, we'll make

10 everyone worse off.

11 DR. BERK: That's the risk.

12 MS. BRADFORD-GREY: Can you

13 really elaborate on that? Because I'm

14 not really understanding --

15 DR. BERK: Sure.

16 MS. BRADFORD-GREY: -- that

17 before I ask my follow-up questions.

18 DR. BERK: Let's stick with zip

19 code because that's a controversial

20 issue, I agree. If I include zip code,

21 I'm going to be able to more accurately

22 anticipate -- let's take probation or

23 parole -- who is going to fail on

24 probation. Okay? If I don't include zip

25 code, I'm going to make more mistakes.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 My mistakes are going to be of two kinds.

3 Some individuals who I release I really

4 shouldn't have, and they'll be crime

5 victims as a consequence. Some

6 individuals who I should have released I

7 didn't, and then we hear about the

8 consequences that you've heard a lot

9 about today, damage to family, damage to

10 work experience and all sorts of other

11 things. I'm going to make more of those

12 mistakes, but I'm going to make them

13 equally, let's say, for men and women.

14 So I make everybody equally worse off.

15 It's fair, but it's worse.

16 MS. BRADFORD-GREY: But isn't
17 that where we are now really looking at
18 correcting the mistakes? Because in your
19 analysis, we're exactly where we don't
20 want to be. We're creating or we're
21 looking at the possibility that we're
22 making more mistakes in terms of what is
23 going to help us reach our ultimate goal
24 and achieving greater public safety. So
25 we are really erring on the side of

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 caution to the detriment of our
3 communities, right?

4 DR. BERK: We have lots of data
5 which say that we can do a lot better
6 than we currently do. No question. And
7 the issue becomes how much better and
8 what trade-offs you're prepared to make.
9 All I'm saying is that we could do
10 better, a lot better, but at the price
11 perhaps of including some predictors that
12 people are uncomfortable with. I'm fine
13 with that as a statistician. You may or
14 may not be, but it's your call.

15 MS. BRADFORD-GREY: But the
16 comfort level is based on categorical
17 information, right? It's not really
18 based on those individualized successes.

19 DR. BERK: That's come up
20 again. Let's talk about individualized.
21 In the examples I gave you, whether it's
22 ravioli or sentencing or going to the
23 doctor, you'd like to think that you made
24 an individualized decision, right?
25 That's what judges are supposed to do and

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 that's what doctors are supposed to do.

3 They are nevertheless based on groups.

4 The doctor is looking at people like you

5 they've seen in the past. That's what

6 medicine does.

7 MS. BRADFORD-GREY: But they

8 also look at your records, don't they?

9 DR. BERK: And they put those

10 records in the context of people like you

11 in the past. Your records have no

12 meaning, except in the context of other

13 people who have had similar records. Oh,

14 I've looked at 30 people like you with

15 this particular diagnosis and set of

16 records, and you know what? You're going

17 to be fine.

18 MS. BRADFORD-GREY: But they

19 wouldn't look at other people's records

20 and diagnose you without looking at what

21 are your needs or what are your

22 particular --

23 DR. BERK: Exactly.

24 MS. BRADFORD-GREY: What are

25 the particulars that you have.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 DR. BERK: Exactly. I want to
3 make a distinction about this
4 individualized thing from this, but the
5 first point is, any kind of risk
6 assessment is necessarily group based.
7 What I think I hear -- and I think it's a
8 legitimate concern -- is under the
9 current procedures we have for risk
10 assessment, we build the instrument in
11 advance, maybe it takes several months,
12 with the data that is likely to be
13 available on a routine basis, and then we
14 use that. That is a group risk
15 assessment.

16 What is important is that when
17 people come in who have experiences that
18 we have not been able to capture in those
19 tools. An example, I don't have any
20 information on marital status. I don't
21 have any information on whether a person
22 graduated from high school. I can't
23 build those into my instrument. So my
24 group-based instrument is incomplete. If
25 somebody comes in and provides me that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 information, I can't use it with my
3 numerical tools, but I should quite
4 properly take it into account when I make
5 a decision. Nevertheless, keep in mind
6 that what you're thinking in your head
7 when you see this person is, Oh, this
8 person is well educated, has a job, has
9 pretty much stayed out of trouble, I've
10 seen lots of people like this before,
11 this is a good risk. It's still a group
12 risk assessment, but it takes into
13 account factors that we could not build
14 into the numerical risk assessment. I
15 think that's good policy.

16 MS. BRADFORD-GREY: So yes.

17 DR. BERK: And I think that's
18 what people mean by individualized.

19 MS. BRADFORD-GREY: So you're
20 saying in any practice, we should never
21 just rely on a risk assessment tool.
22 That's what you're saying. We should
23 always utilize an ability to understand
24 more individualized factors that may
25 reduce the risk that we're willing to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 accept.

3 DR. BERK: Absolutely. Any
4 mathematical risk assessment tool will be
5 incomplete, because we could only work
6 with the data we have. Individuals come
7 in with factors that we couldn't take
8 into account, we'd be foolish not to use
9 that information.

10 MS. BRADFORD-GREY: As a good
11 model, there should always be a weighing
12 of both things?

13 DR. BERK: Absolutely.

14 MS. BRADFORD-GREY: And so any
15 model that you're, I guess, testifying to
16 better practices needs to include that.
17 So if Philadelphia wants to be a city
18 that practices -- that has best practices
19 in its bail assessments, we have to have
20 both. There's no way to get around that.

21 DR. BERK: That's ideal. We
22 should do that. That, of course, is --

23 MS. BRADFORD-GREY: Is
24 necessary, right?

25 DR. BERK: Absolutely. But as

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 you've heard, there are time issues,
3 resource issues that are painful. We
4 hope we can circumvent them, but ideally,
5 absolutely. We should always use all the
6 information we can. We'd be foolish not
7 to.

8 MS. BRADFORD-GREY: Thank you
9 so much.

10 MR. HOLLWAY: Dr. Berk, thanks
11 very much. It's really enlightening, and
12 I've had the benefit of hearing you give
13 a similar talk before, and one of the
14 conversations that came up in that talk
15 was the question of whether the -- one of
16 the factors in the risk assessment tools
17 is the criminal history of an individual,
18 and of course the criminal history as
19 it's accumulated can sometimes be
20 different zip code to zip code based on
21 reasonable focuses of police activity.
22 So there are people who question whether
23 the data that goes in is itself
24 inherently biased because of criminal
25 histories and the criminal histories that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 people accumulate in different areas of
3 the City. Can you talk about that a
4 little bit?

5 DR. BERK: That's a hard one.
6 Yes. It's a fact of life that all data
7 that we have is related to gender and is
8 related to race and is related to
9 ethnicity. That's just life. If I were
10 to use education, if I were to use
11 marital status, if I were to use
12 employment, anything you can think of is
13 going to be related to gender and it's
14 going to be related to ethnicity and
15 race.

16 If you require that I do not
17 use any variables that are related to
18 gender and race, I'm out of business, but
19 then so are you, because you can't use
20 them when you decide as a judge how to
21 sentence.

22 What we can do with modern
23 technology -- and this is where the
24 trade-offs come in -- we can pull a lot
25 of that association out of the data, kind

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of like taking it to the laundry. We're
3 going to clean it up as best we can.
4 Sometimes we can do that quite well,
5 sometimes not as well. And it seems like
6 that's the solution, but then we're back
7 to this trade-off. If you don't allow me
8 to use that information and if that
9 information is really predictive, I'm
10 going to predict less well. I'm going to
11 make more mistakes, and we're back into a
12 situation that I can have an instrument
13 that's more fair in the sense that we're
14 all equally worse off. Difficult
15 trade-off, which you have to make.

16 MR. HOLLWAY: So my takeaway
17 from this -- and tell me if I'm
18 interpreting what I think I hear you
19 saying -- is that the key here is the
20 transparency and the understanding
21 between the policymakers and the
22 decisions they're making and what your
23 data is able to weight so that we have a
24 weighting that is both known to everybody
25 and accurate as designed. So long as

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 that is there, we're doing basically the
3 best that we can and we've got a system
4 that will operate with our communities'
5 priorities in place.

6 DR. BERK: That's the ideal.
7 We can go even one step farther. We're
8 developing algorithms now at Penn with
9 some colleagues in computer science in
10 which you will literally have -- not
11 literally; figuratively have knobs to
12 turn.

13 MR. HOLLWAY: Sorry. I want
14 literal knobs.

15 DR. BERK: For you we'll build
16 it.

17 There will be knobs you can
18 turn, which will allow you to, let's say,
19 down weight the role of gender at the
20 cost of 14 burglaries. And you can
21 decide whether that's a reasonable
22 trade-off. Again, that's way above my
23 pay grade. I leave it to you to decide.

24 MR. COBB: Doctor, thank you
25 for your testimony. So I'm going to ask

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 like a less academic question.

3 I'm a black male. I live in a
4 zip code where the average capita income
5 is at the poverty rate. I have been in
6 conflict with the criminal justice
7 system. White male, who lives in an area
8 with a higher capita than me, who has
9 equally been in conflict with the
10 criminal justice system. As a black
11 male, should I be afraid of risk
12 assessment tools?

13 DR. BERK: No. You got to tell
14 me a lot more about yourself. Remember,
15 I'm weighing hundreds of factors. You
16 gave three or four. At what age were you
17 first arrested? What is the date of your
18 most recent crime? What are you charged
19 with?

20 MR. COBB: And what's the
21 culture of policing in the neighborhood
22 in which I've grown up in, how frequently
23 have people seen their heads cracked by
24 the individuals who should protect them
25 as opposed to not.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 So, I mean, I just want to
3 really kind of sort of get to like the
4 grassroots feeling of a risk assessment
5 tool when you belong to a depressed
6 socioeconomic population.

7 DR. BERK: When that decision
8 is made, as I explained a few moments
9 ago, we will have a tool which will take
10 into account the factors we can easily
11 measure. You are bringing in other
12 factors which we may not have been able
13 to measure. You or your attorney needs
14 to stand up and say just what you said so
15 that that information becomes part of the
16 record and part of the information base
17 of a decision. Then we hope everybody is
18 sensible.

19 MR. COBB: So an individual
20 would have to have the capacity to know
21 that they've grown up in a country where
22 certain populations have been
23 marginalized systemically in order for
24 that to be factored? I'm just pushing
25 back.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 DR. BERK: I understand. There
3 are a lot of historical forces in this
4 country and around the world which affect
5 the experiences we currently have day to
6 day. If those experiences are relevant,
7 you should be able or your attorney
8 should be able to present them to the
9 decision-maker in addition to having this
10 more systematic risk assessment tool.
11 Again, you need both.

12 COUNCILMAN JONES: So for me,
13 you came in here as a rock star and
14 you're going to leave here as a rock star
15 in my mind, because let me say why. You
16 can walk in two different courtrooms and
17 the judge similar to him will think and
18 take into account all of the things you
19 said and factors. You can walk in
20 another courtroom, it won't matter -- it
21 didn't matter. And that happens every
22 day now. Those assessments that we are
23 quantifying, those judgments happen
24 every -- this at least adds another tool
25 that you can look at and say, You know

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 what, these are circumstances and now I
3 need to talk to the human being, not just
4 the credit report but the human being.
5 And so you guys deal with this more than
6 me, but I know every day at that CJC,
7 these assessments are happening in one
8 form or another right now.

9 DR. BERK: Can I just add a
10 point to that. Nobody claims that a risk
11 assessment tool is going to remove 300
12 years of racial injustice. We just hope
13 to make it better, and if we can make it
14 better, we're heroes. Not saying we
15 couldn't make it still better, but to
16 give up in some sense to make the perfect
17 the enemy of the good leaves us nowhere.

18 MS. SCHWARTZMAN: My name is
19 Ann Schwartzman. I'm with the
20 Pennsylvania Prison Society, and I have
21 two very specific questions following up
22 on that. We see risk assessments now
23 used not only in trial cases, not only
24 with judges but with probation/parole.
25 We're talking about bail. We're talking

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 about all different levels. Recently
3 it's come up by the Sentencing Commission
4 to really look at sentencing and how risk
5 should be involved.

6 What I'm interpreting or at
7 least what I'm seeing is that this tool
8 is being used without the additional
9 discretion that you're talking about,
10 without the additional measures, without
11 those additional people identifiers. So
12 we're getting the tool kind of pretty
13 much as it is without a lot of other
14 things that what I'm hearing really
15 should be included. And I was curious
16 what you thought could be something that
17 could be added to the tool so it's not
18 strictly the tool, period, but there's
19 more to it.

20 DR. BERK: It turns out I'm
21 working with Mark Bergstrom and the
22 folks, so I know of what you say. That's
23 in an evolutionary process where the
24 current tools are kind of crude. At
25 least my understanding is, nobody is

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 proposing those tools go live and we're
3 going to do a bunch better. And Mark and
4 the Commission is well aware of the
5 points that you're making and very
6 sympathetic, but I wouldn't take the
7 current product as where we're going to
8 be. We're starting a project now in
9 Montgomery County much along the lines
10 you suggest which we hope to be a
11 prototype.

12 MS. SCHWARTZMAN: And then one
13 other. In the discussion we had before
14 and a number of other discussions, people
15 talked about risk assessments and needs,
16 and the combination is often linked and
17 at least in the work that we do, we
18 constantly talk about you want to look at
19 risk, but you want to match it with the
20 need, and if you don't have the needs
21 met, all you're doing is really putting a
22 label on somebody and making life even
23 more difficult than it's been before.
24 How does that work? How do needs, risks,
25 everything pull together? How can we

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 look at it as a package more than just
3 one or the other?

4 DR. BERK: You're right, it's
5 absolutely a package. Risk assessment
6 tools, however, are very specialized.
7 Their job is to assess risk, as you'd
8 expect. When you decide how to
9 intervene -- and we heard some wonderful
10 suggestions today about various programs,
11 which are interventions, that takes a
12 different kind of research, some of the
13 research Paul Heaton, for example, was
14 talking about where you have to do other
15 studies to find out what sorts of needs
16 should be met with what sorts of
17 interventions. Risk assessments don't do
18 that. They can't. They're specialists.
19 But those other kinds of research are
20 absolutely essential if we're going to
21 intervene intelligently. Just risk
22 assessments don't do that.

23 MR. ROJAS: I have a question.
24 Risk assessment tools are designed and
25 implemented by individuals. The one

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 you're talking about, does that have
3 people that are culturally competent to
4 go into different areas to be able to, in
5 their own either personal experience or
6 research experience, able to put together
7 a risk assessment tool that's actually
8 going to gauge the cultural competency of
9 a particular population? And how far are
10 they going to drill down to make sure
11 that all that comes to -- rises to the
12 top so a real fair risk assessment tool
13 is designed? How many people do we have
14 of color that actually design risk
15 assessment tools?

16 DR. BERK: This is math.

17 MR. ROJAS: Yes.

18 DR. BERK: It starts out --

19 MR. ROJAS: We have black
20 mathematicians, I think.

21 DR. BERK: It's math and it's
22 also a kitchen sink. To avoid some of
23 the complications you're alluding to, we
24 go out and grab every shred of
25 information that's routinely available,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 even things that we think don't make a
3 difference. Anything that's in the
4 official records that are machine
5 readable, we bring in and let the
6 computer decide. And the computer is
7 blind, except for what things predict
8 well.

9 You're right, if we had to rely
10 on your judgment or my judgment or Ral
11 (ph) Holloway's judgment about what
12 should be in there, there would be
13 grounds for concern that individual
14 proclivities or biases would somehow
15 distort the outcome. But the computer is
16 just saying, I don't care what it is, I
17 want stuff that's going to help me
18 anticipate the future well. Then we can
19 decide whether what the computer chooses
20 is what we want to use, and that's a
21 group's decision, that's a political
22 decision that a computer nor I should
23 make. We don't want to have an
24 individual because of -- or all
25 individual limitations make those calls.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 It's a group decision, policy decision.

3 JUDGE LERNER: Dr. Berk, thank
4 you very much for your presentation
5 today. I suspect that if the
6 Philadelphia Inquirer Editorial Board had
7 the opportunity to hear this entire
8 presentation or if they paid attention to
9 it, the editorial that they wrote would
10 have been a lot different than it was and
11 the little snippet of quote they gave to
12 you wouldn't have come out the way that
13 it did.

14 I'd like to go back to
15 something that you pointed out earlier,
16 which is that in designing this risk
17 assessment tool, there is somewhat of a
18 sliding scale between fairness and
19 accuracy and that it's going to be up to
20 policymakers to determine to some extent
21 where on that scale we want to come out
22 in terms of what we actually want to use.
23 Are you able to enlighten the
24 policymakers that are going to be making
25 this judgment with any specificity as to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 exactly where the trade-off is and what
3 it involves, how much fairness you -- or
4 how much this level of fairness is going
5 to cost you in terms of this level of
6 accuracy?

7 DR. BERK: Yes. There are new
8 ways that are being developed currently.
9 We have some old ways which are historic.
10 It is almost what we talked about a few
11 moments ago with knobs. We'll be able to
12 say turn this knob up three units, three
13 more units of fairness, four more
14 burglaries. I mean, it will be that
15 specific. Now, they're going to be
16 estimates and they're not going to be
17 exactly right, but they'll give you
18 qualitatively a sense of the trade-offs,
19 the very difficult trade-offs you're
20 going to have to face.

21 JUDGE LERNER: Thank you.

22 I just want to put one thing on
23 the record in response to the point that
24 Councilman Jones made, because you
25 actually took the question that I wanted

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 to ask first and took care of that.

3 I'm the person sitting up here
4 who has for many, many years in my career
5 not only represented the people that the
6 Public Defender represents, but also has
7 made the bail and sentencing decisions in
8 individual cases. And Councilman Jones
9 is absolutely right in his rhetorical
10 question to you. What we are talking
11 about is what judges do every day in
12 every courtroom in every place in this
13 country, and the extent to which that
14 judgment can be aided, not substituted
15 for but aided, by a tool which we
16 understand and understand what it is and
17 what it isn't and then we can add that to
18 what effective advocates present to us on
19 both sides, the more likely we are to
20 come up with more correct decisions in
21 more cases.

22 COUNCILMAN JONES: Thank you,
23 Judge.

24 MR. HOLLWAY: So just to make
25 sure I understand that, it's like we're

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 making our decision to get ravioli
3 without knowing whether the person who
4 did the other ratings likes Italian food.

5 MS. BRADFORD-GREY: Right.

6 Yes.

7 MR. HOLLWAY: Now at least with
8 the tool, we'll know that the decision
9 about whether Italian food is good or not
10 is a more objective one and we can go
11 from there.

12 DR. BERK: We go to Yelp or
13 something and get all the reviews.

14 COUNCILMAN JONES: Mr. Mosee.

15 MR. MOSEE: So I was a little
16 concerned with all the talk about putting
17 the onus on the policymakers to figure
18 out what this risk assessment was
19 actually going to be comprised of, that
20 maybe what you were talking about was the
21 conclusion from the risk assessment being
22 dispositive, that there wouldn't be an
23 opportunity to talk about things, but
24 you're not saying that; is that correct?

25 DR. BERK: No, no. I was

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 talking about the development of the
3 instrument. The instrument is going to
4 require some trade-offs that
5 policymakers -- let's say more broadly
6 stakeholders -- need to contribute to.
7 Once the instrument is developed and it's
8 revised periodically, it's brought online
9 and used in concert with information
10 that's collected that's not in the risk
11 assessment.

12 MR. MOSEE: So what I want to
13 address is the ability of advocates to
14 actually understand how the risk
15 assessment arrived at its conclusion,
16 because in the real world experience that
17 I've had with risk assessments, there
18 have been times when they don't want us
19 to see that information. They don't want
20 us to know what information was collected
21 that actually constituted the foundation
22 from which the risk assessment reached
23 its conclusion.

24 DR. BERK: I think that's
25 unprofessional. Part of the problem is

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 that some of these risk assessments are
3 proprietary and they don't want to reveal
4 because of competition what they used to
5 construct the instrument or even how they
6 validated it. I think that's
7 unprofessional. I think all risk
8 assessment tools should be as transparent
9 as they can be, what went into it, the
10 algorithms themselves you can, if you
11 wish, read about and the test results
12 which show how accurate it is. All that
13 should be on the table for everybody to
14 see. If not, I think that's an error.

15 MR. MOSEE: This is helping me
16 with the progression of my questions,
17 because the next question is what can we
18 do to be assured that when it's time to
19 change the risk assessment because things
20 have changed in communities or we have
21 more resources -- you probably heard some
22 of the testimony from my colleague that
23 if we have resources, if we have programs
24 and that makes it more palatable for us
25 to release people, what can we do to

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 assure us that we'll be able to do that
3 when things change?

4 DR. BERK: These risk
5 assessment tools can be updated very
6 easily. I just did one for Probation and
7 Parole here in Philadelphia. Once they
8 provided the data, it was two days work.

9 What you basically do is, you
10 monitor the performance of the instrument
11 over time, and if the forecasting skill
12 starts to degrade or let's say there are
13 new statutes that were passed or there
14 are new administrative regulations, or
15 whatever the changes are that you've
16 mentioned, that's the time to rebuild the
17 instrument. Once you've done it a single
18 time, doing it additional times is very,
19 very easy and can be done, I said, in a
20 couple of days, and they should be.

21 MR. MOSEE: Thank you, Doctor.

22 MR. COBB: One quick question,
23 Doctor. Are risk assessment tools -- you
24 said something about measuring the
25 outcome of a risk assessment tool. So

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 I'm thinking with my poker brain. Like I
3 know that a pair of aces is a 95 percent
4 chance of winning. What's the error of
5 margin with utilizing a risk assessment
6 tool? How accurate are they in terms of
7 a percentage? To me I'm likening -- I'm
8 not an academia, so I'm likening it to a
9 crystal ball. How good is this crystal
10 ball?

11 DR. BERK: It depends on the
12 application. I circulated a paper, a
13 recent paper, in which we did this for
14 pretrial here in Philadelphia for
15 domestic violence cases. And if the
16 instrument were used, not in the
17 complicated way you all are saying right
18 now, but just taken literally, it would
19 be right 90 percent of the time. Pretty
20 good. Now, to be fair, if you don't use
21 any information and just release people,
22 you're right about 80 percent of the
23 time, but that's a substantial
24 improvement.

25 So we have benchmarks.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 Benchmarks are current practice. We know
3 that of those who are released who are DV
4 offenders who are released at
5 arraignment, 20 percent re-offend within
6 a relatively short period of time, and of
7 course that implies lots of victims.

8 That's thousands in Philadelphia. That's
9 victims. And of course those are
10 re-offenses we hear about because they're
11 arrested. It doesn't include those that
12 aren't reported to the police.

13 But we know that if this risk
14 assessment tool is used, we can cut that
15 substantially. We have a benchmark and
16 we have measures of current performance.
17 That needs to be done for all sorts of
18 risk assessments. How well do we
19 currently do? You can choose as
20 policymakers what outcomes you care
21 about, arrests, offenses reported,
22 whatever. How well do we currently do,
23 how much better could we do if we use
24 this instrument, and then subsequently
25 what you've just done for the Board of

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 Probation and Parole here in
3 Pennsylvania, when you actually use it
4 then, how much better you do. By the
5 way, in the case of Pennsylvania, Board
6 of Probation and Parole is using our
7 tools. You can cut crime by about 20
8 percent. Actually did cut crime by 20
9 percent. Substantial. So we can measure
10 these things. Those are the good
11 stories, but I have to add, sometimes we
12 don't do so well.

13 COUNCILMAN JONES: Wow.

14 Listen, sometimes you don't always want
15 to hear what math says, but math is math,
16 and the application, it's like a toolbox.
17 You create a toolbox. How much of it I
18 want to use, it's up to me. It's up to
19 me. And how much else I want to factor
20 in is up to me. And so -- but a ruling
21 guide that increases accuracy by 20
22 percent can't be ignored.

23 MS. BRADFORD-GREY: I just
24 would like to reiterate, I think using
25 math is why we're here. And so I really

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 think it's regressive to just rely on
3 math without understanding a lot of other
4 things, and I think that we've talked
5 about that and I know you said something
6 that I found very -- I perked up when you
7 said, if you were to use race or gender
8 in your -- or if you would take that out
9 of your assessment, you'd be out of
10 business and so would judges. I don't
11 really know if judges rely strictly on
12 race and gender. In fact, I don't even
13 think that that's where they start.

14 JUDGE LERNER: He didn't say
15 that.

16 DR. BERK: That's not what I
17 said.

18 MS. BRADFORD-GREY: Well, no
19 one would say it, but to be honest with
20 you, when you're looking at sentencing a
21 person, race and gender -- if you were to
22 be completely honest, I don't even know
23 if that's your starting point.

24 DR. BERK: But that's not what
25 I said.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MS. BRADFORD-GREY: That's what
3 I wrote down. I'm sorry.

4 DR. BERK: No, no. What I said
5 was -- Professor Hollway said, what about
6 all these things that are related to
7 race. And the point I made was that
8 everything you could ever measure, the
9 clothes you're wearing, are related to
10 gender and race. It's just the way the
11 world is. If you require me to remove
12 all of that content, I can do it. If you
13 would require me to remove all of that
14 content, I'm going to forecast less well,
15 and I'll give you dials so you can decide
16 how much of it I want to remove, at what
17 price, for how many more arrests, let's
18 say, for domestic violence. But it's not
19 literally race and gender and
20 neighborhood. It's the things that are
21 associated, which is virtually
22 everything. That's the world.

23 MS. BRADFORD-GREY: I'm not
24 sold.

25 COUNCILMAN JONES: Listen,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 listen, listen --

3 MS. BRADFORD-GREY: I get it.

4 I get what you're saying. I just do
5 disagree. I do get what you're saying.

6 COUNCILMAN JONES: It is only
7 one factor, not all of the factors. And
8 it's being used every day. The truth of
9 the matter is, right, we quantify a great
10 many things using those tools, and the
11 discussion about it in a public forum
12 like this is important.

13 MS. BRADFORD-GREY: Sure.

14 COUNCILMAN JONES: Because what
15 we said in the opening was that things
16 that are unfair -- and keep in mind, he
17 said those dials. I kept getting stuck
18 on the dials. How much I want to weigh
19 in some things and fair, I can dial it
20 up. And so we do have that discretion.

21 MS. BRADFORD-GREY: In criminal
22 justice, we have to weigh fairness
23 against other things. Isn't that the
24 tenet of a criminal justice system, to be
25 fundamentally fair? If it's not, then I

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 think we're going to be fundamentally
3 overly cautious. I don't see how you
4 reconcile that. And maybe I'm an
5 idealist. Maybe I really think that most
6 people want to be fundamentally fair, and
7 I probably am an idealist, but I think
8 that's what a criminal justice system
9 should have at its core. I just do. Or
10 else we're going to continue to get these
11 same systemic oppressive types of
12 policies that we have for certain people
13 that we don't have for others, and that's
14 where we are right now. You're looking
15 at people marching all over the country
16 wanting more from their system, wanting
17 more opportunities, not to be judged
18 based on their poverty or their skin
19 color or who they were born to. You want
20 more of that, and I think we have to move
21 that way, because to be like this is
22 going to cause much more disruption than
23 we're seeing right now.

24 DR. BERK: I have no
25 disagreement with that whatsoever. All

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 I'm saying is that in a real world, you
3 can't have everything. We had a
4 discussion before about money and
5 programs. You can't have it all. That's
6 all I'm saying. We should try. We
7 should try, but we can't have it all, so
8 you got to, as policymakers, make those
9 calls.

10 JUDGE LERNER: I think that's a
11 great eloquent speech that you just made,
12 but I also don't think it really applies
13 to what we're talking about here
14 obviously. The whole idea of the
15 criminal justice system is to be as fair
16 as possible, as individualized fair as
17 possible to all of the parties in the
18 system, but if you took what you said out
19 to its conclusion as if that's really --
20 the criminal justice system in order to
21 achieve that had to ignore anything that
22 might have any kind of gender or race
23 connection, among the other things you
24 would be saying is a judge really has no
25 right to consider a defendant's prior

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 criminal history when the judge is
3 determining an appropriate sentence for a
4 specific case, because as we were just
5 talking about in terms of this risk
6 assessment, that prior criminal history
7 is made up in part by cultural,
8 residential, et cetera, factors which go
9 beyond that individual. Well, I don't
10 think anybody is prepared to say -- maybe
11 I'm wrong. Maybe you're prepared to
12 say -- that when you're doing an
13 individual sentence, prior criminal
14 record isn't part of what you consider.

15 So what we're talking about
16 here is one instrument, one tool that's
17 going to be used in helping a judicial
18 officer make a determination, a specific
19 individualized determination in a
20 specific case.

21 Now, I understand very fully
22 the concern that some judicial officers
23 at some level making some determinations,
24 especially early in the process, if you
25 give them something like a risk

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 assessment tool, that's all they're going
3 to look at and they're not going to pay
4 attention to what the bail advocate or
5 the Defender -- well, I know we don't
6 have to worry about this in the early
7 bail review hearing, but at least the
8 original Arraignment Court magistrate is
9 only going to look at that. And I think
10 that's a concern. I understand that
11 concern very well, both from my history
12 as an advocate and my history as a judge,
13 but I think the answer to that is not to
14 say, Well, therefore, we're not going to
15 use this tool at all, even though we can
16 adjust this tool so that it's more
17 heavily weighted on the accuracy side --
18 I mean, on the fairness side rather than
19 on the accuracy side and it has some
20 value. It's not a decisionmaker, and in
21 fact, as I'm sure you are aware, there
22 are Appellate Court decisions in at least
23 two states in the United States that say
24 it would be unconstitutional to use this
25 risk assessment tool as a sole determiner

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 either for bail or for sentencing.

3 But I don't -- I think we're
4 not so dumb that we can't make use of
5 this tool as a tool to help the
6 individual decision-makers make the best
7 decisions.

8 COUNCILMAN JONES: You could
9 take that tool and say anything below
10 this range, we'll lower offenses and we
11 know they're safer. Let's err on the
12 side of letting them participate in
13 diversionary programs. Anybody above
14 this range right here, we're going to
15 take an extended, holistic, fair look at
16 to determine what things can be done at
17 this range. But if we can say that --
18 you mentioned earlier 28 percent of the
19 people don't even fit -- well, then if
20 they fall in that, we know that's a good
21 bet.

22 And so, yes, I'm concerned
23 about some of the factors in, but they
24 aren't the law. We are helping to shape
25 the law. And then there's a thing called

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 judgment, and we never want to take that
3 out. Sometimes we're right with it,
4 sometimes we're wrong with it, but that's
5 a part of the process.

6 So do you have any more
7 questions for this rock star?

8 MR. ROJAS: No. I just have
9 one last thing to tell the rock star.
10 The fact that we're having this
11 conversation tells me that there is some
12 feeling that certain communities are
13 being stigmatized, and we might agree
14 that they're not, but the average citizen
15 out there probably believes that their
16 communities because of this tool that's
17 being used are being stigmatized.

18 DR. BERK: There are lots of
19 concerns -- you mentioned the Inquirer.
20 There are lots of concerns that are
21 generated by misunderstanding or lack of
22 information. Again, that's not my
23 problem, although I have to live with it.
24 It's your problem in how you disseminate
25 whatever your decisions are, whatever

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 your findings are, and then with
3 follow-up presumably with the various
4 stakeholders who would convey the
5 accurate assessment of what's going on.

6 COUNCILMAN JONES: Thank you
7 all.

8 Thank you, sir.

9 DR. BERK: My pleasure.

10 COUNCILMAN JONES: It's good to
11 finally put a face to the name.

12 DR. BERK: Any time. My
13 pleasure. Thank you.

14 MS. BRADFORD-GREY: Thank you.

15 COUNCILMAN JONES: Sam, do we
16 have any witnesses in the next panel?

17 THE CLERK: Yes. The next
18 panel will be John Hogan and Adam
19 Schlager from GEO Reentry Group to
20 discuss day reporting centers.

21 And, gentlemen, I know you have
22 a PowerPoint presentation.

23 (Witnesses approached witness
24 table.)

25 MR. HOGAN: We can work without

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 it.

3 THE CLERK: Okay.

4 MR. HOGAN: Thank you to the
5 group for inviting us today.

6 COUNCILMAN JONES: You're
7 welcome.

8 MR. HOGAN: Rock stars will not
9 describe our performance today.

10 COUNCILMAN JONES: Listen,
11 everybody can't be a rock star, but you
12 can work towards it.

13 MR. HOGAN: We'll do our best.

14 My name is John Hogan. I'm the
15 Area Manager for the Commonwealth of
16 Pennsylvania for the GEO Group.

17 MR. SCHLAGER: My name is Adam
18 Schlager. I'm the District Manager for
19 GEO Reentry Services.

20 COUNCILMAN JONES: Welcome.
21 Please begin your testimony.

22 MR. HOGAN: We come before you
23 today to talk a little bit about day
24 reporting centers. In Pennsylvania, GEO
25 Reentry Services operates nine day

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 reporting centers. Nationally we operate
3 approximately 85 of these. We'll get
4 into that in a little bit in the
5 presentation. I'm going to turn it over
6 to Adam real quickly to talk to you in
7 its most basic form what a day reporting
8 center is.

9 MR. SCHLAGER: And we'll be
10 brief. I know time is of the essence.
11 So I thank you very much for the
12 opportunity to speak today.

13 So what is a day reporting
14 center exactly? Whenever we start
15 looking at the term "day reporting
16 center," it's been diluted over the
17 years. It can mean a variety of
18 different things, from a daily check-in
19 where an ex-offender is merely checking
20 in for the day and then they leave, to a
21 full-service day reporting center when
22 you're talking about treatment groups and
23 supervision aspects that are put into
24 place. So whenever we're considering
25 what a day reporting center is, we

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 consider an outpatient program that
3 consists of elements of both supervision
4 and cognitive behavioral therapy, using
5 evidence-based practices and targeting
6 and addressing criminogenic needs,
7 thereby reducing recidivism. And the way
8 that we go about that -- and we'll get
9 into it shortly -- there's a number of
10 different components to a proper day
11 reporting center, and John will get into
12 that now.

13 MR. HOGAN: So a couple things
14 that we're looking at from tradition when
15 you hear the term "day reporting center"
16 and people think check-in center to what
17 is truly kind of a reentry service center
18 in the evolution of these things. They
19 started off from a place where people
20 that come to the criminal justice system
21 would come into the center, check in
22 there. That was a way to supervise them,
23 and then they'd go about their day. And
24 as it evolved, it started to take in a
25 strong supervision component to it, which

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 wasn't just the check-ins, but then it
3 started to incorporate things like drug
4 testing or breath alcohol testing, make
5 sure that we were having participants
6 that were abstaining from substance
7 abuse, and then started to incorporate
8 full treatment. So you had not only
9 cognitive behavioral interventions as
10 treatments, but things that were not --
11 that were more psychoeducational and
12 things that we're working on for basic
13 needs, such as employment, education,
14 housing, those kind of things, to give a
15 person a true comprehensive approach to
16 reduce their rate of recidivism.

17 Within our programs, we have an
18 accountability component to it, which I
19 just mentioned as far as the daily
20 check-ins, the substance abuse testing,
21 the supervision, the laying eyes on a
22 person and making sure we're observing
23 their progress in their program and
24 guiding their behavior change to avoid
25 the risky criminogenic behavior. You

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 have self-sufficiency within the program,
3 which is driving the person to become a
4 more productive member of the community.
5 We want them to take ownership of their
6 pathway towards reducing the criminal
7 behavior or the potential criminal
8 behavior and, again, driving them to get
9 from an anti-social realm towards a
10 pro-social realm. And then the
11 behavioral change program. I mean,
12 that's really the teaching component of
13 things. So it's having the understanding
14 that a person coming to one of these
15 programs may -- is going to need the
16 teaching of new skills, the learning --
17 whether it be a hard skill like writing a
18 resume to help with employment or doing
19 mock interviews to the skills that are
20 more of their thinking areas and that
21 lead to behavior.

22 So if you have someone whose
23 attitudes, values, and beliefs are geared
24 towards pro-criminal behavior, you have
25 to identify that belief system, teach new

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 belief systems that are more
3 conventional, and then help them practice
4 the behaviors that now when they have
5 these feelings, these attitudes, these
6 beliefs, now how is that going to trigger
7 the behavior and then get that kind of
8 behavior. That is what the goal is to
9 try to reduce the recidivism.

10 The first -- so we're going to
11 good over eight principles of effective
12 intervention, which comes out of the NIC.
13 So these are things that we mention a lot
14 of what we're going to mention from this
15 point forward. These aren't GEO program
16 foundations and this isn't something we
17 say exclusively. So when we're saying
18 this, it's not something that's saying,
19 All right, because we believe this to be
20 the best way it is, that it is the best
21 way it is. It's actually the opposite.
22 It's the academic community which is
23 telling us in research that says this is
24 what you ought to do in your programs,
25 this is what will work, so apply it then

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 to your programs.

3 So we're going to talk about
4 the eight principles of effective
5 intervention, something that was talked a
6 lot about today, but we're going to talk
7 about it in a different kind of
8 application, as actuarial risk
9 assessments. That is the first
10 principle. But when we're talking about
11 it, we're not talking about it from the
12 application of making a determination in
13 a court proceeding to say, Okay, should I
14 put this person in programming as a
15 condition of their pretrial status.
16 We're looking at it from a risk/needs
17 principle. And I heard that mentioned
18 from the Council earlier. And what the
19 risk/needs principle is telling us is,
20 risk is who they are, right? So you're
21 saying is this person high risk, moderate
22 risk, low risk. And we're talking about
23 that risk. Again, we're not talking
24 about a person that's in front of the
25 courts for homicide, has a greater degree

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of risk than a person who has a DUI.
3 That's a gravity. That's an offense
4 gravity assessment. We're talking about
5 without proper intervention, what's the
6 likelihood that they're going to continue
7 to offend.

8 So the need principle is what's
9 telling us once we identify who they are,
10 then the needs principle is going to tell
11 us what exactly do we need to work with
12 that person on. Because not every person
13 that walks through the door, as kind of
14 was discussed -- hearing the analogy of
15 the zip codes. Every person who walks
16 through the door is individual, and what
17 makes up their needs are very different,
18 and that's -- having that validated risk
19 assessment tool that tells us we now know
20 what their level of risk is and we know
21 what their specific needs are, then we
22 can move on to the next step, which Adam
23 can talk about.

24 MR. SCHLAGER: That's when we
25 started getting into targeted

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 interventions. It is important whenever
3 you're structuring a program to make sure
4 that you're targeting the right things.
5 A lot of different programs out there are
6 focused on either education or substance
7 abuse or one factor. There's a number of
8 different criminogenic risk factors that
9 go into criminal behavior, and a lot of
10 times with most assessments what you're
11 identifying are what they call the big
12 four. That's the criminal history, which
13 is static, which there's nothing we can
14 do about that. But the other three are
15 dynamic. That's when you're talking
16 about anti-social attitudes, values, and
17 belief systems; your criminal associates;
18 and your behavioral characteristics that
19 are in play. So that's what we work with
20 in our programs, are that top four. The
21 other ones are extremely important, but
22 that was termed the moderate set. So
23 that's your family, alcohol and drug use,
24 employment. Yes, those have an impact on
25 the likelihood of recidivating, but not

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 as much as the anti-social attitudes,
3 values, and belief systems behind it. So
4 that's why we really try to focus on that
5 targeted intervention. If you get a
6 criminal offender a job, what you have is
7 an employed criminal offender. You
8 haven't done anything to change the
9 behavior that's present.

10 So after that, once we get kind
11 of a plan in place, we start to build
12 that out with an ex-offender to determine
13 how are we going to get there. That's
14 part of the motivation factor.

15 MR. HOGAN: So in enhancing
16 intrinsic motivation, the thought behind
17 it is with any person that comes into
18 these programs or really any person,
19 period, we all have our intrinsic
20 motivators for pro-social people that are
21 driving us to the things that make us
22 pro-social. For some of the people --
23 with any person that comes in the
24 criminal justice system, they also have
25 some very strong pro-social intrinsic

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 motivations. That's why when they make
3 it in the communities, there's a lot of
4 really good things that these people are
5 doing day in and day out. So what we
6 work in our programs is to draw out the
7 very positive and pro-social components
8 of the person, the things that motivate
9 them most, and we use counseling
10 techniques like motivational interviewing
11 to draw that out in the person to find
12 out what intrinsically is going to get
13 them to not want to reenter the criminal
14 justice system, return to jail, return to
15 criminal behaviors, and then we'll use
16 that in our programming and use that in
17 their individual sessions in order -- in
18 a process to gear them towards the
19 programming that's going to reduce the
20 recidivism.

21 MR. SCHLAGER: So then we start
22 getting into the skill training with
23 directed practice. And whenever we're
24 talking about this, the best analogy I
25 can come up with is, you don't wait until

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the big game to practice your free throw.
3 We have to be in a safe setting, one
4 where they can practice different skills,
5 without having the possible consequences
6 associated with them, to make sure that
7 those skills are cemented. So we do a
8 lot of role play. We do a lot of not
9 just talking about the issue and what's
10 going through their head, but then
11 actually playing that out. So you're
12 doing a mock interview. That's great.
13 What about whenever you're around that
14 friend that uses. We're talking about
15 that big four again. That person -- your
16 dealer comes around, because he's not
17 going anywhere. He's going to come back.
18 He's going to try to get you to use
19 again. So how are you going to interact
20 with him in that situation? And you play
21 it out to cement those skills so they're
22 more likely to do it on the outside.

23 MR. HOGAN: The next principle
24 is increasing positive reenforcement.
25 What the research has shown is that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 participants that come to our programs,
3 people that have been involved in the
4 criminal justice system, using the threat
5 of jail, the threat of incarceration, any
6 kind of punisher is not going to motivate
7 behavior changes. It's not there. A lot
8 people have done time. They're
9 comfortable with that. Really what you
10 have to do is more positively the
11 behaviors that you observe that gear
12 towards the good works that they're doing
13 in order to cement the skill of behavior
14 change. So we do that, the research is
15 saying, a minimum of a four-to-one ratio
16 within your programs. A minimum ratio of
17 four to one. We do that within all of
18 our programs.

19 There's comprehensive and
20 aggressive contingency management
21 programs. So for everything that they're
22 doing good versus the unwanted behaviors
23 or the punishers, we're keeping to a
24 minimum of a four-to-one ratio to guide
25 them through that behavior change and

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 cement the skill.

3 COUNCILMAN JONES: Four to one
4 positive strokes versus a negative?

5 MR. HOGAN: That is correct.
6 The positive reenforcement is
7 substantially more effective than the
8 negative reenforcement.

9 COUNCILMAN JONES: Got it.
10 Four to one.

11 MR. HOGAN: Minimally.

12 MR. SCHLAGER: So then we start
13 getting into community support. This is
14 where it's so important that the
15 different programs within the community
16 work and communicate together. Whenever
17 a person is done with a day reporting
18 center, there can't be that dependence on
19 that center. Otherwise, as soon as that
20 structure is taken away, they fall apart.
21 So a part of a good day reporting center
22 is about establishing those links with
23 the community and having that
24 self-sufficiency that John had mentioned,
25 that they know where to go for help for

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 the different issues or items they may
3 need in the future.

4 MR. HOGAN: Measurement
5 feedback within each one of these
6 programs, we do things like quarterly
7 surveys. There's things that we do to
8 survey our participants when they come in
9 for treatment, how they respond to the
10 treatment, what else is going on in their
11 outside lives that are kind of giving us
12 an idea of how to guide the treatment.
13 So there's constantly getting measurement
14 feedback from the participant.

15 The good thing about that is,
16 that allows us within these programs to
17 make sure they maintain efficacy, because
18 there are things we find out that can be
19 changed that don't go against any kind of
20 research modality. So we might find out
21 something like our rewards program, the
22 participant saying, Hey, if you tweak
23 this, this would be more motivating to
24 the participants. Those surveys are
25 helpful and we can use them in our

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 programming, and we often do.

3 MR. SCHLAGER: Then you get
4 into measuring your relevant practices.
5 This is actually the impact a program can
6 make. So the most generalized one that
7 we use is recidivism, trying to see have
8 we dropped that. But that takes time and
9 money to accomplish. So a lot of times
10 you need to have that information
11 quickly. So you start looking at some
12 intermediate outcomes and some other kind
13 of assessments or audits of a program
14 that can tell you whether it's effective
15 or not. One of those is a CPC, a
16 correctional program checklist, and what
17 that does is that measures the
18 effectiveness of your program. It is
19 done by an independent auditor who comes
20 in, I believe is out of the University of
21 Cincinnati, but it was developed there.
22 But they'll come in and actually measure
23 the different components of your program
24 and give you a good indicator as to
25 whether it's effective or not. And the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 programs that we run, we've had four
3 independent CPC's done on our programs,
4 and all of them have been found either
5 effective or highly effective.

6 Now, you have the stats in
7 terms of what that means.

8 MR. HOGAN: So in Pennsylvania
9 we've had it done four times, and of
10 that -- so when you're looking at those
11 percentages that we come by, that makes
12 up -- there's something like almost 600
13 CPC's have been done to date, and of
14 those 600, only about one in four come
15 into that category of being highly
16 effective or effective. So when you're
17 thinking about that, in Pennsylvania the
18 ones that we're operating make it in the
19 highest percentage of being -- having
20 efficacy, showing that they're likely to
21 produce reduction in recidivism.

22 MR. SCHLAGER: So once we
23 started to get into a bit more of the
24 research, on the next page we start
25 talking about structured time, and this

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 is a difficult one to address. Basically
3 what the research had said is that 40 to
4 70 percent of a high-risk participant,
5 that time needs to be filled with
6 something pro-social or positive, whether
7 that's treatment, whether that's
8 pro-social activities like work,
9 employment, church, whatever it might be.
10 Forty to 70 percent of that time needs to
11 be filled and it has to be structured.

12 And that's a key piece that's
13 often missing, is they'll go to a program
14 once a week for a couple hours and then
15 the rest of the time we don't know where
16 they are or what they're doing.

17 We also start getting into
18 dosage here. Now, that's a buzz word
19 that's come out over the last few years
20 in terms of how much dosage is enough.
21 And what the research so far has found is
22 that you could kind of separate that out
23 into three categories. So for your
24 moderate risk participant or one that
25 just has a few needs, they might have a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 bit more risk side but low need, you're
3 looking at about 100 hours of treatment
4 involved in changing that behavior. Then
5 for your high risk or multiple need
6 participants, 200. And then for your
7 high risk, high need, the worst of the
8 worst, we're looking at 300 hours of
9 treatment. I would be surprised to see
10 any program that's really capable of
11 hitting that mark right now. A lot of
12 programs fall short on that, because
13 that's a significant amount of time, time
14 that we normally don't have.

15 MR. HOGAN: So we want to talk
16 a little bit about referral options,
17 recognizing that this is a pretrial
18 committee or a post -- before the
19 adjudication. Within these programs
20 nationally, we've seen people coming in
21 from a whole bunch of different referral
22 options. We've seen them from people
23 that were probation violators. So before
24 they went into incarceration or the
25 courts, they would come to these

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 programs. We look at it as a condition
3 of parole. So people that are coming out
4 on parole would enter these programs.
5 But we've also seen a pretty aggressive
6 use of them for pretrial. And
7 conceptually the model works well.

8 Basically you're saying to
9 someone you're running them through, from
10 our perspective, risk/needs assessments.
11 If the person is showing up to have a
12 moderate or high risk, then they're
13 someone who would be appropriate for
14 programming.

15 We don't -- typically wouldn't
16 recommend someone that's low risk coming
17 into programming. Low risk to us tells
18 us that they're not in need of
19 intervention, that they may have
20 committed a criminal offense, but there's
21 a lot of pro-social things going on with
22 that person that you're probably at risk
23 of doing them all more harm by taking
24 them into an aggressive program like this
25 and out of their pro-social stuff, plus

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 you're mixing them with a population that
3 is higher risk. Higher risk people tend
4 to influence lower risk people. Research
5 bears that out. But the moderate risk,
6 the higher risk people that are in these
7 programs, coming in in pretrial, that's
8 been an effective utilization.

9 We've done this in Pennsylvania
10 within some of our county programs
11 that -- they've used it for a pretrial
12 sentencing option. It's worked very
13 well. The participants that have come in
14 from that way know that there's a
15 motivating factor to participate in the
16 program and, that is, that it will be
17 considered upon at sentencing. So if
18 they're doing well, we're able to
19 advocate for them and make -- here's what
20 the person has done while in programming.
21 They maintained their supervision. They
22 maintained their sobriety. They found
23 employment. They participated in the
24 program. It's a great story for them to
25 tell.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 It works well for the criminal
3 justice community for two reasons. One,
4 it provides needed supervision from
5 practitioners like us. We're keeping an
6 eye on what they're doing in the
7 community. It starts to reduce -- and
8 it's starting to reduce the recidivism,
9 but it also saves dollars on jail days.

10 What ends up happening, if
11 you're saying to somebody -- I heard the
12 conversation earlier and it piqued my
13 interest when it came up to cost. The
14 cost of running a day reporting center, a
15 per diem per day reporting center
16 participant is substantially lower than
17 it is for an in-jail day.

18 MS. BRADFORD-GREY: What is it?

19 MR. HOGAN: Well, that would
20 depend on the style of program that you
21 have. I mean, there's different -- these
22 can be customizable, but you could see a
23 program run as low as \$20 to \$25 per diem
24 and up to about 50 to 60 depending on the
25 size of the program, what everything was

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 wanted within the program. I mean, there
3 are versions of this that are more
4 comprehensive than others, but -- and
5 volume, of course. The more participants
6 that are allocated to a program, there
7 are certain costs that are fixed, thereby
8 the more that are in the daily per diem
9 is less expensive.

10 That said, you look at most
11 jails and they're talking about 90, 100,
12 110 and upwards of that per diems for
13 inmates. So it is a substantial cost
14 saver, and we have examples of that that
15 we've seen in Pennsylvania alone where a
16 day reporting center was implemented
17 because of jail overcrowding within the
18 county. They aggressively used the day
19 reporting center. When they did that,
20 they were able to not only stop sending
21 people to other neighboring counties
22 where they were paying them but actually
23 reduced the number of days within their
24 jail. They also were seeing shorter
25 lengths of stay, shorter -- a reduction

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 in the amount of people that were being
3 put into the jail on a daily basis, so
4 all of the supporting complements when
5 you implement a program like this.

6 Without the slide show, you
7 have -- I don't know if you have this in
8 front of you, but one of the things I
9 think it's important to mention that -- I
10 also heard mention about how Philadelphia
11 is different than other places, and it
12 is. It's one of the largest cities in
13 the country. So it represents something
14 that is not kind for kind with every
15 different area where we operate programs.
16 However, I do want to make known of the
17 fact that we operate programs in the City
18 of Los Angeles, five in Chicago, San
19 Diego, and currently we're operating a
20 day reporting here in Philadelphia for
21 the Department to Corrections.

22 COUNCILMAN JONES: Federal?

23 MR. HOGAN: State. And that's
24 something that if the community --
25 talking pilots, that if this is something

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 that wanted to be piloted, we could do
3 that. An organization like that could
4 implement something like that
5 immediately. And we have the expertise
6 and we have the supporting complements
7 within our national network that we're
8 able to do those things quickly.

9 To make something work on a
10 grander scale, we implement programs from
11 the day we're asked to do it to opening
12 doors within 60 to 90 days, with a fully
13 trained staff. So we're able to
14 recruit -- we recruit locally. We bring
15 in our training departments. We bring in
16 our quality assurance people to make sure
17 that the efficacy of the program is
18 strong, and we could do that within 60 to
19 90 days, and have a track record of doing
20 so.

21 So talking a little bit on one
22 of the last slides -- and I'm not going
23 to go into great detail. You have it
24 there. But the top bar on there talks
25 about reduction on crime, positive effect

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 on the probability of -- the net value of
3 these kind of programs. It also talks
4 about the cost savings. Now, that
5 wasn't -- those data points were not run
6 by us. That was out of a study that
7 there is a link on there to -- it was
8 Washington state. It was a Washington
9 state study. So this was not data that
10 we pulled. This was data from an
11 independent source when it comes to day
12 reporting options.

13 We also put on there a banner
14 of some of our independent studies that
15 we've had on our programs. And you'll
16 see there, there's one from Bakersfield,
17 California, which is a pretty --
18 Bakersfield is a pretty large city that
19 had greater than a 40 percent reduction
20 of recidivism. Again, Chicago, their DOC
21 had a greater than 40 percent. And then
22 Franklin County, Pennsylvania secured a
23 greater than 60 percent reduction of
24 recidivism.

25 So some of the things that

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 we're doing -- and I've mentioned those,
3 but I know time is running long today.

4 But these things have been proven to
5 reduce recidivism. We're able to -- they
6 have high program fidelity. They're a
7 great local resource. When we've come
8 into locations, we've always -- as we've
9 grown our programs, they've always been
10 run by people locally that help -- I
11 mean, that's key. You can't recruit --
12 we can't do good things within a
13 community if we don't have people from a
14 community.

15 We have independent quality
16 assurance from our own company that are
17 researchers, academic researchers, that
18 come in and check for fidelity, but also
19 check to make sure that we're continuing
20 to follow an evidence-based practice
21 model. And we've been able to do that
22 with some great success.

23 And I think one of the things
24 is, we have a strong track record, that
25 this is something we've been running --

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 when people talk day reporting center, in
3 the State of New Jersey was one of -- we
4 have five day reporting centers in the
5 State of New Jersey that we've been
6 running since the late 1990s with
7 tremendous success. We've been a great
8 partner for theirs. I think our track
9 record, it pretty well speaks for itself.

10 That's all of our formal
11 presentation. Happy to take questions on
12 day reporting.

13 COUNCILMAN JONES: So I've been
14 here, this is my ninth year as a
15 Councilman. I've never seen anybody go
16 back and forth like that in my life. You
17 guys have done this once or twice.

18 MR. SCHLAGER: Once or twice.

19 COUNCILMAN JONES: So a couple
20 of things. And this is one of my, as a
21 Committee member here, most intriguing
22 aspects of a continuum. So what we're
23 doing is, a risk assessment determines if
24 someone is eligible to be in a program
25 like yours or should be in a more secured

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 facility. All of these things are kind
3 of interconnected. And so we're trying
4 very hard to kind of show a cohesion, if
5 you would, in our thought process along
6 with our partners in the City.

7 Politically, with a small P, as
8 you see the empty desks here, all of us
9 have districts, and the NIMBY, I think it
10 is, principle is in full effect when it
11 comes to your facility. So irrespective
12 of the fact that 500 people come back to
13 the City returning every week,
14 irrespective they come from somebody's
15 zip code back to usually the zip code
16 they came from, most people, if you had
17 an organized effort to say, Hey, I'm
18 getting ready to open up a day reporting
19 center in your area, would be resistant
20 to it. I watched one of my brave
21 colleagues who had doctors and
22 psychiatrists and program directors all
23 lined up to go into a facility and
24 watched people with pitchforks and
25 torches come in here, not in my backyard.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 So one of the ongoing
3 discussions we've had with the past
4 Administration and -- we have to have
5 political courage too, that we have to
6 say the facts of the numbers. Sometimes
7 people don't like the numbers. And say
8 folk are returning to the zip code
9 anyway. Would you like that to happen
10 with supervision or without supervision,
11 without services or with services?

12 So to that end, how do you deal
13 with the NIMBY of communities that you
14 find yourself in?

15 MR. HOGAN: A couple ways.
16 Certainly we have -- the first part in
17 that process is, we have personnel
18 dedicated to real estate when we open up
19 one of these programs. So the personnel
20 within the GEO Group that's dedicated to
21 real estate makes sure we site select so
22 that it's going to be most -- in an
23 appropriate area within the community.
24 So that when we go in there and we open
25 up shop, that it isn't somewhere where

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 you're going to get the high degree of
3 resistance. That's very important. We
4 don't want to -- if we're not wanted,
5 we're never going to get off the ground,
6 and it's not beneficial to anybody, least
7 of all our participants, which are
8 exceptionally important to us, that
9 they're going through treatment and
10 supervision in a safe and effective
11 manner.

12 But that's the first step of
13 the process. Once that's done and we
14 select a location and if we run into --
15 sometimes you don't run into
16 interference. When we opened in
17 Philadelphia, we didn't run into
18 interference. These places -- there's a
19 misconception, but because the ones that
20 we're operating are non-residential and
21 they're not drug dispensing or any of
22 those kind of things, which tend to get
23 people nervous or concerned or bring out
24 that NIMBY factor, these are -- we've
25 oftentimes had people come in and do open

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 houses, so they can see what it is we're
3 opening, see what it is we're operating.
4 We become very good community partners in
5 these neighborhoods. People that --
6 like, All right, this isn't a bad thing.
7 In fact, oftentimes these are good things
8 and we're glad to have them. They
9 provide a viable service.

10 You're always going to run into
11 some of those things where people are
12 just -- if not site selected
13 appropriately, you can run into those
14 situations where it becomes tense. But I
15 think what best -- other than the work
16 out front of that, the thing that works
17 best to maintain those relationships is
18 being transparent, is being involved,
19 being active and talking to people about
20 what it is exactly we're doing and what
21 it is exactly we're not doing and what
22 benefit it promotes within the community.

23 COUNCILMAN JONES: So describe
24 for me and the panel a day in the life of
25 a participant in one of your programs.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. SCHLAGER: Sure.

3 Typically -- and this is all dependent on
4 risk level, of course. So there may be
5 cases where some get less treatment than
6 others, depending.

7 But on a typical day, they're
8 going to come in. They're going to get
9 breathalyzed. They'll see if it's their
10 day for a random drug screen or not. And
11 then at that point, they're probably
12 going to do one of two things. They're
13 either going to go for a group focusing
14 on either -- a lot of times we run moral
15 recognition therapy. It's a type of
16 cognitive reasoning group. Or drug and
17 alcohol group, anger group, kind of the
18 normal treatment groups that you might
19 have, or they're going to have an
20 individual cognitive behavioral therapy
21 session with us.

22 COUNCILMAN JONES: So your
23 assessment, you determine the treatment
24 plan.

25 MR. SCHLAGER: Correct. And

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 then it's built from there, yes.

3 MS. BRADFORD-GREY: Can I ask,
4 what is the profile of a person who would
5 be high risk in your treatment plan?

6 MR. SCHLAGER: Well --

7 MS. BRADFORD-GREY: Like what
8 charges would they have, what background?

9 MR. SCHLAGER: It's based off
10 whatever risk assessment is being used
11 now. In a lot of ours, we use the LSIR,
12 but we're also familiar with the COMPAS,
13 ORAD.

14 COUNCILMAN JONES: On the
15 acronyms, there are some folks --

16 MS. BRADFORD-GREY: I don't
17 know what that is either, but just the
18 profile generally of a person that would
19 be high risk.

20 MR. SCHLAGER: So it depends on
21 the categories that the assessment is
22 going after. So they're all going --
23 most of them are going to be based off
24 dynamic risk factors, though. So is
25 there a current drug and alcohol problem;

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 are there attitude, value or belief
3 issues regarding the criminal justice
4 system or belief systems that are outside
5 the norm; for example, that it's okay to
6 get in a fight with somebody, those kind
7 of things that will highlight them as
8 that being a risk area. Education,
9 employment levels, mental health
10 concerns, leisure rec time, how much down
11 time do they have, are they just sitting
12 around doing nothing or are they involved
13 with the community.

14 MS. BRADFORD-GREY: Does
15 criminal history come into play at all?

16 MR. SCHLAGER: Yes, but it's
17 only one factor out of many that are
18 looked at, and it's static. We don't
19 have a tendency to focus on that. That
20 will impact the overall risk score, but
21 we don't look at it too much because
22 there's nothing you can do about it.
23 It's done.

24 MR. HOGAN: Most of our
25 participants are going to spend somewhere

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 between 10 and 15 hours total at our
3 center throughout the week, depending on
4 level of risk. The higher, the more time
5 they'll spend in some kind of treatment
6 activity throughout the week. Most of
7 our centers in Pennsylvania are six-day
8 operation. We do have one nationally
9 that is seven-day operation. And those
10 six-day operations, that will be at that
11 center at least one time per day every
12 day of the week. They'll be drug
13 screened a minimum of one time per week,
14 sometimes twice per week. And minimally
15 they'll be AC'd the second they walk
16 through the door every time they walk
17 through the door.

18 MR. ROJAS: Let me ask you
19 this. I worked at a drug and alcohol
20 methadone program in the inner city in
21 the community. At \$25 a day per inmate,
22 how are you covering the costs?

23 MR. HOGAN: Well, keep in mind
24 I said that the costs would vary
25 depending on a couple of factors. The

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 level of services that we provide is
3 number one, and the second, the volume of
4 participants that are sent. So the
5 greater the amount of participants that
6 are sent, the lower the daily per diem
7 would be.

8 But how do we cover our costs?

9 I mean, you must understand that we're
10 drawing from a national resource. So
11 it's -- GEO is a large company. So some
12 of the resources that are used to be able
13 to use it to build programming like this
14 or maintain programming like this is
15 divvied up coming from the margins of
16 dozens and dozens and dozens of programs.
17 So where one company on its own may have
18 to pay for real estate, legal, human
19 resource, training, all those support
20 services to maintain a good effective
21 program, we're drawing from a national
22 resource to be able to do that.

23 MR. ROJAS: Is that federal
24 funds?

25 MR. HOGAN: It depends on the

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 program. So some programs we have
3 federal programs, we have state programs,
4 we have county, we have municipal.

5 MR. ROJAS: Okay.

6 MS. SCHWARTZMAN: Do you charge
7 the people that go there also? Are there
8 different expenses for different
9 programming pieces?

10 MR. HOGAN: We have not done
11 that for day reporting centers where we
12 have some form of a co-pay. Not to say
13 that we couldn't build a model that does
14 that. We haven't done that, because the
15 thought behind it is it will interfere
16 with treatment decisions. So if we're
17 making decisions saying you have to come
18 for more, then the first answer from the
19 participant would be, Well, you want me
20 to come more to pay for more. So we
21 don't do that.

22 Now, we deal within this
23 division because we do -- a subsidiary of
24 GEO is BI Incorporated, which is an
25 electronic monitoring company. So there

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 are offender-funded electronic monitoring
3 components within our company, but not in
4 the day reporting side.

5 MR. ROJAS: So do you have
6 stakeholders that you develop in the
7 community to help you achieve your goals
8 with the particular individuals?

9 MR. HOGAN: Absolutely. One of
10 the key principles of the effective
11 intervention is engaging the community
12 for support. So day reporting centers, a
13 lot of times when we've talked about this
14 before, we'll describe it as a one-stop
15 shop. A person could come there and get
16 cog, employment, drug and alcohol,
17 education, supervision, anger management,
18 parenting. All those things could be
19 built within the program. But you're
20 still not going to cover everything.
21 There are criminogenic needs and there
22 are basic needs. So if a person has
23 something that they're dealing with
24 medically, we're not a hospital or a
25 clinic, so we'll bring people that are

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 and have them do presentations and make
3 our participants aware of this service
4 that's in the community and tie them in.
5 So when they do have medical needs --
6 it's often overlooked for people in the
7 criminal justice system -- they have
8 somewhere else to go.

9 We work on housing, but we
10 don't provide housing. So we might have
11 housing providers come in and have
12 conversations like, All right, if you
13 find yourself homeless, here's what you
14 need to do next. We build those
15 relationships with those organizations,
16 so if someone comes into us -- and it
17 happens. Someone walks in the door, I
18 got kicked out of my house, what do I do.

19 All right, let's start working
20 on resources, let's get you a place.

21 MR. SCHLAGER: To piggyback on
22 that, something to keep in mind, John
23 mentioned a bunch of times about
24 customization. Whenever we're looking to
25 open up a center, if you have resources

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 in the community that are good, that you
3 are happy with, then there's no need for
4 a redundancy of services. So if there's
5 a drug and alcohol program that's already
6 in operation doing good work, then why
7 would we come in and do the same thing?
8 So we try to fill the gaps. We try to
9 find those areas that aren't being hit,
10 work with the community resources that
11 are already present. That way, we're
12 addressing as many needs as possible.

13 COUNCILMAN JONES: Patiently
14 waiting.

15 MR. HOLLWAY: Thank you.

16 So how do you guys define
17 failure?

18 MR. HOGAN: Well, typically we
19 work individually, like we'll go to --
20 when we start to work in a community, we
21 have conversations with that jurisdiction
22 about what their definition of failure
23 is. Now, the ultimate failure is they
24 don't successfully complete the program.
25 But when someone says, All right, what

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 criteria will get them to that point,
3 different jurisdictions have different
4 thresholds of what they're comfortable
5 with, and we don't make that -- our
6 determination has always been, you decide
7 who comes into this program, you decide
8 when they come out. We will work with
9 them. Unless they're an extreme safety
10 risk, we will work with them throughout,
11 but we don't dictate to a jurisdiction
12 saying, All right, this is the criteria
13 you have to use for placement or removal
14 from this program.

15 There are some things that are
16 pretty much universal. New criminal
17 offenses seems to be something -- just
18 long-term substance abuse where the
19 person becomes a risk to themselves, a
20 risk to the community, violent behavior,
21 things like that are typical if you're
22 going to ask what a standard would be,
23 but there's a different threshold for
24 what one community might or what one
25 jurisdiction might be accepting of as

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 opposed to the other.

3 The one thing I will say is, we
4 do try to encourage that. Unless they
5 are a risk to themselves or a risk to the
6 community, let them go through the
7 programming. They are going to make
8 mistakes. They didn't enter the criminal
9 justice system because everything was
10 good. So they're going to make mistakes.
11 As a community, we have to recognize that
12 and behavior change. People didn't learn
13 criminal behavior overnight. They don't
14 learn pro-social behavior overnight.
15 There will be relapses. Not just
16 relapses from a substance abuse
17 perspective, but behaviorally. So we
18 work through those relapses to get to
19 where we want to go.

20 MR. HOLLWAY: Thank you.

21 COUNCILMAN JONES: So are you
22 familiar with Red Hook?

23 MR. HOGAN: Red Hook?

24 COUNCILMAN JONES: A community
25 court model in Red Hook, New York.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 MR. HOGAN: No.

3 COUNCILMAN JONES: You sound
4 like them. I mean, you should Google
5 them.

6 MR. HOGAN: I will.

7 COUNCILMAN JONES: And they
8 talk about holistic restorative justice
9 models. So I would like you to look at
10 them, and that's something we've taken a
11 day trip --

12 MR. HOGAN: If it's an
13 evidence-based practice, if we sound
14 similar is because we're not inventing
15 this. There's research out there that
16 says in order for this to work, this is
17 the principles you ought to be following.
18 And the real danger that we see is either
19 practitioners don't follow that research,
20 they do what they think feels good or
21 feels right instead of what's scientific.
22 And this is a science. This is no
23 different than a medical model.

24 COUNCILMAN JONES: And without
25 violating your own personal privacy

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 stuff, have you either been involved in
3 law enforcement at all, prison?

4 MR. HOGAN: Yes.

5 COUNCILMAN JONES: And then
6 where did you get your -- so you're what
7 I talked about. If a probation officer
8 and a social worker had a baby, they
9 would be you.

10 MR. SCHLAGER: It's us.

11 MR. HOGAN: This is what it
12 looks like.

13 MR. HOLLWAY: Which one is
14 which?

15 COUNCILMAN JONES: But, I mean,
16 the personality characteristic.

17 Listen, they call me the happy
18 Councilman.

19 But do you -- I mean, the
20 job -- so what would be the ideal job
21 description for people actually dealing
22 with this every day? Is it someone with
23 both sides of the hemisphere that
24 brings --

25 MR. SCHLAGER: A lot of time in

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the research you'll see the Venn diagram.
3 It basically has treatment side and
4 supervision side, and where that's
5 overlapping, that is your baby. And what
6 we're getting at there is that treatment
7 without supervision is ineffective and
8 supervision without treatment doesn't
9 change anything. So it really does have
10 to be that mix of both. So people from
11 the criminal justice side of things have
12 a tendency to be a bit more
13 authoritative. We're looking for the
14 softer side of that. On the treatment
15 side they have a tendency to internalize
16 a bit too much on what's going on with
17 the participants. We need a bit of the
18 harder edge on that side. So that
19 perfect mix is what we're looking for,
20 the ability to be empathetic while still
21 holding them accountable for their
22 actions.

23 COUNCILMAN JONES: And I use
24 colorful metaphors sometimes to get my
25 point across, and I hope I don't offend

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 when I do it. But when I travel in my
3 district in some of the more challenging
4 parts is that figure, father or mother,
5 missing. And unfortunately at a certain
6 point in one's life, they wind up in a
7 situation where now they're finally
8 getting that structure and social worker,
9 the empathy and sympathy but consistency
10 that they needed all along and gravitate
11 to it really well. So what I'm hoping to
12 do is try to synthesize some of the
13 things that we're learning to give that.
14 Because I'm familiar with -- what is it,
15 the Youth Court -- not Youth Court that
16 you dealt with. We dealt with -- was it
17 Youth Court? Your rendition of it. What
18 was it called?

19 MR. MOSEE: I'm not sure what
20 you're referring to.

21 COUNCILMAN JONES: So you ran a
22 program dealing with the criminal justice
23 alternatives for juveniles. Was it
24 called Youth Court or was it called
25 something else?

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 DEPUTY COMMISSIONER BETHEL: I
3 think it's the Youth Aid Panel.

4 COUNCILMAN JONES: Youth Aid
5 Panel.

6 You did run it. You still do?

7 DEPUTY COMMISSIONER BETHEL:
8 George does so much.

9 COUNCILMAN JONES: George does
10 so much. He had to think what year was
11 it, what month.

12 But those kinds of structures
13 and in some of my schools where there are
14 challenges and climate challenges, as
15 they call it, there's no strong principle
16 that's a kind of guiding hand but firm to
17 where you want the behavior to be. And
18 I'm not talking about corporal
19 punishment, but, no, you're not going to
20 do that in my class, period. You cross
21 the line. And then that four/one ratio
22 that you talked about is truly
23 intriguing, because you have to
24 positively reinforce good behavior.

25 MR. HOGAN: Those principles

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 are for behavior change. So whether
3 you're talking about the criminal justice
4 system, your schools, I mean, if you're
5 looking at things that you need to do,
6 those principles can be applied in any
7 dynamic. So if you're saying that -- the
8 assessment is to identify it and identify
9 who and what needs to be done -- what
10 needs to be targeted. Targeting
11 interventions, rewarding, motivating. I
12 mean, these are core principles. These
13 are not things that should be considered
14 groundbreaking.

15 COUNCILMAN JONES: So my last
16 question, how much do you involve
17 community service, almost in a
18 restoration back to the community? Do
19 you do any of that?

20 MR. HOGAN: We do. Within the
21 moral recognition therapy, or MRT that we
22 do, it requires two different -- it's a
23 12-step, not to be confused with the
24 12-step model, but there are two
25 different sessions that require community

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 service that needs to be signed off of
3 that's independent to court order with
4 that exact principle in mind. The reason
5 the step was designed that way is to say,
6 Okay, you need to be doing some act of
7 altruism to reengage yourself within the
8 community because you're out of it,
9 you're on the framework. You need to be
10 part of your community again.

11 COUNCILMAN JONES: Do you hire
12 people from the community?

13 MR. SCHLAGER: Absolutely.

14 MR. HOGAN: Absolutely.

15 COUNCILMAN JONES: Elaborate.

16 MR. HOGAN: I mean, in fact, we
17 prioritize it. If you look at any one of
18 our centers nationally, they're made up
19 predominantly -- yes, there are occasions
20 where someone transfers in because they
21 want to work in a certain place, but
22 overwhelmingly people that work in our
23 programs are from that community. They
24 have to be, because there are resources
25 that they're going to tie our

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 participants in that an outsider is not
3 going to be aware of.

4 COUNCILMAN JONES: Nicely done.
5 Questions?

6 (No response.)

7 COUNCILMAN JONES: Well, thank
8 you so much for --

9 MR. HOGAN: Thank you.

10 COUNCILMAN JONES: Ms. Williams
11 has you on speed dial.

12 THE CLERK: I will be
13 contacting you.

14 MR. HOGAN: We look forward to
15 it. Thank you all.

16 THE CLERK: We have one final
17 witness before we end today's hearing,
18 Dr. Ghose from the University of
19 Pennsylvania.

20 (Witness approached witness
21 table.)

22 COUNCILMAN JONES: Welcome,
23 Dr. Ghose. Thank you for your patience.
24 You must have did something to Ms.
25 Williams to make you absolutely last.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 Whatever it is, you need to beg
3 forgiveness.

4 DR. GHOSE: I'm going to be
5 short. I'm going to be brief.

6 My name is T.J. Ghose. I'm a
7 Professor at the University of
8 Pennsylvania in the School of Social
9 Policy and Practice, and I'm also an
10 author under Penn top-ten book around the
11 top ten issues that we're facing as a
12 society. My issue is incarceration,
13 substance use, and homelessness, the
14 three intersecting social situations that
15 put our communities at very high risk.

16 I mean, I had a lot to say and
17 I've been hearing this, and I'm going to
18 just modify -- I'm just going to throw
19 all of this out a little bit and just
20 modify what I was going to say to respond
21 to some of the questions that have come
22 up to better use your time.

23 First and foremost, as a Penn
24 Professor, I must say that what you heard
25 from Dr. Berk is not uncontested. There

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 are many of us -- and this is hard for me
3 to say, because of course -- but that's
4 the academic field, right? We have to
5 have conversations. Exactly.

6 There are many of our social
7 scientists who take deep issue with the
8 implications of the kind of statistical
9 modeling he has presented to you. And
10 not just us as social scientists, the
11 country has taken deep issue with that in
12 the Supreme Court. The Civil Rights
13 Movement at that point in time dealt with
14 this very important issue of what we call
15 statistical discrimination. The fact
16 that you have statistical tendencies does
17 not actually translate to the ability to
18 apply that to the individual. That's not
19 a legal mandate. That is a legal mandate
20 after the civil rights decisions. That
21 is a mathematical principle, and from my
22 background in math and physics, I will
23 tell you that a lot of -- I'll give you
24 three really quick examples of how the
25 stats comes from physics, then goes into

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 psychology, and now is in social
3 behavioral science and where we start to
4 really become murky around our
5 assumptions.

6 So in physics, we have -- when
7 I was in physics -- I'm getting my degree
8 in physics -- I was in quantum theory.
9 That was where my work was. Probability
10 theory comes from quantum theory,
11 especially modern probability theory.

12 This year in physics is that we
13 are dealing with the same exact atom over
14 and over and over again. It's the same
15 exact physical atom. So when we talk
16 about the probability of where to find
17 that atom, we're not talking about
18 different atoms looking like that atom
19 that we are basing our stats on. That's
20 number one. That's a very simple system.
21 As soon as we go from one atom to two,
22 the probability theories that we have for
23 that atom go out the window, which is why
24 in physics today even two atomic systems
25 are impossible to predict. Despite being

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the same exact -- we know the same exact
3 characteristics between those two atoms,
4 we still cannot, cannot -- I will put
5 this on the table. We cannot predict
6 with much confidence a two-atomic system.

7 Now we go to psychology, my
8 area really where I've been trained. The
9 DSM, Diagnostic Statistical Manual, is
10 how we come to conclusions about what a
11 person has in terms of a malady. But
12 these are statistical categories.

13 However, we are still dealing with
14 biometrics, biological processes. We're
15 still dealing with people -- when I have
16 depression, there are certain biological
17 processes going on inside my body that
18 look very much like the same hormonal
19 biological processes that go on in
20 someone else's body. We have to still
21 deal with the probabilities, because you
22 and I might actually deal with the same
23 hormones differently. So there's still a
24 probability, non-confidence and terrible,
25 so to speak, as to even though we have

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 the same exact hormonal situation in our
3 two bodies, whether or not I am depressed
4 versus you are depressed. That's why
5 it's only a probability. The Diagnostic
6 Statistical Manual, DSM, which we base
7 our entire diagnoses on is a
8 probabilistic manual. There's a high
9 probability if you take off these that
10 you might have depression. We are still
11 in the zone of biological factors, which
12 are -- which look exactly the same across
13 human beings.

14 Now we go to what -- and I'm
15 sorry to be provocative, but I have to
16 be. We go to the zone which Hitler made
17 famous, the use of physical processes to
18 predict social biological behaviors.
19 This was an entire -- there's a history
20 to this. There's a social history to
21 this that goes -- it goes right back to
22 fascist regimes, and we need to
23 understand that, because now we are
24 dealing with not biology, not uniform
25 atoms. We are dealing with behaviors.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 And in our field, for example, 95 percent
3 probabilities are cut off for saying that
4 behaviorally there's a high probability
5 that my hypothesis might be true
6 behaviorally. You heard today a
7 presentation that says 90 percent might
8 be predictive. That is danger zones.

9 Number two, now we're dealing
10 with the fact that when we take -- and
11 this is statistics. I would love to have
12 a conversation -- I have had a
13 conversation with Dr. Berk about this. I
14 would love to have this conversation --
15 take this conversation further, because
16 what he said is absolutely right, that
17 the group processes, it is easy to come
18 to these -- not easy, but it's
19 complicated, but at least you come to
20 some kind of a score that applies to the
21 group. That is important to understand,
22 because the minute you take the group
23 applicability to the individual and try
24 to predict what that one individual will
25 do tomorrow or the day after or the day

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 after that, you are now mathematically --
3 I'm not even talking about the problems
4 of biology versus behavior. I'm talking
5 about mathematics. You are in murky
6 zone. And this is what led the courts in
7 the 1960s to say statistical
8 discrimination is illegal, it's racist.
9 And this is the basis of disparate
10 outcomes rulings.

11 I'm not accusing anyone of
12 being racist for coming up with these
13 stats. What I am saying is regardless of
14 motivation, when because of these social
15 behavioral processes you come to the
16 conclusion that certain groups, like
17 African American men in this particular
18 case, are disparately impacted, then that
19 is illegal.

20 We have had this conversation.
21 It is unfortunate that we are revisiting
22 this conversation in this day and age.
23 But revisit we must. Then we must
24 revisit it with science, and the kind of
25 science I'm trying to present as -- I

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 will never say I'm the kind of
3 statistician that Dr. Berk is. Neither
4 will I say I'm the kind of lawyer that
5 the lawyers successfully argued against
6 these kind of statistics back in the '60s
7 were. But I am a little bit of both. As
8 a social worker, I do have training in
9 these fields. As a social scientist, I
10 do have training in these fields. These
11 are ongoing conversations. These must
12 not be taken as protocols, because we
13 will be revisiting -- all the kinds of
14 statistical discrimination processes that
15 predate our time here go right back to
16 when we actually deemed them illegal and
17 unfeasible, especially to people of color
18 in this country. And I will tell you
19 from a personal point of view. Look at
20 me. I don't look like the Penn
21 professor, right? I mean, I have had an
22 engagement with the criminal history
23 system -- criminal justice system, not
24 just in this country but back in my own
25 country in India before I came here. I

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 escaped those situations. I was sent off
3 to fight wars where I would have lost my
4 head and back because I wasn't really
5 trained for it, because I was a high risk
6 category, right from when I was a young
7 kid. I had to actually escape that
8 situation to come to this country,
9 because I had individual civil rights. I
10 needed individually to fight back against
11 that category I was placed in by people
12 who raised me, my country, India. I
13 consider myself now to be product of two
14 countries.

15 Certainly the biggest thing
16 about this country that I love, the one
17 thing -- especially in this moment post
18 9/11, is the fact that individually I
19 have been able to establish my rights.
20 And some people have looked at me and
21 said, You are not statistically that
22 category. We will not -- if they have
23 surveilled me, by the way, if they had
24 put those eyes on me in my first years in
25 this country, I would have been sent back

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 on a boat. I would have been sent back
3 on a plane. Because the more you watch
4 somebody, the more they become criminal,
5 because you catch them doing the acts
6 that others are doing too.

7 My students now at the
8 University of Pennsylvania are smoking
9 pot every weekend. They just are not
10 getting caught doing it, because they're
11 not in the probation system. They're
12 not -- they do not have parole officers
13 they have to pee for, right? So the more
14 you surveil somebody -- it's a
15 self-fulfilling prophecy -- the more you
16 are likely to find criminality.

17 So let's throw all of this out
18 of the box. Let's think outside the box
19 actually, right? Because what I'm trying
20 to tell you is that we have a problem
21 that we're trying to solve by thinking
22 outside the box. The problem is not the
23 numbers. The problem is the environment
24 of criminality that we have imposed on
25 our communities. The problem is that we

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 have such a high level of surveillance
3 now, that we are bound to find what we're
4 looking for. It's the Heisenberg
5 principle, the Heisenberg uncertainty
6 principle from quantum theory from my old
7 physics background. I do have a degree
8 in it. I had to complete it to stay
9 here. But that principle says you change
10 what you observe. And Dr. Berk's
11 statistical protocol is changing what it
12 is observing. How? It is being used
13 currently in Philadelphia to categorize
14 people in high risk to medium risk to low
15 risk groups on probation. Guess what
16 those high-risk groups end up -- where
17 they end up in the criminal justice
18 system? They end up exactly where they
19 were categorized into. They are watched
20 more. They are, therefore, violated
21 more.

22 This is an important thing to
23 keep in mind, very, very important. We
24 do not have just efficiency mind here or
25 even fairness. We have the very tenets

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of the American system of justice at
3 stake here.

4 Scientifically we have also the
5 standards of what exactly are we talking
6 about. We are not -- when you say a
7 person has an 80 percent risk of using
8 substances, we do not say what you think
9 we say. Mathematicians and statisticians
10 know what that means. That means that if
11 that person were to be followed X number
12 of times -- and it has to be 100 times --
13 80 percent of those times he might be
14 using substances. But that's not what we
15 base our judgment and decisions on. We
16 base our judgment and decisions on
17 whether they will commit this act again,
18 not if they repeat the same thing. Or if
19 you find 100 people who look exactly like
20 that person, how many of them will use
21 substances. That's what the math says.
22 But when it translates into English in an
23 emphasized way to be applied to an
24 emphasized social behavioral environment
25 like human behavior, it gets lost in

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 translation, and it is very important.

3 I understand five languages. I
4 work all over the world in this issue,
5 and I will tell you what gets lost in
6 translation is exactly where our issues
7 are.

8 To go back to a little bit of
9 what I wanted to talk about also -- this
10 was part of what I was going to say, but
11 it kind of became such an overriding
12 concern. I don't know if you saw, I
13 don't keep my facial expressions very
14 blank. I've never learned that. I was
15 there, Oh, let me speak, please. I need
16 to say something.

17 Mathematically I would like to
18 have this conversation further with
19 transparency. I think the communities
20 need to know what we're talking about,
21 because they are deep, deep issues here.

22 COUNCILMAN JONES: Had we
23 known -- you had a title for him?

24 MS. BRADFORD-GREY: That you
25 were a rock star.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 COUNCILMAN JONES: Too. Both
3 of you.

4 DR. GHOSE: I just pretend to
5 be one.

6 COUNCILMAN JONES: We'd have
7 had you both side by side, and that
8 probably would have been better.

9 DR. GHOSE: I think it's a
10 great conversation to have, because I
11 think a lot of eyes are on this, right,
12 across the City, across the country,
13 across the world, if you will. And I
14 think the history of -- the social
15 history of these kind of statistics also
16 needs to be on display.

17 Number one, I will say that --
18 I work with the United Nations. I work
19 with the World Bank on this issue, and
20 I'm so excited that we're here in
21 Philadelphia talking about this, because
22 Philadelphia is at the crux of so much of
23 what we're talking about and trying to
24 dismantle the carceral regime we have
25 created over the years. And it is

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 seriously exciting to come and think
3 about it here at a time in my career -- I
4 got my tenure a few years ago and I said,
5 What do I really want to do with the
6 standing of thing, how they can't fire
7 me? So let's do the thing that really is
8 out there. So let's think out of the
9 box, and this is exactly where I landed.
10 Let's do what we've been doing in India
11 and Haiti and New York City and then in
12 Saint Louis. Let's try to bring it to
13 Philadelphia. And what is this? This
14 is -- we created with independent
15 funding -- I raised my own funding so
16 that I wouldn't be beholden to anyone,
17 because we wanted it to be a total pilot
18 project, outside the box, create
19 something that we kind of modulate as we
20 go along and reform as we go along so
21 that we learn from it, and we've done
22 this for a year. It's called the Center
23 for Carceral Communities. And the Center
24 for Carceral Communities, I named it
25 that, because it's not obvious, because

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 of the NIMBY effect. So that people are
3 kind of like, What is that? We're a
4 community. We're all affected by this
5 incarceration, but we're carceral, which
6 means a little bit of a different thing.
7 But the point being, we wanted to bring
8 together a process that was not for
9 money. We have no stakes in this in
10 terms of money. Bring together people --
11 I went around and said, Do you want to
12 donate two hours of your time a week to
13 the social workers, psychiatrists,
14 doctors, lawyers, et cetera, et cetera,
15 so we can create something that we
16 learned in school, but we can't implement
17 out there. And I cannot tell you the
18 overwhelming response I got. I went to a
19 guy from Wall Street who said, I'll give
20 you the money, just do it.

21 I said, No strings attached,
22 right? Because I was in Occupy, so I
23 can't be related to Wall Street.

24 And he said, No strings
25 attached. And we got the money for a

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 five-year run, you know. And one of the
3 programs -- I'll talk about the other
4 programs perhaps in a different panel,
5 but one of the programs we do is a
6 pretrial diversion where we work with the
7 Community College of Philadelphia, and
8 that's where, Councilman Jones, you and I
9 met first when you were at the
10 graduation. Most of the guys who
11 graduated that program were from our
12 center.

13 What we do is, we provide the
14 background psychosocial support and
15 political and advocacy support, and we do
16 it with a lot of evidence-based practice,
17 straight from our classrooms and our labs
18 into the program. We run CBT and
19 motivational interviewing groups, some of
20 which you heard before, but we were
21 modifying it, because we realized that
22 the people who don't last are never
23 measured. They fall off. If CBT isn't
24 for them, they just go away, and so we
25 end up measuring only those who succeed.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 It's a selection bias.

3 So we held on to the folks who
4 said this is not for me. We went after
5 them. We went into communities. We're
6 like, Hey, let's read that cudoba (ph),
7 tell me what's going on. And we started
8 modifying, and this is what emerged. We
9 have a whole protocol. We have -- we
10 threw out individual sessions unless it
11 was in crisis management. We realized it
12 didn't work. People of color from the
13 streets do not want to sit one on one
14 with therapists who don't look like them.
15 That's the first thing we learned. But
16 they will sit with each other.

17 So we have a group therapy
18 process that is called the CHAPS model.
19 I will go into the details later, but
20 what it is is we actually train folks in
21 the group to become therapists, group
22 therapists, collective therapists for
23 each other, and we actually certify them.
24 And they bring in folks as the model
25 evolves.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 We also make sure that they're
3 connected not to a McDonald's job. I'm
4 sorry, McDonald's, but not to a
5 burger-flipping job, not to a job that
6 pays them 7 bucks, 10 bucks an hour.
7 It's not enough. It's not enough to get
8 out of that situation.

9 We literally sit down over
10 movies, over coffee and talk about bigger
11 life goals. And so what they've come up
12 with is, they want a business. So we
13 have created a business, a small
14 non-profit business that is now about to
15 start on a thrift store business in Penn.
16 There are a lot of Penn folks who will
17 buy our stuff. We're a Penn outfit. And
18 this is owned entirely by the folks at
19 the center.

20 Number two, they want
21 education. They really want careers. So
22 this is where the CCP program came in.
23 We worked with CCP, Community College of
24 Philadelphia, where we are centered, by
25 the way. The West Philly campus of CCP,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 we're centered there, and we have them in
3 classes. So they are actually taking
4 classes. They're taking the first two
5 years of college at CCP. Because the
6 Obama Administration has thrown some
7 funding at that, right, and so we're
8 utilizing that. Then they go into two
9 years of colleges where I have
10 connections with old students, for
11 example, at West Chester, et cetera, and
12 they go into programs like the BSW
13 program, the Bachelor of Science program,
14 which are accredited. Not Associate's
15 degrees, because sometimes Associate
16 degrees are just not enough.

17 So they go into those programs,
18 and then from there, they go into a
19 Master's level program, such as an MSW
20 program. So it's a real tangible degree,
21 right? In the meantime, we are
22 monitoring their success and we have --
23 I'm waiting for the other shoe to drop,
24 because I'm a skeptic at the heart of it
25 all. I just don't believe things work so

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 well. But for now, after a year, we have
3 had out of about 80 folks who have gone
4 through the program in a year, we have
5 had one person who has been
6 re-incarcerated, and that is still
7 pending. And we have been literally
8 opened -- we have opened our doors to the
9 highest risk clients.

10 We have gone into courtrooms.
11 I have personal relationships with judges
12 and peers and told them, Send us your
13 worst-case scenarios and we will work
14 with them. Because it's supposed to be a
15 model program. It's supposed to be
16 testing the borders. If we can't do
17 that, then there's no point to this. And
18 we have had one case of re-incarceration.

19 These folks who are -- we have
20 a mix in these groups. We throw the
21 pretrial groups with the post-trial.
22 There are some plea bargains with drug
23 courts. We throw them together. So in
24 one group, you might find someone who is
25 a pretrial person interacting with

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 someone who has just come out of the
3 system after 24 years. We have folks who
4 have come out of the system after 24, 30
5 years. And it works as a wonderful
6 crucible for the folks who are just
7 starting out to see where these folks are
8 who are coming out of that system and
9 saying, Don't do it. Let's work together
10 to put my life back and let's work
11 together to deter you from this
12 particular life that you're about to
13 start on. It's very powerful. It's very
14 powerful. It is way more powerful than
15 me as a therapist sitting down and doing
16 CBT for them. We do it in a CBT format,
17 because we train everybody to do it
18 amongst themselves.

19 We do a lot of advocacy. We do
20 a lot of arts. A number of our folks --
21 this is a Philadelphia thing. I don't
22 know -- if you walk to KMA, the station
23 there, the El station, you see people
24 distributing the best rap CD's ever,
25 because everybody is a sheer budding

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 point on our streets. And so we harness
3 that, and we do art development. We have
4 spoken word. We're about to do a whole
5 visual arts project in the program that
6 allows them to really plug into the arts
7 in the communities.

8 We have family night. We open
9 the doors to all the families. These
10 families are very complicated families,
11 and these families are the support
12 system. So we open the doors, and the
13 families come in. So we do a bunch of
14 this.

15 And most importantly I should
16 say the funding. I want to really
17 address the funding. So, yeah, we have
18 this free system, but what we -- the
19 Affordable Care Act actually allows all
20 our clients to be paid for. They have
21 insurance. But none of them is signed up
22 because the City of Philadelphia does not
23 do a good job of efficiently signing up
24 young men of color who are right now
25 eligible under the ACA.

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 DEPUTY COMMISSIONER BETHEL:

3 Hey, Doc, I don't want to cut you off.

4 The reason -- I want to be very
5 respectful, because you waited all this
6 time. The only issue we have is our
7 stenographer has been going at it for a
8 while and we just need to get an idea of
9 how much longer --

10 DR. GHOSE: Two more minutes.

11 Two minutes.

12 DEPUTY COMMISSIONER BETHEL:

13 Again, I want to be respectful.

14 DR. GHOSE: Absolutely.

15 DEPUTY COMMISSIONER BETHEL:

16 You waited all this time. I just got
17 queued that the stenographer is coming
18 down the wire.

19 DR. GHOSE: I will totally
20 do -- just let's talk about the funding,
21 because that was a big issue for
22 everybody, right?

23 Our folks can be funded, not by
24 private enterprises but by the Affordable
25 Care Act, and yet they are not signed up,

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 because old agencies are doing the old
3 services still. Currently, CBH, the
4 Community Behavioral Health Services, has
5 put out an RFP to expand coverage to
6 these new folks coming out of prison who
7 are under the Affordable Care Act or
8 before they go into prison. They're all
9 eligible. But the old agencies are still
10 doing the signing up. They don't --
11 they're not set up the way we are.
12 They're not set up with these folks in
13 mind. They're set up for folks who are
14 under Medicaid coverage in the previous
15 year, before the ACA, which is usually
16 single women with a substance use
17 problem.

18 So we need to really think as a
19 city outside the box. There is funding,
20 but it has to be done through CBH,
21 through Medicaid, going to new agencies
22 that are geared towards the incarcerated
23 population or the pre-incarcerated
24 population. That's a totally different
25 sort of agency. It cannot be -- I'm

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101

2 sorry to mention names, but I've got
3 tenure, so I can do this. It can't be
4 Gaudenzia. It can't be the same old,
5 same old agencies. They are not set up
6 to actually do the services. But
7 unfortunately that's how Philadelphia has
8 done things. Let's just go with what's
9 there. Let's expand, because there's new
10 resources, but ultimately those resources
11 do not get efficiently used targeting
12 this particular population of extremely
13 high needs.

14 So I would suggest to us that
15 we really look -- funding is there, but
16 it has to be implemented efficiently with
17 new agencies, with a goal of actually
18 addressing this particular population.
19 That's who should get the funding as we
20 move forward.

21 Thank you.

22 MS. BRADFORD-GREY: Thank you
23 so much, Dr. Ghose. I am really -- I was
24 excited to hear your testimony. I don't
25 think I've ever heard you before and I'm

1 9/12/16 - SPECIAL COMMITTEE - RES. 160101
2 the Chief Public Defender, so I really,
3 really want to have coffee with you one
4 day. That's all I'm going to say.

5 DR. GHOSE: Absolutely.

6 DEPUTY COMMISSIONER BETHEL:
7 Any questions on the panel?

8 (No response.)

9 DEPUTY COMMISSIONER BETHEL:
10 The hearing on the resolution will now
11 recess to the call of the Chair.

12 Thank you, Doctor, for your
13 testimony.

14 DR. GHOSE: Thank you.

15 (Special Committee on Criminal
16 Justice Reform concluded at 5:05 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
September 12, 2016

A	156:9 212:9	142:2	Adam 173:18	1:19 6:8	231:22	alerts 51:3	107:20
a.m 41:21	223:13,14	accumulated	174:17	203:4 244:6	agencies 16:2	algorithm	192:13
AA 58:17	224:25	141:19	175:6	administrat...	121:14	38:14 40:3	197:2 210:5
abdominal	230:16	accuracy	181:22	8:24 160:14	249:2,9,21	40:5	amounts
122:21	248:14	124:24,25	adamant	Administra...	250:5,17	algorithms	17:16
abide 113:25	251:5	127:7	111:2	42:25	agency 52:21	40:8 130:6	112:25
ability 15:8	abstaining	154:19	add 97:13	administrat...	55:18	144:8	analogy
33:2 39:14	177:6	155:6	99:6 148:9	3:20	249:25	159:10	35:19
41:2 64:3	abstract 37:4	163:21	156:17	Adult 43:4	aggregating	allegation	181:14
70:8,20	abuse 177:7	170:17,19	163:11	54:12	124:14	115:16	184:24
77:22,23,24	177:20	accurate	added 149:17	advance	aggressive	Allegheny	analysis
114:20	182:7	125:14,24	addition	138:11	186:20	54:6,8	21:10 30:15
139:23	215:18	126:6,13	14:11 15:23	advancing	193:5,24	allocated	135:19
158:13	216:16	128:2,7,8	34:19	7:19	aggressively	196:6	analyzes 12:2
219:20	AC'd 209:15	143:25	101:15	advantage	196:18	allow 9:4,10	and/or
226:17	ACA 247:25	159:12	147:9	9:8 47:2	ago 46:2 67:5	11:9 19:4	252:23
able 13:4	249:15	161:6 173:5	additional	69:20	83:16 146:9	19:14 78:4	Angeles
36:6 37:4	academia	accurately	15:17 19:12	127:24	155:11	78:5 124:20	197:18
53:20 64:5	161:8	134:21	41:6 47:19	adverse 12:10	239:4	143:7	anger 28:14
69:5 70:23	academic 6:6	252:5	48:13,23	16:15	agree 31:13	144:18	29:21
75:14 89:15	6:17 7:25	accusing	97:17	advocacy	40:12 95:12	allowed	206:17
90:25	22:7 145:2	231:11	119:15	30:23 31:4	98:22	133:12	212:17
118:13	179:22	aces 161:3	149:8,10,11	31:17	105:15	allowing	angry 103:25
119:9	200:17	achieve 53:17	160:18	241:15	106:6	85:24	ankle 49:12
134:21	226:4	128:9	address 69:7	246:19	107:10,11	allows 45:11	49:16 57:9
138:18	accept 56:10	168:21	69:24 71:21	advocate	107:20	52:22	Ann 1:12
143:23	140:2	212:7	73:13 76:22	31:12	134:20	188:16	148:19
146:12	accepting	achieving	76:23 77:5	114:23	172:13	247:6,19	annually 45:5
147:7,8	215:25	110:13	77:12 79:2	170:4,12	agreed 99:6	alluding	anomalies
152:4,6	access 131:18	135:24	79:11 80:5	194:19	105:23	152:23	4:23
154:23	accommoda...	acronyms	80:6 158:13	advocates	agreeing	alternative	answer 43:18
155:11	48:5	207:15	191:2	98:24	104:14	41:8	47:18 63:12
160:2	accommoda...	act 104:8	247:17	100:15	agreement	alternatives	70:6 71:5
194:18	88:20	223:6	addresses	156:18	97:21	3:6,15 5:15	89:15
196:20	accomplish	236:17	71:19 133:7	158:13	agreements	18:15 22:24	126:17
198:8,13	189:9	247:19	addressing	affect 16:2,3	99:4	102:14	130:21
200:5,21	account	248:25	3:7 176:6	35:23 41:15	Aid 221:3,4	106:4	170:13
210:12,22	40:21 60:2	249:7	214:12	147:4	aided 156:14	114:13	211:18
233:19	60:9 61:12	actions	250:18	afford 3:13	156:15	220:23	anti-social
abscond	114:19	219:22	adds 147:24	17:16	Airy 5:4	altruism	178:9
76:25	132:19	active 205:19	adhere 73:9	Affordable	131:7	223:7	182:16
absconding	133:2,24	activities	adherence	247:19	132:17	Amendment	183:2
77:14	139:4,13	191:8	113:6	248:24	alcohol 80:17	32:10	anticipate
absence	140:8	activity 15:12	adjudication	249:7	104:11	American	134:22
57:21	146:10	90:5,8	192:19	afraid 145:11	106:12	231:17	153:18
absolute	147:18	141:21	adjust 6:22	African	177:4	236:2	anxiously
38:17 40:9	accountabil...	209:6	170:16	127:18	182:23	Americans	119:10
absolutely	177:18	acts 234:5	adjustments	231:17	206:17	127:18	anybody
51:23 131:3	accountable	actual 9:11	10:4	afternoon 2:3	207:25	amount 12:21	90:12 98:21
133:22	219:21	actuarial	administer	42:21 134:4	209:19	13:11 14:7	102:16
140:3,13,25	accredited	18:25 23:3	26:22 68:12	134:5	212:16	48:18 49:10	169:10
141:5 151:5	244:14	25:3 180:8	88:12	age 26:14	214:5	57:15 98:17	171:13
151:20	accumulate	ADA 94:14	Administra...	145:16	alert 50:8,9	102:4	201:15

Special Committee on Criminal Justice Reform
September 12, 2016

204:6	121:3	arrest 21:8	66:25 99:22	158:17	227:23	225:10	202:12,15
anymore	173:23	28:4 50:4,7	100:8	159:2	atomic	authoritative	222:18
51:19	224:20	95:4 96:21	121:17	162:18	227:24	219:13	229:21
anyway 203:9	approaches	100:16	122:15,16	180:9	atoms 227:18	automated	232:6,15,24
apart 187:20	6:11 21:5	115:24	123:2,15	182:10	228:3	46:21	233:4,10,25
appeal 120:3	110:7	arrested	124:4,21	189:13	229:25	automatic	234:2 237:8
appear 18:3	appropriate	44:18 52:23	125:23	193:10	attached	39:24	246:10
20:2 21:8	18:17 43:11	58:25 63:4	126:6 128:8	assign 36:12	240:21,25	availability	background
27:20 46:18	112:11	63:7 67:14	129:4,13,17	assigned 12:5	attachment	28:24	207:8
67:24 68:2	169:3	91:10,12	130:19	48:3 50:8	27:23	available	226:22
76:20 120:3	193:13	108:20	138:6,10,15	assigning	attainment	3:15 29:25	235:7
appearance	203:23	145:17	139:12,14	5:14	104:23	30:6 74:14	241:14
18:12 43:24	appropriat...	162:11	139:21	assignment	attempt	76:15 78:9	backyard
56:6 80:7	205:13	arrests 30:19	140:4	36:16	23:23	87:12 130:5	202:25
appearances	approval	162:21	141:16	assist 58:21	attention	138:13	bad 79:12
44:8	59:16	165:17	145:12	Assistant	23:7,12	152:25	205:6
appearing	approved	arrived	146:4	35:11 37:18	83:21	avenue	bail 3:8,13
123:18	49:13	158:15	147:10	76:4	102:17	115:13	5:15 6:18
Appellate	approximat...	art 247:3	148:11	Associate	106:22	average	12:4,7
170:22	175:3	articulated	151:5,24	244:15	108:18	97:18 145:4	14:25 17:16
apples 52:18	archaic 52:2	117:4	152:7,12,15	Associate's	154:8 170:4	172:14	18:15,20
applicability	area 7:3	arts 246:20	154:17	244:14	attitude	avoid 26:5	19:11 22:24
230:23	24:16 49:8	247:5,6	157:18,21	associated	208:2	72:18	23:18 30:22
application	81:10 95:8	Asians	158:11,15	165:21	attitudes	152:22	31:24 32:6
161:12	131:9 145:7	127:19	158:22	185:6	178:23	177:24	33:24 34:20
163:16	174:15	asked 43:9	159:8,19	associates	179:5	awaiting 3:12	36:12,24
180:8,12	197:15	76:18 85:14	160:5,23,25	182:17	182:16	aware 53:24	40:23,25
applied 222:6	202:19	90:12,19	161:5	association	183:2	55:11 78:2	44:16,25
236:23	203:23	198:11	162:14	1:10 32:25	attorney 1:17	150:4	45:11,16
applies	208:8 228:8	asking 27:8	164:9 169:6	33:9 74:4	45:2 55:2	170:21	49:24,24
168:12	areas 105:6,6	69:22	170:2,25	93:7 97:9	83:5 93:4	213:3 224:3	53:5,20
230:20	142:2 152:4	103:23	173:5 181:4	99:10	93:18 96:10	awful 34:17	56:8 63:24
apply 126:12	178:20	aspects	181:19	100:11	120:4		64:7,21
179:25	214:9	175:23	201:23	101:6 103:4	146:13	B	65:3 68:13
226:18	argue 13:4	201:22	206:23	111:23	147:7	baby 62:8	72:2,8,17
252:21	32:9	assert 12:25	207:10,21	118:4	Attorney's	108:2 218:8	72:18,21
appointed	argued 232:5	assess 109:8	222:8	142:25	76:2 80:21	219:5	74:20 75:6
62:11	arguing	151:7	assessment-...	assumption	81:9 93:5	Bachelor	80:11,20
appointing	76:14	assessed	114:25	87:20	93:19,23	244:13	89:16,20,22
1:20 2:12	arraigned	68:23	assessments	assumptions	109:11	back 20:4	90:16 91:12
appointme...	53:4 79:10	assessment	24:15 26:13	227:5	attorneys	28:20 38:3	91:23 93:25
20:23	80:2	18:19 19:2	26:20 30:24	assurance	33:3,23	63:22 67:21	94:21 95:4
appreciate	arraignment	19:8 23:2,3	62:23 115:3	198:16	76:4	75:22 92:15	96:19,22
105:16	44:20,24	23:20 24:9	121:13,25	200:16	attorneys-i...	101:4 106:8	97:25 98:14
109:23	45:3 60:22	24:15,17	124:8	assure 101:2	32:20	108:16	98:16,17,19
125:15	61:4 63:3	25:6,11,15	127:25	160:2	attributable	110:5 122:4	99:7,17
approach	74:10 93:25	25:25 27:5	129:10,21	assured	34:15 36:9	123:3,6,21	100:15,17
42:16	95:5 97:12	27:7 28:16	129:23,25	159:18	attribute 29:9	128:3	101:19,23
103:22	127:11	31:2 38:16	140:19	atmosphere	audio 82:7	132:13	102:8,14
130:10	162:5 170:8	38:23 39:25	147:22	99:11	auditor	143:6,11	103:8,13
177:15	arraignments	47:8 60:10	148:7,22	atom 227:13	189:19	146:25	104:23,23
approached	47:21 63:10	60:14,16,18	150:15	227:15,17	audits 189:13	154:14	105:6,10
42:17 93:8	array 45:9	61:9 64:2	151:17,22	227:18,21	author	185:17	106:6,21
						201:16	

Special Committee on Criminal Justice Reform
September 12, 2016

108:21,22	177:12	behaviors	128:24	Bethel 1:12	233:15	box 234:18	119:3,9
112:21,25	212:22	179:4	129:19	104:18,19	bill 122:11	234:18,22	153:5
114:13,15	basically	184:15	130:17,20	132:10	biological	239:9,18	198:14,15
114:18	37:17 68:11	186:11,22	131:13	133:5,15,23	228:14,16	249:19	204:23
116:15	69:21 77:16	229:18,25	133:3,7,22	221:2,7	228:19	bracelet	212:25
118:2,18	121:19	beholden	134:2,4,5	248:2,12,15	229:11,18	49:12 57:9	239:12
120:8	122:11	239:16	134:11,15	251:6,9	biology	59:17	240:7,10
128:25	144:2 160:9	beings 229:13	134:18	better 9:7	229:24	BRADFOR...	242:24
129:10	191:2 193:8	belief 88:5	136:4,19	17:17 18:19	231:4	1:10 5:10	bringing
140:19	219:3	178:25	137:9,23	19:2,10,14	biometrics	30:12,17	146:11
148:25	basing	179:2	138:2	23:2,4 34:6	228:14	34:9 37:16	brings 218:24
156:7 170:4	227:19	182:17	139:17	35:18 51:7	bit 20:3 32:2	38:10 68:10	broadly
170:7 171:2	basis 54:10	183:3 208:2	140:3,13,21	85:21,22	36:19	69:4,16	158:5
Bakersfield	57:4,17	208:4	140:25	86:19 99:13	112:13	71:14 72:5	broken 57:15
199:16,18	138:13	beliefs 178:23	141:10	99:21	126:3 142:4	72:20 80:25	brothers
ball 161:9,10	197:3 231:9	179:6	142:5 144:6	108:18	174:23	81:5 84:17	25:17
Baltimore	bay 75:17	believe 31:23	144:15	111:11,12	175:4	109:21	brought
112:19	bears 6:18	46:9 59:11	145:13	125:10,13	190:23	117:23	21:23 73:23
Bank 238:19	194:5	85:10 111:3	146:7 147:2	129:18	192:2,16	119:13	94:22 95:20
banner	beg 225:2	111:4,5	148:9	130:4,4,6	198:21	134:3,6,12	105:17
199:13	began 129:22	179:19	149:20	136:5,7,10	219:12,16	134:16	158:8
bar 28:9,9,12	beginning	189:20	151:4	136:10	219:17	135:16	BSW 244:12
198:24	32:22 34:2	244:25	152:16,18	140:16	225:19	136:15	bucks 243:6,6
bargains	begins 29:17	believes	152:21	148:13,14	232:7 237:8	137:7,18,24	budding
245:22	44:16 82:20	172:15	154:3 155:7	148:15	240:6	139:16,19	246:25
Barry 93:3	behalf 43:6	belong	157:12,25	150:3	black 124:22	140:10,14	budget 49:10
93:16,17	behavior	108:23	158:24	162:23	145:3,10	140:23	53:12 63:13
101:22	15:18 58:3	146:5	160:4	163:4	152:19	141:8 157:5	63:15 82:21
115:7	177:24,25	bench 71:11	161:11	225:22	blank 237:14	163:23	85:12 88:9
120:19	178:7,8,21	71:16 76:20	164:16,24	238:8	blind 153:7	164:18	105:21
base 55:5	178:24	91:24,25	165:4	beyond 10:11	block 78:11	165:2,23	119:5
85:25	179:7,8	benchmark	167:24	30:9 32:23	132:15,18	166:3,13,21	budgets
117:19,20	182:9 183:9	162:15	172:18	33:24 113:4	133:9	173:14	66:20 84:4
125:6,10	186:7,13,25	benchmarks	173:9,12	169:9	blocks 133:20	195:18	build 138:10
146:16	192:4	161:25	225:25	BI 211:24	Board 154:6	207:3,7,16	138:23
229:6	215:20	162:2	230:13	bias 126:16	162:25	208:14	139:13
236:15,16	216:12,13	beneficial	232:3	242:2	163:5	237:24	144:15
based 31:6	216:14	204:6	Berk's 235:10	biased 4:17	boat 66:19	250:22	183:11
40:2 68:14	221:17,24	benefit 13:22	best 1:23 2:19	141:24	234:2	brain 161:2	210:13
69:22 77:8	222:2 231:4	22:3,20	21:14	biases 153:14	bodies 229:3	brave 202:20	211:13
107:20	236:25	87:14	106:20	big 28:12	body 4:4 25:9	breath 177:4	213:14
115:3,11	behavioral	141:12	140:18	31:13 61:16	88:6 228:17	breathalyzed	built 13:6
118:2 122:9	176:4 177:9	205:22	143:3 144:3	61:19 80:13	228:20	206:9	122:15
122:16	178:11	benefits 14:6	171:6	88:7,8,23	book 225:10	brief 42:23	207:2
123:12	182:18	17:9 22:8	174:13	110:20	borders	112:15	212:19
124:9	206:20	78:14 86:7	179:20,20	182:11	245:16	175:10	bunch 150:3
136:16,18	227:3	BENJAMIN	184:24	185:2,15	born 167:19	225:5	192:21
137:3 138:6	231:15	1:15	205:15,17	248:21	Bouchard	briefly	213:23
141:20	236:24	Bergstrom	246:24	bigger 130:6	43:7 52:11	115:19	247:13
167:18	249:4	149:21	bet 68:6	243:10	75:2	121:17	burden 79:18
207:9,23	behaviorally	Berk 18:24	122:10,10	biggest 28:21	bound 235:3	bring 19:12	128:3
basic 7:21 8:6	216:17	120:25	171:21	101:19	bounds	32:20 73:19	burger-flip...
130:9 175:7	230:4,6	121:7,8	beta 119:6	106:7	123:18	75:22 111:7	243:5

Special Committee on Criminal Justice Reform
September 12, 2016

burglaries 144:20 155:14	candid 67:4 capable 33:2 107:7 192:10	64:24 95:24 98:15 100:16,20 103:21 148:23 156:8,21 161:15 206:5	249:20 CBT 241:18 241:23 246:16,16 CCP 243:22 243:23,25 244:5 CCTV 73:25 CD's 246:24	72:8 85:17 96:23 146:22 167:12 172:12 196:7 220:5 223:21 228:16 231:16	130:9 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9	176:16 check-ins 177:2,20 checking 175:19 checklist 189:16 Chester 244:11 Chicago 197:18 199:20 chief 97:14,18 251:2 children 60:24 choice 127:9 choices 128:4 choose 9:14 127:8 162:19 chooses 153:19 church 107:23 191:9 Cincinnati 189:21 circulated 161:12 circumstance 115:18 116:3 circumstan... 22:18 131:20 148:2 circumvent 141:4 cite 8:15 cited 28:20 35:17 38:4 cities 16:14 197:12 citizen 172:14 citizens 22:20 city 1:2,6 3:15 14:8 16:2,3 20:5 22:9,20 29:15,18 30:7 49:11 54:14 55:8	56:25 74:7 78:3 83:24 83:25 133:18,19 140:17 142:3 197:17 199:18 202:6,13 209:20 238:12 239:11 247:22 249:19 civil 66:22 226:12,20 233:9 CJC 148:6 claims 148:10 Clarke 82:16 class 221:20 classes 244:3 244:4 classificatio... 39:15 classrooms 241:17 clean 143:3 clear 32:7 clearly 32:5 clerk 2:9,11 42:9 73:20 93:2 120:24 173:17 174:3 224:12,16 clicking 91:3 client/defen... 58:14 clients 44:7 67:23 116:21 117:2 245:9 247:20 climate 221:14 clinic 212:25 clinical 36:2 clinics 120:2 120:6 closely 104:25 closer 31:16
burglary 97:3 130:25	capacity 146:20 capita 145:4 145:8 capture 27:2 138:18 carceral 238:24 239:23,24 240:5 care 87:23 153:16 156:2 162:20 247:19	cash 3:13 5:15 6:18 18:14 22:24 34:19 40:23 40:25 53:5 53:20 75:6 80:11 89:16 89:20,21 90:16 91:23 102:8,14 112:25 114:13,15 catch 234:5 categorical 39:15 136:16 categories 39:9 191:23 207:21 228:12 categorize 235:13 categorized 235:19 category 190:15 233:6,11,22 caught 234:10 causal 9:11 32:7 cause 106:13 108:25 167:22 causes 108:24 109:2 causing 104:7 caution 25:13 136:2 cautionary 20:4 cautious 167:3 caveats 62:19 CBH 249:3	center 5:25 6:7,9,10,16 11:24 74:3 88:8 133:19 175:8,14,16 175:21,25 176:11,15 176:16,17 176:21 187:18,19 187:21 195:14,15 196:16,19 201:2 202:19 209:3,11 213:25 239:22,23 241:12 243:19 centered 243:24 244:2 centers 54:5,6 54:10 102:16,20 107:16 173:20 174:24 175:2 201:4 209:7 211:11 212:12 223:18 certain 12:21 19:23,23 29:4,23 36:19 39:10	certainly 10:24 15:14 40:20 105:15 115:6,9 118:11,12 128:19 203:16 233:15 certainty 34:24 CERTIFIC... 252:2 certification 252:20 certify 242:23 252:3 certifying 252:24 cetera 34:8 120:9 169:8 240:14,14 244:11 Chair 251:11 Chairwoman 30:11 challenge 94:12 132:11 133:25 challenged 19:21 challenges 56:10 221:14,14 challenging 220:3 Chamber 83:16 chance 125:12 161:4 change 31:15 88:24 110:9	176:16 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9 changed 83:22 129:16,16 159:20 188:19 changes 7:4,6 7:12,22 103:17 160:15 186:7 changing 10:14 78:14 192:4 235:11 CHAPS 242:18 characteristic 218:16 characteris... 8:25 26:7 40:22 182:18 228:3 charge 64:25 76:12 93:19 211:6 charged 44:19 145:18 charges 37:24 68:15 93:24 99:6 105:12 106:16 207:8 charging 93:24 95:5 97:14 chart 13:12 check 48:2 176:21 200:18,19 check-in 175:18		
business 50:21 142:18 164:10 243:12,13 243:14,15	careful 239:23,24 240:5 care 87:23 153:16 156:2 162:20 247:19	cash 3:13 5:15 6:18 18:14 22:24 34:19 40:23 40:25 53:5 53:20 75:6 80:11 89:16 89:20,21 90:16 91:23 102:8,14 112:25 114:13,15 catch 234:5 categorical 39:15 136:16 categories 39:9 191:23 207:21 228:12 categorize 235:13 categorized 235:19 category 190:15 233:6,11,22 caught 234:10 causal 9:11 32:7 cause 106:13 108:25 167:22 causes 108:24 109:2 causing 104:7 caution 25:13 136:2 cautionary 20:4 cautious 167:3 caveats 62:19 CBH 249:3	center 5:25 6:7,9,10,16 11:24 74:3 88:8 133:19 175:8,14,16 175:21,25 176:11,15 176:16,17 176:21 187:18,19 187:21 195:14,15 196:16,19 201:2 202:19 209:3,11 213:25 239:22,23 241:12 243:19 centered 243:24 244:2 centers 54:5,6 54:10 102:16,20 107:16 173:20 174:24 175:2 201:4 209:7 211:11 212:12 223:18 certain 12:21 19:23,23 29:4,23 36:19 39:10	certainly 10:24 15:14 40:20 105:15 115:6,9 118:11,12 128:19 203:16 233:15 certainty 34:24 CERTIFIC... 252:2 certification 252:20 certify 242:23 252:3 certifying 252:24 cetera 34:8 120:9 169:8 240:14,14 244:11 Chair 251:11 Chairwoman 30:11 challenge 94:12 132:11 133:25 challenged 19:21 challenges 56:10 221:14,14 challenging 220:3 Chamber 83:16 chance 125:12 161:4 change 31:15 88:24 110:9	130:9 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9 changed 83:22 129:16,16 159:20 188:19 changes 7:4,6 7:12,22 103:17 160:15 186:7 changing 10:14 78:14 192:4 235:11 CHAPS 242:18 characteristic 218:16 characteris... 8:25 26:7 40:22 182:18 228:3 charge 64:25 76:12 93:19 211:6 charged 44:19 145:18 charges 37:24 68:15 93:24 99:6 105:12 106:16 207:8 charging 93:24 95:5 97:14 chart 13:12 check 48:2 176:21 200:18,19 check-in 175:18		
button 56:18 buy 243:17 buzz 191:18	care 87:23 153:16 156:2 162:20 247:19	cash 3:13 5:15 6:18 18:14 22:24 34:19 40:23 40:25 53:5 53:20 75:6 80:11 89:16 89:20,21 90:16 91:23 102:8,14 112:25 114:13,15 catch 234:5 categorical 39:15 136:16 categories 39:9 191:23 207:21 228:12 categorize 235:13 categorized 235:19 category 190:15 233:6,11,22 caught 234:10 causal 9:11 32:7 cause 106:13 108:25 167:22 causes 108:24 109:2 causing 104:7 caution 25:13 136:2 cautionary 20:4 cautious 167:3 caveats 62:19 CBH 249:3	center 5:25 6:7,9,10,16 11:24 74:3 88:8 133:19 175:8,14,16 175:21,25 176:11,15 176:16,17 176:21 187:18,19 187:21 195:14,15 196:16,19 201:2 202:19 209:3,11 213:25 239:22,23 241:12 243:19 centered 243:24 244:2 centers 54:5,6 54:10 102:16,20 107:16 173:20 174:24 175:2 201:4 209:7 211:11 212:12 223:18 certain 12:21 19:23,23 29:4,23 36:19 39:10	certainly 10:24 15:14 40:20 105:15 115:6,9 118:11,12 128:19 203:16 233:15 certainty 34:24 CERTIFIC... 252:2 certification 252:20 certify 242:23 252:3 certifying 252:24 cetera 34:8 120:9 169:8 240:14,14 244:11 Chair 251:11 Chairwoman 30:11 challenge 94:12 132:11 133:25 challenged 19:21 challenges 56:10 221:14,14 challenging 220:3 Chamber 83:16 chance 125:12 161:4 change 31:15 88:24 110:9	130:9 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9 changed 83:22 129:16,16 159:20 188:19 changes 7:4,6 7:12,22 103:17 160:15 186:7 changing 10:14 78:14 192:4 235:11 CHAPS 242:18 characteristic 218:16 characteris... 8:25 26:7 40:22 182:18 228:3 charge 64:25 76:12 93:19 211:6 charged 44:19 145:18 charges 37:24 68:15 93:24 99:6 105:12 106:16 207:8 charging 93:24 95:5 97:14 chart 13:12 check 48:2 176:21 200:18,19 check-in 175:18		
calculation 41:3 calculations 129:15 California 199:17 call 9:25 32:3 46:3,6,15 46:20,23 69:13 94:4 117:10 126:16 127:5 132:8 136:14 182:11 218:17 221:15 226:14 251:11 called 2:4 10:11 171:25 220:18,24 220:24 239:22 242:18 calls 45:14 46:5 116:4 116:4,7 127:3 153:25 168:9 Camden 64:24 campus 243:25 cancer 35:22	careful 239:23,24 240:5 care 87:23 153:16 156:2 162:20 247:19	cash 3:13 5:15 6:18 18:14 22:24 34:19 40:23 40:25 53:5 53:20 75:6 80:11 89:16 89:20,21 90:16 91:23 102:8,14 112:25 114:13,15 catch 234:5 categorical 39:15 136:16 categories 39:9 191:23 207:21 228:12 categorize 235:13 categorized 235:19 category 190:15 233:6,11,22 caught 234:10 causal 9:11 32:7 cause 106:13 108:25 167:22 causes 108:24 109:2 causing 104:7 caution 25:13 136:2 cautionary 20:4 cautious 167:3 caveats 62:19 CBH 249:3	center 5:25 6:7,9,10,16 11:24 74:3 88:8 133:19 175:8,14,16 175:21,25 176:11,15 176:16,17 176:21 187:18,19 187:21 195:14,15 196:16,19 201:2 202:19 209:3,11 213:25 239:22,23 241:12 243:19 centered 243:24 244:2 centers 54:5,6 54:10 102:16,20 107:16 173:20 174:24 175:2 201:4 209:7 211:11 212:12 223:18 certain 12:21 19:23,23 29:4,23 36:19 39:10	certainly 10:24 15:14 40:20 105:15 115:6,9 118:11,12 128:19 203:16 233:15 certainty 34:24 CERTIFIC... 252:2 certification 252:20 certify 242:23 252:3 certifying 252:24 cetera 34:8 120:9 169:8 240:14,14 244:11 Chair 251:11 Chairwoman 30:11 challenge 94:12 132:11 133:25 challenged 19:21 challenges 56:10 221:14,14 challenging 220:3 Chamber 83:16 chance 125:12 161:4 change 31:15 88:24 110:9	130:9 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9 changed 83:22 129:16,16 159:20 188:19 changes 7:4,6 7:12,22 103:17 160:15 186:7 changing 10:14 78:14 192:4 235:11 CHAPS 242:18 characteristic 218:16 characteris... 8:25 26:7 40:22 182:18 228:3 charge 64:25 76:12 93:19 211:6 charged 44:19 145:18 charges 37:24 68:15 93:24 99:6 105:12 106:16 207:8 charging 93:24 95:5 97:14 chart 13:12 check 48:2 176:21 200:18,19 check-in 175:18		
calculation 41:3 calculations 129:15 California 199:17 call 9:25 32:3 46:3,6,15 46:20,23 69:13 94:4 117:10 126:16 127:5 132:8 136:14 182:11 218:17 221:15 226:14 251:11 called 2:4 10:11 171:25 220:18,24 220:24 239:22 242:18 calls 45:14 46:5 116:4 116:4,7 127:3 153:25 168:9 Camden 64:24 campus 243:25 cancer 35:22	careful 239:23,24 240:5 care 87:23 153:16 156:2 162:20 247:19	cash 3:13 5:15 6:18 18:14 22:24 34:19 40:23 40:25 53:5 53:20 75:6 80:11 89:16 89:20,21 90:16 91:23 102:8,14 112:25 114:13,15 catch 234:5 categorical 39:15 136:16 categories 39:9 191:23 207:21 228:12 categorize 235:13 categorized 235:19 category 190:15 233:6,11,22 caught 234:10 causal 9:11 32:7 cause 106:13 108:25 167:22 causes 108:24 109:2 causing 104:7 caution 25:13 136:2 cautionary 20:4 cautious 167:3 caveats 62:19 CBH 249:3	center 5:25 6:7,9,10,16 11:24 74:3 88:8 133:19 175:8,14,16 175:21,25 176:11,15 176:16,17 176:21 187:18,19 187:21 195:14,15 196:16,19 201:2 202:19 209:3,11 213:25 239:22,23 241:12 243:19 centered 243:24 244:2 centers 54:5,6 54:10 102:16,20 107:16 173:20 174:24 175:2 201:4 209:7 211:11 212:12 223:18 certain 12:21 19:23,23 29:4,23 36:19 39:10	certainly 10:24 15:14 40:20 105:15 115:6,9 118:11,12 128:19 203:16 233:15 certainty 34:24 CERTIFIC... 252:2 certification 252:20 certify 242:23 252:3 certifying 252:24 cetera 34:8 120:9 169:8 240:14,14 244:11 Chair 251:11 Chairwoman 30:11 challenge 94:12 132:11 133:25 challenged 19:21 challenges 56:10 221:14,14 challenging 220:3 Chamber 83:16 chance 125:12 161:4 change 31:15 88:24 110:9	130:9 159:19 160:3 177:24 178:11 183:8 186:14,25 216:12 219:9 222:2 235:9 changed 83:22 129:16,16 159:20 188:19 changes 7:4,6 7:12,22 103:17 160:15 186:7 changing 10:14 78:14 192:4 235:11 CHAPS 242:18 characteristic 218:16 characteris... 8:25 26:7 40:22 182:18 228:3 charge 64:25 76:12 93:19 211:6 charged 44:19 145:18 charges 37:24 68:15 93:24 99:6 105:12 106:16 207:8 charging 93:24 95:5 97:14 chart 13:12 check 48:2 176:21 200:18,19 check-in 175:18		

Special Committee on Criminal Justice Reform
September 12, 2016

clothes 165:9	college 241:7	231:15	commission	55:24 56:1	158:1 159:1	Commonwe...	200:16
co-authors	243:23	233:8 239:2	82:17 149:3	57:1 58:1	160:1 161:1	59:11	210:11,17
14:16	244:5	243:11	150:4	59:1 60:1	162:1 163:1	174:15	211:25
Co-Chair 4:3	colleges 244:9	246:2,4	COMMISS...	61:1 62:1	164:1 165:1	communicate	212:3
5:9 84:16	color 152:14	247:13	132:10	63:1 64:1	166:1 167:1	187:16	compare 9:19
co-pay	167:19	comes 27:13	133:5,15,23	65:1 66:1	168:1 169:1	communities	36:6
211:12	232:17	50:17 59:24	221:2,7	67:1 68:1	170:1 171:1	136:3	compared
coaxed 108:9	242:12	88:25	248:2,12,15	69:1 70:1	172:1 173:1	159:20	13:13
Cobb 1:11	247:24	104:14	251:6,9	71:1 72:1	174:1 175:1	172:12,16	COMPAS
56:19,22	colorful	106:5	commit 105:8	73:1 74:1	176:1 177:1	184:3	207:12
85:14 89:13	219:24	138:25	106:14	75:1 76:1	178:1 179:1	203:13	competency
90:3 144:24	column 88:2	152:11	131:16,21	77:1 78:1	180:1 181:1	225:15	152:8
145:20	combination	179:12	236:17	79:1 80:1	182:1 183:1	234:25	competent
146:19	150:16	183:17,23	commitment	81:1 82:1	184:1 185:1	237:19	152:3
160:22	combined	185:16	53:25 94:25	82:19 83:1	186:1 187:1	239:23,24	competition
code 25:18	107:24	189:19	95:19 96:6	84:1 85:1	188:1 189:1	242:5 247:7	159:4
130:19	come 25:16	199:11	105:2 106:3	86:1 87:1	190:1 191:1	communities'	complaint
131:24	41:14 46:14	202:11	commits	88:1 89:1	192:1,18	144:4	49:22
134:19,20	67:7 76:5	213:16	95:15	90:1 91:1	193:1 194:1	community	complements
134:25	77:2 99:4	215:7	committed	92:1 93:1	195:1 196:1	1:13 24:5	197:4 198:6
141:20,20	101:4 110:5	226:25	26:16 95:25	94:1 95:1	197:1 198:1	37:25 44:7	complete
145:4	114:23	227:10	102:13	96:1 97:1	199:1 200:1	61:8 67:15	214:24
202:15,15	116:8	comfort	193:20	98:1 99:1	201:1,21	87:13,13	235:8
203:8	136:19	136:16	committee	100:1 101:1	202:1 203:1	116:8	completely
codes 4:23	138:17	comfortable	1:3,21 2:5,7	102:1 103:1	204:1 205:1	119:22	103:18
25:14 26:10	140:6	100:21	2:13 3:1,3,4	104:1 105:1	206:1 207:1	178:4	164:22
27:15	142:24	103:15	4:1 5:1 6:1	106:1 107:1	208:1 209:1	179:22	compliance
132:12,20	149:3	106:25	7:1,10 8:1	108:1 109:1	210:1 211:1	187:13,15	113:16
181:15	154:12,21	186:9 215:4	9:1 10:1	109:8 110:1	212:1 213:1	187:23	complicated
coexist 112:9	156:20	comforting	11:1 12:1	110:2 111:1	214:1 215:1	195:3,7	31:13
coffee 243:10	174:22	104:8	13:1 14:1	112:1 113:1	216:1 217:1	197:24	161:17
251:3	176:20,21	coming 16:23	15:1 16:1	114:1 115:1	218:1 219:1	200:13,14	230:19
cog 212:16	184:25	30:14 51:17	17:1 18:1	116:1 117:1	220:1 221:1	203:23	247:10
cognitive	185:17	79:2 100:18	19:1 20:1	118:1 119:1	222:1 223:1	205:4,22	complicatio...
176:4 177:9	186:2 188:8	108:12	21:1 22:1	120:1 121:1	224:1 225:1	208:13	152:23
206:16,20	189:22	125:19	23:1,11,14	122:1 123:1	226:1 227:1	209:21	component
cohesion	190:11,14	178:14	24:1 25:1,5	124:1 125:1	228:1 229:1	212:7,11	25:21 29:13
202:4	191:19	192:20	26:1 27:1	126:1 127:1	230:1 231:1	213:4 214:2	176:25
coincidence	192:25	193:3,16	28:1 29:1	128:1 129:1	232:1 233:1	214:10,20	177:18
103:11	194:13	194:7	30:1 31:1	130:1 131:1	234:1 235:1	215:20,24	178:12
cold 26:25	200:7,18	210:15	32:1 33:1	132:1 133:1	236:1 237:1	216:6,11,24	components
colleague	202:12,14	231:12	34:1 35:1	134:1 135:1	238:1 239:1	222:17,18	25:22
16:10 18:24	202:25	246:8	36:1 37:1	136:1 137:1	240:1 241:1	222:25	176:10
115:7	204:25	248:17	38:1 39:1	138:1 139:1	242:1 243:1	223:8,10,12	184:7
159:22	206:8	249:6	40:1 41:1	140:1 141:1	244:1 245:1	223:23	189:23
colleagues	208:15	comment	42:1,11	142:1 143:1	246:1 247:1	240:4 241:7	212:3
84:8,14	211:17,20	65:23	43:1 44:1	144:1 145:1	248:1 249:1	243:23	comprehen...
144:9	212:15	comments	44:10 45:1	146:1 147:1	250:1 251:1	249:4	11:10
202:21	213:11	30:25	46:1 47:1	148:1 149:1	251:15	community...	104:21
collected	214:7 215:8	108:20	48:1 49:1,7	150:1 151:1	committing	107:18	177:15
158:10,20	225:21	112:15	50:1 51:1	152:1 153:1	106:23	companies	186:19
collective	228:10	commercial	52:1 53:1	154:1 155:1	common 43:2	130:3	196:4
242:22	230:17,19	97:3	54:1 55:1	156:1 157:1	54:22 55:25	company	comprise

Special Committee on Criminal Justice Reform
September 12, 2016

8:16 comprised 157:19 computer 125:5,8,9 125:12 144:9 153:6 153:6,15,19 153:22 computers 130:6 concept 68:9 conceptually 193:7 concern 17:7 74:4 138:8 153:13 169:22 170:10,11 237:12 concerned 157:16 171:22 204:23 concerning 26:12 concerns 4:8 27:15 125:16,17 172:19,20 208:10 concert 158:9 concluded 251:16 concludes 34:14 conclusion 157:21 158:15,23 168:19 231:16 conclusions 228:10 condition 28:6 114:14 180:15 193:2 conditions 29:19 70:9 73:10 113:7 114:2,7,10 conduct 1:21 2:14 113:17	115:23 conducted 113:8 conferences 65:14 confidence 24:22 228:6 confident 37:3 confirm 117:13 conflict 145:6 145:9 conformed 21:14 confused 134:7 222:23 connected 243:3 connection 168:23 connections 244:10 consequence 27:19 62:13 135:5 consequences 29:2,12 135:8 185:5 consider 3:21 127:21 168:25 169:14 176:2 233:13 consideration 35:3 considered 25:15,25 99:8 194:17 222:13 considering 25:11,23 175:24 consistency 220:9 consists 176:3 constantly 150:18 188:13 constituted 158:21	constitutes 23:24 Constitution 40:14 constraints 48:7 54:9 construct 159:5 consuming 92:3 contact 9:16 47:16 59:4 59:22 69:12 contacting 224:13 contacts 11:3 contained 252:5 contempora... 8:14 content 165:12,14 context 16:12 24:19,20 124:6 137:10,12 contexts 38:23 contingency 186:20 continuances 79:16 continue 12:25 85:5 85:8,25 89:3 99:12 167:10 181:6 continuing 200:19 continuous 39:7 continuum 201:22 contribute 85:25 158:6 control 84:3 252:23 controlled 21:3 controversial 134:19 conventional	179:3 conversation 172:11 195:12 230:12,13 230:14,15 231:20,22 237:18 238:10 conversations 141:14 213:12 214:21 226:5 232:11 convert 51:7 convey 173:4 convicted 4:9 123:17 conviction 16:20 convictions 12:11 13:8 130:25 convince 84:8 84:13 convincing 10:8 coordinated 2:24 coordination 33:6 core 167:9 222:12 corporal 221:18 correct 30:14 38:18 78:22 109:3 156:20 157:24 187:5 206:25 252:8 correcting 135:18 correctional 189:16 Corrections 197:21 correctly 36:8 66:5 correlates	113:15 correlation 10:12 cost 34:5 57:3 57:4,7,10 87:20,21 88:3,7,8,18 88:25 107:20 144:20 155:5 195:13,14 196:13 199:4 costs 56:25 80:19 196:7 209:22,24 210:8 couches 79:22 Council 1:2 29:15 49:11 49:13 83:25 180:18 Councilman 1:9 2:2,21 4:2 5:11 6:2 23:13 25:4 27:16 30:11 34:10 35:8 37:10,14 38:11 39:18 41:16,24 42:3,6,14 42:19,22 43:10 47:4 52:12 53:23 56:15,20 61:14 63:17 64:14 65:8 66:14 68:3 68:8 75:16 81:14,18,25 82:2,8,25 83:2,6,12 84:16 87:19 87:25 89:6 89:7 90:9 90:20,23 91:7 92:20 92:23 93:10 101:21 107:5	110:17 111:15,21 118:15,20 118:25 119:17 120:13,16 120:20 121:5 128:21,25 129:2,7 130:11,18 131:11 147:12 155:24 156:8,22 157:14 163:13 165:25 166:6,14 171:8 173:6 173:10,15 174:6,10,20 187:3,9 197:22 201:13,15 201:19 205:23 206:22 207:14 214:13 216:21,24 217:3,7,24 218:5,15,18 219:23 220:21 221:4,9 222:15 223:11,15 224:4,7,10 224:22 237:22 238:2,6 241:8 Councilpeo... 109:12 counsel 19:11 31:24 32:10 59:10 78:8 112:14,16 112:20,21 112:23 113:18 114:15	counseling 59:7 71:2,3 184:9 counselors 78:7 counterparts 65:16 counties 45:19 50:22 50:23 79:5 196:21 countries 233:14 country 32:17 121:14 146:21 147:4 156:13 167:15 197:13 226:11 232:18,24 232:25 233:8,12,16 233:25 238:12 county 16:18 54:7,8 63:2 64:17 78:3 150:9 194:10 196:18 199:22 211:4 couple 109:16 125:20 160:20 176:13 191:14 201:19 203:15 209:25 courage 203:5 course 33:3 37:7 68:15 89:10 94:12 122:24 140:22 141:18 162:7,9 196:5 206:4	226:3 court 1:18 3:22 5:21 14:3 18:12 19:13,24 31:25 42:25 43:2,24 44:8,21,24 45:3,12 46:18,19 48:12 49:9 54:21,22 55:3,25 56:6 58:19 59:10,20 61:4 65:2 67:24 68:2 70:19 71:9 71:13 73:22 74:23 79:11 79:20 83:10 89:19,23 101:4 102:25 103:6,10,15 104:9,13 107:3 110:19 113:21 114:2 116:9 170:8,22 180:13 216:25 220:15,15 220:17,24 223:3 226:12 courtroom 33:25 63:3 73:24 103:20 147:20 156:12 courtrooms 33:7 147:16 245:10 courts 33:11 88:10 180:25 192:25 231:6 245:23 cousins 25:17
---	--	--	---	---	---	--	--

Special Committee on Criminal Justice Reform
September 12, 2016

212:20 coverage 249:5,14 covering 209:22 covers 93:23 CPC 189:15 CPC's 190:3 190:13 cracked 145:23 create 90:4 109:18 110:14 163:17 239:18 240:15 created 238:25 239:14 243:13 creating 135:20 creative 5:14 107:17 110:18 creatively 11:6 credit 25:20 39:6 40:9 148:4 crime 22:15 95:15 104:5 131:15,16 135:4 145:18 163:7,8 198:25 crimes 97:2 104:5 106:24 126:11,20 131:21 criminal 1:3 1:17,19,21 1:22 2:5,13 2:16 6:12 7:2 8:17 9:6 9:17 11:4,6 11:12 12:2 15:12,17,24 20:8 26:15 27:3 30:9	43:2,5 44:21 52:6 58:7 74:2 95:2 96:2 105:5 109:6 110:7 112:6 113:17 121:12 141:17,18 141:24,25 145:6,10 166:21,24 167:8 168:15,20 169:2,6,13 176:20 178:6,7 182:9,12,17 183:6,7,24 184:13,15 186:4 193:20 195:2 208:3 208:15 213:7 215:16 216:8,13 219:11 220:22 222:3 232:22,23 234:4 235:17 251:15 criminality 234:16,24 criminogenic 15:4 176:6 177:25 182:8 212:21 criminologi... 20:9 Criminology 121:11 crisis 242:11 criteria 215:2 215:12 critical 24:5 32:3,11 52:5,9 55:17,19 cross 107:9	221:20 crucible 246:6 crude 149:24 crux 238:22 crystal 161:9 161:9 cudoba 242:6 cultural 152:8 169:7 culturally 152:3 culture 67:10 145:21 curious 149:15 current 1:22 2:17 42:12 45:8 61:17 92:4 101:15 128:5 138:9 149:24 150:7 162:2 162:16 207:25 currently 31:7 44:13 45:18 48:15 49:15 54:6 91:20 107:13 129:13 136:6 147:5 155:8 162:19,22 197:19 235:13 249:3 CURTIS 1:9 custody 53:7 72:7 74:9 74:15 customizable 195:22 customizati... 213:24 cut 94:19 162:14 163:7,8 230:3 248:3	DA's 35:12 105:23 daily 57:4,17 175:18 177:19 196:8 197:3 210:6 damage 135:9,9 danger 23:25 27:21 37:24 67:14 217:18 230:8 data 8:24 9:7 11:6,7 12:3 14:16 38:14 89:23,25 92:7 115:4 136:4 138:12 140:6 141:23 142:6,25 143:23 160:8 199:5 199:9,10 data-gather... 3:5 databases 27:2 92:5 datasets 8:14 8:16 130:5 date 49:23 59:8 75:4 79:8,11,13 79:14 145:17 190:13 day 43:13 50:16,21 51:17 54:5 54:10 57:2 57:13 80:9 81:12 85:15 87:9 102:15 102:20 103:24 107:15 116:25 118:24 147:5,6,22 148:6	156:11 166:8 173:20 174:23,25 175:7,13,15 175:20,21 175:25 176:10,15 176:23 184:5,5 187:17,21 195:14,15 195:17 196:16,18 197:20 198:11 199:11 201:2,4,12 202:18 205:24 206:7,10 209:11,12 209:21 211:11 212:4,12 217:11 218:22 230:25,25 231:22 251:4 days 45:23 49:23 50:2 63:23 73:18 79:24 96:10 97:6,11,13 115:24 117:6 160:8 160:20 195:9 196:23 198:12,19 DC 17:19,24 23:16 61:15 61:18 66:25 77:18 88:17 DCA 45:25 deal 78:15 102:11 148:5 203:12 211:22 228:21,22 dealer 185:16	dealing 87:6 212:23 218:21 220:22 227:13 228:13,15 229:24,25 230:9 dealt 220:16 220:16 226:13 DEAN 1:16 decide 132:6 142:20 144:21,23 151:8 153:6 153:19 165:15 215:6,7 decided 84:6 deciding 131:4 decision 136:24 139:5 146:7 146:17 153:21,22 154:2,2 157:2,8 decision-ma... 147:9 decision-ma... 171:6 decision-ma... 115:5 124:11 decisionma... 170:20 decisions 7:5 12:5 18:20 19:4,15 96:7 115:11 143:22 156:7,20 170:22 171:7 172:25 211:16,17 226:20 236:15,16 decrease 3:17 decreases 55:17	dedicated 3:4 52:11 53:18 203:18,20 deemed 5:18 232:16 deep 226:7,11 237:21,21 defendant 9:2 9:14,21 12:11 43:25 44:3,18,23 45:15 46:13 46:17,23 47:17 48:2 49:21 57:12 60:7,11 62:25 64:6 79:9,18,19 defendant's 64:4 168:25 defendants 7:7 12:20 13:25 15:2 15:22 17:14 18:10,18,22 19:5,16,20 22:17 33:11 33:19 34:7 36:16,20 40:22 45:5 47:6,12 48:17 49:18 50:5 52:23 55:20 74:6 74:25 113:20 114:4,9 defender 32:24 33:9 41:23 45:3 55:2 76:13 93:7 99:9 101:6 111:23 118:4 119:14 156:6 170:5 251:2 Defender's 80:22 96:4 Defenders 1:10 74:3 97:9 100:11	103:4 defense 19:10 59:10 define 214:16 defined 115:15 definitely 26:18 definition 214:22 definitive 9:10 degrade 160:12 degree 50:10 51:4 180:25 204:2 227:7 235:7 244:20 degrees 244:15,16 deliberations 93:12 deliver 97:3 delivered 116:23 demographic 44:21 department 1:13 44:16 92:16 96:4 114:17 121:10,11 197:21 departments 198:15 depend 195:20 dependence 187:18 dependent 206:3 depending 56:24 97:12 195:24 206:6 209:3 209:25 depends 161:11 207:20 210:25 depressed 146:5 229:3
---	--	---	---	--	---	---	--

Special Committee on Criminal Justice Reform
September 12, 2016

229:4	127:13	58:24 212:6	55:9,10,10	175:16	166:11	133:18	186:12,22
depression	detainer 92:2	developed	92:5 96:8,9	dimensions	168:4	diversion	191:16
228:16	101:15	24:25 60:17	96:25 123:6	8:11	discussions	94:3 241:6	193:23
229:10	102:9	80:16 155:8	123:22	direct 47:25	124:6 128:5	diversionary	194:18
Deputy 1:15	detainers	158:7	124:4,7,18	48:16,21	150:14	171:13	195:6
1:18,18	98:3,8	189:21	126:22	58:16,17,18	203:3	divide 39:8	198:19
42:25 43:15	101:11,13	developing	128:10	75:2,6,12	dishes 125:7	division 43:3	200:2
93:3,17	101:20,22	26:20 144:8	129:17	107:12	dismantle	43:5 44:5	201:23
132:10	105:13	development	131:17	252:23	238:24	56:2,9	205:20,21
133:5,15,23	detaining	61:10 158:2	132:3	directed	disparate	67:20 93:4	208:12
221:2,7	14:21	247:3	133:21	10:15	231:9	93:20,22	214:6 223:6
248:2,12,15	detention	device 57:10	141:20	184:23	disparately	211:23	234:5,6,10
251:6,9	6:19,22	DHS 88:7	142:2	direction	231:18	divvied	239:10
describe	7:13,22	diagnose	147:16	51:14	disparities	210:15	246:15
36:15 174:9	9:12 10:2,5	122:22	149:2	directions	26:6	Dobbie 14:15	249:2,10
205:23	10:13,15,19	137:20	151:12	72:25	disparity	Doc 199:20	dollar 57:15
212:14	11:11 12:9	diagnoses	152:4	directly 26:8	104:22	248:3	132:14
describes	12:22 13:3	229:7	154:10	Director 1:16	dispensing	doctor 136:23	dollars 85:23
11:21	13:10,21	diagnosis	175:18	6:7 43:15	204:21	137:4	111:13
description	14:13,19	137:15	176:10	52:11 75:3	display	144:24	195:9
218:21	15:3,7,10	diagnostic	180:7	93:6 111:22	238:16	160:21,23	domestic
descriptions	15:14,20	104:22	181:17	Director's	dispositive	251:12	80:17
66:21	16:15,23	105:3 228:9	182:5,8	1:14 43:7	157:22	doctors 3:19	128:17
design 25:2	20:12 22:10	229:5	185:4	96:3	disruption	124:12	161:15
112:20	22:14 34:16	diagram	187:15	directors	167:22	137:2	165:18
152:14	37:4 38:6	219:2	188:2	202:22	disruptions	202:21	donate
designed	84:22 102:5	dial 166:19	189:23	disagree	15:15	240:14	240:12
143:25	deter 246:11	224:11	192:21	166:5	disseminate	documented	door 70:15
151:24	determinati...	dialogue	195:21	disagreement	172:24	51:4	99:5 181:13
152:13	44:25	126:3	197:11,15	167:25	distinction	doing 33:16	181:16
223:5	169:18,19	dials 165:15	211:8,8	disagreeme...	9:7 10:16	44:13 45:14	209:16,17
designing	180:12	166:17,18	215:3,3,23	40:18	138:3	47:9 59:5,6	213:17
154:16	215:6	dichotomies	217:23	discretion	distinguished	60:10 72:2	doors 198:12
desistance	determinati...	112:7	222:22,25	149:9	6:5	74:11 82:20	245:8 247:9
113:17	169:23	DiCicco	227:18	166:20	distort	85:3 90:4,6	247:12
desks 202:8	determine	129:2,6	240:6 241:4	discriminat...	153:15	103:12	dosage
desperate	23:23 37:20	dictate	249:24	226:15	distributing	104:21	191:18,20
86:5	40:5 53:6	215:11	differentiates	231:8	246:24	105:18	doubling
despite 40:25	154:20	Diego 197:19	8:9 35:16	232:14	district 45:2	106:15	16:21
227:25	171:16	diem 195:15	differently	discriminat...	51:15 54:25	110:22	Dougherty
detail 198:23	183:12	195:23	131:22	4:18	76:2,4	118:10	83:17
details 21:18	206:23	196:8 210:6	228:23	discuss 8:13	80:20 81:9	120:6	dozens
23:8 89:2	determined	diems 196:12	difficult 10:6	44:12 64:10	83:5 93:3,5	121:12	210:16,16
242:19	89:2	difference 5:2	32:9 81:21	68:12	93:17,18,23	122:25	210:16
detain 7:5	determiner	9:24 10:7	105:24	173:20	96:10	123:7	Dr 112:17
9:21 10:20	170:25	36:7 64:21	127:5	discussed	109:11	129:23	120:25
17:14 36:19	determines	153:3	143:14	44:9 45:13	131:12	144:2	121:7
detained 6:23	201:23	differences	150:23	49:6 54:3	132:21	150:21	128:24
7:8 12:13	determining	16:8 61:16	155:19	94:22	174:18	160:18	129:19
12:17 13:13	34:17 169:3	different 7:17	191:2	181:14	220:3	169:12	130:17,20
13:15 15:22	detriment	16:12 25:19	difficulty	discussion	districts	178:18	131:13
34:18 37:21	136:2	26:3 31:10	16:6 101:19	54:4 72:16	202:9	184:5	133:3,7,22
86:2 91:10	develop 31:8	32:16 39:20	diluted	150:13	diverse	185:12	134:2,4,5

134:11,15	35:21,25	169:24	11:11 12:7	eligible	encompass	145:9	73:22 89:11
134:18	36:4,5,9	170:6	14:13 16:15	201:24	40:20	equating	96:15
136:4,19	80:17	earn 16:6	22:17 36:23	247:25	encourage	108:10	102:13
137:9,23	104:11	earnings 9:19	efficacy	249:9	216:4	equipment	127:10
138:2	106:11	15:21 34:8	188:17	eliminate	encouraging	52:3 57:7	135:14
139:17	116:12	easier 104:14	190:20	53:20	18:12	57:11	143:24
140:3,13,21	177:3	easiest 97:5	198:17	eliminated	ends 195:10	era 112:5	146:17
140:25	182:23	easily 146:10	efficiency	25:21 53:5	enemy 148:17	err 171:11	159:13
141:10	204:21	160:6	235:24	eloquent	enforcement	erring 135:25	174:11
142:5 144:6	206:10,16	East 5:4	efficient	168:11	20:21 30:5	error 159:14	246:17,25
144:15	207:25	easy 126:25	63:18 99:2	eloquently	218:3	161:4	248:22
145:13	209:12,19	160:19	efficiently	81:14	engage 90:5,7	errors 6:13	evidence 84:7
146:7 147:2	212:16	230:17,18	247:23	else's 228:20	engagement	escape 233:7	126:15
148:9	214:5	echoed 83:20	250:11,16	EM 43:16	232:22	escaped	252:4
149:20	245:22	economic	effort 3:16	50:15,24	engaging	233:2	evidence-ba...
151:4	DSM 228:9	11:13 22:18	66:4 202:17	51:6 57:7	212:11	especially	176:5
152:16,18	229:6	81:11	efforts 85:22	57:14 59:14	English	169:24	200:20
152:21	due 24:23	133:21	eight 118:24	59:17,21,24	236:22	227:11	217:13
154:3 155:7	28:23 46:20	economy 16:3	179:11	emerged	enhancing	232:17	241:16
157:12,25	48:9,14	edge 219:18	180:4	242:8	183:15	233:17	evolution
158:24	51:13 54:8	editorial	either 21:7	empathetic	enlighten	ESQ 1:10,16	129:21
160:4	102:25	154:6,9	23:3 39:14	219:20	154:23	1:17,18	176:18
161:11	DUI 181:2	educated	66:3 152:5	empathy	enlightening	essence	evolutionary
164:16,24	dumb 171:4	24:3 139:8	171:2 182:6	220:9	141:11	175:10	149:23
165:4	dump 55:14	education	190:4	emphasize	ensure 43:20	essential	evolved
167:24	DV 162:3	60:25	206:13,14	4:16 99:25	ensuring	151:20	176:24
172:18	dynamic	142:10	207:17	emphasized	43:24 53:21	essentially	evolves
173:9,12	182:15	177:13	217:18	236:23,24	enter 193:4	19:19 38:25	242:25
224:18,23	207:24	182:6 208:8	218:2	employed	216:8	establish	ex-offender
225:4,25	222:7	212:17	El 246:23	16:7 38:23	enterprises	233:19	175:19
230:13		243:21	El-Shabazz	48:6 86:21	248:24	establishing	183:12
232:3	E	effect 10:2	1:17 68:6	183:7	entire 154:7	187:22	exact 85:16
235:10	e-mail 46:5	35:25 37:4	75:21 78:23	employee	229:7,19	estate 203:18	223:4
238:4,9	ear 82:13	95:18	80:8 81:3,7	40:7	entirely	203:21	227:13,15
248:10,14	earlier 28:21	198:25	82:5,24	employers	243:18	210:18	228:2,2
248:19	49:4 82:13	202:10	83:4 84:12	39:23	entities 25:10	estimates	229:2
250:23	100:24	240:2	86:23 87:23	employment	environment	155:16	exactly 38:24
251:5,14	102:2	effective	89:5 90:11	9:18 15:21	132:4	estimation	40:19
dramatic	154:15	29:24 99:3	90:21 91:3	132:23	234:23	89:16 90:22	135:19
130:9	171:18	156:18	105:16	142:12	236:24	et 34:8 120:9	137:23
draw 87:16	180:18	179:11	110:25	177:13	environments	169:8	138:2 155:2
184:6,11	195:12	180:4 187:7	134:13	178:18	131:17	240:14,14	155:17
drawing	earliest 20:23	189:14,25	223:15	182:24	132:3	244:11	175:14
210:10,21	early 20:20	190:5,5,16	electronic	191:9	envisions	ethical 132:7	181:11
drill 152:10	58:14 72:2	190:16	18:16 42:13	194:23	132:2	ethnic 104:22	205:20,21
drive 40:7	94:6,21	194:8	49:7 50:10	208:9	equal 127:19	105:4	226:5
driving 90:7	96:19,20	204:10	78:19	212:16	equally	ethnicity	229:12
178:3,8	99:7,17	210:20	102:14	empowered	125:24	142:9,14	235:18
183:21	100:17	212:10	211:25	82:16	126:6,13	eventually	236:5,19
drop 244:23	101:19,23	effectiveness	212:2	empty 202:8	127:10,17	25:21	237:6 239:9
dropped	103:12	189:18	elements	EMU 50:10	127:20	everybody	examination
189:8	105:10	effects 9:11	176:3	51:2	135:13,14	2:25 41:19	105:3
drug 29:20	116:15	10:14,19		enact 13:20	143:14	67:14 73:19	examine 9:5
	118:18						

Special Committee on Criminal Justice Reform
September 12, 2016

examining 1:22 2:15	expensive 196:9	154:20 156:13	194:15 204:24	128:10 154:18	211:3 federally	102:12 104:16	156:2 179:10
example 10:20 11:4 12:13 18:17 29:3 76:10 102:22 103:16 125:22 128:16 138:19 151:13 208:5 230:2 244:11	experience 17:19 18:6 18:7,23 25:6 41:11 58:6 65:2 122:9,10,16 123:12 125:6 135:10 152:5,6 158:16	extract 68:16 extradition 64:16,23 65:4 extraneous 41:14 extreme 37:24 215:9 extremely 182:21 250:12 eye 195:6 eyes 98:18	factored 146:24 factors 26:5 27:10 36:10 37:5,7 39:3 60:9 125:2 125:11 139:13,24 140:7 141:16 145:15 146:10,12 147:19 166:7 169:8 171:23 182:8 207:24 209:25 229:11	fall 102:18 107:16 171:20 187:20 192:12 241:23 false 112:7 familiar 20:12 207:12 216:22 220:14 families 4:13 247:9,10,10 247:11,13 family 57:22 57:25,25 58:5,8,13 58:20 59:4 59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	feed 37:8 feedback 188:5,14 feel 41:18 51:22 72:22 106:24 113:21 feeling 146:4 172:12 feelings 179:5 feels 101:3 124:7 217:20,21 felony 16:22 18:2 38:6 76:12 79:9 96:25 felt 74:13 females 126:14 fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	financed 76:3 80:22 81:4 81:4,6 financial 85:19 find 6:11 12:8 29:8 67:7,8 85:2 86:25 87:3 98:7 100:5 112:2 116:9 151:15 184:11 188:18,20 203:14 213:13 214:9 227:16 234:16 235:3 236:19 245:24 finding 98:2 98:10 findings 11:19 14:18 33:23 173:2 finds 12:9 fine 136:12 137:17 fire 239:6 firearms 131:19 firm 221:16 first 1:18 5:23 8:12 9:7 17:13 24:9 31:19 35:11 37:18 51:14 56:21 60:19 69:10 76:17 84:21 97:19 99:19 103:21 106:14 125:21 129:4,9,14 138:5 145:17	203:16 204:12 211:18 225:23 233:24 241:9 242:15 244:4 fit 171:19 fits 96:22 five 82:4 97:11 197:18 201:4 237:3 five-day 72:10 115:20,22 five-year 241:2 fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22
exceed 48:18	125:10	F	207:24	families 4:13	96:25	213:13	115:20,22
excellent 35:14	experiment 12:6 36:3,8	face 106:17 155:20 173:11	209:25 229:11	247:9,10,10 247:11,13	felt 74:13	214:9 227:16	five-year 241:2
exception 64:15	36:13 112:19	face-to-face 74:17	facts 115:25 203:6	family 57:22 57:25,25	fewer 27:4	234:16 235:3	fix 66:16 105:8
exceptionally 204:8	experimental 36:22	face-to-face 74:17	fail 50:7 76:19 106:9	58:5,8,13 58:20 59:4	fidelity 200:6 200:18	236:19 245:24	fixed 196:7 fixing 101:7,8
excited 21:22 110:4 238:20 250:24	experiments 10:11 expert 38:20 expertise 198:5	facial 237:13 facility 202:2 202:11,23 facing 101:13 225:11	failure 18:3 19:25 21:7 29:2,10 214:17,22 214:23	59:15,23 60:7,24 100:23 116:8 135:9 182:23	field 226:4 230:2 fields 232:9 232:10	finding 98:2 98:10 findings 11:19 14:18 33:23 173:2	flexibility 48:4 flight 17:7 fly 41:9
exciting 239:2	experts 21:24 exclusive 24:25 122:2	fact 8:3 12:3 29:11 40:2 49:13 50:22 52:6 59:18 84:10 98:8 124:13 142:6 164:12 170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18	fair 6:8 25:2 25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23	247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
exclusively 179:17	146:8	52:6 59:18 84:10 98:8 124:13 142:6 164:12 170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
exist 107:13	46:16	124:13 142:6 164:12 170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
existence 103:9	49:20	170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
exonerating 130:12	exploit 36:15 explore 21:16 23:5 54:15 78:12 explored 54:7 54:17 exploring 3:6 3:14 express 73:12 expressions 237:13 extended 171:15 extent 30:3	170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18 fact-finding 3:5 factor 73:7 163:19 166:7 182:7 183:14	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23 fairness 6:13 113:6,11,14 125:17,22 126:19,23 127:6	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
expand 33:16 51:6,21 249:5 250:9	23:5 54:15 78:12 explored 54:7 54:17 exploring 3:6 3:14 express 73:12 expressions 237:13 extended 171:15 extent 30:3	170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18 fact-finding 3:5 factor 73:7 163:19 166:7 182:7 183:14	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23 fairness 6:13 113:6,11,14 125:17,22 126:19,23 127:6	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity 200:6 200:18 field 226:4 230:2 fields 232:9 232:10 fight 28:9,9 28:12 96:15 98:16,24 109:17 208:6 233:3 233:10 figuratively 144:11 figure 66:23 85:7 157:17 220:4 figuring 111:11 file 45:7 64:10 filed 49:22 fill 214:8 filled 116:25 191:5,11 final 10:16 25:24 224:16 finally 19:17	fix 66:16 105:8 fixed 196:7 fixing 101:7,8 flexibility 48:4 flight 17:7 fly 41:9 focus 56:7 112:10 115:25 183:4 208:19 focused 6:10 7:15 10:18 26:14 43:23 56:2 182:6 focuses 11:24 141:21 focusing 8:20 14:16 16:11 16:18 206:13 folk 203:8 folks 18:23 24:24 29:5 112:19 115:10 117:18 123:25 149:22	
expanded 49:3	54:17 exploring 3:6 3:14 express 73:12 expressions 237:13 extended 171:15 extent 30:3	170:21 172:10 197:17 202:12 205:7 223:16 226:15 230:10 233:18 fact-finding 3:5 factor 73:7 163:19 166:7 182:7 183:14	25:7 133:16 133:17 134:9 135:15 143:13 152:12 161:20 166:19,25 167:6 168:15,16 171:15 fairly 26:21 37:2 72:23 113:23 fairness 6:13 113:6,11,14 125:17,22 126:19,23 127:6	59:15,23 60:7,24 100:23 116:8 135:9 182:23 247:8 family's 59:16 famous 229:17 far 152:9 177:19 191:21 farther 144:7 fascist 229:22 fast 74:15,16 father 62:14 220:4 favorable 113:10 February 94:9 fed 39:3 federal 20:7 61:19 197:22 210:23	fewer 27:4 fidelity</		

Special Committee on Criminal Justice Reform
September 12, 2016

207:15	97:23	205:16	237:18	10:23	155:17	176:23	57:8,12,14
242:3,20,24	forth 201:16	full 177:8	future 9:16	gentleman	165:15	182:9	57:16 58:5
243:16,18	Forty 191:10	202:10	11:3 14:14	68:4	169:25	187:25	58:14,15,20
245:3,19	forum 166:11	full-service	15:17 23:17	gentlemen	177:14	188:19	59:6 60:12
246:3,6,7	forward 9:5	175:21	44:11,14	173:21	189:24	191:13	61:3,12
246:20	9:15,22	fully 54:17	47:10 48:24	GEO 173:19	220:13	198:23	63:5,8 65:3
248:23	89:20	169:21	56:11 60:3	174:16,19	226:23	201:15	66:6,11,12
249:6,12,13	179:15	198:12	95:17	174:24	240:19	202:23	67:15 70:15
follow 70:8,17	224:14	252:5	113:16,19	179:15	given 12:23	203:24	72:11 74:18
71:9 72:25	250:20	function	124:17	203:20	28:13 31:12	206:13	77:3 82:22
114:3,7,10	fought 109:13	86:12	153:18	210:11	32:5 33:22	211:7 213:8	85:23 86:7
200:20	109:15	functional	188:3	211:24	38:15 63:19	214:19	88:14,22,25
217:19	found 4:12	98:7		George 1:18	72:10 73:11	216:6,19	89:10 90:10
follow-thro...	34:25 62:17	functioning	G	35:10 221:8	73:11 79:13	227:21,23	91:6 95:14
61:25	62:19 69:8	53:10	gain 86:14	221:9	114:7 117:6	228:7,19	96:15 99:12
follow-up	69:25 103:9	fund 48:14	gains 56:8	Germantown	126:19	229:14,16	99:20,20
28:16 38:12	112:22	49:14	109:19	131:10	gives 111:12	232:15	100:9,15
43:17 61:25	164:6 190:4	fundament...	game 185:2	132:13	giving 76:21	237:8	101:4,14
134:17	191:21	134:9	gap 108:22	getting 51:25	86:3 188:11	239:20,20	105:10
173:3	194:22	166:25	gaps 214:8	72:14 74:14	glad 81:19	241:24	106:17
followed	foundation	167:2,6	gate 99:19	75:8 103:25	126:25	242:19	107:2,22
236:11	158:21	funded 52:21	gather 3:24	119:23	130:20	244:8,12,17	109:7
following	foundations	54:17	44:21	149:12	205:8	244:18	115:10
48:19 73:14	179:16	248:23	gathered	166:17	glimmers	249:8 250:8	120:6,25
148:21	four 97:11	funding	45:10	181:25	119:8	goal 31:18	122:11,13
217:17	125:2	48:13,24	Gaudenzia	184:22	go 10:11	84:23 86:15	124:2 125:4
food 157:4,9	145:16	51:24,25	250:4	187:13	11:16 14:9	135:23	125:12
foolish 140:8	155:13	52:11 54:9	gauge 152:8	188:13	15:3 16:4	179:8	126:9,11
141:6	182:12,20	76:4,15	gear 184:18	191:17	23:15 27:22	250:17	127:2,6
forces 147:3	185:15	78:3 81:13	186:11	202:18	28:3 29:8	goals 84:19	130:15
forecast	186:17	83:4,10	geared	219:6 220:8	56:20 58:16	84:20 99:14	131:6,8,14
122:12	187:3,10	97:16	178:23	227:7	58:17 59:9	212:7	131:15,24
123:11,12	190:2,9,14	105:19	249:22	234:10	62:3,3,11	243:11	134:21,23
165:14	four-to-one	106:2	geeked	Ghose 224:18	63:22 67:3	goes 9:16	134:25
forecasting	186:15,24	115:21	128:22	224:23	67:17,21	30:9 34:17	135:2,11,12
160:11	four/one	119:15,20	gender 142:7	225:4,6	68:18 70:22	50:9 77:5	135:23
foregoing	221:21	239:15,15	142:13,18	238:4,9	71:2,9,18	77:12 92:6	136:22
252:7,20	framework	244:7	144:19	248:10,14	71:24 76:21	113:3	137:16
foremost	223:9	247:16,17	164:7,12,21	248:19	89:12	141:23	142:13,14
225:23	Franklin	248:20	165:10,19	250:23	103:14	226:25	143:3,10,10
forfeit 89:19	199:22	249:19	168:22	251:5,14	108:4,5	229:21,21	144:25
forgiveness	fraud 99:6	250:15,19	general 7:25	giant 66:18	109:16	going 4:6 5:6	147:14
225:3	free 185:2	funds 77:22	123:8	give 35:19	122:2,20	7:14 12:23	148:11
form 49:17	247:18	88:12	generalize	36:3 38:8	124:13,25	15:25 22:3	150:3,7
69:17 148:8	frequently	210:24	16:13	39:16 65:17	128:19	22:19 23:9	151:20
175:7	48:12	funny 99:25	generalized	69:6 85:21	132:12,21	26:5,23	152:8,10
211:12	145:22	furnishing	189:6	96:6 100:9	132:24	27:22 29:3	153:17
formal	Friday 63:5	41:5	generally	109:7	133:18,19	29:19 33:12	154:19,24
201:10	friend 185:14	father 10:25	49:17	125:22	144:7 150:2	35:22 39:11	155:4,15,16
format	front 13:22	13:24 35:7	207:18	128:14	152:4,24	41:6 51:17	155:20
246:16	34:4 61:23	68:21	generated	130:22	154:14	51:18,23	157:19
formerly 1:11	180:24	111:16	71:18	141:12	157:10,12	52:5 55:14	158:3
forming	197:8	230:15	172:21	148:16	169:8 176:8	55:15,18	165:14
			generation				

Special Committee on Criminal Justice Reform
September 12, 2016

167:2,10,22	122:14	grassroots	153:21	hamster	43:16 139:6	141:12	187:25
169:17	124:16	146:4	group-based	110:13	185:10	149:14	200:10
170:2,3,9	125:4,12	gravitate	138:24	hand 26:21	233:4	170:7	212:7
170:14	134:3,5	220:10	groups	100:7	headed 51:15	181:14	helpful 35:22
171:14	139:11,15	gravity 181:3	125:24	221:16	heads 145:23	224:17	41:7 188:25
173:5 175:5	140:10	181:4	137:3	handcuffed	health 35:24	225:17	helping 86:21
178:15	148:17	great 5:18 6:4	175:22	73:22	86:10	251:10	159:15
179:6,10,14	157:9 161:9	22:8 35:4	206:18	handed 79:10	102:24	hearings 1:22	169:17
180:3,6	161:20	41:11 72:13	231:16	handle 32:21	103:8,10,14	2:15 3:10	171:24
181:6,10	163:10	85:14	235:15,16	75:14	104:6,9,13	14:25 19:11	helps 6:20
183:13	171:20	100:14	241:19	handled	106:11	19:24 32:21	hemisphere
184:12,19	173:10	119:21	245:20,21	28:11	110:19	39:20 73:25	218:23
185:10,17	179:11	166:9	grown 145:22	hands 107:7	116:13	100:10	heroes 148:14
185:17,18	184:4	168:11	146:21	happen 30:22	208:9 249:4	112:21	hey 19:22
185:19	186:12,22	185:12	200:9	74:21 79:21	healthy	117:2 129:2	29:20 39:9
186:6	187:21	194:24	guess 24:3	80:15 81:22	103:10	heart 40:6	188:22
188:10	188:15	198:23	31:10 63:12	132:2	hear 3:23	244:24	202:17
193:21	189:24	200:7,22	72:24 86:7	147:23	21:22 39:20	Heaton 6:3,6	242:6 248:3
198:22	200:12	201:7	123:11	203:9	68:4 77:9	24:12 26:2	high 47:13
203:22	205:4,7	238:10	129:17	happened	129:5 135:7	28:18 30:16	49:19 59:2
204:2,5,9	210:20	greater 33:18	134:7	70:2 129:20	138:7	31:9 35:13	65:3 103:5
205:10	214:2,6	124:24,24	140:15	129:24	143:18	38:2,19	138:22
206:8,8,12	216:10	135:24	235:15	happening	154:7	40:12 42:5	180:21
206:13,19	217:20	180:25	guide 163:21	97:22,24	162:10	65:22	192:5,7,7
207:22,22	221:24	199:19,21	186:24	98:2,9	163:15	112:17	193:12
207:23	247:23	199:23	188:12	99:16 148:7	176:15	151:13	200:6 204:2
208:25	goodness	210:5	guided 125:3	195:10	250:24	heavily	207:5,19
212:20	128:24	ground 204:5	guidelines	happens 32:6	heard 56:16	170:17	225:15
215:22	Google 217:4	groundbrea...	123:20	32:8 38:25	74:22 75:24	heavy 114:14	229:8 230:4
216:7,10	gotten 130:7	222:14	guiding	44:11 45:15	84:21 87:5	heightened	233:5 235:2
219:16	government	grounds	177:24	50:17 71:8	95:19 112:3	29:4	235:14
221:19	25:10 61:19	84:10	82:16	76:24	124:10	Heisenberg	250:13
223:25	81:21	153:13	guilty 10:22	147:21	129:9 135:8	235:4,5	high-quality
224:3 225:4	GPS 51:12,22	groundwork	12:15,23	213:17	141:2 151:9	held 62:25	8:5 24:14
225:5,17,18	52:3 83:19	44:15	13:7 16:5	happy 201:11	159:21	64:17 65:7	31:16
225:20	133:8	group 6:5	34:25	214:3	180:17	72:7 74:8	high-risk
228:17	grab 152:24	97:4 114:25	gun 129:11	218:17	195:11	92:8,8	39:11 191:4
237:10	grade 132:9	115:3 122:8	guns 129:3	hard 98:15	197:10	101:24	235:16
242:7 248:7	144:23	124:9 138:6	guy 96:12	100:12	225:24	242:3	higher 20:17
249:21	gradual	138:14	240:19	102:10	230:6	help 5:6 7:16	48:24 145:8
251:4	129:20	139:11	guys 109:13	103:18,18	241:20	8:25 19:19	194:3,3,6
Goldkamp	graduated	154:2	148:5	104:2,18	250:25	25:2 58:15	209:4
20:10 28:20	138:22	173:19	201:17	128:4 132:9	hearing 2:3	61:16 84:25	highest 49:5
45:23 65:24	241:11	174:5,16	214:16	142:5	3:19 30:25	100:14,19	57:3,4
good 1:24 2:2	graduation	203:20	241:10	178:17	31:24 32:6	100:19	132:22
2:20 15:5	241:10	206:13,16		202:4 226:2	33:25 63:25	101:2,17	190:19
21:4 33:5	grander	206:17,17		harder	72:10,22	113:18	245:9
40:7,13	198:10	230:17,21		219:18	74:12,16	116:21	highlight
42:21 70:15	grant 51:9	230:22	H	harm 193:23	76:11 83:20	135:23	21:10 31:21
73:16 75:12	104:21	242:17,21	habit 103:24	harness 247:2	97:11	153:17	208:7
103:10,16	grants 52:8	242:21	Haiti 239:11	Harris 16:18	100:17	171:5	highly 190:5
118:21	88:13	245:24	half 3:11	He'll 42:11	108:4	178:18	190:15
119:2 122:7	grapple 29:16	group's	53:14	head 38:8	111:24	179:3	hire 81:11
			132:14				
			Hall 1:6				
			halls 83:21				

Special Committee on Criminal Justice Reform
September 12, 2016

97:17	219:21	27:2 47:9	hundreds	immediate	implies 162:7	incarcerate	84:23 85:9
223:11	holiday 63:7	62:3 69:15	8:18,22	10:19,24	impolite	57:17 85:4	86:16 111:7
Hispanics	holidays	hoping	125:5,8	12:12 14:12	105:18	85:15	increased
127:18	47:23	100:18	145:15	27:19 62:12	important	incarcerated	22:23 48:25
historic 155:9	holistic	105:5	hurdles 33:9	62:16	7:9 13:17	1:11 3:18	62:20 86:4
historical	171:15	220:11	hurts 95:15	immediately	16:25 28:17	4:10 49:21	116:13
147:3	217:8	hormonal	95:16	23:19 46:2	28:19 29:13	74:8 96:17	increases
histories	holistically	228:18	hypothesis	53:3 198:5	31:20 43:19	120:7	13:10 14:19
141:25,25	101:12	229:2	230:5	impact 1:22	49:14 76:9	249:22	15:11 88:13
history 26:15	Holloway's	hormones	hypothetical	2:16 12:11	99:15	incarcerating	109:18
27:3 44:22	153:11	228:23	130:22	21:7 24:4	105:25	14:7 85:13	163:21
68:15	Hollway 1:16	hospital	hypothetica...	35:5 70:21	106:3 113:5	incarceration	increasing
141:17,18	141:10	212:24	78:21	85:20	113:13	3:8 13:23	86:19 88:3
169:2,6	143:16	hot 121:7		110:15,23	114:12,16	22:13 53:19	185:24
170:11,12	144:13	Houldin 93:6	I	111:6 113:6	116:10,19	112:18	increasingly
182:12	156:24	94:18	idea 110:21	114:12	117:17	186:5	130:2
208:15	157:7 165:5	111:20,21	120:11	182:24	128:11	192:24	incremental
229:19,20	214:15	117:24	168:14	189:5	138:16	225:12	31:15 33:21
232:22	216:20	118:9,18,21	188:12	208:20	166:12	240:5	incremental...
238:14,15	218:13	120:10	248:8	impacted	182:2,21	incentive	33:15
hit 98:5 214:9	home 50:8	hour 243:6	ideal 47:15	231:18	187:14	73:9 89:22	independent
Hitler 229:16	132:14,16	hours 64:8	140:21	impactful	197:9 204:3	incentives	189:19
hits 98:6	homeless 73:3	74:9,11	144:6	119:10	204:8	13:5	190:3
hitting	76:23 77:6	123:7	218:20	impacts 7:12	226:14	include 22:22	199:11,14
192:11	79:12	191:14	idealist 167:5	7:18 15:23	230:21	96:25	200:15
Hogan	213:13	192:3,8	167:7	15:25 21:4	235:22,23	133:13	223:3
173:18,25	homelessness	209:2	ideally 141:4	24:5 32:7	237:2	134:20,24	239:14
174:4,8,13	225:13	240:12	identical	119:5	importantly	140:16	India 232:25
174:14,22	homes 4:13	house 50:4,6	13:14 131:4	implement	247:15	162:11	233:12
176:13	homework	213:18	131:16,25	18:9 20:11	imposed	included	239:10
183:15	108:13	houses 51:19	identified	21:25 23:6	234:24	60:13	indicate
185:23	homicide	205:2	20:13	29:16 32:15	impossible	149:15	90:16
187:5,11	180:25	housing	identifiers	111:11	227:25	including	indicates 13:9
188:4 190:8	honest 164:19	15:15	149:11	197:5 198:4	impressive	16:14 20:15	indicator
192:15	164:22	107:21	identify 19:4	198:10	64:5	22:10 24:13	189:24
195:19	honestly 96:9	119:24	20:22	240:16	improve 6:11	34:22 97:2	individual
197:23	honor 108:5,5	177:14	178:25	implementa...	6:13,25	136:11	4:21,22
203:15	108:6,7	213:9,10,11	181:9 222:8	21:11,19	15:6 19:7	income 145:4	8:19 95:14
208:24	Hook 216:22	Houston	222:8	23:8 28:22	22:18 52:9	incomplete	95:15,23
209:23	216:23,25	16:19	identifying	45:24 65:23	118:11	138:24	96:7,7,21
210:25	hope 28:10	HR 39:24	19:15 20:17	66:9	improved	140:5	100:6
211:10	44:11 51:5	huge 26:23	182:11	implemented	19:18	incorporate	103:22
212:9	53:17 56:6	human 41:13	ignore 168:21	21:2,13	improvement	177:3,7	112:9
214:18	70:16	148:3,4	ignored	66:2 151:25	161:24	Incorporated	116:17
216:23	100:21	210:18	163:22	196:16	improving	211:24	123:24
217:2,6,12	109:25	229:13	II 46:12	250:16	22:9 101:8	incorrect	124:3,11
218:4,11	111:8 141:4	236:25	47:13	implicate	in-depth	91:20	141:17
221:25	146:17	humanistic	illegal 231:8	29:17	72:15	increase	146:19
222:20	148:12	87:7	231:19	implication	in-jail 195:17	10:21 15:9	153:13,24
223:14,16	150:10	humanizing	232:16	39:22	inaccurate	16:20,22	153:25
224:9,14	219:25	31:5 73:8	illustrative	implications	102:6	48:20 49:12	156:8 169:9
holding 43:25	hoped 48:22	hundred	17:20	6:21 31:20	incapacitate	51:24 52:10	169:13
64:15	hopefully	129:24	imagine 9:13	226:8	14:23	53:21 84:20	171:6
			19:9				

Special Committee on Criminal Justice Reform
September 12, 2016

181:16	44:25 45:6	172:19	211:15	intrinsically	157:9	37:14 38:11	220:21
184:17	45:10 47:18	inquiry 41:2	interference	184:12	item 49:10	39:18 41:16	221:4,9
206:20	59:22 60:20	inroads	204:16,18	introduce	items 26:24	41:24 42:3	222:15
226:18	61:6 62:23	110:15	interim 28:15	5:25	188:2	42:6,14,19	223:11,15
230:23,24	71:18 74:18	inside 228:17	intermediate	introduced		43:10 52:12	224:4,7,10
233:9	90:13,15	insight 65:9	30:4 189:12	18:24	J	53:23 56:15	224:22
242:10	100:9,18	65:16 125:3	internal	inventing	jail 12:12,24	56:20 61:14	237:22
individual's	114:22,22	insights 22:4	90:10 93:11	217:14	14:4 16:21	63:17 64:14	238:2,6
58:3	115:2,6,8	insistent	internalize	investigated	17:22 20:5	65:8 66:14	241:8
individualiz...	116:5,7,22	40:24	219:15	50:9 51:5	22:12 55:17	68:3,8	JR 1:9
27:6 40:16	117:7	instance	internally	investment	96:13 113:2	81:18 82:2	judge 1:15
78:7 114:20	123:10	128:16	90:24	83:18	119:20	82:8 83:2,6	38:16 41:17
115:8	136:17	instructed	interpreting	investments	184:14	83:12 84:16	41:20,23
136:18,20	138:20,21	46:23	143:18	34:4	186:5 195:9	87:19,25	74:24 83:17
136:24	139:2 140:9	instrument	intersecting	inviting 174:5	196:17,24	89:7 90:9	101:14,25
138:4	141:6 143:8	126:6,12	225:14	involve	197:3	90:20,23	103:2,2,11
139:18,24	143:9	138:10,23	intervene	222:16	jails 196:11	91:7 92:20	103:12
168:16	146:15,16	138:24	151:9,21	involved	January	92:23 93:10	117:3 120:4
169:19	152:25	143:12	intervention	16:17 58:13	82:18	101:21	123:20
individualiz...	158:9,19,20	158:3,3,7	123:14	64:3 105:20	Jersey 23:18	107:5	142:20
31:5	161:21	159:5	179:12	149:5 186:3	65:10,16	110:17	147:17
individually	172:22	160:10,17	180:5 181:5	192:4	66:6 201:3	111:15	154:3
214:19	189:10	161:16	183:5	205:18	201:5	118:15,20	155:21
233:10,18	inherently	162:24	193:19	208:12	job 15:14	118:25	156:23
individuals	37:23 72:9	169:16	212:11	218:2	21:4 35:18	119:17	164:14
3:11,17	141:24	instruments	interventions	involves	66:21	120:13,16	168:10,24
5:20 15:16	initial 46:14	125:23	151:11,17	155:3	104:13	120:20	169:2
16:4 24:6	79:13 80:7	insurance	177:9 182:2	irrespective	125:13	121:5	170:12
37:21 40:11	93:24	130:3	222:11	202:11,14	131:2 139:8	128:21,25	judged
78:16,18	initially 60:19	247:21	interview	ism 130:15	151:7 183:6	129:7	167:17
80:15 95:23	initiated	intake 58:22	40:4 45:4	issue 3:7 6:18	218:20,20	130:11,18	judges 18:21
98:3 103:5	109:8	intelligently	58:22 72:15	7:15 27:14	243:3,5,5	131:11	19:14 33:11
105:12,13	initiative 40:6	151:21	114:5	40:15	247:23	147:12	41:5 123:16
105:13	initiatives	intense 52:25	115:23	102:10	jobs 4:12	155:24	124:11
112:23	48:23 52:7	intensive	185:12	134:20	86:2	156:8,22	136:25
113:25	52:8	20:18	interviewed	136:7 185:9	Joe-Joe	157:14	148:24
115:4 120:7	injustice	intent 97:2	40:2	225:12	107:22	163:13	156:11
127:13,15	148:12	interact	interviewing	226:7,11,14	John 1:16	165:25	164:10,11
130:23	inmate	185:19	44:17 45:11	237:4	20:9 173:18	166:6,14	245:11
135:3,6	209:21	interacting	184:10	238:19	174:14	171:8 173:6	judgment
140:6	inmates	245:25	241:19	248:6,21	176:11	173:10,15	41:15 122:8
145:24	196:13	interactions	interviews	issued 51:9	187:24	174:6,10,20	153:10,10
151:25	inner 209:20	58:2	44:17 113:8	issues 59:23	213:22	187:3,9	153:11
212:8	Innes 99:9	interconnec...	178:19	69:7 70:11	Johnson	197:22	154:25
ineffective	innocence	202:3	intoxication	76:9 78:12	132:18	201:13,19	156:14
219:7	13:2,5	interest 1:23	28:2	103:7,9	joined 52:12	205:23	172:2
influence	innocent 4:12	2:19 195:13	intriguing	105:11	81:20	206:22	236:15,16
194:4	16:5	interested	201:21	116:13,17	joining 3:2	207:14	judgments
information	innovations	10:3	221:23	141:2,3	Jones 1:9 2:2	214:13	41:10
3:24 18:22	21:11	interesting	intrinsic	188:2 208:3	2:21 5:11	216:21,24	124:16
19:3,13	input 27:5	39:19 66:7	183:16,19	225:11	6:2 23:13	217:3,7,24	147:23
26:25 39:13	Inquirer	102:21	183:25	237:6,21	25:4 27:16	218:5,15	judicial 51:14
41:6 44:22	154:6	interfere		Italian 157:4	30:11 34:10	219:23	169:17,22
					35:8 37:10		

Special Committee on Criminal Justice Reform
September 12, 2016

JULIE 1:14	236:2	151:12	75:19 77:10	143:24	121:19	248:20	limited 18:21
July 96:20	251:16	168:22	77:14 79:14	197:16	144:23	250:8,9	47:14 48:9
jump 64:9	juveniles	176:17	79:25 80:23	237:23	147:14	letting 41:8	49:15 54:10
112:15	220:23	177:14	81:17 82:2	knows 87:8	175:20	75:4 103:7	54:11 73:25
jumped 25:12		179:7 180:7	84:5 85:13		leaves 71:8	106:25	76:6,7
juris 31:25	K	181:13	85:16 87:8	L	148:17	171:12	linchpin
40:14	keep 2:24	183:10	89:7 90:5	L 252:14	led 231:6	level 6:22	23:19
jurisdiction	14:20 57:23	186:6	92:2,7	label 150:22	left 107:6,7	46:10 47:24	line 13:25
55:4,6	96:12 108:3	188:11,19	93:21,22	labor 88:20	legal 119:21	47:25 48:5	49:10 70:15
214:21	112:14	189:12	94:13 96:11	laborious	119:22,25	48:10,24	117:16
215:11,25	139:5	191:22	97:7 102:12	92:3	210:18	49:4,5,19	221:21
jurisdictions	166:16	197:14,14	104:9	labs 241:17	226:19,19	119:3	lined 202:23
8:21 19:18	209:23	199:3 202:2	106:16,19	lack 172:21	legislation	136:16	liner 75:17
31:22 39:7	213:22	202:4	107:5	lady 28:10	65:9	155:4,5	80:12,13
45:20 47:22	235:23	204:22	108:10	landed 239:9	legitimate	169:23	lines 150:9
50:13 54:24	237:13	206:17	109:5,24	landline	125:17	181:20	link 199:7
56:12 79:5	keeping	208:6 209:5	110:25	51:16	133:11	206:4 209:4	linked 11:6
215:3	63:23 75:3	221:16	118:23	languages	138:8	210:2 235:2	150:16
justice 1:4,14	91:21 94:5	226:8	119:11,11	237:3	leisure	244:19	links 187:22
1:17,21,22	186:23	230:20	123:23	large 8:14	208:10	levels 31:10	list 46:25
2:5,14,16	195:5	231:24	129:22	30:18 98:25	length 35:5	45:9 55:21	69:19 70:11
5:5 6:8,12	keeps 62:16	232:2,4,6	131:5 134:8	199:18	lengths	95:2 128:10	70:12 97:6
7:2,11 9:6	79:2	237:11	137:16	210:11	196:25	149:2 208:9	97:20,23
9:17 11:4,6	KEIR 1:10	238:15	146:20	larger 130:4	lenient 14:2	liberalization	98:6 99:7
11:12 12:3	kept 166:17	239:19	147:25	largest	LERNER	22:24	listen 109:10
15:24 20:8	KEVIN 1:12	240:3	148:6	197:12	1:15 41:20	liberalizing	163:14
30:9 44:2	key 11:21	kinds 121:14	149:22	lastly 54:2	154:3	17:3	165:25
52:6 53:9	23:9 118:25	125:21	157:8	late 201:6	155:21	liberty	166:2,2
58:7 74:2	119:8	126:22	158:20	latitude 133:8	164:14	117:16	174:10
94:11,25	143:19	135:2	161:3 162:2	laundry	168:10	life 9:16,23	218:17
95:2 96:2,7	191:12	151:19	162:13	143:2	Lerner's	15:15 64:4	listening
100:6	200:11	221:12	164:5,11,22	law 171:24,25	41:17	109:2	57:18
104:20	212:10	232:13	170:5	218:3	let's 9:13	115:17	literal 144:14
105:5 109:6	kicked 40:3	kitchen	171:11,20	lawyer 232:4	35:20 55:13	116:3 142:6	literally
110:7 112:6	213:18	152:22	173:21	lawyers 32:3	110:17	142:9	70:11
113:15	kid 233:7	KMA 246:22	175:10	232:5	122:21	150:22	144:10,11
114:18	kids 108:10	knew 51:16	181:19,20	240:14	123:23	201:16	161:18
121:13	108:11	knob 155:12	187:25	laying 177:21	125:25	205:24	165:19
145:6,10	kind 15:16	knobs 144:11	191:15	lead 13:6	126:3,9	220:6	243:9 245:7
166:22,24	24:2,18	144:14,17	194:14	15:14 26:6	134:18,22	243:11	little 32:2
167:8	27:11 31:14	155:11	197:7 200:3	178:21	135:13	246:10,12	36:19 72:12
168:15,20	31:15 32:18	knock 75:18	207:17	learn 24:17	136:20	light 8:6	126:3
176:20	33:8 38:5	know 5:15	228:2	59:3 216:12	144:18	19:13 91:4	128:22
183:24	39:4,5,8,14	19:22 21:24	236:10	216:14	158:5	likelihood	134:7 142:4
184:14	40:24 41:8	30:18,23	237:12,20	239:21	160:12	10:22 181:6	154:11
186:4 195:3	54:24 61:11	33:4,16	241:2	learned 3:9	165:17	182:25	157:15
208:3 213:7	62:5 65:4	35:22,24	246:22	54:22 59:2	171:11	likening	174:23
216:9 217:8	69:6 74:21	40:4 41:12	knowing 61:6	237:14	213:19,20	161:7,8	175:4
219:11	86:18	41:19 54:3	157:3	240:16	234:17,18	likes 157:4	192:16
220:22	117:25	54:8 63:17	knowledge	242:15	239:7,8,10	limit 48:8	198:21
222:3	126:2 138:5	64:25 71:7	89:25	learning	239:12	limitations	225:19
232:23	142:25	71:10,16,25	120:11	178:16	242:6 246:9	28:23 40:25	232:7 237:8
235:17	146:3	73:2 75:4	known	220:13	246:10	153:25	240:6
	149:12,24			leave 77:2			

Special Committee on Criminal Justice Reform
September 12, 2016

live 25:17 145:3 150:2 172:23	137:19 147:25 149:4	Los 197:18	212:13	magistrate	242:11	237:17	155:14
lived 60:23	150:18	lose 79:23	218:25	12:4 44:24	Manager	mathematic...	170:18
lives 145:7	151:2 170:3	86:9 127:7	225:16	61:5 170:8	174:15,18	152:20	175:17
188:11	170:9	losing 86:2,6	226:23	magistrates	managers	236:9	178:11
living 71:20	171:15	loss 15:14,15	238:11	19:3 36:12	62:8	mathematics	195:21
71:22,22	193:2	lost 4:12	241:16	36:17,18	Managing	231:5	196:2
106:19	196:10	233:3	243:16	41:12	1:14,15	matter 28:25	200:11
local 107:23	208:21	236:25	246:19,20	magnitude	96:3	32:14 94:2	210:9 217:4
200:7	217:9	237:5	lots 33:8	16:8	mandate	124:14	218:15,19
locally 198:14	223:17	lot 21:24 22:3	121:21	main 22:5	226:19,19	130:19	222:4,12
200:10	224:14	23:7 24:4	122:8	maintain	mandated	147:20,21	223:16
located 16:19	228:18	24:22 25:6	123:12	188:17	114:3,11	166:9 252:7	225:16
locating	229:12	26:10 34:17	124:14,15	205:17	manna 109:7	matters 23:22	232:21
81:13	232:19,20	39:23 44:8	131:23	210:14,20	manner	132:4	meaning
location 74:7	236:19	47:22 49:6	136:4	maintained	204:11	maximize	27:20
204:14	242:14	50:14,22	139:10	194:21,22	mans 97:15	44:7 67:23	137:12
locations	250:15	51:25 57:24	162:7	major 78:11	manual 228:9	maximizing	meaningful
200:8	looked 30:24	62:15 64:23	172:18,20	88:14	229:6,8	43:23	119:4
lockup 60:22	53:16	65:25 66:8	Louis 239:12	majority	marching	maximum	means 13:19
logistical 33:8	128:17	68:14 71:12	love 64:5 68:3	18:10 52:7	167:15	48:18	26:22 40:19
logistics	137:14	71:23 74:18	102:15	making 3:25	margin 161:5	Mayor 83:23	55:21 96:11
71:24	208:18	74:24 75:12	230:11,14	5:19 7:4	marginalized	Mayson	96:14 190:7
long 7:24	233:20	75:15 79:4	233:16	10:4 19:3	146:23	16:10	236:10,10
13:16 41:21	looking 5:17	80:3 92:6	loving 62:9	44:24 46:4	margins	McDonald's	240:6
53:16 60:22	14:11 23:17	94:13 96:8	62:10	62:10 86:5	210:15	243:3,4	252:22
143:25	47:9 65:10	98:3 99:4	low 19:5	95:10,13,22	marital	McSORLEY	meant 28:7
200:3	68:12,17	100:2,9	180:22	103:6 118:3	138:20	1:18 42:10	measurable
long-run 7:18	77:17,18	102:2,7	192:2	118:4 122:8	142:11	42:21,24	21:7 22:19
long-term	80:10 81:24	103:4	193:16,17	122:12	mark 19:9	43:12 57:6	measure 10:7
95:21 96:5	86:13 88:11	104:13	195:23	135:22	93:6 100:2	58:4 60:15	10:14 12:6
109:18	91:14	106:4	235:14	143:22	111:21	62:18 63:20	14:12 36:23
215:18	101:11	119:20	low-risk	150:5,22	117:23	64:20 65:12	70:20,23
longer 248:9	129:3	123:25	22:25	154:24	149:21	67:2 68:25	146:11,13
longitude	135:17,21	124:10	lower 18:5	157:2	150:3	69:10 70:5	163:9 165:8
133:8	137:4,20	125:18	112:25	169:23	192:11	72:4,19	189:22
look 8:21 9:4	164:20	126:18	171:10	177:22	married 43:8	73:15 78:22	measured
9:15,19,22	167:14	135:8 136:5	194:4	180:12	131:2	78:24 81:23	66:12
11:2 13:11	175:15	136:10	195:16	211:17	mass 119:3	83:9 84:18	241:23
14:24 17:24	176:14	142:24	210:6	malady	Master's	89:24 91:5	measurement
24:8 26:10	180:16	145:14	lowers 22:15	228:11	244:19	91:13 92:14	188:4,13
28:19 31:3	189:11	147:3	126:2	male 145:3,7	match 150:19	101:25	measures
32:23 38:3	190:10	149:13	lowest 132:22	145:11	math 152:16	meal 122:14	11:13
54:24 55:12	192:3,8	154:10	LSIR 207:11	males 126:14	152:21	mean 9:12	149:10
61:22 68:14	213:24	164:3	luck 70:16	130:23	163:15,15	26:2 31:9	162:16
78:13 85:20	219:13,19	179:13	M	Malvestuto	163:15,25	38:19 40:12	189:17
86:15 95:10	222:5	180:6 182:5	MacArthur	43:15	164:3	50:25 51:24	measuring
95:12 96:11	227:5	182:9 184:3	48:23 51:8	man 62:13	226:22	69:16 78:11	10:12 21:4
105:21	222:18	185:8,8	51:13 52:7	94:10	236:21	78:13 88:12	110:22
108:15	235:4	186:7 189:9	94:11	management	mathematic...	94:19 96:8	160:24
122:3 125:5	looks 10:24	192:11	104:20	28:14 29:21	140:4	132:20,24	189:4
125:8 137:8	10:25 123:2	193:21	105:19,22	88:21	226:21	133:16,18	241:25
	218:12	206:14	machine	186:20	mathematic...	139:18	Medicaid
		207:11	153:4	212:17	231:2	146:2	249:14,21

Special Committee on Criminal Justice Reform
September 12, 2016

medical 85:17 213:5 217:23	108:19 112:4 114:17	139:5 147:15 166:16	mock 178:19 185:12	63:6 money 61:23	59:19 99:5 Mosee 1:18 34:12 35:8	211:4 murky 227:4 231:5	necessary 51:23 73:2 140:24
medically 212:24	160:16 171:18	209:23 213:22	modality 188:20	75:23,25 80:19 81:15	35:10,11 37:19	MURPHY 252:14	need 21:17 23:7 29:16
medication 86:10	172:19 177:19	223:4 235:23,24	model 32:20 33:21,21	81:17 82:3 82:7 84:9	157:14,15 158:12	mutually 112:11	29:20,21 31:8 40:16
medicine 137:6	180:17 187:24	249:13 mindset 67:13	53:15 54:25 55:5,12	84:14 85:2 86:14,25	159:15 160:21	myriad 37:7	43:25 48:9 48:13 52:9
medium 235:14	200:2 213:23	209:14 minimally 187:11	56:11 80:11 85:21	87:2,20,21 92:10	220:19 mother 220:4	N	60:12 62:15 63:9,14
meet 54:18 101:9	menu 122:3 merely 175:19	209:14 minimum 186:15,16	111:12 140:11,15	102:17,19 102:20	motivate 184:8 186:6	name 6:6 35:9,10	67:12 70:23 71:3,4
meeting 64:10 105:2	message 21:15 107:8	200:21 211:13	193:7 200:21	103:24 106:20	motivating 188:23	42:8,24 43:7 93:14	78:18 84:9 84:13,14
meetings 3:10 100:3	messages 34:3	216:25 217:23	211:13 216:25	107:10,11 109:5,13	194:15 222:11	93:16 111:18,21	86:17 90:24 100:6
meets 99:14 Megan 11:24	met 65:15 100:25	222:24 242:18,24	222:24 242:18,24	111:2,6 122:13	231:14 motivational 184:10	148:18 173:11	105:14 106:13
12:3 16:11 38:5	105:14 150:21	245:15 modeling 226:9	245:15 modeling 226:9	168:4 189:9 240:9,10,20	240:25 monitor 50:13,20	174:14,17 225:6	108:9 110:25
Megan's 13:9 member	151:16 241:9	217:9 models 5:14 5:16 32:16	217:9 models 5:14 5:16 32:16	240:25 monitor 50:13,20	62:15 160:10	241:19 motivations 184:2	114:21 115:8,9
42:10 178:4 201:21	metaphors 219:24	61:22 84:25 217:9	61:22 84:25 217:9	62:15 160:10	motivators 183:20	239:24 names 120:22 250:2	147:11 148:3
members 1:21 2:7,12	methadone 209:20	16:17 17:4 17:25 37:22	16:17 17:4 17:25 37:22	160:10 18:16 42:13	Mount 5:4 131:7	nation 3:16 5:17	150:20 158:6
3:3 25:5.9 37:11 52:13	methodolog... 10:9	38:6 79:6,9 106:14	38:6 79:6,9 106:14	49:8 50:11 57:9,11	132:16 move 31:15	48:19 56:7 65:13,14	178:15 181:8,11
men 125:25 126:4,4,7,8	methods 19:19,25	191:24 193:12	191:24 193:12	78:19 108:3 211:25	32:23 79:13 79:15,22	198:7 210:10,21	188:3 189:10
127:17 135:13	mic 34:11 Michael	194:5 modern 8:12 142:22	194:5 modern 8:12 142:22	212:2 244:22	89:3 167:20 181:22	nationally 175:2	192:2,5,7 193:18
231:17 247:24	20:10 43:7 93:3,16	227:11 modernize 23:23	227:11 modernize 23:23	monitors 49:16	250:20 Movement 226:13	192:20 209:8	213:14 214:3
mental 86:9 102:24	MICHELE 252:14	220:5 mission 43:21 44:4 56:3	220:5 mission 43:21 44:4 56:3	102:15 Montgomery 150:9	226:13 movies 243:10	209:8 223:18	219:17 222:5 223:6
103:8,10,14 104:6,9,12	micro 119:3 mid 17:20	67:5,21 mistakes 127:12,14	67:5,21 mistakes 127:12,14	72:12 91:21 92:7,7	moving 18:14 75:5,15	Nations 238:18	223:9 225:2 229:22
106:11 110:19	20:4 midnight 41:21	134:25 135:2,12,18	134:25 135:2,12,18	97:19 221:11	112:5 MRT 222:21	6:17 43:22 natural 10:11 12:6 112:18	237:15,20 248:8
116:13 208:9	miles 131:10 military 61:2	135:22 143:11	135:22 143:11	modulate 239:19	MSW 244:19 multi-pron... 6:25	112:20 nature 86:11 navigate 88:23	249:18 needed 72:14 107:10,12
mention 31:21 66:22	million 61:21 132:14	216:8,10 misunderst... 121:18	216:8,10 misunderst... 121:18	moment 95:3 128:14	multiple 105:12	109:9,24 195:4	220:10 233:10
179:13,14 197:9,10	millionaires 132:24	172:21 mix 219:10 219:19	172:21 mix 219:10 219:19	moments 146:8	192:5 municipal 54:21 65:2	nearly 53:12 57:16 neat 108:16 necessarily 26:23 41:18	237:15,20 248:8
250:2 mentioned 27:14 82:3	mind 7:19 14:20 40:20	245:20 mixing 194:2	245:20 mixing 194:2	155:11 momentum 56:8	73:21 74:23 morning	86:3 97:4 102:5 138:6	249:18 needing 49:18 needs 28:16 41:3 47:7
99:23 100:23	103:17 128:23		Monday 1:7	morning			

Special Committee on Criminal Justice Reform
September 12, 2016

54:16,18	199:2	non-confide...	74:22 77:4	183:6,7	237:15	202:18	22:22 68:21
55:10 64:2	network	228:24	77:5,7	offender-fu...	Ohio 55:8,9	203:18,24	192:16,22
64:11 68:17	116:11	non-monet...	90:15,22	212:2	okay 27:16	204:25	199:12
69:25 73:12	198:7	64:7	119:11	offenders	41:24 61:13	213:25	ORAD
73:13 82:12	never 24:3	non-profit	124:8,18,19	17:25 18:3	78:23	247:8,12	207:13
85:17 96:16	87:4 96:6	243:14	203:6,7	20:17 23:2	115:22	opened	oranges
100:25	139:20	non-residen...	234:23	29:5 162:4	124:17	204:16	52:18
105:14	172:2	204:20	numerical	offending	134:24	245:8,8	order 2:4
106:22	201:15	norm 208:5	130:2 139:3	16:22 18:4	174:3	opening	13:3 21:19
110:9	204:5 232:2	Norma 97:15	139:14	offense 34:24	180:13	166:15	28:8,13
114:22	237:14	normal	nurse 32:19	181:3	208:5 211:5	198:11	30:8 33:4
118:7	241:22	206:18	<hr/> O <hr/>	193:20	223:6	205:3	44:20 47:17
137:21	nevertheless	normally	Obama 83:22	offenses 9:3	old 24:8	operate 50:24	49:11 67:12
140:16	53:15 66:24	192:14	244:6	26:16 72:8	45:22 73:18	144:4 175:2	71:21 72:17
146:13	137:3 139:5	north 133:19	objections	72:9 96:23	112:5 129:6	197:15,17	122:4
150:15,20	new 5:13 8:5	133:20	252:4	162:21	130:24	operates	146:23
150:24	8:6 10:8,17	note 20:4	objective	171:10	155:9 235:6	50:11	168:20
151:15	10:23 20:16	45:21 99:16	157:10	215:17	244:10	174:25	184:17
162:17	21:12 22:7	noted 28:22	observation	offer 1:23	249:2,2,9	operating	186:13
176:6	23:18 35:21	notes 252:6	62:16 64:18	2:17	250:4,5	190:18	217:16
177:13	51:9 61:8	notice 22:22	observation...	offered 49:3	once 86:8	197:19	223:3
181:10,17	65:10 66:6	noticed 88:16	13:14	69:13	158:7 160:7	204:20	orders 59:21
181:21	70:22	notification	observe	offers 94:7	160:17	205:3	organization
191:5,10,25	108:22	20:19	186:11	office 1:13,15	181:9	operation	198:3
212:21,22	110:14	notions 4:21	235:10	35:12 76:3	183:10	209:8,9	organizatio...
213:5	155:7	notwithstan...	observed	80:21,22	190:22	214:6	19:21
214:12	160:13,14	37:5	28:15	81:10 93:5	191:14	operations	organizations
222:9,10	178:16,25	nuance 39:17	observing	93:19,23	201:17,18	209:10	32:24
223:2	201:3,5	number 3:17	177:22	95:24 96:3	204:13	opinion 52:4	107:19
238:16	215:16	4:4,5,7 7:24	235:12	96:4 97:5,9	one's 220:6	68:4	213:15
250:13	216:25	8:4,15	obvious	103:3	one-on-one	opportunities	organized
negative	239:11	19:17 20:7	116:20	105:18,23	47:5,16	68:22 73:13	202:17
34:15 35:6	249:6,21	20:13 22:21	239:25	109:11	one-stop	167:17	orientation
187:4,8	250:9,17	26:24 33:19	obviously 7:3	120:5	212:14	opportunity	46:14
Neifield 74:24	news 15:5	38:9 39:7	26:4,8	office's 94:10	one-third	7:4 23:15	original
103:2,11	next-genera...	39:16 48:20	28:12 58:4	94:25	88:9	69:7,24	170:8
neighborho...	11:20	49:16 61:18	168:14	officer 46:16	one-time	73:12	originally
4:25 108:7	NIC 179:12	67:9 85:16	occasions	48:3,8,16	57:10	104:25	129:12
131:7	Nicely 224:4	95:12 96:23	223:19	62:7 107:25	one-to-one	118:12	ought 17:12
145:21	night 50:16	107:14,15	occupancy	169:18	74:17	154:7	18:13
165:20	63:5 247:8	112:4	132:23	218:7	ones 37:23	157:23	179:24
neighborho...	NIMBY	116:14	Occupy	officers 47:11	99:19	175:12	217:17
131:18,19	202:9	150:14	240:22	169:22	182:21	opposed	outcome
131:22	203:13	176:9 182:7	occur 126:20	234:12	190:18	70:19 89:21	85:20
205:5	204:24	196:23	occurred 8:17	official 153:4	204:19	145:25	153:15
neighboring	240:2	210:3	ocean 66:18	204:25	ongoing	216:2	160:25
196:21	nine 84:8	227:20	75:17 80:12	205:7	203:2	opposite	outcomes 9:4
Neither	174:25	230:9	80:13 88:23	oh 62:5	232:11	179:21	9:5 10:7,13
131:11	ninth 201:14	236:11	offend 15:3	128:24	online 158:8	oppressive	10:25 14:14
232:3	nominal	238:17	181:7	129:7	onus 62:5	167:11	34:7,15
nervous	49:24	243:20	219:25	137:13	157:17	option 54:15	35:7 36:6,7
204:23	non-cash	246:20	offender	139:7	open 64:9	194:12	66:11 70:24
net 106:10	56:8	numbers 38:4	123:17		105:12	options 3:6	111:13

Special Committee on Criminal Justice Reform
September 12, 2016

113:4 119:5	overwhelmi...	parole/prob...	particulars	225:10,23	96:9 97:8	204:23,25	219:19
162:20	223:22	24:19	137:25	232:20	97:20,24	205:5,11,19	performance
189:12	owned 243:18	part 25:9,15	parties 93:21	243:15,16	99:23	211:7	160:10
231:10	ownership	27:12,13	97:8 98:23	243:17	101:10	212:25	162:16
outfit 243:17	178:5	41:3 43:5	106:6,24	Pennsylvania	102:4,25	213:6	174:9
outlook 4:25	P	45:6 51:12	168:17	1:6 6:9	103:3,22	216:12	period 13:3
outpatient	P 202:7	94:9 98:25	partner 201:8	50:25 55:8	104:2,15	218:21	28:4 149:18
176:2	p.m 1:7	104:20	partners 53:9	65:15 121:2	106:23	219:10	162:6
output 57:4	251:16	146:15,16	54:12 96:2	121:10	107:21	223:12,22	183:19
Outreach	PA 1:12	158:25	202:6 205:4	148:20	108:9,17	228:15	221:20
1:14	package	169:7,14	partnership	163:3,5	110:22	232:17	periodically
outright	151:2,5	172:5	107:18	174:16,24	113:9	233:11,20	158:8
17:18	page 33:13	183:14	parts 29:18	190:8,17	115:12	235:14	perked 164:6
outset 112:2	108:13	187:21	30:7 75:15	194:9	116:10	236:19	person 1:11
outside 9:6	190:24	203:16	220:4	196:15	118:16	240:2,10	5:23 9:15
17:9 185:22	paid 98:16,19	223:10	passed 23:18	199:22	119:20,24	241:22	9:22 19:12
188:11	154:8	237:10	65:10	209:7	120:2	242:12	25:3 34:25
208:4	247:20	participant	160:13	224:19	122:17	246:23	39:12 48:3
234:18,22	pain 122:22	188:14,22	path 15:17	225:8 234:8	123:21	people's 4:24	50:18 58:16
239:18	191:4,24	191:4,24	62:17 67:3	people 4:9,11	124:19	11:3 15:11	58:17,18
249:19	painful 141:3	195:16	pathway	4:19,25	131:17,21	35:24 41:2	59:12,17,24
outsider	pair 161:3	205:25	178:6	5:20 10:18	131:25	137:19	61:3 69:11
224:2	palatable	211:19	patience	13:14 14:8	136:12	percent 12:15	70:9 71:8
outstanding	159:24	participants	93:11	14:21,24	137:4,10,13	16:22 18:2	73:24 74:14
71:11	panel 37:12	118:17	224:23	15:8 17:18	137:14	18:5 52:22	90:4 92:25
outweighed	42:22 43:21	177:5 186:2	Patiently	20:22 29:19	138:17	77:11,13	96:11,16
74:17	44:12 52:13	188:8,24	214:13	29:25 31:5	139:10,18	91:18,22	101:3,12,22
over-super...	84:6 87:5	192:6	patients	33:7 36:4,5	141:22	97:19 114:8	104:3,6
70:25	120:14,22	194:13	123:4,8	39:9,24,25	142:2	161:3,19,22	106:9 116:2
overall	173:16,18	196:5 204:7	Paul 6:6	40:23 41:8	145:23	162:5 163:8	117:6
113:11	205:24	208:25	151:13	50:15 51:18	149:11	163:9,22	138:21
208:20	221:3,5	210:4,5	pay 23:7 41:2	55:9 57:14	150:14	171:18	139:7,8
overcome	241:4 251:7	213:3	98:19	59:21 60:21	152:3,13	191:4,10	156:3 157:3
71:7	panelists	219:17	106:22	62:16 64:12	156:5	199:19,21	164:21
overcrowding	21:23	224:2	114:20	64:15,22	159:25	199:23	177:15,22
17:22 20:6	pants 41:9,17	participate	122:12,13	67:10,24,25	161:21	230:2,7	178:3,14
196:17	paper 38:4	171:12	127:8 132:9	68:20,25	167:6,12,15	236:7,13	180:14,21
overlapping	117:7	194:15	144:23	69:23 70:17	171:19	percentage	180:24
219:5	161:12,13	participated	170:3	70:18,19	176:16,19	12:14 89:18	181:2,12,12
overlooked	paramount	194:23	210:18	71:2,13,19	183:20,22	90:17 92:10	181:15
213:6	56:3 58:5	particular	211:20	72:14,22	184:4 186:3	98:11 161:7	183:17,18
overly 167:3	59:15	6:19 36:17	paying 83:21	73:3,7,10	186:8	190:19	183:23
overnight	105:15	76:5,16	97:25	76:19,21,22	192:20,22	percentages	184:8,11
216:13,14	parenting	78:13 81:10	108:17	76:25 77:4	193:3 194:3	190:11	185:15
overriding	212:18	122:18	196:22	77:6,12,13	194:4,6	perception	187:17
237:11	parole 43:4	123:9,17,24	pays 102:16	78:8 79:22	196:21	5:3	193:11,22
oversee 47:11	54:13 91:11	137:15,22	243:6	80:3 81:9	197:2	perceptions	194:20
oversight	92:13	152:9 212:8	pee 234:13	85:24 86:5	198:16	113:14	207:4,18
20:7 33:2	129:22	231:17	peer 131:20	86:9,21	200:10,13	perceptive	212:15,22
47:14 48:10	134:23	246:12	peers 245:12	89:18,21	201:2	35:14	215:19
48:14 50:3	160:7 163:2	250:12,18	pending	91:9,11,18	202:12,16	perfect 24:4	228:11
overwhelmi...	163:6 193:3	particularly	59:20 245:7	91:24,25	202:24	82:14	236:7,11,20
240:18	193:4	16:16 41:7	Penn 144:8	92:11 94:5	203:7	148:16	245:5,25
	234:12						

Special Committee on Criminal Justice Reform
September 12, 2016

person's 61:7	235:13	piloted 198:2	43:2 54:22	10:15 13:20	221:24	140:16,18	presentations
personal	238:21,22	pilots 197:25	55:25	167:12	possession	140:18	213:2
44:22 58:6	239:13	piqued	pleasant	policing	97:2	176:5 189:4	presented
106:2 152:5	241:7	195:12	131:9	145:21	possibility	practitioner	226:9
217:25	243:24	pitchforks	please 2:9	policy 7:11	22:11 59:9	32:19 71:17	presenter
232:19	246:21	202:24	14:10 34:10	10:5 18:9	135:21	practitioners	45:13
245:11	247:22	Pittsburgh	42:7,15	93:6 111:22	possible 18:8	195:5	preserve
personality	250:7	55:7	120:21	139:15	65:21 74:15	217:19	14:22
218:16	Philadelphi...	place 19:23	174:21	154:2 225:9	74:16	pre-determi...	preserving
personnel	30:14,21	46:3 77:25	237:15	policymakers	168:16,17	4:24	18:11
28:23	45:8 54:19	78:5,10,19	pleasure 6:4	128:3	185:5	pre-incarce...	President
203:17,19	67:4	79:23 81:15	173:9,13	143:21	214:12	249:23	74:24 82:16
perspective	Philly 243:25	106:15	plug 38:14	154:20,24	post 3:13	preconceived	83:22,25
12:10 37:2	phone 46:6	108:12	247:6	157:17	192:18	4:21	89:11
58:12	46:15,22	122:10	plus 193:25	158:5	233:17	predate	press 83:7
193:10	59:22 116:4	144:5	point 26:9	162:20	post-trial	232:15	91:18
216:17	116:4	156:12	52:15 73:16	168:8	245:21	predict	pressure
petitions	phones 51:19	175:24	76:14 78:25	political	posture 9:3	143:10	57:25 75:20
120:9	phrasing	176:19	88:14 91:16	153:21	pot 234:9	153:7	131:20
ph 97:15	129:18	183:11	91:22 94:10	203:5	potential	227:25	presumably
153:11	physical	213:20	104:16	241:15	13:22 21:16	228:5	173:3
242:6	227:15	223:21	106:17	Politically	35:4 178:7	229:18	pretend
phenomena...	229:17	placed 102:3	132:7 138:5	202:7	potentially	230:24	238:4
52:21	physician	233:11	148:10	pool 110:20	13:7 14:5	predictive	pretrial 3:7
Philadelphia	122:20,22	placement	155:23	pools 7:7	17:8 116:19	26:18 132:6	6:19,22
1:2,6,12,22	122:25	215:13	164:23	populated	poverty	143:9 230:8	7:13,22
2:15 5:3 7:3	123:2,7,9	places 5:4	165:7	97:7	132:22	predictors	12:9,21
8:18 11:25	physics	17:12 32:17	179:15	population	145:5	136:11	13:21,24
14:17 16:14	226:22,25	39:5 77:19	206:11	53:13 54:19	167:18	predomina...	15:7 17:3
18:6 24:14	227:6,7,8	197:11	215:2	55:17 56:5	powerful	223:19	17:23 18:4
35:12 36:14	227:12,24	204:18	219:25	97:10 98:11	54:16 60:4	prejudice	20:11,23
44:5 50:12	235:7	plan 38:13	220:6	146:6 152:9	246:13,14	4:20 23:24	22:10,14
50:19,24	pick 76:8	183:11	226:13	194:2	246:14	prejudiced	24:20 28:6
52:19 53:13	picked 27:25	206:24	232:19	249:23,24	PowerPoint	4:18	42:12 43:3
53:14 54:14	picture	207:5	240:7	250:12,18	173:22	preliminary	43:6,22
55:7 56:9	115:17	plane 234:3	245:17	populations	practical	76:11	44:2,5 45:8
56:25 60:23	piece 113:5	planned	247:2	17:4,5	28:25 31:6	prepared	45:25 46:11
61:4 63:8	117:7	113:25	pointed	29:23	32:14	29:24 136:8	46:16 48:3
65:24 67:20	191:12	plans 57:23	154:15	146:22	practicality	169:10,11	48:8,15,19
68:13 71:12	pieces 211:9	platforms	points 12:14	portrait	31:11	presence 2:6	51:6,7 52:4
74:23 78:4	pier 75:19	103:23	32:5 104:24	11:10	practice	present 1:9	52:8,24
79:3,8	piers 75:18	play 27:13	125:20	pose 37:24	86:19	147:8	53:18,21
83:24 93:5	piggyback	52:5 57:22	150:5 199:5	position 4:3	110:10	156:18	54:11 56:2
93:7,18	213:21	182:19	poker 161:2	94:8,10	139:20	183:9	56:5,7,9
102:23	piggybacking	185:8,20	police 1:12	positions	162:2 179:3	214:11	58:12 59:25
110:5	37:18	208:15	74:9 79:6	48:14	184:23	231:25	60:20 61:17
111:23	pilot 20:25	playing 73:6	88:10 96:4	positive 184:7	185:2,4	presentation	61:18,21
140:17	33:15 71:25	185:11	141:21	185:24	200:20	91:6 154:4	64:8 65:14
154:6 160:7	72:6 75:9	plays 73:7	162:12	187:4,6	217:13	154:8	66:10 67:5
161:14	76:2 85:7	plea 245:22	pleaded	191:6	225:9	173:22	67:19 69:5
162:8	99:12,18	12:15,22	131:22	198:25	241:16	175:5	69:12,18
197:10,20	118:8,17	pleas 13:7	policies 1:23	positively	practices	201:11	70:23 73:4
204:17	239:17		2:17 6:21	186:10	21:14 105:4	230:7	73:5 75:7

Special Committee on Criminal Justice Reform
September 12, 2016

91:19 93:4	168:25	193:22	82:11,21	78:14 94:21	78:17 80:16	20:14 21:5	46:25 69:19
93:20,22	169:6,13	206:11	83:14 98:22	99:3,13,18	85:7 87:10	74:22	73:4 213:11
94:4 102:4	priorities	238:8	100:19,20	101:16	94:3,13	promotes	provides
102:6	144:5	probation	101:5	103:17	99:21 100:4	205:22	39:16 69:19
112:18	prioritize	43:4 54:12	113:12	105:20	100:13	promoting	138:25
128:18	223:17	62:7 91:11	117:18	118:8,17	104:10,11	44:8	195:4
161:14	priority 67:9	92:13,16	118:3 120:3	176:2	104:12	pronounced	providing
180:15	83:23,25	98:4 101:10	149:23	177:23	151:10	16:16	19:10 52:25
192:17	84:2	101:24	169:24	178:2,11	159:23	proper	113:18
193:6 194:7	prison 1:12	107:25	172:5	179:15	168:5	176:10	provocative
194:11	54:14 56:5	123:24	184:18	182:3	171:13	181:5	229:15
241:6	63:2 116:16	124:2,3	202:5	188:21	177:17	properly 66:3	proxy 26:11
245:21,25	116:25	126:10,15	203:17	189:5,13,16	178:15	139:4	prudence
pretty 24:14	148:20	134:22,24	204:13	189:18,23	179:24	properties	31:25 40:14
122:7 139:9	218:3 249:6	160:6 163:2	240:8	191:13	180:2 182:5	132:25	psychiatrists
149:12	249:8	163:6	242:18	192:10	182:20	prophecy	202:22
161:19	prisons 88:8	192:23	processed	193:24	183:18	234:15	240:13
193:5	88:10,19	218:7	51:2 73:7	194:16,24	184:6 186:2	proposing	psychoeduc...
199:17,18	91:19 96:5	234:11	processes	195:20,23	186:16,18	150:2	177:11
201:9	privacy	235:15	101:7,8	195:25	186:21	proprietary	psychology
215:16	217:25	probation/p...	228:14,17	196:2,6	187:15	159:3	41:13 73:6
prevent 6:13	private	148:24	228:19	197:5	188:6,16	prosecutor	110:9,11
previous	248:24	problem	229:17	198:17	190:2,3	103:19	111:9 227:2
122:6	pro-criminal	17:21 21:12	230:17	200:6	192:12,19	protect	228:7
249:14	178:24	104:7 106:7	231:15	201:24	193:2,4	145:24	psychosocial
previously	pro-social	122:23	232:14	202:22	194:7,10	protected	241:14
7:8 99:8	178:10	123:14	processing	209:20	197:15,17	26:7	public 1:21
price 61:19	183:20,22	158:25	93:25 94:6	210:21	198:10	protection	1:23,24
127:7,8	183:25	172:23,24	proclivities	211:2	199:3,15	109:15	2:14,19,20
136:10	184:7 191:6	207:25	153:14	212:19	200:9	protocol	4:4,5,7 5:19
165:17	191:8	234:20,22	produce	214:5,24	203:19	235:11	14:22 15:9
principle	193:21,25	234:23,25	119:4	215:7,14	205:25	242:9	17:6 18:11
180:10,17	216:14	249:17	190:21	220:22	210:16	protocols	28:2 41:22
180:19	probabilistic	problematic	produced	241:11,18	211:2,3,3	232:12	43:23 45:3
181:8,10	229:8	26:8	68:24	243:22	223:23	prototype	53:22,23,23
185:23	probabilities	problems	product	244:13,13	241:3,4,5	150:11	53:24 56:4
202:10	228:21	20:5 45:24	25:24 150:7	244:19,20	244:12,17	proven 53:6	67:23 76:13
221:15	230:3	95:22 105:7	233:13	245:4,15	245:4,15	101:18	80:22 84:20
223:4	probability	119:24	productive	247:5	247:5	200:4	84:24 85:4
226:21	199:2 227:9	231:3	121:22	programm...	24:21,23	provide 19:2	86:4,6,16
235:5,6,9	227:11,16	procedural	178:4	180:14	177:23	39:14 44:6	86:20 95:9
principles	227:22	9:3 113:14	professor	184:16,19	progresses	9:23	95:11,13
25:2 179:11	228:24	procedures	121:9 165:5	189:2	progression	57:5 67:11	96:3 111:14
180:4	229:5,9	138:9	225:7,24	193:14,17	159:16	68:22 92:11	112:3,8
212:10	230:4	proceeding	232:21	194:20	progressive	112:20	135:24
217:17	probably	180:13	profile 207:4	210:13,14	110:6	115:12	156:6
221:25	17:17 28:21	proceedings	207:18	211:9 216:7	project	205:9 210:2	166:11
222:6,12	31:12 38:21	252:4	program 3:20	programs	126:14	213:10	251:2
prior 7:5 8:10	63:5,7,14	process 4:17	23:16 27:18	20:25 21:13	150:8	241:13	252:15
26:14 27:3	121:21	17:23 30:19	28:3 52:24	22:2 29:10	239:18	provided	publicly
34:23 44:20	159:21	31:6 40:4	58:25 59:13	29:22 33:15	247:5	112:22	130:5
97:23	167:7	40:16 51:10	72:2,6	42:12 46:13	prolong 13:2	160:8	pull 142:24
130:24	172:15	61:24 72:22	75:10 76:2	58:24 77:24	promising	providers	150:25

Special Committee on Criminal Justice Reform
September 12, 2016

pulled 199:10	qualifying	92:21	220:21	159:11	168:12,19	113:19	153:4
pulling 85:11	96:23	111:16	random	242:6	168:24	176:7	recruit
punisher	qualitatively	120:14	36:16,22	readable	178:12	177:16	198:14,14
186:6	155:18	121:20	206:10	153:5	183:4,18	179:9	200:11
punishers	quality 19:8	125:19	randomized	ready 51:20	184:4 186:9	184:20	red 91:4
186:23	19:10 23:4	128:20	21:2	56:10	192:10	189:7	216:22,23
punishment	33:24	130:16	randomly	202:18	219:9	190:21	216:25
221:19	198:16	134:17	12:5 36:4	reaffirm	220:11	195:8	redirect
purpose	200:15	148:21	range 171:10	94:24 95:19	226:24	199:20,24	117:11
107:14	quantify	159:16	171:14,17	105:2	227:4 228:8	200:5	redirection
purposes	166:9	172:7	ranks 81:20	real 24:23,25	233:4 239:5	recognition	88:6
72:17	quantifying	201:11	rap 246:24	30:22	239:7	206:15	reduce 13:20
107:10	147:23	224:5	rate 68:23	152:12	243:21	222:21	19:25 83:19
purse 84:3	quantitativ...	225:21	69:2,8 70:2	158:16	247:6,16	recognizance	88:18
push 56:18	130:7	251:7	70:6 145:5	168:2 175:6	249:18	22:25	107:19
pushed 65:6	quantum	queued	177:16	203:18,21	250:15,23	recognize 2:6	109:3
pushing	227:8,10	248:17	rates 14:20	210:18	251:2,3	102:7	113:18
100:5 104:2	235:6	quick 38:12	16:20 18:3	217:18	realm 178:9	216:11	139:25
146:24	quarterly	49:20 66:16	21:8 38:7	244:20	178:10	recognizing	177:16
put 15:16	188:6	160:22	ratings 157:4	realities	rearrest	192:17	179:9
28:7 46:3	Quattrone	226:24	ratio 186:15	126:19	14:20	recommend	184:19
50:5 59:17	1:16 5:24	quickly 46:4	186:16,24	reality 75:22	rearrested	193:16	195:7,8
59:24 62:5	6:7,16	51:18 65:20	221:21	78:15 88:22	108:22	recommend...	200:5
66:2 72:21	11:23	66:9 98:5	ravioli 122:3	96:17	109:4	28:3	reduced 69:9
78:5,10	question 7:21	175:6	122:4,5,7	133:17	reason 82:15	recommend...	70:3 196:23
89:20 97:20	8:7 27:17	189:11	122:18	realize 12:19	98:18 223:4	3:25	reduces 15:20
103:13	29:14 34:13	198:8	125:4,7	52:17 58:22	248:4	recommend...	15:21
128:3	35:15 37:17	quite 123:22	136:22	realized	reasonable	1:23 2:17	reducing
131:17	63:13 76:19	123:22	157:2	241:21	141:21	reconcile	22:11 86:20
132:2,13,15	77:25 79:15	139:3 143:4	re-appropri...	242:11	144:21	167:4	88:3 176:7
132:16	85:14 87:15	quorum 2:7	66:20	reallocating	reasoning	reconvening	178:6
137:9 152:6	89:14,17	quote 154:11	re-explain	81:16	206:16	2:4	reduction
155:22	90:13,19	R	117:12	really 21:17	reasons 15:13	record 34:23	56:4 120:8
173:11	91:9 92:10	R 93:17	re-incarcer...	40:24 47:7	71:15	35:9 68:9	190:21
175:23	92:15,18	race 26:7,11	245:6	62:5 85:16	114:16	82:14 89:8	196:25
180:14	118:22	142:8,15,18	re-incarcer...	85:23 86:6	195:3	89:9,14	198:25
197:3	129:14	164:7,12,21	245:18	93:12	reassuring	93:14 94:24	199:19,23
199:13	136:6	165:7,10,19	re-offend	105:14	112:3	107:6	redundancy
225:15	141:15,22	168:22	162:5	106:21	rebuild	111:19	214:4
228:4	145:2	racial 26:6	re-offending	109:22	160:16	115:21	reemphasiz...
233:24	151:23	104:21	98:12 103:6	111:8	rec 208:10	119:14,16	102:17
246:10	155:25	105:4	re-offenses	120:11	receive 46:25	146:16	reinforce 5:7
249:5	156:10	148:12	162:10	128:13	received	155:23	reinforcem...
puts 48:21	159:17	racist 130:14	reach 135:23	134:13,14	46:21 49:9	169:14	185:24
123:9	160:22	231:8,12	reached	135:3,17,25	recess 251:11	198:19	187:6,8
putting 20:18	222:16	racking	158:22	136:17	recidivate	200:24	reengage
57:7 87:10	questionnaire	106:16	reacting	141:11	58:10	201:9	223:7
87:11	39:2	raise 17:13	67:25	143:9 146:3	recidivating	recorded 51:4	reenter
111:24	questions	raised 233:12	read 2:9	149:4,14	182:25	records 11:8	184:13
150:21	10:10 27:9	239:15	40:13 42:7	150:21	recidivism	11:8 137:8	reentry 94:3
157:16	37:11 41:25	Ral 153:10	65:12	163:25	11:2 68:23	137:10,11	95:7 109:14
Q	43:17 47:18	ramped 46:2	120:21	164:11	69:2,9 70:4	137:13,16	173:19
qualify 32:11	56:14 61:2	ran 36:7	124:23	167:5	86:20	137:19	174:19,25

Special Committee on Criminal Justice Reform
September 12, 2016

176:17 referral 192:16,21 referrals 116:14 118:5 referred 129:11 referring 220:20 reform 1:4,21 1:23 2:6,14 2:18 16:25 22:22 112:6 239:20 251:16 reformation 52:6 110:8 reformed 17:23 reforming 80:10 reforms 14:6 20:11,15 29:16 refused 59:23 regarding 20:20 208:3 regardless 231:13 regime 238:24 regimes 229:22 regressive 164:2 regulations 160:14 rehab 108:6 reinforce 221:24 reiterate 4:2 101:25 117:25 163:24 relapses 216:15,16 216:18 related 142:7 142:8,8,13 142:14,17 165:6,9 240:23	relationships 205:17 213:15 245:11 relatively 162:6 release 9:14 15:8 17:3 17:18 18:2 19:6 22:25 28:5 52:22 53:21 56:8 60:11 64:8 64:18 67:10 67:11 72:17 79:6 85:11 95:7 100:22 100:24 113:7,16 114:2 131:5 131:5,6,8 135:3 159:25 161:21 released 7:9 18:10 45:15 46:11,22 47:12 49:24 53:7 64:7 67:16,16 68:20 69:2 69:11 70:9 74:25 86:8 97:20 112:24 113:2 117:3 127:15 135:6 162:3 162:4 releasing 103:15 relevant 30:7 147:6 189:4 reliable 27:2 rely 26:24 139:21 153:9 164:2 164:11 relying 18:21 remain 53:7 remains 66:10,12 remember	38:7 47:20 83:15,20 119:22 145:14 reminder 19:18 20:16 22:23 reminders 45:12 removal 215:13 remove 148:11 165:11,13 165:16 rendition 220:17 repeat 101:21 236:18 repetitive 119:18 replace 52:2 report 64:7 73:5 107:23 148:4 reported 162:12,21 reporter 252:24 reporting 54:5 102:15 102:20 107:15 173:20 174:24 175:2,7,13 175:15,21 175:25 176:11,15 187:17,21 195:14,15 196:16,19 197:20 199:12 201:2,4,12 202:18 211:11 212:4,12 reports 113:11 represent 17:7 33:10 representat...	23:4 33:17 representat... 1:11 represented 113:9,10,13 113:20 114:5,8 156:5 represents 156:6 197:13 reproduction 252:21 request 50:2 requested 49:9 require 47:19 52:10 142:16 158:4 165:11,13 222:25 required 48:2 86:11 requirement 30:5 requirements 46:17 123:19 requires 33:4 33:5 48:10 123:14 222:22 requiring 104:7 RES 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 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1	147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1	research 6:15 7:14 8:10 8:12 10:8 10:17,24 13:9 15:19 22:6,7 32:5 34:13,14,21 35:17 37:20 77:3,15 84:7 85:8 112:16,17 113:15 151:12,13 151:19 152:6 179:23 185:25 186:14 188:20 190:24 191:3,21 194:4 217:15,19 219:2 researcher 36:25 researchers 3:19 6:17 9:25 11:5 11:23 21:10 200:17,17 researching 97:10 reserved 49:18 residences 4:13 residential 169:8 resistance 133:10 204:3 resistant 202:19 resolution 1:20,20 2:10,11,12 251:10 resource 54:16 71:4 107:24 141:3 200:7 210:10,19	210:22 resources 30:6 33:4 47:15 53:18 55:22,23 59:25 66:3 66:19 70:12 70:13,16 75:8 76:7,8 77:21 78:6 78:16 85:9 87:12 88:7 88:17 107:13 109:9 159:21,23 210:12 213:20,25 214:10 223:24 250:10,10 respect 21:21 41:11 128:18 respected 102:24 respectful 248:5,13 respond 188:9 225:20 response 37:13 42:2 92:22 120:15 155:23 224:6 240:18 251:8 responses 55:10 rest 191:15 restaurant 122:2,6,19 124:13,25 restoration 222:18 restorative 217:8 result 4:13 12:16 16:23 17:22 116:15
--	--	--	---	--	---	---	--

Special Committee on Criminal Justice Reform
September 12, 2016

resulted 28:9	rich 8:24	232:15,21	141:16	35:7 75:11	138:13	215:9	198:10
results 5:18	Richard 1:18	233:6	145:11	107:21,22	routinely	Saint 239:12	scared 25:13
11:15,22	18:24 24:24	234:13,19	146:4	robo 45:14	152:25	salary 57:12	scenarios
14:14 16:13	38:21 42:10	238:11	147:10	46:3 69:13	RPR-Notary	Sam 43:16	245:13
85:6 159:11	42:24	240:22	148:10,22	robust 30:22	252:15	173:15	schedule 50:6
resume	120:25	244:7,21	149:4	101:17	rug 128:6	San 197:18	Schlager
178:18	121:8	247:24	150:15,19	102:24	rule 49:19,20	Sandy 16:10	173:19
resumes	rid 80:11	248:22	151:5,7,17	104:12	79:17	Saturday	174:17,18
39:25	ride 42:20	rights 28:11	151:21,24	105:3	rules 5:6	43:8	175:9
retail 64:25	right 18:20	112:9	152:7,12,14	rock 128:23	66:23 79:4	saved 88:17	181:24
retainers	24:7,11	226:12,20	154:16	147:13,14	ruling 163:20	saver 196:14	184:21
98:5	27:9 29:18	233:9,19	157:18,21	172:7,9	rulings	saves 195:9	187:12
retired 1:13	31:24 32:10	ripple 22:17	158:10,14	174:8,11	231:10	savings 199:4	189:3
1:14	33:6 36:14	rises 152:11	158:17,22	237:25	run 14:23	saw 16:19	190:22
return 5:20	38:24 40:3	risk 17:6,8	159:2,7,19	ROJAS 1:13	36:3 190:2	47:3 53:2	201:18
50:7 69:8	42:20,22	18:19,25	160:4,23,25	57:18 60:13	195:23	63:4 237:12	206:2,25
70:3 184:14	51:25 64:4	19:5,8	161:5	61:13 91:8	199:5	saying 62:2	207:6,9,20
184:14	64:9 65:5,6	20:17 23:2	162:13,18	92:9,19	200:10	75:11 77:16	208:16
returning	71:25 72:4	23:3,20	169:5,25	119:19	204:14,15	87:4,18	213:21
202:13	72:19 80:16	24:15,17	170:25	151:23	204:17	88:24 89:8	218:10,25
203:8	89:10 90:9	25:6,11,25	180:8,20,21	152:17,19	205:10,13	89:9 96:16	223:13
returns 85:22	96:13	26:13,20	180:22,22	172:8	206:14	133:12,13	school 48:6
111:12	107:16,19	27:5,6	180:23	209:18	221:6 241:2	136:9	138:22
reveal 159:3	112:15	30:24,25	181:2,18,20	210:23	241:18	139:20,22	225:8
review 72:10	114:5	38:16,22	182:8	211:5 212:5	running	143:19	240:16
74:20 75:9	124:22	39:4,10	191:24	role 52:5	36:13 65:20	148:14	schools
76:15 80:20	128:19	53:6 60:14	192:2,5,7	55:19 57:21	94:5 193:9	153:16	221:13
94:21 96:19	133:8,11,25	60:16,18	193:12,16	112:14,16	195:14	157:24	222:4
99:7,18	136:3,17,24	61:8 68:14	193:17,22	114:15	200:3,25	161:17	Schwartzm...
101:20,23	140:24	99:22 100:8	194:3,3,4,5	115:5	201:6	166:4,5	1:12 148:18
103:13	148:8 151:4	103:5	194:6	144:19		168:2,6,24	148:19
104:22	153:9	114:25	201:23	185:8	S	179:17,18	150:12
105:11	155:17	115:2	206:4 207:5	roll 33:18	safe 25:18	180:21	211:6
115:20,22	156:9 157:5	121:13,17	207:10,19	94:17 119:6	95:9,11,13	186:15	science 144:9
116:15	161:17,19	121:24	207:24	119:12	185:3	188:22	217:22
118:2,19	161:22	122:14,15	208:8,20	rolling	204:10	193:8	227:3
170:7	166:9	122:25	209:4	114:13	safer 96:12	195:11	231:24,25
reviews 72:3	167:14,23	123:15	215:10,19	room 1:6 76:5	171:11	211:17	244:13
157:13	168:25	124:4,8,21	215:20	76:13,16	safety 1:24	215:12	scientific
revised 158:8	171:14	125:23	216:5,5	96:16	2:19 4:5,5,7	222:7 230:3	217:21
revisit 231:23	172:3	126:5	225:15	rooms 97:15	5:19 14:22	231:13	Scientifically
231:24	179:19	127:24	233:5	roots 61:7	15:9 17:6	246:9	236:4
revisiting	180:20	128:7 129:4	235:14,14	ROR 45:16	18:11 43:23	says 69:18	scientificall...
231:21	182:4	129:12,17	235:15	68:20 69:2	44:7 53:22	79:17	18:25
232:13	192:11	129:21,23	236:7 245:9	69:11,17	53:23,24,24	163:15	scientist
rewarding	205:6	129:25	risk/needs	113:3	56:4 67:23	179:23	232:9
222:11	213:12,19	130:19	180:16,19	ROSC 46:12	84:20,24	214:25	scientists
rewards	214:25	134:11	193:10	47:12 65:25	85:5 86:4	217:16	226:7,10
188:21	215:12	138:5,9,14	riskiest 19:15	Roundhouse	86:16,20	230:7 235:9	score 34:23
RFP 51:9	217:21	139:11,12	risks 127:9	73:20	94:11	236:21	39:4,6 40:9
249:5	226:4	139:14,21	150:24	rounds 62:11	104:20	scale 111:7	208:20
rhetorical	229:21	139:25	risky 177:25	123:8	111:14	119:3,9	230:20
156:9	230:16	140:4	road 3:12,18	routine	112:4,8	154:18,21	screaming
					135:24		

Special Committee on Criminal Justice Reform
September 12, 2016

103:25	137:5	sentences	119:23	7:18	123:22	skills 119:21	236:24
screen 73:8	139:10	12:12 13:15	174:19,25	short-term	124:15	178:16,19	238:14
206:10	145:23	14:2 16:21	203:11,11	109:18	137:13	185:4,7,21	240:13
screened	192:20,22	sentencing	210:2,20	shorter	141:13	skin 167:18	society 1:12
209:13	193:5	123:20	214:4 249:3	196:24,25	147:17	sky 102:18	23:25 24:6
seat 41:9,17	196:15	136:22	249:4 250:6	shortly 176:9	217:14	109:7	129:16
121:7	201:15	149:3,4	session	show 19:22	simple 26:22	sleeping	148:20
second 4:15	select 203:21	156:7	206:21	20:22 29:7	125:22	79:22	225:12
9:8 76:18	204:14	164:20	sessions	58:10,19	227:20	slide 7:20	socioecono...
97:25 98:12	selected 36:5	171:2	184:17	67:6,13	simply 89:16	11:17,20	146:6
104:3	205:12	194:12,17	222:25	70:18 71:13	115:16	14:9 16:7	softer 219:14
209:15	selecting	separate 91:9	242:10	89:18,22	single 34:16	197:6	sold 165:24
210:3	51:10	91:14	set 5:5 64:21	111:5 117:5	79:8 105:20	slides 198:22	sole 170:25
secured	selection	191:22	65:3 107:23	117:12	160:17	sliding	solution
199:22	242:2	SEPTA	131:20	159:12	249:16	154:18	17:17 143:6
201:25	self 95:16	103:23	137:15	197:6 202:4	sink 152:22	slightly 15:11	solutions
see 8:2 9:15	self-disclose	September	182:22	showing	sir 56:19	slow 117:12	17:11 18:13
9:22 13:12	70:10	1:7	249:11,12	69:15	173:8	slowly 80:14	21:17 23:6
15:2 16:14	self-fulfilling	sequence	249:13	190:20	sit 62:22 63:6	117:4	95:22 96:5
32:16 56:18	234:15	26:15	250:5	193:11	63:8 106:5	small 17:16	solve 127:22
57:20,20,21	self-sufficie...	series 39:2	setting 106:8	shown 29:23	242:13,16	202:7	234:21
59:5 70:24	178:2	130:15	133:21	113:15	243:9	243:13	somebody
71:9 73:10	187:24	seriously	185:3	185:25	site 203:21	smart 7:4	34:18 57:7
86:18,24	send 29:5	239:2	seven 12:2	shows 16:7	205:12	20:9	57:13,17,23
101:11	45:11 76:10	seriousness	seven-day	49:14	sitting 83:15	smarter	58:15,19
103:20	76:12 79:7	34:24	209:9	109:24	103:19	22:15	62:2 63:23
105:7	97:18	serve 67:22	Shabazz	shred 152:24	107:2 156:3	smoking	71:2 95:3
108:17	108:16	served 12:23	107:6	side 45:21	208:11	234:8	95:16 98:16
110:18	245:12	service 46:25	shape 171:24	65:7 81:19	246:15	snatches	103:20
116:10	sending 80:4	66:22 69:19	share 23:10	98:24 100:5	situation 9:20	50:18	106:7
118:25	80:5 101:2	73:4 78:17	90:18	135:25	103:13	snippet	138:25
139:7	106:7	80:16 81:10	sharing 6:14	170:17,18	143:12	154:11	150:22
148:22	196:20	88:4 104:11	Sharon 43:15	170:19	185:20	SOB 49:24	195:11
158:19	sense 12:18	106:10	shed 8:5	171:12	220:7 229:2	sober 79:24	208:6 234:4
159:14	15:6 25:13	118:5	sheer 246:25	192:2 212:4	233:8 243:8	sobriety	234:14
167:3 189:7	53:4 82:19	176:17	sheet 105:21	219:3,4,11	situations	194:22	somebody's
192:9	122:25	205:9 213:3	shekels	219:14,15	205:14	social 11:9	202:14
195:22	125:13	222:17	109:16	219:18	225:14	52:25 55:22	someone's
199:16	143:13	223:2	shift 41:21	238:7,7	233:2	62:6,24	40:6
202:8 205:2	148:16	services 11:9	66:17,19	sides 156:19	six 8:4 74:10	69:21 77:22	somewhat
205:3 206:9	155:18	20:24 29:25	67:10,21	218:23	six-day 209:7	78:8,17	52:17
217:18	sensible	42:12 43:3	88:2	signed 223:2	209:10	80:16	154:17
219:2 246:7	146:18	43:22 44:5	shifted 61:23	247:21	Sixth 32:10	104:11	soon 187:19
246:23	sent 45:2	44:6 48:16	shifting 67:19	248:25	size 53:14	106:10	227:21
seeing 15:10	210:4,6	49:2 52:10	shifts 88:15	significant	195:25	107:25	sooner
42:3 112:8	233:2,25	52:25 53:2	shoe 244:23	192:13	skeptic	118:5 218:8	118:13
120:16	234:2	54:11 55:23	shop 203:25	signing	244:24	220:8 225:8	sorry 37:16
149:7	sentence	56:2 57:5	212:15	247:23	skill 160:11	225:14	81:6 117:24
167:23	13:11 35:6	67:12,20	short 14:22	249:10	178:17	226:6,10	118:15
196:24	37:9 106:18	68:22 69:5	91:6 162:6	silly 117:15	184:22	227:2	129:8
seen 38:22	124:2	69:18,21	192:12	similar	186:13	229:18,20	144:13
66:10,13	142:21	73:5 78:9	225:5	112:20	187:2	231:14	165:3
123:9,21	169:3,13	108:23	short-run	115:4	skilled 130:7	232:8,9	229:15

Special Committee on Criminal Justice Reform
September 12, 2016

sort 12:5 27:10 29:11 30:4 31:16 32:19 35:21 40:10 63:24 94:4 99:10 99:18 106:18 123:13 146:3 249:25	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 70:1,9 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 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1	148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 251:15	specialists 151:18 specialized 151:6 specific 38:4 97:16 113:4 118:22 148:21 155:15 169:4,18,20 181:21 specifically 38:22 94:20 specificity 154:25 speech 168:11 speed 66:18 224:11 spend 14:4,7 100:2 112:25 208:25 209:5 spent 12:20 70:13 113:21 123:7 spillover 15:25 spoken 105:9 247:4 spot 116:12 spread 75:10 staff 54:9 88:18 198:13 staffer 108:2 staffing 47:19 stage 32:3,12 stake 4:11 236:3 stakeholders 7:11 20:8 158:6 173:4 212:6 stakes 240:9 stand 146:14 standard 215:22 standards 48:20 236:5 standing	239:6 standpoint 87:7 star 128:23 147:13,14 172:7,9 174:11 237:25 stars 174:8 start 5:23 32:18 59:4 86:9 110:16 110:18,20 111:4,10 164:13 175:14 183:11 184:21 187:12 189:11 190:24 191:17 213:19 214:20 227:3 243:15 246:13 started 46:8 73:21 75:10 96:20 110:21,21 119:25 176:19,24 177:3,7 181:25 190:23 242:7 starting 74:21 150:8 164:23 195:8 246:7 starts 152:18 160:12 195:7 state 3:11,18 23:17 35:9 92:11,12 93:13 106:18 107:21,22 111:18 197:23 199:8,9	201:3,5 211:3 statement 25:8 43:20 44:4 56:13 67:22 69:18 91:16 states 170:23 170:23 static 182:13 208:18 station 246:22,23 statistical 4:23 27:12 129:15 226:8,15,16 228:9,12 229:6 231:7 232:14 235:11 statistically 233:21 statistician 126:23 136:13 232:3 statisticians 236:9 statistics 102:3 121:12 230:11 232:6 238:15 stats 59:18 91:21 190:6 226:25 227:19 231:13 status 138:20 142:11 180:15 statutes 160:13 statutory 123:19 stay 46:19 86:21 89:3 96:16 108:6 196:25 235:8 stay-away	28:8,13 71:21 stayed 139:9 stays 79:20 steady 131:2 stenographer 83:7 248:7 248:17 stenographic 252:6 step 118:16 144:7 181:22 204:12 223:5 step-down 58:25 59:12 stepped 60:19 stereotype 130:13 Stevenson 11:24 stick 134:18 stigmatized 172:13,17 stop 86:13 196:20 store 243:15 stories 163:11 story 194:24 straight 241:17 strain 48:21 strategies 1:23 2:18 strategy 6:25 stream 81:13 street 106:19 240:19,23 streets 242:13 247:2 stressful 116:22 117:15 strict 50:6 strictly 149:18 164:11 striking 113:24 stringent 50:3 strings 84:3	240:21,24 strive 53:17 127:5 strokes 187:4 strong 176:25 183:25 198:18 200:24 221:15 structure 30:23 114:25 187:20 220:8 structured 190:25 191:11 structures 221:12 structuring 182:3 struggles 71:6 struggling 65:18,18 93:13 stuck 166:17 students 234:7 244:10 studied 30:13 studies 7:25 8:5,15,20 8:23 9:9 11:20 35:16 36:15 37:3 151:15 199:14 study 11:22 14:15,18 16:18 28:20 31:22 38:13 65:24 77:8 77:10 85:8 199:6,9 studying 104:24 stuff 79:16 153:17 193:25 218:2 243:17 stumbling
---	---	--	---	--	--	---	---

Special Committee on Criminal Justice Reform
September 12, 2016

78:11	successfully	supervisory	surveil	213:7 216:9	147:18	227:15	199:3
style 195:20	214:24	46:13 52:24	234:14	222:4	150:6 164:8	237:9 241:3	tangible
subject 39:21	232:5	supply 84:12	surveillance	227:20	171:9,15	243:10	244:20
115:11	sudden 75:13	support 53:8	235:2	228:6	172:2	248:20	targeted
submit 120:9	suggest 40:15	57:22 60:8	surveilled	232:23,23	176:24	talked 49:2	20:21
subpoena	122:24	76:16	233:23	234:11	178:5	112:17	181:25
79:10	150:10	116:11	survey 188:8	235:18	201:11	150:15	183:5
subpoenas	250:14	187:13	surveys 188:7	236:2 246:3	226:7 229:9	155:10	222:10
79:24 80:4	suggested	210:19	188:24	246:4,8	230:10,15	164:4 180:5	targeting
80:6	22:2	212:12	suspect 95:4	247:12,18	230:22	212:13	176:5 182:4
subsequently	suggesting	241:14,15	154:5	systematic	takeaway	218:7	222:10
162:24	40:18	247:11	SWAT 50:17	147:10	143:16	221:22	250:11
subsidiary	suggestion	supporting	sweep 128:5	systemic	takeaways	talking 44:10	Tariq 1:17
61:18	99:9	197:4 198:6	sympathetic	167:11	22:6	52:17,19	84:10
211:23	suggestions	supports 58:8	150:6	systemically	taken 35:2	60:15 75:23	110:25
substance	30:20	Suppose	sympathy	146:23	60:9 61:12	75:25 78:21	tasked 55:18
177:6,20	151:10	122:20	220:9	systems 6:11	118:12	80:9 81:12	tax 11:7
182:6	suggests	supposed	symptoms	19:19 22:23	161:18	81:24 83:10	85:25
215:18	15:20 17:2	59:6 136:25	123:3	106:21	187:20	87:10,11,14	111:13
216:16	18:8	137:2	synthesize	179:2	217:10	100:3	taxed 75:8
225:13	summarize	245:14,15	220:12	182:17	226:11	114:24	taxpayers
249:16	22:5 33:20	Supreme	system 1:22	183:3 208:4	232:12	118:6	85:23
substances	summer 2:23	31:25	2:16 3:22	227:24	252:6	119:19	teach 120:2,8
236:8,14,21	summons	226:12	5:5 6:12 7:2		takes 59:7	124:5	178:25
substantial	79:3,7	sure 5:19	9:6,18 11:4	T	109:5	148:25,25	teaching
14:5 16:19	supervise	21:19 30:6	11:12 13:6	T.J 225:6	131:25	149:9	178:12,16
17:21	95:6,8	35:25 61:11	15:7,24	table 17:12	138:11	151:14	teamed 20:8
161:23	176:22	61:24 62:10	20:12,16,16	18:14 42:18	139:12	152:2	techniques
163:9	supervising	63:9 66:21	20:20 22:9	81:20 93:9	151:11	156:10	184:10
196:13	55:19	79:19 95:9	23:18 30:10	108:15	189:8	157:20	technology
substantially	supervision	95:14,22	30:14,18,21	121:4	talk 7:14 8:7	158:2	45:18 46:6
22:12	20:19 29:4	99:2,14	30:23 31:7	159:13	11:14 47:5	168:13	51:7,9,11
162:15	44:6 45:9	117:18	31:14 40:23	173:24	56:17 62:24	169:5,15	51:16 74:13
187:7	45:16 46:10	129:21	44:19 46:3	224:21	94:21 95:23	175:22	83:19 92:4
195:16	47:24,25	130:17	46:20,21,24	228:5	101:9	180:10,11	142:23
substituted	48:5,11,16	134:15	54:14,20	tag 61:19	112:13	180:22,23	telephone-b...
156:14	48:21,25	152:10	57:22 58:7	tailored	115:14,19	181:4	20:15
subtleties	49:6,17,19	156:25	78:20 79:20	54:18 55:6	116:16	182:15	tell 19:9
126:18	53:19 55:21	166:13	83:11 85:24	take 7:7	121:16,24	184:24	44:12 46:18
succeed	55:22 57:24	170:21	95:2 105:5	20:21 21:15	124:10	185:9,14	59:14 90:22
241:25	59:2 60:12	177:5,22	108:5,6,8	23:16 40:21	125:25	190:25	92:16,24
success 19:24	75:2,7,13	182:3 185:6	114:15,19	47:2 55:13	126:3	196:11	100:22
23:9 70:6	92:12	188:17	144:3 145:7	55:15 60:2	136:20	197:25	121:20
77:20 119:8	175:23	198:16	145:10	60:20 69:20	141:13,14	198:21	143:17
200:22	176:3,25	200:19	166:24	88:14 92:15	142:3 148:3	205:19	145:13
201:7	177:21	203:21	167:8,16	111:6	150:18	221:18	172:9
244:22	194:21	206:2	168:15,18	114:19	157:16,23	222:3	181:10
successes	195:4	220:19	168:20	117:17	174:23	227:17	189:14
72:13	203:10,10	243:2	176:20	132:12,15	175:6 180:3	231:3,4	194:25
136:18	204:10	surprised	178:25	132:17,18	180:6	236:5	226:23
successful	212:17	192:9	183:24	132:20	181:23	237:20	232:18
21:20 33:17	219:4,7,8	surrounding	184:14	134:22	192:15	238:21,23	234:20
77:21	252:23	45:19	186:4 208:4	139:4 140:7	201:2 217:8	talks 198:24	237:5
				146:9			

Special Committee on Criminal Justice Reform
September 12, 2016

240:17	228:24	224:23	235:22	178:13	81:23 83:6	237:19	throw 185:2
242:7	test 119:6	250:21,22	236:18	179:13	83:9 84:5	238:9,11,14	225:18
telling 179:23	159:11	251:12,14	239:6,7	182:4	84:18 86:13	239:2,8	234:17
180:19	testifier 84:22	thanks 6:3	240:6	183:21	88:4 89:5	249:18	245:20,23
181:9	testify 5:13	23:11 35:13	242:15	184:4,8	91:22 94:16	250:25	thrown 244:6
tells 13:19	92:25	117:22	246:21	188:6,7,18	95:11 98:21	thinking	tie 213:4
22:7 46:18	120:23	141:10	things 3:21	193:21	99:15,20	111:9	223:25
172:11	130:13	theft 64:25	4:24 9:2	197:8 198:8	100:13	114:12	ties 61:7
181:19	testifying	theirs 61:23	11:7 17:2	199:25	101:17,18	139:6 161:2	time 4:6 7:24
193:17	5:24 140:15	201:8	18:16 25:12	200:4,12,23	105:9	178:20	12:21,23
ten 53:12	testimony	theme 119:18	25:24 26:9	201:20	106:20	190:17	14:4 19:23
74:11 82:4	3:23 42:4	then-Presid...	26:14 27:3	202:2	107:2,9	234:21	20:13 22:16
96:25	56:23 57:19	83:17	27:24 28:24	204:22	109:6,25	thinks 26:19	23:11 26:17
225:11	77:8 93:15	theories	32:4 34:23	205:7,11	110:24	123:3,6,20	27:4 28:23
tend 194:3	109:23	227:22	35:2,5,16	206:12	111:25	third 4:6,15	41:22 47:5
204:22	111:17,19	theory 227:8	35:23 39:19	208:7	112:7,10	98:13 104:4	47:7 48:7,9
tendencies	120:18	227:10,10	39:20 40:6	212:18	114:11	thought	49:22 50:8
226:16	144:25	227:11	41:14 57:19	215:15,21	115:9	35:21 91:5	50:16 51:15
tendency	159:22	235:6	59:5 61:11	219:11	117:16	91:7 110:3	53:16 64:13
208:19	174:21	therapist	62:21 63:21	220:13	118:10	120:6	66:4 70:14
219:12,15	250:24	246:15	65:20,25	222:5,13	121:21	121:16	73:11,23
tends 8:13	251:13	therapists	66:15 69:22	244:25	122:4,5	149:16	75:15 77:15
103:12	testing 177:4	242:14,21	75:23 77:20	250:8	125:2	183:16	78:21 82:17
tenet 166:24	177:4,20	242:22,22	77:25 78:5	think 5:22	126:18	202:5	85:6 90:2
tenets 235:25	245:16	therapy	79:21 80:3	6:24 10:4	129:2	211:15	92:3,17
tens 8:21	text 46:5	176:4	80:14 86:10	13:18 16:12	131:13,15	thousands	98:13 104:4
tense 205:14	thank 2:21,22	206:15,20	88:16,21	16:24,25	136:23	8:18,22,22	110:5 113:2
tension 95:21	2:25 5:10	222:21	93:25 95:6	17:19 19:7	138:7,7	46:4 125:9	113:22
tenure 4:2	5:11 23:13	242:17	96:9,18	21:17 22:3	139:15,17	162:8	116:20,22
239:4 250:3	30:12 34:9	they'd 176:23	106:12,13	23:21 24:10	142:12	threat 186:4	117:15,17
term 175:15	37:15 38:10	thing 4:15,15	118:6	24:16 25:7	143:18	186:5	121:19
176:15	42:4,5,14	23:21 31:2	122:17	25:18 26:3	147:17	threatened	128:9 129:4
termed	42:19 56:22	54:23 71:10	131:23	26:12 27:8	152:20	108:14	129:9,15,25
182:22	61:14 90:3	74:21 75:12	134:8	27:11 28:18	153:2	three 21:5	130:8,12
terms 5:19	92:19 93:10	76:17,18	135:11	29:12,14	158:24	46:2 79:24	141:2
14:6 30:20	109:20	79:2 82:10	140:12	31:11,14,17	159:6,7,14	83:16 84:2	159:18
31:4 68:19	111:16,20	90:6 96:12	147:18	31:19 32:4	163:24	97:6 98:14	160:11,16
69:9 70:3	111:24	96:13 97:5	149:14	32:15,17,22	164:2,4,13	98:20 125:2	160:18
72:6,14,16	120:12,17	97:22,24,25	153:2,7	32:25 33:14	167:2,5,7	130:24	161:19,23
72:16,24	120:19	98:7,9	157:23	33:22 34:2	167:20	131:10	162:6
85:18 86:19	141:8	100:4	159:19	34:5 35:15	168:10,12	145:16	173:12
101:12	144:24	109:22	160:3	35:18,20	169:10	155:12,12	175:10
110:11	154:3	111:25	163:10	40:13,17	170:9,13	182:14	186:8 189:8
111:10,13	155:21	119:2	164:4 165:6	41:12 42:23	171:3	191:23	190:25
118:7	156:22	123:16	165:20	43:10,19	176:16	225:14	191:5,10,15
135:22	160:21	138:4	166:10,15	50:15,23	197:9	226:24	192:13,13
154:22	173:6,8,13	155:22	166:19,23	52:16 58:21	200:23	threshold	200:3
155:5 161:6	173:14	171:25	168:23	60:3,18	201:8 202:9	39:10 126:2	208:10,11
169:5 190:7	174:4	172:9	171:16	61:20 63:22	205:15	215:23	209:4,11,13
191:20	175:11	188:15	175:18	65:22 66:7	217:20	thresholds	209:16
228:11	214:15	205:6,16	176:13,18	67:3 72:11	221:3,10	215:4	218:25
240:10	216:20	214:7 216:3	177:3,10,12	73:15 80:3	234:18	threw 242:10	225:22
terrible	224:7,9,15	233:15,17	177:14	80:21 81:14	236:8	thrif 243:15	226:13

Special Committee on Criminal Justice Reform
September 12, 2016

232:15	230:25	202:25	226:17	troubling	tweaked	193:15	134:14
239:3	tool 25:3	total 209:2	translates	14:17	129:12	206:3	143:20
240:12	38:17 39:3	239:17	34:6 236:22	true 14:23	twice 13:16	214:18	149:25
248:6,16	39:13 40:10	totally 133:20	Translating	15:13 43:25	98:17,20		164:3
timeline	53:6 60:16	248:19	24:19	177:15	201:17,18	<u>U</u>	178:13
65:19 82:18	99:22 100:8	249:24	translation	230:5 252:7	209:14	ultimate 35:6	understands
timely 30:2	100:8	touch 46:19	237:2,6	truly 40:16	two 4:19 9:25	37:8 135:23	81:21
63:10	139:21	54:2 79:20	transparency	176:17	14:24 46:8	214:23	understood
times 53:12	140:4 146:5	touches 94:13	143:20	221:22	61:22 97:13	ultimately	117:14
54:11 57:25	146:9	tough 62:9	237:19	trust 41:16	98:14	14:2,19	unduly 4:17
59:16 62:15	147:10,24	126:16	transparent	truth 37:6	100:12	15:2 16:2	unemploy...
82:4 95:20	148:11	tour 23:16	124:21	166:8	107:15	22:16 31:17	11:8
96:14 100:2	149:7,12,17	town 91:2	128:2 159:8	try 3:16 5:6	115:24	32:22 33:22	unfair 166:16
102:2 106:5	149:18	track 20:24	205:18	20:10,24	117:6	34:4 104:4	unfeasible
109:4 112:4	152:7,12	29:6 198:19	transporting	29:6 32:23	118:23	250:10	232:17
158:18	154:17	200:24	74:6	99:13,13	130:23	unable 98:18	unfortunate
160:18	156:15	201:8	travel 220:2	116:6 168:6	131:25	uncertain	231:21
182:10	157:8	trade-off	treated 72:23	168:7 179:9	132:3 135:2	32:2	unfortunat...
189:9 190:9	160:25	26:19 73:17	113:23	183:4	147:16	uncertainty	98:10 127:6
206:14	161:6	74:5 127:21	treatment	185:18	148:21	235:5	220:5 250:7
212:13	162:14	133:14	29:20 80:17	214:8,8	160:8	uncomforta...	uniform
213:23	169:16	143:7,15	106:11,12	216:4	170:23	136:12	229:24
236:12,12	170:2,15,16	144:22	116:12	220:12	195:3	unconstitut...	union 66:22
236:13	170:25	155:2	122:24	230:23	206:12	114:21	unique 40:21
tipping 25:23	171:5,5,9	trade-offs	175:22	239:12	222:22,24	170:24	50:12
tired 108:12	172:16	126:22,24	177:8 188:9	trying 6:10	227:21,24	uncontested	unit 43:4,16
title 2:10 35:9	181:19	128:12,16	188:10,12	7:16 32:18	228:3 229:3	225:25	44:17,17
237:23	toolbox	136:8	191:7 192:3	33:15,18	230:9	understand	45:11 48:22
today 3:2,14	163:16,17	142:24	192:9 204:9	40:21 51:20	233:13	6:20 7:11	50:11 57:14
5:13,24	tools 19:2	155:18,19	206:5,18,23	65:19 66:8	240:12	7:16 8:25	73:5 93:24
6:14 7:15	23:4 24:16	158:4	207:5 209:5	69:24 75:18	243:20	43:21 63:19	94:4
8:13 10:10	26:3 39:23	tradition	211:16	80:11	244:4,8	71:15,17	United
11:15 17:15	138:19	176:14	219:3,6,8	110:11,12	248:10,11	79:21 80:2	170:23
17:23 18:6	139:3	train 242:20	219:14	110:14	two-atomic	84:24 87:14	238:18
19:10 22:2	141:16	246:17	treatments	189:7 202:3	228:6	100:20	units 51:12
30:15 43:9	145:12	trained 78:16	177:10	231:25	two-thirds	110:15	155:12,13
121:16	149:24	80:15	tree 102:19	234:19,21	114:4	116:21	universal
124:6 135:9	150:2 151:6	198:13	trees 107:17	238:23	type 37:22	117:8,18,21	215:16
151:10	151:24	228:8 233:5	tremendous	turn 5:8	38:13 45:17	125:18	University
154:5 174:5	152:15	training 33:2	201:7	27:17	46:12,12	133:10	6:9 121:2,9
174:9,23	159:8 160:5	80:18	trial 1:19	108:13	47:3,12,13	139:23	189:20
175:12	160:23	184:22	3:12 7:6	144:12,18	48:11 52:23	147:2	224:18
180:6 200:3	163:7	198:15	13:4 28:5	155:12	74:12 77:7	156:16,16	225:7 234:8
227:24	166:10	210:19	36:2 43:2,5	175:5	85:19	156:25	unprofessio...
230:6	top 38:8	232:8,10	49:23 59:8	turned 21:6	206:15	158:14	158:25
today's	152:12	trains 94:5	95:7 148:23	Turner 43:16	types 4:20	169:21	159:7
224:17	182:20	transcript	trials 21:3	59:19	26:15 36:20	170:10	unwanted
tokens 103:23	198:24	252:8,21	tried 17:11	turning 66:18	37:23 39:12	210:9	186:22
told 69:14	225:11	transferred	trigger 179:6	75:16 80:13	167:11	229:23	update 51:11
117:19	top-ten	63:3	trip 52:16	turns 36:11	typical 206:7	230:21	updated
122:17	225:10	transfers	61:15	36:17 126:8	215:21	237:3	160:5
245:12	topic 8:2	223:20	217:11	149:20	typically	understand...	upwards
tomorrow	torches	translate	trouble 139:9	tweak 188:22	10:17	8:6 85:19	196:12
						118:7	

Special Committee on Criminal Justice Reform
September 12, 2016

urgency 62:6 82:19	161:5 244:8	violate 62:12 92:13	26:21,24 27:10 29:15	248:3,4,13 251:3	106:20 109:2,17	72:2 74:6 74:10 75:5	180:3,6,10 180:11,16
use 8:13,15 8:24 18:15	V	101:14	30:4 32:22	wanted 30:13	119:4	75:23,25	180:22,23
22:23 36:23	vacuum	violated	33:22 36:2	64:16,22,24	126:20	77:17,18	181:4
46:24 51:6	99:17	235:20	40:8 54:2	68:19 82:5	129:18	78:20 80:4	184:23
51:22 53:5	validated	violating	60:5 62:3	94:16	140:20	80:9 81:4,5	185:14
54:5 60:3,4	159:6	28:11	63:15,21,22	117:24	144:22	81:6,12	186:23
70:16,18	181:18	217:25	67:3 68:11	155:25	154:12	82:22 85:3	190:18
79:3 121:22	valuable 7:10	violations	70:25 78:24	196:2 198:2	161:17	87:6,9,14	192:8
124:8	86:6	20:20	81:16 82:15	204:4 237:9	163:5	89:8,9 90:3	194:18
129:13	value 170:20	violators	82:23 83:13	239:17	165:10	90:6 91:21	195:5
130:10	199:2 208:2	192:23	84:4,18	240:7	167:21	93:12 98:2	197:19
138:14	values 27:13	violence 28:8	87:3 89:9	wanting	176:7,22	98:10,25	198:7,11,13
139:2 140:8	178:23	80:18	89:19 94:24	167:16,16	179:20,21	99:11,11	200:2,5,19
141:5	182:16	128:17	108:14	wants 140:17	194:14	100:17	201:22
142:10,10	183:3	129:11	109:21	warrant	214:11	101:2	202:3 204:4
142:11,17	variable	161:15	111:25	91:24 92:2	223:5	104:21,24	204:5,20
142:19	34:16	165:18	112:13	warrants	233:23	105:20	205:2,3,8
143:8	variables	violent 72:9	119:10	71:11,16	236:23	106:15,16	205:20,21
153:20	27:4 34:22	126:11	122:22	76:20	243:25	107:2,9	207:12
154:22	142:17	215:20	134:9	wars 233:3	246:14	110:12,13	210:9,21
161:20	variation	virtually	135:20	Washington	249:11	110:14	211:16
162:23	36:21,22	165:21	138:2	17:19 23:15	ways 6:11	111:8 112:5	212:24
163:3,18	variety 15:12	visits 122:6	144:13	27:18 47:3	95:10	112:7	213:24
164:7	131:3	visual 247:5	146:2	52:14,16,20	107:12	114:12,24	214:11
170:15,24	175:17	volume 46:20	150:18,19	52:20 65:5	119:7 131:3	118:10	217:14
171:4	various 24:15	47:13 49:12	153:17,20	77:18 199:8	155:8,9	127:6 131:4	219:6,13,19
182:23	55:20	62:20 70:7	153:23	199:8	203:15	131:6,8	220:13
184:9,15,16	151:10	196:5 210:3	154:21,22	wasn't 45:24	we'll 29:8	133:12	225:11
185:18	173:3	W	155:22	109:14	96:5 115:22	135:19,20	227:17
188:25	vary 39:12	Waird 97:15	158:12,18	177:2 199:5	127:17,20	135:20,21	228:14
189:7 193:6	209:24	wait 50:20	158:19	233:4	134:9	139:25	230:9
207:11	vast 18:9	159:3	159:3	watch 66:7	144:15	143:2,6,11	234:21
210:13	51:11	163:14,18	163:19	234:3	155:11	143:13	235:3
215:13	Venn 219:2	163:19	165:16	watched	157:8 160:2	144:2,7	237:20
219:23	verify 116:5,6	166:18	166:18	202:20,24	171:10	148:14,25	238:20,23
225:13,22	versions	167:6,19	167:6,19	235:19	174:13	148:25	240:3,4,5
229:17	196:3	172:2 178:5	172:2 178:5	wave 10:8	175:3,9	149:12	242:5
236:20	versus 38:6	184:13	184:13	22:7	176:8	150:2,7,8	243:17
249:16	186:22	192:15	192:15	way 2:23 19:7	184:15	151:20	244:2,7
useful 25:3	187:4 229:4	197:16	197:16	21:13 22:15	212:14,25	156:25	247:4
40:10	231:4	204:4	204:4	22:19 30:2	214:19	163:25	we've 44:10
uses 10:8	viable 22:21	211:19	211:19	36:12 41:18	we're 14:21	167:2,10,23	49:2 59:2
12:3 185:14	205:9	216:19	216:19	43:19 53:10	15:10 22:3	168:13	69:4 72:13
usually	victim 131:14	221:17	221:17	54:25 55:2	27:22 29:3	169:15	85:12 89:4
115:24	victims 135:5	223:21	223:21	55:3 63:18	29:8,18	170:14	91:14
202:15	162:7,9	239:5	239:5	67:18 68:12	33:16 36:12	171:3,14	116:13
249:15	video 44:19	240:11	240:11	68:18 70:22	37:2 39:11	172:3,4,10	118:11
utilization	74:3,5,12	242:13	242:13	75:6 85:4	46:4 48:19	175:24	124:5,10
11:9 194:8	82:6,6,9	want 2:25	243:12,20	86:25 87:3	51:20,25	176:14	128:17
utilize 139:23	view 39:17	3:25 4:8,16	243:21	88:4 89:12	52:18 53:24	177:12,22	129:23
utilizing	41:4 132:8	5:12 10:3	247:16	95:12 96:20	58:14 60:10	179:10,14	130:7 144:3
	232:19	11:16 12:25		104:8	65:3 67:18	179:17	164:4 190:2
	viewed 20:14	14:21 26:4					

Special Committee on Criminal Justice Reform
September 12, 2016

190:9	86:22	120:24	214:10,19	165:11,22	227:12	<u>1</u>	59:1 60:1
192:20,22	119:25	121:3,3	214:20	168:2 237:4	239:22	1,300 57:8	61:1 62:1
193:5 194:9	159:9	173:23	215:8,10	238:13,19	245:2,4	1:15 1:7	63:1 64:1
196:15	192:24	224:17,20	216:18	worlds 9:25	249:15	10 18:4 77:11	65:1 66:1
199:15	240:11,18	224:20	217:16	worry 170:6	years 12:2	125:6 209:2	67:1 68:1
200:7,8,8	242:4,5	witnesses	223:21,22	worse 127:10	14:25 46:2	243:6	69:1 70:1
200:21,25	weren't 29:11	42:15 90:25	227:9 237:4	127:20	46:9 53:10	100 192:3	71:1 72:1
201:5,7	WERTHEL...	93:2,8	238:18,18	134:10	54:21 58:7	196:11	73:1 74:1
203:3	1:14	120:22	241:6	135:14,15	67:5 83:16	236:12,19	75:1 76:1
204:24	West 243:25	173:16,23	242:12	143:14	94:14	110 196:12	77:1 78:1
212:13	244:11	women	244:25	worst 192:7,8	121:13	118 59:20	79:1 80:1
217:10	whatsoever	125:25	245:13	worst-case	129:6,24	12 1:7 12:14	81:1 82:1
239:10,21	45:17	126:4,4,7	246:9,10	245:13	130:24	12-step 28:3	83:1 84:1
weakness	167:25	126:10,13	worked 41:20	worth 12:2	148:12	222:23,24	85:1 86:1
28:21	wheel 110:13	127:17	73:18 98:22	56:17 132:7	156:4	125 57:2	87:1 88:1
wealth 61:5	white 20:10	135:13	104:17	wouldn't 36:5	175:17	85:15	89:1 90:1
wearing	124:22	249:16	119:22	75:11,14	191:19	13 59:22	91:1 92:1
165:9	145:7	wonderful	194:12	137:19	233:24	14 144:20	93:1 94:1
weed 34:21	whites 127:19	151:9 246:5	209:19	150:6	238:25	140 57:2	95:1 96:1
week 48:4	widely 24:18	Woods-Ski...	243:23	154:12	239:4 244:5	1400 132:17	97:1 98:1
107:4	widespread	103:2	worker 62:7	157:22	244:9 246:3	145 85:15	99:1 100:1
117:11	125:16	word 191:18	62:24	193:15	246:5	15 53:10	101:1 102:1
191:14	WILFREDO	247:4	107:25	239:16	Yelp 157:12	125:6 209:2	103:1 104:1
202:13	1:13	words 119:17	218:8 220:8	Wow 163:13	York 216:25	150,000	105:1 106:1
209:3,6,12	Will's 14:18	work 2:22	232:8	write 82:25	239:11	83:18	107:1 108:1
209:13,14	15:19	3:24 8:10	workers	83:3	young 28:10	160101 1:20	109:1 110:1
240:12	WILLIAM	16:9 24:21	77:23	writing	233:6	2:12 3:1 4:1	111:1 112:1
weekend	1:11	24:23 27:24	240:13	178:17	247:24	5:1 6:1 7:1	113:1 114:1
63:24 234:9	Williams 2:22	30:8 54:13	working	wrong 76:22	Youth 220:15	8:1 9:1 10:1	115:1 116:1
weekends	42:7 92:24	55:14 82:20	55:16 57:13	77:5,12	220:15,17	11:1 12:1	117:1 118:1
47:23 97:13	94:16	85:7 89:17	58:6 66:25	80:4,6	220:24	13:1 14:1	119:1 120:1
weeks 72:12	120:21	92:6 99:12	75:5 85:3	169:11	221:3,4	15:1 16:1	121:1 122:1
weigh 125:11	224:10,25	102:25	95:25 98:25	172:4		17:1 18:1	123:1 124:1
166:18,22	willing 12:22	105:8	99:11	wrongful	<u>Z</u>	19:1 20:1	125:1 126:1
weighing	54:13 72:24	106:21	100:12,16	13:7	zero 105:22	21:1 22:1	127:1 128:1
140:11	109:17	108:8	101:6	wrote 154:9	zip 4:23	23:1 24:1	129:1 130:1
145:15	139:25	110:22	104:17	165:3	25:14,18	25:1 26:1	131:1 132:1
weight	wind 220:6	115:23	116:6		26:10 27:15	27:1 28:1	133:1 134:1
143:23	window	129:10	149:21	<u>X</u>	130:18	29:1 30:1	135:1 136:1
144:19	227:23	135:10	177:12	X 236:11	131:24	31:1 32:1	137:1 138:1
weighted	windows	140:5	213:19		132:12,20	33:1 34:1	139:1 140:1
170:17	50:17	150:17,24	works 3:20	<u>Y</u>	134:18,20	35:1 36:1	141:1 142:1
weighting	winning	160:8	70:24 96:20	yeah 24:13	134:24	37:1 38:1	143:1 144:1
143:24	161:4	173:25	99:22	26:2 29:5	141:20,20	39:1 40:1	145:1 146:1
weird 104:19	wire 248:18	174:12	102:22	31:9 38:2,8	145:4	41:1 42:1	147:1 148:1
welcome 5:12	wireless	179:25	186:12	38:24	181:15	43:1 44:1	149:1 150:1
6:2 174:7	51:12,22	181:11	193:7 195:2	117:10	202:15,15	45:1 46:1	151:1 152:1
174:20	52:3	182:19	205:16	122:7	203:8	47:1 48:1	153:1 154:1
224:22	wish 159:11	184:6	246:5	123:25	zone 229:11	49:1 50:1	155:1 156:1
well-being	witness 42:8	187:16	world 82:14	247:17	229:16	51:1 52:1	157:1 158:1
11:13	42:9,17,17	191:8 198:9	121:15	year 49:11	231:6	53:1 54:1	159:1 160:1
went 47:4	92:21 93:8	205:15	147:4	109:10	zones 230:8	55:1 56:1	161:1 162:1
52:14 74:2	109:15	213:9 214:6	158:16	201:14	<u>0</u>	57:1 58:1	163:1 164:1
				221:10			

Special Committee on Criminal Justice Reform
September 12, 2016

165:1 166:1	162:5 163:7	190:12,14	72:1 73:1	178:1 179:1		
167:1 168:1	163:8,21	60s 232:6	74:1 75:1	180:1 181:1		
169:1 170:1	195:23	67 97:19	76:1 77:1	182:1 183:1		
171:1 172:1	200 192:6		78:1 79:1	184:1 185:1		
173:1 174:1	2015 51:2	<u>7</u>	80:1 81:1	186:1 187:1		
175:1 176:1	2016 1:7	7 243:6	82:1 83:1	188:1 189:1		
177:1 178:1	24 74:9 246:3	70 129:6	84:1 85:1	190:1 191:1		
179:1 180:1	246:4	191:4,10	86:1 87:1	192:1 193:1		
181:1 182:1	24/7 50:13,20		88:1 89:1	194:1 195:1		
183:1 184:1	50:25 63:11	<u>8</u>	90:1 91:1	196:1 197:1		
185:1 186:1	24/7/365	8:00 41:21	92:1 93:1	198:1 199:1		
187:1 188:1	44:19 47:22	80 161:22	94:1 95:1	200:1 201:1		
189:1 190:1	50:11 63:21	236:7,13	96:1 97:1	202:1 203:1		
191:1 192:1	25 48:17	245:3	98:1 99:1	204:1 205:1		
193:1 194:1	130:24	80s 24:10	100:1 101:1	206:1 207:1		
195:1 196:1	195:23	83 61:20	102:1 103:1	208:1 209:1		
197:1 198:1	209:21	85 175:3	104:1 105:1	210:1 211:1		
199:1 200:1	28 91:22		106:1 107:1	212:1 213:1		
201:1 202:1	171:18	<u>9</u>	108:1 109:1	214:1 215:1		
203:1 204:1		9/11 233:18	110:1 111:1	216:1 217:1		
205:1 206:1	<u>3</u>	9/12/16 3:1	112:1 113:1	218:1 219:1		
207:1 208:1	30 16:22	4:1 5:1 6:1	114:1 115:1	220:1 221:1		
209:1 210:1	48:17 58:7	7:1 8:1 9:1	116:1 117:1	222:1 223:1		
211:1 212:1	74:9 137:14	10:1 11:1	118:1 119:1	224:1 225:1		
213:1 214:1	246:4	12:1 13:1	120:1 121:1	226:1 227:1		
215:1 216:1	300 148:11	14:1 15:1	122:1 123:1	228:1 229:1		
217:1 218:1	192:8	16:1 17:1	124:1 125:1	230:1 231:1		
219:1 220:1	32 54:21	18:1 19:1	126:1 127:1	232:1 233:1		
221:1 222:1	35 48:18	20:1 21:1	128:1 129:1	234:1 235:1		
223:1 224:1	35,000 45:4	22:1 23:1	130:1 131:1	236:1 237:1		
225:1 226:1	38,000 71:11	24:1 25:1	132:1 133:1	238:1 239:1		
227:1 228:1		26:1 27:1	134:1 135:1	240:1 241:1		
229:1 230:1	<u>4</u>	28:1 29:1	136:1 137:1	242:1 243:1		
231:1 232:1	40 191:3	30:1 31:1	138:1 139:1	244:1 245:1		
233:1 234:1	199:19,21	32:1 33:1	140:1 141:1	246:1 247:1		
235:1 236:1	40,000 45:4	34:1 35:1	142:1 143:1	248:1 249:1		
237:1 238:1	400 1:6	36:1 37:1	144:1 145:1	250:1 251:1		
239:1 240:1	48 59:21 64:8	38:1 39:1	146:1 147:1	90 18:2 52:22		
241:1 242:1		40:1 41:1	148:1 149:1	77:13 114:8		
243:1 244:1	<u>5</u>	42:1 43:1	150:1 151:1	161:19		
245:1 246:1	5:05 251:16	44:1 45:1	152:1 153:1	196:11		
247:1 248:1	50 195:24	46:1 47:1	154:1 155:1	198:12,19		
249:1 250:1	50,000 72:7	48:1 49:1	156:1 157:1	230:7		
251:1	96:22	50:1 51:1	158:1 159:1	90s 17:20		
17 94:14	500 202:12	52:1 53:1	160:1 161:1	92,000 49:10		
180 49:23,25	52,306 51:3	54:1 55:1	162:1 163:1	95 161:3		
1920s 129:22		56:1 57:1	164:1 165:1	230:2		
1960s 231:7	<u>6</u>	58:1 59:1	166:1 167:1			
1990s 20:5	6 12:14	60:1 61:1	168:1 169:1			
201:6	60 91:18	62:1 63:1	170:1 171:1			
	195:24	64:1 65:1	172:1 173:1			
<u>2</u>	198:12,18	66:1 67:1	174:1 175:1			
20 73:22	199:23	68:1 69:1	176:1 177:1			
121:13	600 49:20,20	70:1 71:1				