

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

Room 400, City Hall
Philadelphia, Pennsylvania
Friday, February 10, 2017
10:15 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR.
KEIR BRADFORD-GREY, ESQ., Defenders
Association
WILLIAM COBB, representative of formerly
incarcerated person
KEVIN BETHEL, Philadelphia Police
Department (retired)
WILFREDO ROJAS, Office of Community
Justice and Outreach (retired)
DEAN JOHN HOLLWAY, ESQ., Quattrone
RICHARD McSORLEY, Deputy Court
Administration - Criminal Trial
REVEREND ADAN MAIRENA, W. Kensington
Ministry at Norris Square
JASON COSLEY, Reentry Programs, Impact
Services
RICHARD PODGUSKI, Bureau of Reentry
Coordination, PA Board of Probation
and Patrol

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 morning, everyone. We apologize for the delay. There was some breaking news. District Attorney Seth Williams has decided not to seek reelection, and as a member of this Justice Committee, it was relevant that we kind of stay abreast of that, and so we listened to the brief press conference he just had and thought we would share that with you.

So this is the opening of the Special Committee on Criminal Justice Reform, February 10, 2017. I want to call this meeting to order, seeing a quorum.

And will the Clerk please read the title of the resolution, Ms. Williams.

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

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2 current policies, and offer recommended
3 strategies for reform that are in the
4 best interest of public safety and the
5 public good.

6 COUNCILMAN JONES: Thank you,
7 Ms. Williams.

8 We've had about a half dozen
9 hearings and we've been looking and
10 taking a deeper dive into issues germane
11 to the paradigm of arrest and release
12 under the criminal justice system.

13 Before I proceed, would any of
14 the members of the Committee like to give
15 remarks?

16 MS. BRADFORD-GREY: I would.

17 COUNCILMAN JONES: Ms. Grey.

18 MS. BRADFORD-GREY: I want to
19 thank CLS for being available today to
20 talk about some really important
21 collateral consequences of our pretrial
22 detention process.

23 This has been a real goal of
24 the Criminal Justice Reform Committee, is
25 to look at ways we can reform our system

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2 so that we make better sense out of, one,
3 what we're doing with people and what
4 we're doing with taxpayer dollars.

5 I know that I've been seeing
6 numerous reforms across the country that
7 deal with pretrial detention and how we
8 use our bail system. Just yesterday I
9 think a three-court panel was voted -- or
10 not voted, I'm sorry, ruled that pretrial
11 detention for those who are deemed to be
12 indigent was unconstitutional under an
13 equal protection argument. While they
14 were dealing with issues where people
15 were charged with relatively low-level
16 offenses, they did rule that there was
17 not going to be bail used for those, but
18 the courts, or whomever the
19 decision-makers were, were to look for
20 other alternatives. That is one of the
21 major goals here, and what we've been
22 looking at is exploring all the things
23 that surround our use of our pretrial
24 detention process.

25 So I am looking forward to the

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2 testimony today that really touches on
3 the other portion of that pretrial
4 detention process; that is, what happens
5 to people when they are in pretrial
6 detention status for so long. Are we
7 making them more desperate? And if we
8 are, in what ways, and how can we
9 alleviate some of those problems so that
10 they can be better reintegrated into
11 their communities?

12 So I just wanted to start with
13 that and just to say I'm really looking
14 forward to hearing from the members of
15 the Community Legal Services
16 organization.

17 COUNCILMAN JONES: Thank you,
18 Ms. Grey.

19 Just as an added note, although
20 the Committee has not met since November,
21 the members of the Special Committee have
22 been very busy on trips to day reporting
23 centers, working on subcommittee topics
24 that are germane to the quoted pre-entry
25 as opposed to just dealing with reentry

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2 in criminal justice.

3 Today we will discuss the
4 impact of pretrial incarceration on
5 housing and public benefits. I'm excited
6 here to be joined by my colleagues for
7 this critical issue.

8 And now with that, will the
9 Clerk please read the first group of
10 individuals that are here to testify.

11 THE CLERK: Our witnesses today
12 will be Amy Hirsch, Rachel Garland, and
13 Dr. Bruce Herdman.

14 COUNCILMAN JONES: Good
15 morning. Thank you for your patience.
16 Please come up to the table. Your order
17 of testimony is at your discretion, but
18 whoever testifies must say their name
19 completely for the stenographer who is
20 taking notes and memorializing these
21 hearings today. Thank you.

22 (Witnesses approached witness
23 table.)

24 COUNCILMAN JONES: Pull the mic
25 closer to you, whoever is going to

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2 testify first.

3 MS. GARLAND: Good morning.

4 COUNCILMAN JONES: Good
5 morning.

6 MS. GARLAND: Thank you very
7 much for inviting us to testify this
8 morning. My name is Rachel Garland and
9 I'm staff attorney in the Housing Unit at
10 Community Legal Services. As I'm sure
11 you all know, Community Legal Services
12 was formed by the Bar Association in
13 1966. We just celebrated our 50th
14 anniversary.

15 Throughout these years --

16 COUNCILMAN JONES: You guys
17 don't look a day over 25.

18 MS. GARLAND: Thank you.

19 Throughout these years,
20 Community Legal Services has provided
21 free legal services to Philadelphia's
22 poorest citizens. We represent -- well,
23 we've represented over a million during
24 those 50 years, but every year we
25 represent about 11,600 individuals in a

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2 variety of different civil cases. So
3 here today I'm representing the Landlord
4 Tenant Housing Unit, and Amy Hirsch will
5 be testifying on the impact on public
6 benefits.

7 In addition to representing
8 individuals in their cases, we also do
9 advocacy on the local, state, and federal
10 level on behalf of our clients.

11 So I wanted to speak with you
12 this morning specifically about how
13 pretrial incarceration affects
14 individuals and families in terms of
15 their housing needs. Because pretrial
16 incarceration has a disproportionate
17 impact on minorities and on low-income
18 Philadelphians, it has a very
19 de-stabilizing effect on those
20 individuals and then a ripple effect on
21 the families that they help contribute
22 monetarily towards, either through
23 employment income, through public
24 benefits or through child support.

25 So when someone is detained

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2 before they've even had an opportunity to
3 represent themselves and defend
4 themselves in a criminal case, there are
5 immediate consequences that go into
6 effect which have a very de-stabilizing
7 impact on them.

8 So the most immediate is that
9 if they are incarcerated, they can't
10 continue working. And if they can't
11 continue working, they can't continue to
12 pay their rent. So one month's rent gone
13 means immediate eviction.

14 In Philadelphia, it can take as
15 little as six weeks for someone to be
16 evicted from the point that they don't
17 pay rent. So for a family where one of
18 the breadwinners has lost the ability to
19 earn their income or lost their ability
20 to pay child support, that family can be
21 evicted before the individual has had a
22 chance to defend themselves in their
23 criminal case and determine whether or
24 not they're even guilty of what they've
25 been arrested for. And they often,

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2 because they're incarcerated, won't be
3 able to attend their eviction hearing to
4 defend themselves against any allegations
5 as to how much rent is owed, whether
6 there's been breaches of the lease, and
7 whether the criminal activity has led to
8 the eviction or not, which means that
9 upon their release, they're facing not
10 just the barrier of having a criminal
11 record in terms of trying to get
12 employment and new housing, but they're
13 also facing the barrier of having a money
14 judgment and a judgment for possession on
15 their record, which any landlord is going
16 to screen for before letting them rent a
17 new place. So you're basically marking
18 this individual and this family, making
19 it very difficult for them to obtain
20 housing, even more so than if they just
21 had the criminal record or the arrest
22 record.

23 This is a problem particularly
24 for minorities, because minorities --
25 well, African Americans are incarcerated

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2 at a rate four times that of white
3 families. So pretrial incarceration has
4 the potential impact of creating
5 additional barriers for African Americans
6 at the rate of four times that of white
7 families in Philadelphia. And for a
8 majority minority city such as
9 Philadelphia, that has a very significant
10 impact on these communities and then on
11 our city as a whole.

12 In addition to that, this has a
13 disproportionate impact on low-income
14 families. Low-income individuals are
15 particularly vulnerable when it comes to
16 being able to afford cash bail and are,
17 therefore, more likely to be incarcerated
18 before they have a chance to defend
19 themselves in their criminal case. They
20 are also more likely to need every last
21 cent of the adults' income in the family.
22 So the loss of one income in the family
23 means almost for sure that they're going
24 to be evicted. It's not that they are
25 going to have savings that they can fall

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2 back on or one parent can continue to
3 carry the rent while one parent is
4 incarcerated. They really need both
5 parents' incomes.

6 There was a recent -- I don't
7 know if you've seen it. There was a
8 recent report put out by the Federal
9 Reserve which looked at the housing
10 burden on Philadelphia families, and it
11 found that in Philadelphia, they
12 calculate severely cost burden as
13 families that are paying more than 50
14 percent of their income in rent. A
15 normal level would be about 25 to 30
16 percent. Most of us, that's how much we
17 pay. Based on our income, we pay about
18 25 or 30 percent of our income in rent.
19 Severely cost burden families pay over 50
20 percent. And they found that in
21 Philadelphia, over three-quarters of
22 Philadelphians in the low-income brackets
23 are paying more than 50 percent. So
24 these are families who are not lucky
25 enough to live in subsidized housing.

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2 We do have affordable housing,
3 which bases your rent on your income, but
4 for families not living in subsidized
5 housing who are low income, the loss of
6 one adult income would mean that the
7 entire family - children, other adults,
8 extended family - would be evicted.

9 For those who are lucky enough
10 to live in subsidized housing, while it
11 might not have a monetary effect, the
12 effect of the eviction, the fact that
13 someone is not present in the subsidized
14 home for a period of time would also lead
15 to a breach of the lease and to possible
16 eviction from the home. And if you are
17 evicted because of these reasons, there's
18 a three-year ban on being able to apply
19 to subsidized housing. And in
20 Philadelphia, the public housing wait
21 list and the Section 8 voucher wait list
22 are both currently closed, and those who
23 are on the wait list, it's a ten-year
24 wait list. So if you are evicted because
25 of pretrial incarceration from subsidized

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2 housing, you're not getting back into
3 subsidized housing for at least a decade,
4 which means that your whole family now
5 has to somehow figure out how to rent on
6 the private market.

7 In addition to the effect on
8 individuals and families, pretrial
9 incarceration also has an effect on our
10 economy as a whole. Families that are
11 evicted from low-income housing or from
12 subsidized housing have to fall back on
13 the shelter system. They often don't
14 have family members that they can rely,
15 and they can't always just go out and get
16 a new job. And so it is very expensive
17 for our shelter system, which is already
18 overburdened, to be able to absorb these
19 additional families.

20 It's also expensive for the
21 landlords. Landlords who have to evict
22 tenants because of pretrial incarceration
23 aren't going to be able to recover that
24 money from someone who is incarcerated or
25 someone who has recently been released

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2 and isn't able to find a job. So
3 landlords have to absorb this cost, and,
4 frankly, they're going to pass it on to
5 other tenants by raising rents. So it
6 has the effect of raising rents in
7 Philadelphia as a whole. It has an
8 effect on the landlords who are renting
9 in the City, and we believe it's bad for
10 the economy.

11 So we're very grateful that
12 you're holding these hearings. We
13 strongly encourage City Council and we
14 look forward to working with you on
15 identifying and implementing procedures
16 such as reducing or waiving cash bonds
17 for low-level offenses, for non-violent
18 offenses, for increasing diversion
19 programs, and for other innovative
20 programs that are coming up around the
21 country, and we look forward to
22 Philadelphia being a leader in this area.

23 So thank you.

24 COUNCILMAN JONES: Thank you.

25 If it pleases the panel, we

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2 will ask questions after everyone on this
3 panel has an opportunity to testify. Is
4 that all right?

5 (Yes.)

6 MS. HIRSCH: Thank you. My
7 name is Amy Hirsch. I'm the managing
8 attorney for the Public Benefits Unit at
9 Community Legal Services, and thank you
10 very much for the invitation to speak
11 today.

12 Public benefits are incredibly
13 important, both in the context of
14 diversion, in the context of reentry, and
15 in the context of preventing recidivism.

16 For someone who has extremely
17 low income or no income at all, getting
18 Food Stamps, Medicaid, Cash Assistance,
19 if they're eligible, really makes the
20 difference between being able to
21 stabilize your life, move forward with
22 your family, have a place to live, be
23 able to look for work.

24 I attached a chart to my
25 testimony which sets out the public

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2 benefits consequences of different types
3 of criminal records. And if you look at
4 the far right-hand column, what you see
5 is that merely being incarcerated is
6 sufficient to make you ineligible for
7 virtually all public benefits. The one
8 exception is Social Security benefits,
9 for which you actually have to be
10 convicted as well as incarcerated. But
11 for Cash Assistance, for Food Stamps, for
12 Medicaid, for SSI, which is a benefit
13 from the Social Security Administration
14 for individuals who are elderly or
15 disabled, simply being incarcerated makes
16 you ineligible.

17 As a result, when folks are
18 incarcerated, they lose their benefits.
19 Their families may also lose benefits.
20 Not because the families lose
21 eligibility, but because benefits get cut
22 off because the person who is the payee
23 is incarcerated.

24 It's quite complicated to get
25 benefits transferred. So if, for

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2 example, a mother is incarcerated or a
3 father and their children are now with
4 someone else while they're being held
5 pretrial, if that relative needs to go to
6 the Welfare Department or the Social
7 Security Administration and get benefits
8 transferred for those children, it will
9 take months. If they don't have an
10 advocate, it is not an easy or
11 uncomplicated process. And getting
12 benefits started again after somebody is
13 released is not an easy or uncomplicated
14 process.

15 If someone has been getting SSI
16 based on disability, if they're
17 incarcerated for less than 12 months, the
18 SSI can be restarted upon their release,
19 but simply walking into the Social
20 Security office and saying "hi, here I
21 am, I've been released" isn't viewed by
22 the Social Security Administration as
23 proof that you've actually been released.
24 The fact that you're physically in the
25 office doesn't establish that you're no

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2 longer incarcerated.

3 So if you have your release
4 papers with you, you will generally get
5 your SSI back within about 30 days,
6 unless you've been incarcerated for more
7 than 12 months. But if you don't have
8 your release papers, if you've lost them,
9 if there's any issue around producing
10 your release papers at the time that you
11 go to Social Security, it can be months.
12 It can even be a year or more.

13 There's a process that Social
14 Security can initiate to confirm with the
15 Philadelphia Prison System that in fact
16 you're no longer incarcerated, but unless
17 you affirmatively ask them to do that,
18 they don't do it on their own. So
19 there's a much more efficient system for
20 cutting off benefits than for reinstating
21 them upon release.

22 And for benefits from the state
23 for Food Stamps, Medicaid, Cash
24 Assistance, there is no system in place
25 for suspending benefits and then simply

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2 reinstating them when you demonstrate
3 that you're out. You have to reapply,
4 and that process, at its best, will
5 generally take about a month. We
6 frequently see families where people have
7 applied, they've been wrongly denied,
8 usually for paperwork reasons, they've
9 reapplied again. And that cycle can go
10 on for several months, sometimes many
11 months. Sometimes people just give up.

12 The Philadelphia Prison System
13 has been working very well, I think, with
14 the Philadelphia County Assistance
15 Office, with the Defender Association,
16 with the District Attorney's Office, and
17 with a bunch of social service agencies
18 that have a series of what are currently
19 kind of patchwork projects to cover
20 different populations to try and assist
21 them in getting Medicaid upon release.
22 And I think this is something Dr. Herdman
23 is going to address more. But none of
24 those projects can get people the full
25 range of benefits that they're eligible

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2 for. And to the extent that they're
3 working on getting benefits reinstated
4 for people or to reapply for them at the
5 time of release from pretrial detention,
6 those are benefits -- that's work that
7 doesn't need to happen, because if they
8 weren't being held pretrial, those
9 benefits would not have been cut off in
10 the first place.

11 There is plenty of work to do
12 to get benefits for people who have been
13 convicted who are being released and who
14 need that assistance in order to
15 successfully reenter, but to have to put
16 a lot of resources into getting benefits
17 reinstated for individuals who have been
18 held pretrial solely because they could
19 not make bail, to me it would be so much
20 better not to have that interruption of
21 benefits in the first place.

22 There are also issues for
23 individuals when someone who is their
24 representative payee is incarcerated, and
25 I mentioned that earlier in the context

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2 of a family where the benefits from the
3 state may get interrupted for the whole
4 family. But in addition, if you've got
5 SSI benefits not for the adult who is
6 incarcerated but just for a disabled
7 child or Social Security benefits for a
8 child because a parent is disabled or
9 retired or deceased, if the
10 representative payee gets incarcerated,
11 those benefits get stopped. They
12 continue to accumulate, but the child or
13 the person who is caring for the child
14 has no way to access them. The Social
15 Security Administration will have to
16 approve another representative payee, and
17 that's not simply a matter of going in
18 and applying. They have to do an
19 investigation. They have to vet the
20 person who is going to be the
21 representative payee. That person then
22 has to establish a bank account and
23 arrange for the benefits to be
24 transferred.

25 And so there's significant harm

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2 not just to the individuals who are
3 incarcerated but also to their family
4 members as a result of those
5 interruptions in benefits.

6 We would be happy to work with
7 City Council, with the Prisons, with any
8 of the other agencies on issues connected
9 to public benefits in any way that would
10 be helpful.

11 And if I could also just give a
12 mention of appreciation. The BenePhilly
13 centers that the City has established do
14 a fabulous job of applying for benefits
15 for folks, including for folks who have
16 been incarcerated and are now back in the
17 community. But, again, there's plenty of
18 work to be done for individuals who need
19 it without having to add to that the work
20 of attempting to get benefits back for
21 folks who have lost them solely because
22 of pretrial incarceration.

23 Thank you.

24 COUNCILMAN JONES: Yes. Please
25 begin.

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2 DR. HERDMAN: I'm Bruce
3 Herdman, Chief of Medical Operations for
4 the Prison Department.

5 I was asked to speak today
6 about opiate addiction and what we do for
7 people that are addicted. Maybe I've
8 gotten my signals crossed, but some of
9 what I would talk about has to do with
10 benefits.

11 COUNCILMAN JONES: So please
12 proceed.

13 DR. HERDMAN: Thank you. The
14 census at midnight was 6,760. That's
15 significantly down from the 10,000 that
16 Mr. Rojas was used to when he was at the
17 Prison. And we have about 27,800
18 admissions a year. So you think that's
19 33,000 in total, but it's actually about
20 30,000 individuals, because some people
21 come through more than once in a 12-month
22 period that are incarcerated and cared
23 for at the prison.

24 The average age is 33. Thirty
25 percent are homeless. Eighty percent

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2 live in federally designated medically
3 underserved areas. So they come from --

4 COUNCILMAN JONES: Can you --
5 we're all -- our pens are wagging when
6 you're talking now. So could you repeat
7 from the 30 percent are?

8 DR. HERDMAN: Homeless. And
9 then 80 percent live in federally
10 designated MUAs, medically underserved
11 areas, meaning the most impoverished,
12 economically impoverished, neighborhoods.

13 As was said before but not
14 numerically, only 20 percent of the
15 people in the prison are sentenced.

16 COUNCILMAN JONES: Wait a
17 minute. Eighty percent of the people
18 live in impoverished areas. Is that what
19 that 80 percent is?

20 DR. HERDMAN: Eighty percent
21 are in what the federal government calls
22 medically underserved areas, which are
23 very impoverished.

24 The average reading level is
25 third grade.

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2 So the average length of stay
3 is 90 days, but if a person isn't bailed
4 out in the first two weeks -- about 40
5 percent are bailed out in the first two
6 weeks -- the average length of stay is
7 seven and a half months.

8 MR. ROJAS: What is your mental
9 health population?

10 DR. HERDMAN: I'll get there.
11 Before I answer that, let me mention that
12 many of the people that stay seven and a
13 half months are people that have nuisance
14 charges that -- they're simply there
15 because they can't make bail. And
16 particularly that's true for the
17 seriously mentally ill population.
18 That's people that are schizophrenic,
19 bipolar, have major depression,
20 borderline personality, which is about
21 13, 14 percent of our total population.

22 Forty percent of the population
23 is actually on the behavioral health
24 caseload and medicated for behavioral
25 health issues. About 30 percent of the

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2 population has a significant physical
3 chronic illness - diabetes, hypertension,
4 seizure disorders that are largely
5 related to drug abuse, HIV. We'll treat
6 850 HIV patients this year. And the
7 hepatitis C rate is 13.6 percent. I
8 mention that because if the requirements
9 for treating people with hepatitis C are
10 enlarged, at \$57,000 a person, that would
11 be a significant expense. Although the
12 treatments today are wonderful.

13 It says to me that 80 percent
14 of the population has undergone some
15 significant physical or sexual trauma or
16 both, and 80 percent approximately have a
17 substance use disorder. We don't test
18 everyone for substance abuse when they
19 come through the front door, but we did a
20 blind test that was Investigation Review
21 Board approved in 2014, and the breakdown
22 was that 44 percent of the people who
23 came in told us they were using drugs.
24 The actual count was 59 percent
25 marijuana, 22 percent cocaine, 21 percent

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2 benzodiazepines, 14 percent opioids, 8
3 percent PCP, and a bunch of smaller
4 percentages. So it was actually 77
5 percent of the people were using one or
6 more drugs, and most of them are using
7 more than one. Polypharmacy is a big
8 issue.

9 When a person comes to the
10 prison, they are screened by an RN using
11 electronic medical record and 120-some
12 question screening instruments. That
13 happens within four hours of them getting
14 off the sheriff's bus or whatever vehicle
15 delivers them to the prison.

16 Last month the average time to
17 get in to medical was 2.8 hours. And 98
18 percent of the people were seen within
19 eight hours. So it's a pretty rapid
20 period/approach to getting people in,
21 because a lot of these people are off
22 their medications in the community and
23 they're pretty sick.

24 COUNCILMAN JONES:

25 Interestingly enough, the corresponding

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2 time for a person on the street to see a
3 doctor in our public health centers is
4 six months.

5 DR. HERDMAN: Yes. I mean, by
6 interpretation of the Constitution,
7 inmates get all of the services that we
8 get with a good commercial insurance
9 plan, only a lot faster.

10 So when a person comes in, if
11 they tell us that they're using an opioid
12 or if they have symptoms of using an
13 opioid, we put them on a detoxification
14 protocol, which requires that they be
15 seen three times a day by an RN to see
16 what the level of difficulty is that
17 they're experiencing. There's three
18 nationally recognized protocols. One is
19 called COWS. That's for opioids.
20 There's another one for alcohol and
21 another one for benzodiazepines. And
22 every time a person gets seen by the RN
23 while they're on the protocol, they're
24 evaluated for what's their heart rate,
25 are they nauseated, are they having

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2 diarrhea, all the symptoms that would
3 occur while someone was withdrawing from
4 medications.

5 As I said, there's a big
6 polypharmacy issue. So a lot of people
7 are being detoxed for more than one drug.

8 Forty percent of the people
9 that we detoxified last year through
10 these protocols were on just opiates, but
11 you added another almost 20 percent for
12 opiates plus benzodiazepine. So 60
13 percent of the 8,000 people that we put
14 through these protocols last year out of
15 30,000 were using an opioid at least.
16 Alcohol was about 10 percent.

17 A lot of the -- only 50 percent
18 of people that are monitored through
19 these protocols actually get medicated.
20 The medications that are provided are
21 just to make people less uncomfortable
22 during their withdrawal. And the average
23 cost for a treatment per person is about
24 \$150. If everyone stayed in the prison
25 through the entire course of treatment

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2 through these protocols, that would be a
3 \$600,000 bill. It's probably more like
4 400,000 since so many people get bailed
5 out in the first few days that they're in
6 the jail.

7 The treatments that we provide
8 are methadone maintenance. That's part
9 of the medication-assisted treatment. We
10 do induce some people on methadone, not
11 very many. We have a cognitive
12 behavioral therapy program, NA, and then
13 I do want to talk about Medical
14 Assistance since that's critical to
15 achieving continuity of care when someone
16 leaves.

17 So in methadone maintenance, if
18 a person comes in and they're in an
19 approved methadone program in the City
20 and they have been getting care right up
21 to the point of being incarcerated, they
22 will be continued on methadone through a
23 contract that the Department of
24 Behavioral Health has with the Northeast
25 Treatment Center. About 300 people a

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2 year receive methadone maintenance at the
3 prison. Another 20 are females that are
4 pregnant who are opioid addicted, and
5 those are induced on methadone through
6 the Thomas Jefferson University Hospital
7 program, which is excellent.

8 It's a very touchy thing to put
9 somebody on methadone when they're
10 pregnant. You're trying to save the
11 child as well as the mother. If the
12 person delivers while they're in the
13 prison, then they're detoxified over a
14 period of a month so that they leave not
15 on methadone.

16 We're about to expand that
17 contract to cover buprenorphine,
18 Suboxone, because Suboxone is being
19 prescribed more and more in the community
20 for people that are trying to break the
21 habit of using opioids. And I think in
22 about two weeks, we should start
23 continuing people on Suboxone.

24 COUNCILMAN JONES: Just for
25 those of us who are not M.D.s, that is

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2 the pill that reduces the urge to use?

3 DR. HERDMAN: Yes. It blocks
4 the effect of the opioid, yes, sir. It's
5 one of them. There's another called
6 Vivitrol, and we are doing a pilot with
7 Vivitrol with the University of
8 Pennsylvania. About 100 people will be
9 given Vivitrol prior to release and 100
10 people given Vivitrol after release, and
11 they'll all get six months of that
12 therapy. That's \$1,000 a shot. So it's
13 an expensive proposition, but it's very
14 effective in helping people cease abuse
15 of opioids. We'll see how that research
16 project goes.

17 The options for RAM is a
18 voluntary program. It's a science-based
19 cognitive behavioral therapy program.
20 It's a classroom program, 90 days in
21 length for people that are addicted to
22 one of these drugs, and about 5,000
23 people a year enroll in that program.
24 About 500 complete it. So there are lots
25 of people that come in that obviously

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2 they're abusing medications that don't
3 choose to use that program at the moment.

4 NA and AA, they voluntarily
5 come in but, for example, at CFCF, which
6 is the largest of the six facilities,
7 there's one NA meeting a month -- a week
8 rather and one AA meeting. So we could
9 absolutely use more volunteers from that
10 segment.

11 Medical Assistance enrollment
12 is not a treatment, but if you leave --
13 what happens in the State of Pennsylvania
14 is after 30 days, your eligibility for MA
15 and other benefits is terminated by the
16 state through the Social Security
17 Administration. And the good news is
18 that the Governor has been wonderful in
19 working with us to help people enroll
20 prior to release, and we have, as was
21 said, four pilots going on right now.
22 We're learning how to do this. One is
23 for women, one is for sentenced seriously
24 mentally ill patients, one is for
25 sentenced people with chronic physical

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2 illnesses. And we think we'll enroll
3 about 1,000 people in the first -- this
4 12-month period in Medical Assistance.
5 Next year if -- without getting any
6 additional money from City Council, if
7 the savings that we are trying to
8 generate through some programs come to
9 fruition, we'll be able to enroll
10 virtually everyone who stays more than
11 five days, because some people come in
12 and out so fast we wouldn't be able to
13 get to them. But that would be about
14 probably 25,000 individuals would leave
15 with Medical Assistance, and they would
16 be able to fill the prescriptions that we
17 have been giving them for years which
18 they have not been able to fill because
19 they don't have any money and they don't
20 have health insurance.

21 So the Governor has also agreed
22 to start suspending coverage so that we
23 would be able to flip the coverage back
24 on. That will probably, we hope -- it's
25 dependent on changing the state's

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2 computer system -- in early 2018. From
3 my lips to God's ears. And they have
4 agreed to institute presumed eligibility
5 towards the end of 2018, which means we
6 would just give the state an electronic
7 file who was admitted last night and they
8 will all be automatically entered into
9 Medical Assistance, which would be a
10 great step forward.

11 We are working with BenePhilly.
12 BenePhilly has been advocating with the
13 Benefit Data Trust, which is the
14 organization that provides the software
15 that BenePhilly uses, to allow us to use
16 the software. We wouldn't have to hire a
17 Benefit Data Trust staff to be in the
18 prison, because we could never afford
19 enough to touch everybody, but we could
20 train our own social service staff to use
21 that software so that when we're trying
22 to establish benefits for people, it
23 would include things beyond Medical
24 Assistance, such as housing support,
25 LIHEAP and so forth. And that we would

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2 hope to be able to do sometime in the
3 first quarter of this year, if they don't
4 charge us too much.

5 So those are my comments.

6 COUNCILMAN JONES: Fact-filled
7 comments.

8 A couple of quick questions,
9 guys. So if I were out listening and
10 watching television, I would say a person
11 has two realities when they walk in that
12 prison door. For those people who have a
13 normalized life, a predictable life and
14 they're falsely accused, it can be
15 catastrophic. It can totally be world
16 changing for them. Is that a fair
17 statement?

18 DR. HERDMAN: Yes, sir.

19 COUNCILMAN JONES: And is it
20 also an equally fair statement that
21 sometimes people that are incarcerated
22 get better healthcare, better treatment
23 than if they were walking the street? Is
24 that equally correct?

25 DR. HERDMAN: That's correct.

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2 Most of the people who have come to us
3 have not gotten the care except for in
4 emergency rooms.

5 COUNCILMAN JONES: So having
6 said that, if we were to figure a way
7 through a day reporting center process,
8 then we might be able to get the best of
9 both worlds. And what do I mean by that?
10 That based on your testimony and yours,
11 the collateral consequences of being
12 arrested, the series of failures that
13 happens after it, from eviction to job
14 loss to benefit loss in many cases based
15 on the statistics that you gave of people
16 who live in --

17 DR. HERDMAN: Medically
18 underserved areas.

19 COUNCILMAN JONES: See, that
20 was a new term for me, and I hear terms
21 all the time.

22 So if in a world those services
23 could be in a day reporting center and
24 court mandated, because people probably
25 with a little bit of initiative can get

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2 to a lot of the places that they're
3 mandated to go to when they are a captive
4 audience, if we could find a way that it
5 was court mandated that they had to
6 instead of wanting to get a health
7 checkup, you have to get a health
8 checkup, instead of wanting to deal with
9 certain recovery aspects of your life,
10 that it was more mandated, that possibly
11 could be a best of both worlds without
12 totally devastating -- and one of the
13 follow-ups that I had. That was more of
14 a question statement, but how many people
15 actually incarcerated are on some type of
16 benefit publically out of the 7,000
17 people there? I think you said 20
18 percent were more well here. Does that
19 mean --

20 DR. HERDMAN: Twenty percent
21 are sentenced. I don't know --

22 COUNCILMAN JONES: No, not
23 sentenced. How many that walk through
24 those doors are on SSI, public welfare or
25 some type of public transfer payment?

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2 DR. HERDMAN: I only have one
3 part of that answer, and that is that
4 about 8 percent of the people that come
5 through the front door have active
6 Medical Assistance.

7 MS. BRADFORD-GREY: Did you say
8 8 percent?

9 DR. HERDMAN: Eight.

10 COUNCILMAN JONES: Eighty.

11 DR. HERDMAN: No, not 80.
12 Eight.

13 COUNCILMAN JONES: Eight
14 percent are what?

15 DR. HERDMAN: Have Medical
16 Assistance. Now, they may have had
17 Medical Assistance in the past. Some of
18 them believe that they have it, but
19 they've lost it because they haven't
20 followed the rules for sustaining
21 coverage. So it's a very small portion.
22 Virtually no one has commercial
23 insurance.

24 COUNCILMAN JONES: So of that
25 population, does BenePhilly go through

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2 the codification of eligibilities as a
3 part of that intake?

4 DR. HERDMAN: No. We're just
5 starting to try to link up with the
6 BenePhilly process. It doesn't exist at
7 the moment.

8 But if I might make a comment
9 about the stipulation by a court. An
10 example of that would be the Forensic
11 Intensive Recovery program that the City
12 pays for that's managed by Philadelphia
13 Health Management Corporation. About
14 1,000 individuals a year are court
15 stipulated to that program. It's
16 cognitive therapy, it's job training,
17 it's housing and so forth, and their
18 recidivism rate in the first year is
19 about a third of the average. It's 67
20 percent less. And they are -- if they
21 don't go to the program and get the
22 benefits of that treatment, they're
23 rearrested.

24 MS. BRADFORD-GREY: With the
25 FIR program, we're talking about apples

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2 and oranges, because you can only get the
3 FIR, which Forensic Intensive Recovery
4 program, if you are sentenced. So we're
5 talking about people who are coming in on
6 a pretrial, pre being even found to be
7 liable. So FIR, yes, you can court
8 stipulate anyone because you're now on a
9 probationary tail, but I think what
10 Councilman was talking about was shifting
11 the focus on the pretrial area, pretrial
12 population.

13 DR. HERDMAN: You could tell
14 I'm not an attorney.

15 MS. BRADFORD-GREY: I'm sorry?

16 DR. HERDMAN: You can tell I'm
17 not an attorney.

18 MS. BRADFORD-GREY: I don't
19 need you to be because you are good at
20 what you were giving us, but I do want
21 to -- I don't want to --

22 COUNCILMAN JONES: Go ahead.
23 Feel free.

24 MS. BRADFORD-GREY: I do have a
25 question, because I feel like there's

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2 some gaps here. When you testified, you
3 made it seem as if people who come into
4 the Prison System on pretrial, they get
5 screened and seen, everyone who comes in,
6 within two hours, but how intricate is
7 that screening if everyone who comes
8 in -- and there could be loads per day --
9 get screening within two hours? How long
10 is each interview? Is it 15 minutes, 20
11 minutes?

12 DR. HERDMAN: It takes about an
13 hour for an uncomplicated patient to go
14 through the interview process. It's as
15 if you were going to meet a primary care
16 physician for the first time. They have
17 to cover all the history. Although --

18 MS. BRADFORD-GREY: That's
19 self-reported history, right?

20 DR. HERDMAN: Self-reported,
21 yes, except for -- this figure is not --
22 don't hold me to this figure exactly, but
23 about 20 percent of the people that come
24 to the prison never come back, but the
25 people that come back more than once come

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2 back 6.4 times.

3 MS. BRADFORD-GREY: So you have
4 80 percent come back at least six times
5 even after going through all the things
6 you've given them?

7 DR. HERDMAN: And the seriously
8 mentally ill is 7.7 times. So we know
9 these people. We've treated them before.
10 And, in fact, for example, on psychiatric
11 patients, if someone comes in and we've
12 treated them with XYZ medication, rather
13 than wait until they go through the
14 process to be seen by a prescriber, we do
15 a bridge order on day one. They get
16 medicated the second day based on their
17 history.

18 MS. BRADFORD-GREY: It seems as
19 if this prison is expanding into medical
20 services and mental health services
21 versus what it was originally designed
22 for, which is for public safety, and
23 isn't that -- that's costing a lot more
24 each year to provide these services,
25 especially if the incarceration, as you

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2 described, people coming back six, seven
3 times with similar offenses is not really
4 serving its initial purpose.

5 DR. HERDMAN: Well, it's really
6 not an option, Counselor, because the
7 interpretation of the Constitution says
8 that we must provide community standard
9 care.

10 MS. BRADFORD-GREY: Oh, I get
11 it. On your end it's not an option, but
12 I'm talking about when people start to
13 rethink what we're doing here and
14 incarcerating people pretrial, it seems
15 the deterrent factor is not really a
16 factor, because they're coming back and
17 they're only coming back to receive the
18 medical benefits that they should get in
19 their communities if we can get that
20 creative approach going where these are
21 actually offered in a real practical way.

22 DR. HERDMAN: Right.

23 MS. BRADFORD-GREY: And instead
24 now we're using the prisons to do that.

25 DR. HERDMAN: Correct.

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2 MS. BRADFORD-GREY: At a huge
3 cost to taxpayers.

4 DR. HERDMAN: \$65 million.

5 MS. BRADFORD-GREY: \$65
6 million.

7 DR. HERDMAN: Just for the
8 clinical staff and medications. That
9 doesn't include the expense of all the
10 officers that have to be monitoring
11 everything or the space. It's --

12 MS. BRADFORD-GREY: That
13 doesn't include the expense?

14 DR. HERDMAN: It does not
15 include every expense, just the medical
16 expense.

17 MS. BRADFORD-GREY: If you did
18 have an understanding of the cost for the
19 medical staff as well as the, I guess,
20 increased security, because the mental
21 health need more personnel to watch and
22 transport them back and forth, what would
23 that cost be if you just had to kind of
24 estimate?

25 DR. HERDMAN: At least 50

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2 percent more is my guess, but it's very
3 much a guess. I've never calculated the
4 number.

5 MS. BRADFORD-GREY: So on
6 medical and in kind of psychiatric
7 treatment in the prisons alone, we're
8 spending 65 million a year?

9 DR. HERDMAN: Yes. I will say
10 that our cost increases over the past
11 several years have been less than the
12 medical market basket of the CPI. We do
13 a good job controlling costs. Over the
14 past three years, for example, the cost
15 has been less than one percent increase.

16 MS. BRADFORD-GREY: Less than
17 one percent increase of the cost of the
18 prisons?

19 DR. HERDMAN: Which is a lot
20 less than what everybody else is
21 experiencing in the community. However,
22 it's a very expensive proposition.

23 MS. BRADFORD-GREY: And don't
24 get me wrong, I'm not faulting you for
25 doing what you're supposed to do, you're

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2 mandated to do. I think this is what
3 we're talking about in terms of our
4 system's processes and procedures. I
5 don't know if we realize the impact of
6 what we're doing when people are in
7 there. And you said some people in there
8 pretrial status average of seven and a
9 half months?

10 DR. HERDMAN: Yes.

11 MS. BRADFORD-GREY: That's a
12 lot of care and --

13 DR. HERDMAN: It's a lot, yeah.

14 MS. BRADFORD-GREY: When they
15 get out, they're still at a disadvantage
16 when they go back into their communities
17 because they don't have access to those
18 things.

19 DR. HERDMAN: Right. We have
20 350 full-time healthcare staff and we
21 provide about 300,000 visits of care a
22 year to this population.

23 MS. BRADFORD-GREY: That sounds
24 like a mini hospital.

25 DR. HERDMAN: It is a huge --

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2 yes, it is. We have a licensed
3 psychiatric hospital of 64 beds on campus
4 and an infirmary. We hospitalize people
5 in acute care hospitals like Jefferson,
6 Hahnemann and so forth 425 times, 450
7 times a year. It's very expensive.

8 COUNCILMAN JONES: I wonder if
9 anybody has done indirect and direct cost
10 accounting for all of this to really
11 truly figure it out.

12 DR. HERDMAN: The direct cost
13 we are comfortable -- we understand what
14 those are. All these indirect costs,
15 unless you have, we have not done that.

16 COUNCILMAN JONES: Okay.

17 Mr. Rojas.

18 MR. ROJAS: I have a few
19 questions. I worked at Legal Services
20 under George Gould in the Housing Unit.
21 My question is this: We had back in the
22 '80s Father Lawson with the NAACP in
23 Philadelphia saying that if a person was
24 not sentenced, they were still regular
25 citizens of society. We were able to

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2 negotiate that, and inmates who are not
3 sentenced are eligible to vote. So I
4 want to know how is it that their
5 benefits are cut off if they're still
6 considered citizens and not until they're
7 sentenced?

8 DR. HERDMAN: I could speak to
9 that. It's actually a federal law that
10 prohibits the expenditure of federal
11 dollars for the provision of medical care
12 when someone is incarcerated regardless
13 of their sentencing status. It doesn't
14 make any sense to me, but that's the law.

15 MS. HIRSCH: If I could add to
16 that. Under federal law, Medicaid
17 eligibility can be suspended while
18 somebody is incarcerated. Federal law
19 says that, as Dr. Herdman said, that
20 their Medicaid benefits can't be used
21 while they're incarcerated, but their
22 eligibility could be maintained and their
23 benefits could be suspended. And the
24 Commonwealth has been working on that for
25 a number of years, and they are hoping to

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2 make some progress in the coming year.

3 For Food Stamps, federal law
4 says that whether you're incarcerated or
5 in any other kind of institution that's
6 providing you three meals a day, you're
7 not eligible for Food Stamps. So from
8 the Food Stamp perspective, it's not a
9 question of losing eligibility because
10 it's a criminal justice institution.

11 It's because they're somewhere where food
12 is being provided for them.

13 For Cash Assistance, it's a
14 function of the state statute, and I wish
15 I saw a viable challenge to it.

16 DR. HERDMAN: The one
17 exception, Mr. Rojas, to my statement is
18 that if a person is in a community
19 hospital, they're not considered
20 incarcerated even though we have officers
21 guarding them and they're shackled and
22 handcuffed, and Medical Assistance pays
23 for that incarceration. The federal
24 portion actually is paid for 50 percent
25 approximately and then we pay for the

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2 other 50 percent. So there are some
3 federal --

4 MR. ROJAS: When you say "we,"
5 is that the state?

6 DR. HERDMAN: No. This is all
7 City tax dollars there.

8 MR. ROJAS: Now, let me ask you
9 another question. How many veterans that
10 served our country are incarcerated? Do
11 we have those figures?

12 DR. HERDMAN: I know we have
13 them. I don't know them off the top of
14 my head. I can get them for you.

15 MR. ROJAS: And the other issue
16 is, shouldn't they be getting federal
17 benefits because they served our country
18 as opposed to the taxpayers' money in
19 Philadelphia? Aren't they entitled to
20 federal benefits?

21 MS. HIRSCH: Yeah; I'm sorry.
22 I don't know the rules about VA benefits
23 and whether or not individuals can
24 receive those benefits while
25 incarcerated. I do know that the SOAR

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2 program, which is run by the Homeless
3 Advocacy Project, takes referrals from
4 Veterans Court and assists those
5 individuals in getting VA benefits. But
6 I believe the individuals that they're
7 serving through Veterans Court are in a
8 diversion program rather than
9 incarcerated.

10 MR. ROJAS: And shouldn't the
11 Veterans Administration have -- shouldn't
12 they be providing medical services to
13 veterans?

14 MS. HIRSCH: I apologize. I
15 don't know the answer.

16 MR. ROJAS: This is for
17 Dr. Herdman.

18 DR. HERDMAN: In our prison?

19 MR. ROJAS: No. You would
20 assume that because they are veterans,
21 that the federal government is
22 responsible for providing benefits,
23 right?

24 DR. HERDMAN: Well, I don't
25 presume to understand the federal

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2 government. I'm sorry. I'm not sure. I
3 mean, we obviously know that the use of
4 federal dollars through Medicaid and
5 Medicare for prison healthcare is
6 prohibited. I'm not sure what applies to
7 the VA. That's a good question.

8 MR. ROJAS: Can you check into
9 that?

10 DR. HERDMAN: Yeah. I do know
11 that no state, to my knowledge, is able
12 to get veterans dollars to subsidize what
13 they spend in state institutions. But I
14 will check on it.

15 MR. COBB: Just to piggyback on
16 your question, I am a veteran that
17 receives 100 percent of my healthcare
18 currently from the VA, and not all
19 veterans are eligible for medical
20 coverage. It only has to be if you
21 served in war during specific times. The
22 federal government mandates who is and
23 who is not eligible for benefits as a
24 veteran. Because if I went to prison,
25 then I would be covered under prison care

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2 and not veteran care.

3 MR. ROJAS: The other question
4 is, what checks and balances are there?
5 Because I know when I worked at the
6 prison, people are actually getting
7 benefits. So how does the feds or the
8 state know whether or not you're
9 receiving benefits while you're
10 incarcerated?

11 COUNCILMAN JONES: In recent
12 budget hearings based on what the Prison
13 Commissioner said, they are attempting to
14 deal with that problem or snafu so
15 that -- and in a perfect world, which we
16 are not in, the minute someone comes in,
17 there should be like a series of
18 notifications.

19 DR. HERDMAN: If I could
20 interrupt. The federal government has a
21 process for that, and the process
22 requires that -- doesn't require. It's
23 voluntary. But what the City does is, we
24 notify the Social Security Administration
25 of who is in the prison on the 17th of

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2 every month, just one day, and that's the
3 census that they use, the names on that
4 census that determine whose benefits
5 should be terminated after 30 days.

6 COUNCILMAN JONES: I'm not just
7 talking about termination, because that's
8 a two-way door. If you're a veteran,
9 some of that cost of medical should be
10 assumed cost accounting-wise to the
11 federal government or on whomever. So
12 what we need to evolve to -- and this is
13 just pure cost control -- that just like
14 with BenePhilly, automatically once you
15 go in that system, there's approximately
16 11,000 per household, I think the
17 estimate is, of eligibilities that poor
18 and super poor people can get. So in
19 reverse, there should be an analysis of
20 the individual status that allows for,
21 okay, we're covering this, but he's a
22 veteran, he is eligible for coverage, and
23 we should be reimbursed. That should
24 wash. And it shouldn't just be that we
25 notify them. They should also reimburse

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2 us. And we have to evolve to that kind
3 of accounting so that we have more money
4 available for other services. Just an
5 opinion.

6 MR. ROJAS: I have two more
7 questions. Are halfway houses also
8 affected? Because I know there's a lot
9 of proliferation of halfway houses in
10 Philadelphia, and they actually get
11 benefits and the operator keeps the
12 money, from reports that I've read.

13 MS. HIRSCH: We see individuals
14 whose benefits are wrongly being taken by
15 folks who are operating unlicensed,
16 unregulated, inappropriate residences
17 that they're calling halfway houses. So
18 we see folks who are told if you're going
19 to stay here, you have to give me your
20 card, I'm going to take your benefits,
21 you can't have your card back. That is
22 unlawful, and that's something that the
23 Welfare Department takes very seriously
24 when they learn about it in terms of the
25 inappropriate taking of somebody's card.

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2 There are a number of issues
3 around what are, in effect, unlicensed
4 personal care homes operating unlawfully
5 in Philadelphia, and there's been efforts
6 at coordination among different agencies,
7 including CLS, to try and identify those
8 and address them.

9 There are a different set of
10 issues, for example, for folks who have
11 been in the state prisons and who are
12 halfway back, who are in halfway houses
13 that are operated through the state
14 Department of Corrections. Those are
15 licensed and regulated and inspected, and
16 there are some consequences for benefits
17 eligibility of being there, but that's
18 different from the places that are sort
19 of self-starters that are ripping people
20 off in various ways.

21 MR. ROJAS: My last question.
22 Dr. Herdman, does our population spike
23 during the winter for the homeless?

24 DR. HERDMAN: Yes, it does a
25 bit, especially when it's brutally cold

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2 out, yeah.

3 MR. ROJAS: So we're actually
4 serving as a homeless shelter at the
5 prison?

6 DR. HERDMAN: You know, the
7 conventional wisdom is that people will
8 go to Wawa and steal Twinkies so that
9 they can be given three meals a day and a
10 warm place. Some people. I don't have a
11 count of that number, though.

12 MS. BRADFORD-GREY: The Chair
13 would like to recognize Kevin Bethel and
14 then John. John. Sorry, John.

15 MR. HOLLWAY: Thanks.

16 Thanks to all of you for your
17 testimony, which is, I guess, troubling
18 and enlightening. I had thought
19 incarceration was a pretty
20 straightforward concept, but if I
21 understand it, you're not incarcerated
22 when you're chained to a hospital bed in
23 a community hospital, but you are
24 incarcerated when you walk in your own
25 free will to a public office and ask to

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2 have your benefits reinstated. Is
3 that --

4 DR. HERDMAN: No. I'm sorry.
5 I didn't understand your question.

6 MR. HOLLWAY: Sorry. The irony
7 of in your situation, you've got people
8 who are not listed as incarcerated and
9 you've got them chained to a hospital
10 bed.

11 DR. HERDMAN: Well, from the
12 standpoint of a Medical Assistance
13 payment, that's correct.

14 MR. HOLLWAY: And you have
15 people who are walking into a City office
16 asking to have their benefits reinstated
17 and they can't prove by the fact that
18 they're not chained to anything --

19 MS. HIRSCH: Right.

20 MR. HOLLWAY: -- that they
21 aren't incarcerated, right? So I think
22 we need to probably have some sort of
23 standardization around the definition of
24 what incarcerated is in these situations,
25 because it doesn't seem to match in

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2 either situation.

3 One of the things that I guess
4 I'd like to understand is why we don't
5 use the same system to turn benefits on
6 again when we've released somebody from
7 pretrial detention that we're using to
8 turn them off. It seems to me that the
9 notification system that goes from the
10 Prison System to the benefits offices in
11 a pretrial detention situation that's
12 used to turn those benefits off should be
13 the same service that's used to turn them
14 on again, and that could be automated so
15 that it doesn't rely on any affirmative
16 statement to do so.

17 MS. HIRSCH: I don't have a
18 good answer to that. I think the answer
19 really lies in the decision-making by the
20 agencies that provide the benefits. So
21 the Social Security Administration has
22 not been willing to just flip the switch
23 and turn the benefits back on with that
24 kind of electronic notification. I don't
25 know whether it would be possible to

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2 negotiate that, but that is not
3 something --

4 DR. HERDMAN: We have been able
5 to negotiate with the state, not under
6 Governor Corbett but under Governor Wolf,
7 to have the ability to automatically
8 enroll people in Medical Assistance and
9 automatically reactivate their coverage.
10 That will take some time because of the
11 computer system issues, but we've gotten
12 that agreement, and it wasn't hard to get
13 the agreement from the current
14 Administration.

15 But in terms of SSI and SSDI,
16 that's not something I've addressed.

17 MR. HOLLWAY: I mean, has there
18 ever been a stated rationale for why
19 what's good enough to turn the benefits
20 off in terms of proof of incarceration or
21 pretrial detention is not good enough at
22 the same evidentiary level to then turn
23 those benefits back on? And I guess I'm
24 primarily asking the two women from CLS.

25 COUNCILMAN JONES: It's the

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2 same reason why if you make a mistake to
3 the bank, they get interest payments
4 versus you get reimbursed for that
5 mistake. So the government saves money
6 when we delay and we save money when we
7 turn off quickly.

8 MR. HOLLWAY: I agree with
9 that. I'm pushing a little bit because
10 I'd like to get a stated rationale,
11 because I'm pretty confident that if
12 that's the stated rationale, that's
13 great. I'd love to have somebody be that
14 candid with me from one of those
15 agencies.

16 COUNCILMAN JONES: I forgot
17 you're talking from a legal perspective.

18 MR. HOLLWAY: Well, whatever
19 the state rationale is, let's deal with
20 it, but I'd like to understand the stated
21 rationale.

22 DR. HERDMAN: I could say that
23 the federal government pays prisons and
24 jails for telling them who is in the
25 prison and jail, because that gives them

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2 the ability to save money by turning off
3 benefits. I think the revenue to the
4 prison last year was half a million
5 dollars.

6 MS. BRADFORD-GREY: Kevin.

7 DEPUTY COMMISSIONER BETHEL:

8 Doctor, I just had a quick question.

9 It's kind of not in the pretrial. Just

10 walk me through this process: Kevin

11 Bethel comes in, he's addicted to heroin,

12 and I am going to be in that 80 percent

13 that I'm going to be in there maybe six

14 times over a period of time. What are

15 you doing with me? I mean, what's going

16 to happen with me if I'm going to be in

17 that seven and a half months? What's

18 going to happen to me?

19 DR. HERDMAN: The first thing

20 that happens is the medical

21 detoxification process that I mentioned,

22 unless you're on methadone. And we did

23 that 8,000 times last year.

24 DEPUTY COMMISSIONER BETHEL: I

25 don't like that methadone, so I'm not on

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2 that stuff.

3 DR. HERDMAN: Oh, good for you.

4 The second thing is making
5 available the cognitive behavioral
6 therapy teaching program that helps
7 people to reconsider the role of drugs in
8 their life.

9 We do not yet have a warm
10 handoff to treatment facilities, which is
11 I know being discussed; that is, where
12 when someone is released, if we know they
13 have a long history of addiction, that we
14 would actually deliver them to a
15 treatment facility. That doesn't exist
16 at the moment.

17 DEPUTY COMMISSIONER BETHEL:
18 So, in essence, you're already starting a
19 process you know pretty much is not going
20 to complete itself.

21 DR. HERDMAN: That is correct,
22 except for in the instance of the
23 sentenced FIR population. We give people
24 a third grade reading level set of pages
25 that says these are places you can go.

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2 DEPUTY COMMISSIONER BETHEL: So

3 in your world, if we open up the genie
4 box and say, What could correct that,
5 what would you want? What would be the
6 correction? You're seeing Kevin now come
7 back six times for the same addiction.
8 You've never been able to complete
9 services to me and I keep coming back.
10 What would you do differently with me?

11 DR. HERDMAN: One thing we'd

12 like to do and probably will do is to
13 start giving more education to inmates
14 and the 4,000 visitors we have a week on
15 Narcan, the risk of overdose, the use of
16 Narcan, where to get it. Secondly, we
17 would want to have established
18 appointments prior -- the problem with
19 the pre-sentenced population is we never
20 know when they're leaving. But we would
21 like to be able to make appointments for
22 people in the community and deliver them
23 to the facility, if they agree, and
24 that's what we were starting to do with
25 our pilots on MA. We're making

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2 appointments for people at federally
3 qualified health centers and giving them
4 tokens to get there, and actually about
5 half of them are showing up for their
6 first visit, which is not a bad
7 percentage in this population. But the
8 ability to have a warm handoff I think
9 would be very important.

10 DEPUTY COMMISSIONER BETHEL: I
11 just had one more question for Rachel.
12 What do you expect -- I mean, sometimes
13 we have to look at this in obviously a
14 larger scale. What would you expect from
15 the system when an individual comes in
16 and he's guilty? I get it, I robbed
17 such-and-such and I went into the system
18 and I can't afford my \$20,000 bail and
19 I'm living in subsidized housing and I'm
20 on benefits. What would you expect from
21 the system in that case? I mean, are you
22 expecting the system to take the
23 responsibility for that? I mean, is
24 there a balance here? Is there a
25 different tier? Is there a certain more

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2 narrow focus in that area of individuals
3 who we should be looking at?

4 MS. GARLAND: I'm sorry. I'm
5 not sure I understood your question. Are
6 you asking in the housing context or in
7 the --

8 DEPUTY COMMISSIONER BETHEL: In
9 the housing context, yes. When you're
10 presented the things that happened to
11 that individual but that individual
12 actually goes out and physically does
13 something and we know he's done it, what
14 is your expectation that who should -- I
15 mean, walk me through that process. Do
16 you want now the system to now correct
17 everything he or she has done?

18 MS. GARLAND: No. The
19 individual is always welcome to plead
20 guilty. And there are many individuals
21 who go and they say, I did it. They
22 plead guilty and they serve their
23 sentence or they get probation and
24 they're out. That's not the issue. The
25 issue is that the length of time that it

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2 often takes the system just to get them
3 to a hearing, for someone to be held for
4 seven and a half months --

5 DEPUTY COMMISSIONER BETHEL: I
6 got you.

7 MS. GARLAND: It actually
8 occurred to me, though, as the doctor was
9 speaking that there were two issues that
10 I didn't raise, and this is specifically
11 about bail and not necessarily about
12 pretrial incarceration. The statistic
13 that he gave, that 40 percent bail out in
14 the first two weeks.

15 DR. HERDMAN: Yes.

16 MS. GARLAND: Right. So
17 families that are coming up with that
18 money for bail, that is money that they
19 are gathering that they are probably not
20 spending on rent. So if families that
21 are prioritizing bailing out a family
22 member may still end up evicted. So that
23 there's that issue with cash bail that is
24 not necessarily a pre-incarceration
25 issue. It's sort of an incentive, this

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2 incentivation to pay bail as opposed to
3 pay for all the other necessities in your
4 life.

5 The other issue that we do see
6 rather frequently is -- and this is
7 especially with mothers -- that they
8 plead guilty in order to get out earlier.
9 They can't afford bail, so their only
10 ticket out is to plead. And they may or
11 may not have been guilty or they may or
12 may not have been guilty of what they are
13 charged with, but they are pleading in
14 order to get out, and often it is that
15 plea that will then prevent them from
16 being able to continue living in
17 subsidized housing. So something which
18 they otherwise -- were they wealthy
19 enough to hire an attorney or to be able
20 to wait it out and be represented by the
21 public defenders, they can't -- they
22 don't have the opportunity to wait it
23 out, because they need to get back to
24 their children and they need to get back
25 to their housing. But what they don't

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2 realize -- and we work a lot with the
3 public defenders on helping them be able
4 to counsel their clients on collateral
5 consequences. At the end of the day,
6 they might know it's going to cost them
7 their public housing, but it's still more
8 important to them to get home to their
9 children, who they don't have someone
10 else for the children to be cared for.
11 And so it adds financial ability to pay
12 into an equation that really shouldn't be
13 dependent on your financial ability to
14 pay. It should be dependent on, like you
15 said, whether or not you're guilty and
16 whether or not you want to accept the
17 collateral consequences that come with a
18 plea.

19 MR. HOLLWAY: So that's
20 something I wanted to make sure we're
21 really clear on. Once you are convicted
22 of any crime, you are now not eligible
23 for subsidized housing?

24 MS. GARLAND: No. Any violent
25 crime. So aggravated assault and above,

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2 yes, that will definitely get you
3 evicted. Retail theft, probably not,
4 unless you --

5 COUNCILMAN JONES: So probably
6 not or just policy or law?

7 MS. GARLAND: So, no. There is
8 federal law that lays out very
9 specifically what crimes will get you
10 evicted. The "probably" comes because
11 there is a myriad of different subsidized
12 housing schemes and each of them comes --
13 each of them were developed at different
14 times by Congress, and so the wording is
15 a little different depending upon when it
16 was written, and so there's some
17 differences. But the general rule of
18 thumb is that aggravated assault and
19 above will get you evicted and will bar
20 you from subsidized -- reapplying
21 subsidized housing in Philadelphia for at
22 least ten years, though we're trying to
23 work on that. Smaller crimes, it really
24 depends on whether the crime affects the
25 health and safety and well-being of other

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2 tenants or property managers in that
3 area. So retail theft, we can make an
4 argument, doesn't affect the health and
5 safety of your neighbor, but something
6 like prostitution -- it depends on the
7 crime. It depends on the location. So
8 that's where it gets -- drug offenses
9 right now, all drug offenses, even minor
10 drug offenses, will still get you barred
11 from subsidized housing. And subsidized
12 housing, though, the line is not drawn at
13 a conviction. The line is drawn at
14 criminal activity. So if the Housing
15 Authority or the subsidized provider can
16 prove, they had a manager witness some
17 criminal activity occur, it doesn't
18 matter whether the person was arrested or
19 not. They can still be evicted. So it's
20 slightly different.

21 MS. BRADFORD-GREY: But the
22 arrest also triggers it.

23 MS. GARLAND: The arrest does
24 not help.

25 MS. BRADFORD-GREY: So meaning

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2 even if someone repeated the arrest,
3 because we've had clients where an arrest
4 has triggered their eviction process.

5 MS. GARLAND: Yes. Now, that
6 actually is not appropriate, and under
7 federal law and recent HUD guidance, an
8 arrest alone cannot be used as evidence
9 of criminal activity. Though we all know
10 that oftentimes even though you're not
11 guilty until proven guilty, that's not
12 always how people think of things. So if
13 a landlord knows that their tenant has
14 been arrested, they are most likely going
15 to file an eviction against them and not
16 wait for the seven and a half months that
17 it might take them to get a hearing.

18 MR. HOLLWAY: So I just have
19 one quick statement and then one other
20 question. The statement is that in
21 addition to working with the Defenders
22 Association, it would be terrific if
23 there was some three-way conversation
24 that involved the DA's Office, because of
25 course the decision of what to charge in

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2 these instances and how to plead those
3 cases can then impact the collateral
4 consequences, and there's often a lot of
5 question around how we choose to
6 characterize the actions that we're
7 treating as criminal. So they would be,
8 I think, a wonderful thing for all
9 involved if the DA's Office were a part
10 of that and aware of the ripple effects
11 of what these cases are having on
12 families.

13 The other question that I had
14 for you was, you mentioned that
15 sometimes -- that the turnover and these
16 evictions has a negative effect on
17 landlords and might actually lead to
18 overall increases in rent for the
19 community, and I'm wondering if there are
20 any studies that have been done that we
21 could use to substantiate that, because
22 then of course what you're really doing
23 is you're having a ripple effect that
24 penalizes people who have not done
25 anything with the criminal justice system

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2 and yet now they're paying higher rents
3 because the system as we're managing it
4 is causing an overall raise of increases,
5 and that strikes me as a pretty
6 catastrophically bad thing for our
7 low-income communities. Are there any
8 studies to that effect?

9 MS. GARLAND: Not that I know
10 of. A part of the problem is that
11 landlords don't often know why their
12 tenant has stopped paying rent, and
13 tenants don't often call their landlord
14 from prison to say, I'm sorry, I'm not
15 going to make rent this month because I'm
16 incarcerated. So it's not necessarily
17 something that we can easily capture.

18 We can look through the
19 database of Municipal Court
20 landlord-tenant eviction cases to find
21 out how many have been evicted due to --
22 specifically due to criminal activity,
23 but it would be hard to capture how many
24 people stopped paying rent because they
25 were incarcerated versus because someone

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2 died and they had to pay funeral expenses
3 versus there was a disability and they
4 had to pay co-pays or for whatever other
5 reasons people stop paying rent.

6 MR. HOLLWAY: Thank you.

7 MS. GARLAND: If I find such a
8 study, I'll let you know.

9 MR. HOLLWAY: I'd be interested
10 to see it for sure.

11 REVEREND MAIRENA: I have a
12 question for the doctor, then for our
13 friends from Community Legal Services.

14 The first one is, what is the
15 total budget that you operate on and what
16 percentage of that goes toward medical?

17 And the second question is,
18 we're talking pretrial here. So if I
19 were to be arrested and I'm in jail
20 waiting for my trial date as a citizen
21 and my benefits are taken away, I would
22 feel as though I'm already being presumed
23 guilty, but my question is, has that ever
24 been argued against? Has that ever been
25 described as going against my

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2 constitutional right, that I haven't been
3 convicted as guilty but yet my benefits
4 are being removed?

5 MS. BRADFORD-GREY: First
6 question is the prison budget.

7 DR. HERDMAN: Officially the
8 City -- the budget for the prison --

9 REVEREND MAIRENA: Not the City
10 one, but the one you operate on.

11 DR. HERDMAN: I thought you
12 wanted the context of the total prison
13 budget. Officially it's something like
14 240-some million, but that doesn't
15 include the expense of benefits for all
16 of the City employees, which are in a
17 different budget. So I would guess it's
18 280, 300 million. And the budget for
19 healthcare is 65 million as a part of
20 that 300.

21 REVEREND MAIRENA: Thank you.

22 DR. HERDMAN: You're welcome.

23 MS. HIRSCH: And concerning the
24 question of benefits, so if someone is
25 charged with a crime but not held for

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2 pretrial detention if they're in the
3 community, they are eligible to continue
4 to receive benefits. The distinction
5 that the federal government makes for
6 both SSI and Food Stamps and Medicaid,
7 the benefits that it -- well, Medicaid is
8 a little bit different, but for Food
9 Stamps and SSI, the federal government's
10 justification is that someone else is
11 providing for Food Stamps, someone else
12 is providing the meals for you. So it's
13 the fact of being in an institution in
14 which meals are being provided that loses
15 you the Food Stamps. It's not specific
16 to it being a jail as opposed to some
17 other type of institution.

18 COUNCILMAN JONES: So if a
19 spouse or a significant other is in the
20 household where the primary person being
21 incarcerated receives Food Stamps, is
22 there a transfer? How does that occur?

23 MS. HIRSCH: There should be a
24 transfer, but the Welfare Department
25 doesn't generally just transfer. What

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2 they do is cut off this person's
3 benefits. Then the other person has to
4 apply.

5 COUNCILMAN JONES: And during
6 that gap, how do kids eat?

7 MS. HIRSCH: I'm sorry?

8 COUNCILMAN JONES: During that
9 gap in time, how do children eat?

10 MS. HIRSCH: It really -- it --

11 COUNCILMAN JONES: You're the
12 messenger. I get it.

13 MS. HIRSCH: I mean, there are
14 people who are hungry. There are people
15 whose benefits don't get cut off the
16 minute that they're incarcerated. And I
17 should say for purposes of public
18 benefits, people's benefits should not be
19 cut off the moment they're incarcerated.
20 They should continue to receive benefits
21 unless they have been incarcerated for a
22 full month, because if they're in and out
23 briefly, there is no reason to cut off
24 those benefits. They remain eligible,
25 just as if somebody is hospitalized

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2 briefly and the hospital is providing
3 food while they're in the hospital, they
4 don't lose their benefits.

5 There are instances where
6 benefits get cut off immediately because
7 paperwork is due and doesn't get filed
8 because somebody misses an appointment.
9 So not even that the Welfare Department
10 knows that this person is in jail. What
11 the Welfare Department knows is they
12 didn't show up at their welfare-to-work
13 program or they didn't show up for an
14 appointment or their renewal paperwork
15 was due and wasn't received. And in
16 those instances, the benefits that get
17 cut off are benefits for the entire
18 family. Someone else could then apply
19 for benefits for the kids or other adults
20 in the family, but would have to go
21 through that initial application process,
22 which can take at least 30 days. I mean,
23 the Welfare Department has a time limit
24 of 30 days to make a decision.

25 MS. BRADFORD-GREY: One of the

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2 things that I find fascinating as a
3 practitioner is, all of these
4 considerations are never mentioned at a
5 bail hearing. They're never even
6 discussed or even understood in terms of
7 what we are doing. The only thing that
8 is discussed are the charges and some of
9 the bail guidelines, which I don't
10 believe goes through this litany of
11 questioning. Pretrial does ask certain
12 questions of a person's employment status
13 or whether or not they have a place to
14 live, but other things in terms of what
15 you're discussing as to whether or not we
16 could make smart decisions that would not
17 affect not only the person but the
18 families and then, of course, taxpayer
19 dollars that are paying daily for people
20 to sit in there just to lose things and
21 to pay for the children and the other
22 people to be brought back up to speed.
23 We want to make more sense of this, and
24 if we were to be able to do that, I guess
25 it would be an overhaul of our pretrial

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2 system, and we'd have to kind of slow it
3 down or add to it in terms of that
4 knowledge or that database that we could
5 access.

6 Do you have any ideas or
7 solutions as to how some of this
8 information, if not all, could be made
9 available at a determination of what to
10 do with someone, or should it just be
11 that like other states are doing,
12 possibly for these very same reasons,
13 that low-level offenses, we should look
14 to alternatives for low-level offenses
15 when people are going to be coming back
16 to the community? It's not as if they're
17 staying in jail, and to make more sense
18 of what we are doing as a city, as a
19 community, the effective use of dollars.
20 Should we just go to that system or
21 should we be looking at those systems?

22 MS. HIRSCH: If I could say, it
23 seems to me that we've had a tremendous
24 shift of cost and resources into the
25 criminal justice system, and listening to

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2 Dr. Herdman describe the medical care
3 that's provided, which I think is
4 tremendously important that it be
5 provided to people who are incarcerated,
6 it's also tremendously important that we
7 provide services to individuals before
8 they're incarcerated to prevent them from
9 being incarcerated. And it's not what I
10 was asked to talk about, but in the late
11 1990s, I spent a year doing research on
12 women with felony drug convictions
13 through a fellowship from the Open
14 Society Institute because of a connection
15 to a public benefits issue, and one of
16 the things I learned in that process is
17 that the way that women get felony drug
18 convictions is by way of being addicted.
19 The way they get addicted, by and large,
20 is by way of being physically and
21 sexually abused and then self-medicating
22 the pain of that abuse. And among the
23 women I interviewed -- and I should say I
24 got that picture both from the women I
25 interviewed, from the parole officers,

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2 from the police officers, from the
3 prosecutors, from the defense attorneys,
4 from the public health officials, from
5 the prison officials. I got a remarkably
6 coherent story from all of those folks.
7 And over and over the women I talked to
8 said that the Options Program for the
9 ones who had been in the Philadelphia
10 Prison System, that the Options Program
11 was the first place that anybody talked
12 to them about dealing with the aftermath
13 of sexual abuse as a child or about
14 dealing with the aftermath of sexual or
15 physical abuse as an adult, and that the
16 Options Program was the first place that
17 anybody provided help to them in that
18 context. And to me, on the one hand,
19 that's a great testimonial for the
20 Options Program, but it's a terrible
21 statement about what we as a city and a
22 community do in response to physical and
23 sexual abuse. And that was the story for
24 women. I don't know the story for men.
25 I'm willing to guess that there are very

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2 similar stories around the trauma and
3 abuse that individuals have experienced.

4 So I'm sorry. It's not what I
5 was asked to speak about.

6 MS. BRADFORD-GREY: That's
7 okay.

8 MR. ROJAS: Let me just follow
9 up on that. Dr. Herdman, I know that the
10 Options Program is grant funded and so
11 are other programs. Do you envision any
12 other medical services that we can go
13 creatively and look for funding, grant
14 funding, to offset the costs?

15 DR. HERDMAN: There are one or
16 two foundations that specialize in
17 supporting research related to
18 corrections, but generally it has to do
19 with evaluating programs around reentry,
20 not about funding services within the
21 walls. I don't know of any sources of
22 funding like the one you're talking
23 about. I wish there were.

24 MS. BRADFORD-GREY: Nor are
25 they for pretrial.

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2 DR. HERDMAN: Correct.

3 MS. BRADFORD-GREY: The

4 pretrial population is the ones that
5 really are not eligible for a lot of some
6 of these programs, because they're in the
7 pretrial status. And so this is what
8 we're talking about, what are we doing
9 and why are we paying for this. And like
10 Ms. Hirsch said, it's a shift in the
11 focus. We're putting hospitals in the
12 prison versus putting them in the
13 community. And, you know, I think the
14 most glaring testimony was it's almost,
15 what, \$300 million for the budget of the
16 Prison and 65 million for healthcare. I
17 think that's a real honest understanding
18 of what our priorities are.

19 MR. COBB: So just a two-part
20 question. Thirty thousand people coming
21 into the Philadelphia Prison System
22 annually. What percentage of that
23 population is drug addicted and what
24 percentage of that population is living
25 in poverty?

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2 DR. HERDMAN: I would say
3 virtually all are living in poverty. I
4 mean, we know that 80 percent come from
5 federally designated MUAs. And the
6 percentage that we -- in the study that
7 we did in 2014, it was 77 percent of the
8 people who were coming in on drugs. That
9 doesn't mean that others don't have an
10 addiction, but that was the active drug
11 use on admission.

12 MR. COBB: So here's my loaded
13 summary, and I just want you in your
14 expert opinion to agree. So the City of
15 Philadelphia invests \$300 million
16 annually to lock up people who are
17 addicted to drugs and living in deep
18 poverty.

19 DR. HERDMAN: That's correct.

20 MR. COBB: Thank you. I'm
21 going to tweet that later. I tweeted it
22 before, but I'm going to do it again.

23 COUNCILMAN JONES: Are there
24 any other questions for this panel?

25 (No response.)

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2 COUNCILMAN JONES: Seeing none,
3 thank you so much for your testimony. It
4 is helping to enlighten us. We have a
5 great many things that I've learned and
6 that are going to be helpful.

7 I think I can also share that
8 Ms. Grey and I have a responsibility up
9 at the Pennsylvania Crime and Delinquency
10 Commission, that some of these things
11 should be heard at that level to be able
12 to try to put in place connective pieces,
13 particularly around the area of benefits
14 and cut-offs.

15 DR. HERDMAN: If I could just
16 make a comment. Between 30 and 40
17 percent of the 53,000 people incarcerated
18 in the Pennsylvania Department of
19 Corrections are from Philadelphia.

20 COUNCILMAN JONES: We're aware.
21 So thank you for your
22 testimony.

23 And will the Clerk please read
24 the next panel to testify.

25 THE CLERK: We don't have a

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2 next panel, but I do believe there are
3 members of the audience who wish to offer
4 public comment.

5 COUNCILMAN JONES: If there are
6 people from the audience that would like
7 to comment, can you see the young lady
8 over there. We'll take your name and
9 sign you up.

10 MS. GARLAND: Thank you.

11 COUNCILMAN JONES: Thank you.

12 Anybody want a show of hands
13 that are here to give comment?

14 (No response.)

15 COUNCILMAN JONES: Hands, once.
16 Hands, twice.

17 Seeing none, the Committee on
18 Justice Reform, we will recess to the
19 call of the Chairs.

20 And congratulations to one of
21 our members. Mr. Cobb has joined the
22 ACLU, and I can't think of a better
23 person to safeguard the voice of freedom
24 of the public than you. Thank you.

25 Thank you all.

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2 (Special Committee on Criminal

3 Justice Reform concluded at 11:40 a.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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