

Special Committee on Criminal Justice Reform
June 9, 2017

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

Room 400, City Hall
Philadelphia, Pennsylvania
Friday, June 9, 2017
10:21 a.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR. - CHAIR
COUNCILMAN KENYATTA JOHNSON
CHIEF DEFENDER KEIR BRADFORD-GREY - COCHAIR
KEVIN BETHEL, SENIOR POLICY ADVISOR- COCHAIR
DEAN JOHN HOLLWAY, QUATTRONE CENTER
RICHARD MCSORLEY, CRIMINAL TRIAL DIVISION
REVEREND ADAN MAIRENA, MINISTRY DIRECTOR
RICHARD PODJUSKI, BOARD OF PROBATION PAROLE
HONORABLE BENJAMIN LERNER, RETIRED
TARIQ EL-SHABAZZ, ESQ.
JULIE WERTHEIMER, MAYOR'S MANAGING DIRECTOR
OFFICE

RESOLUTIONS: 160101

1 it to mean anybody.

2 So, but what it is about is the belief
3 that at a point when a new behavior comes
4 and was supposed to be about monkeys that
5 actually ate oysters, and they couldn't
6 figure out how to open the oyster. And one
7 smart monkey took a rock and actually broke
8 open the oyster, was able to get its
9 contents, wash it out in the sea. And
10 another monkey saw it and imitated that
11 behavior, and then another and another. By
12 the 100th monkey, it became the collective
13 consciousness, this is how it is done.

14 Well, if you look at criminal justice, I
15 don't know if the first behavioral change
16 was with the Criminal Justice Advisory
17 Board, CJAB. I don't know if the first
18 change was when Darrell Clarke appointed
19 this or whether it was when Barack Obama
20 went into a federal penitentiary and said,
21 we can't arrest our way out of this or prior
22 commissioners even said we can't arrest our
23 way out of. We need to do something
24 different.

1 But what I know is that since then, we
2 have had this Committee. We have had every
3 district attorney candidate that ran talk
4 about some aspect of your work, most of them
5 with the majority of the work that is being
6 done. So, there is a collective
7 consciousness that is changing towards
8 criminal justice that I think is definitely
9 for the better. It could have been the
10 Prison Commissioner deciding that we had a
11 federal injunction. I don't know where it
12 started. I can tell you it is here. It is
13 a good feeling.

14 One of the quotes that I share with my
15 members and the co-chairs in particular is
16 that in my body of elected officials and
17 counts, you have several types. Some of
18 them really want to save souls. And I'm not
19 going to say who they are. But everything
20 out of their mouth is let's open all of the
21 jails and let's do all of the things we need
22 to do to restore a sense of wholistic
23 justice.

24 And then I have some that are very much

1 more conservative. Do you see how much this
2 stuff is costing? And we need to save
3 money. Some want to save souls, some want
4 to save money. But the work of this
5 Committee allows us to agree that we can
6 accommodate both of those worthwhile goals
7 in a common purpose. And so, that's why
8 this work has been so gratifying to me.

9 I want to allow anyone on the panel, in
10 particular my co-chairs to have an opening
11 statement.

12 Ms. Grey.

13 MS. BRADFORD-GREY: Thank you,
14 Councilman Jones. I, too, want to echo your
15 sentiments. I think the collective will of
16 our City in terms of looking at how do we
17 get better outcomes from our system is
18 meshing together. I mean, whether it be
19 from the leadership onto the coalitions that
20 have brought a lot of information to the
21 general public. I do want to give a shot
22 out to the No 215 Coalition in the back
23 there that have been really understanding
24 the reform movements that are going around

1 the country and bringing that information in
2 really digestible bites so that the
3 community who doesn't do this work every day
4 really understands how to help build the
5 capacity to move towards better practices.

6 And then, of course, I definitely want
7 to thank our Criminal Justice Advisory Board
8 and the Mayor's Office as well as City
9 Council, the Prisons, Police, everyone who
10 came together to start figuring out what we
11 can do to make our system run more
12 effectively, efficiently and be more
13 fundamentally fair. I think we all agree
14 that some of the practices that we've been
15 engaged in over the past two decades have
16 not really given us the return on investment
17 that we want.

18 And so, to sit down and look at our own
19 individual organizations and really say how
20 can we do better, that's what real
21 leadership is. It's really looking at
22 things and not just doing it because you
23 said this is what I want to do, but
24 evaluating what you are doing and saying, I

1 can do it differently and I can enhance what
2 I'm doing. Being a better version of
3 ourselves is what I love being a part of.

4 So, I just want to thank you very much.

5 MR. BETHEL: So, I will keep my comments
6 very brief. Coming from Philadelphia Police
7 Department Deputy Commission and sitting on
8 the other side with that team over there, I
9 just want to commend the MacArthur
10 Foundation and the team that is going to
11 present today. I get that opportunity to.
12 And for those who don't know, there is a lot
13 of work put into this process. And folks
14 don't really know behind the scene, there is
15 a lot of work. But coming from that is a
16 strong collaboration.

17 What you will see today is a groups of
18 folks over on the other side who have worked
19 together. We have argued in the rooms
20 together. We have made some decisions that
21 we didn't like, but we all knew that it was
22 for a common purpose. And it was a
23 purpose-driven strategy. And so, I just
24 want to on behalf of myself personally and

1 as part of this Committee, commend the group
2 coming up here today to share with the
3 public a lot of the good things that are
4 going on behind the scenes. It was just not
5 a policing issue anymore. The issue of
6 what's going on in the criminal justice
7 system goes well beyond just policing. That
8 is just the front end of the system. But to
9 watch the work that is being done behind the
10 scenes is such an effective -- and how
11 effectively it's being done, should be
12 commended. Today is a day about sharing
13 that information about what you are doing.
14 So that is my edict, and I will stand by it
15 and pass it over to you.

16 COUNCILMAN JONES: So, are there any
17 other Members of the Committee that would
18 like to say something?

19 Seeing none, will the clerk please --
20 oh, Tariq Shabazz.

21 MR. EL-SHABAZZ: The only thing I want
22 to put on the record is simply this. That
23 criminal justice reform is public safety,
24 and public safety is criminal justice

1 reform. Oftentimes when there's a view as
2 to criminal justice reform, it's looked upon
3 as if there is a victim-less reform. In
4 other words, the victims are not taken into
5 consideration. But when we look at the
6 format of what our criminal justice system
7 is, we see that the victims come in every
8 shape and every form. And that those
9 individuals that are family members that
10 lose their fathers because their fathers are
11 arrested, are victims as well, as well as
12 that individual that walks down the street
13 and, in fact, is robbed and injured to such
14 a degree that their family suffers.

15 So in viewing these recommendations and
16 viewing the work of the Criminal Justice
17 Reform Committee, I just want you to review
18 it in a broad scope. And that scope is that
19 criminal justice reform, common sense
20 realistic criminal justice reform is, in
21 fact, public safety.

22 That's all I had, Mr. Chair.

23 COUNCILMAN JONES: That is a fine
24 comment. Seeing no other further comments,

1 will the clerk please read the title of the
2 resolution.

3 THE CLERK: Resolution 160101: A
4 resolution appointing members to the
5 "Special Committee on Criminal Justice
6 Reform," who will conduct public hearings
7 examining the Philadelphia criminal justice
8 system for the impact of current policies
9 and offer recommended strategies for reform
10 that are in the best interest of public
11 safety and the public good.

12 COUNCILMAN JONES: So, the reason why we
13 are here today is the -- two years ago the
14 City received a \$3.5 million grant from the
15 MacArthur Foundation. And the challenge as
16 I understand it was primarily to reduce the
17 prison population by 34 percent. They
18 created a group of justice league partners
19 that have gone about that work, including
20 members of the Managing Directors Office
21 including Judge Lerner, the District
22 Attorney's Office, the Defender's Office to
23 work towards that goal. Members of the
24 judiciary all -- the prison all became a

1 part of this work group to do that.

2 So, I am excited for them to share
3 publicly some of the good works that they
4 are doing and the direction that this City
5 hopefully will adopt and go in. So with
6 that, can the members -- can you read the
7 panel to testify, Ms. Williams.

8 THE CLERK: The first panel will be
9 Rachael Eisenberg, Dr. Jaime Henderson and
10 our beloved Julie Wertheimer.

11 (Panel approaches Table.)

12 COUNCILMAN JONES: "Beloved." That's
13 the title that was earned over time,
14 definitely. Thank you, ladies, for joining
15 us. Whatever order you'd like to begin your
16 testimony, just remember state your name for
17 the record so that the clerk can memorialize
18 your statement.

19 MS. WERTHEIMER: Julie Wertheimer, Chief
20 of Staff Criminal Justice, City of
21 Philadelphia. And I just want to take the
22 opportunity before we begin to thank the
23 Committee and you, Councilman Jones, for
24 giving us the opportunity to present the

1 work we have been doing so far one year into
2 implementation and really two-plus years
3 into this endeavor and several more years
4 behind that, that allowed us to get to this
5 point of collaboration. And with us today
6 are over a dozen members of the
7 implementation team representing all of the
8 different criminal justice agencies
9 throughout the City who you will hear from
10 as we go through this update.

11 MS. EISENBERG: Councilman, Members of
12 the Committee, my name is Rachael Eisenberg.
13 I'm the project manager for the MacArthur
14 Safety and Justice Challenge with the
15 Managing Director's Office of Criminal
16 Justice.

17 DR. HENDERSON: Hi, good morning. I'm
18 Jaime Henderson, the Director of Research
19 and Development for the First Judicial
20 District.

21 COUNCILMAN JONES: Welcome.

22 MS. EISENBERG: So, the process of the
23 Safety and Justice Challenge in Philadelphia
24 really began in spring of 2015. The

1 MacArthur Foundation launched a national
2 initiative that has, you know, developed
3 into a approximately hundred million dollar
4 investment across the country where
5 jurisdictions are seeking to safely reduce
6 the size of their local jail populations and
7 reduce the rate of racial, ethnic and
8 economic disparities in the criminal justice
9 system overall.

10 As the process began, 191 jurisdictions
11 across the country applied to be part of the
12 MacArthur's initial planning grant process.
13 Twenty jurisdictions were selected to
14 participate in a planning endeavor. And ten
15 jurisdictions at that point after the
16 planning process were awarded implementation
17 grants. At this point, like I mentioned,
18 there are 10 implementation sites across the
19 country. And those are noted in blue on the
20 slide. There are also 10 partner sites
21 which represent those that went through the
22 planning process and continue to work
23 towards implementation. And then the
24 foundation also launched an innovation

1 program where jurisdictions across the
2 country can apply for small grants. Those
3 are noted in grey where jurisdictions are
4 doing small -- smaller innovation projects.

5 MS. WERTHEIMER: So, this process really
6 started in about January of 2015 when
7 MacArthur Foundation announced what was
8 originally a \$75 million investment. Now
9 it's grown to over a hundred million dollars
10 to address the issue of mass incarceration
11 across the country. And at that point, they
12 put out a request for proposals for the
13 jurisdictions. And CJAB under the
14 leadership of President Judge Woods-Skipper
15 convened a small group to explore and then
16 ultimately decide to apply and put together
17 an application for the planning phase.

18 That was submitted in March of 2015.
19 And in May of 2015, we were notified that we
20 were one of those 20 sites that received
21 \$150,000 planning grant which kicked off a
22 seven-month intensive planning phase where
23 we met at least weekly a large group of us
24 representing all of the different agencies:

1 Pretrial Services, Probation, Municipal
2 Court, Court of Common Pleas, Police, Prison
3 Department of Behavioral Health, DA,
4 Defender. And I list all of those to make
5 the point that this has really been
6 collaborative from the start.

7 And during that planning phase, we also
8 did a deep dive on some data and put
9 together a snapshot which Dr. Henderson will
10 discuss the data a little bit more shortly.
11 But based on that information, the
12 foundation gave us the target of a
13 34 percent reduction over three years. They
14 gave individualized targets to each
15 jurisdiction that had a planning grant as
16 the basis for creating the application. And
17 we should note that we have the most
18 aggressive reduction goal out of all the
19 sites.

20 We found out in April of 2016 with the
21 start date of May 1, 2016, that we were
22 awarded a \$3.5 million grant to enact our
23 plan, was a \$4 million plan which I will
24 discuss shortly. It's a two-year grant in

1 terms of the money, but it's three years in
2 terms of the project timeline to reach that
3 34 percent target goal that was stated in
4 the application. And so, we just concluded
5 the first year of implementation on May 1,
6 which is why this is an appropriate time to
7 provide you with this update.

8 I will also note that both the City and
9 the First Judicial District contributed over
10 \$2 million in matching funds both in kind
11 and new cash. And Mayor Kenney has also
12 made the commitment to make up the \$500,000
13 differential between the \$4 million plan and
14 the \$3.5 million award.

15 So to give you just more of a sense of
16 the governance involved in this, we have an
17 implementation team that meets monthly with
18 over 30 members representing all the
19 different agencies that then reports out to
20 the Criminal Justice Advisory Board, which
21 meets about seven times a year. Under the
22 implementation team, we have a work group
23 for each of the six strategies as well as a
24 community engagement work group and a

1 communications team to manage all the
2 different aspects of this. And you will
3 hear from each of the six strategy related
4 workgroups.

5 MS. EISENBERG: As Julie mentioned, the
6 Philadelphia specific reform plan includes
7 six overarching strategies and 19 different
8 programs, 12 of which have launched at this
9 time. And so, the strat -- the initiatives
10 are organized under the six overarching
11 strategies.

12 The first is to reduce the incarceration
13 for pretrial defendants. The second is to
14 create efficiencies in case processing. The
15 third, to address violations of probation.
16 The fourth, to reduce racial and ethnic
17 disparities. The fifth, to address special
18 populations. And the sixth, to improve
19 cross-system data capacity.

20 MS. WERTHEIMER: And so, this might be a
21 little difficult to read from here, but
22 hopefully you can read on the slide. This
23 is a chart created by the research unit, the
24 First Judicial District showing a decrease

1 in our jail population from January of 2015
2 when the foundation originally let the RFP
3 through May of this year. And what I will
4 point out is the white lines mark the
5 beginning of the planning and implementation
6 phases respectively, and then the orange
7 show when each of the twelve initiatives
8 that are now underway are rolled out. And
9 now that we have moved onto data, I am going
10 to pass it on to Dr. Henderson.

11 DR. HENDERSON: Thank you.

12 COUNCILMAN JONES: Did you guys practice
13 this?

14 MS. WERTHEIMER: No. We just spend this
15 much time together.

16 MR. HOLLWAY: So, just a clarifying
17 question to make sure I understand. Is the
18 MacArthur goal jail and prison population
19 reduction? Or is it one or the other?

20 MS. WERTHEIMER: This is about the
21 county jail population.

22 MR. HOLLWAY: Okay.

23 MS. WERTHEIMER: The six facilities on
24 State Road.

1 MR. HOLLWAY: Thank you.

2 DR. HENDERSON: I am going to take a few
3 minutes to illustrate the decline and
4 describe what our prison population in
5 Philadelphia currently looks like, and how
6 it's changed since MacArthur efforts have
7 begun in Philadelphia. With the caveat that
8 as shown here, not all our implementations
9 have been launched. And we still have a
10 good bit of work to do.

11 During the planning phase in the summer
12 of 2015, we used a detailed prison snapshot
13 that was previously mentioned to dissect the
14 population and help us make decisions about
15 initiatives we should undertake to safely
16 reduce the prison population in
17 Philadelphia. The snapshot from 2015 is
18 referred to as our baseline. It's our
19 beginning point for our statistical
20 purposes.

21 Each month we take the prison census
22 file from the last day of the month to
23 generate the statistical reports. Our
24 initiatives focus on four groups of

1 individuals who are in prison -- pretrial,
2 detainers, sentenced and seriously mentally
3 ill. And we use the acronym SMI to refer to
4 that population.

5 As previously mentioned, Philadelphia's
6 reduction benchmark is 34 percent over three
7 years. At the end of last month, our prison
8 population was 6,604 people which translates
9 to an 18.3 percent reduction in the total
10 population. We are over halfway there. But
11 as I previously stated, not all of the
12 initiatives have been launched. And there's
13 a lot of work that lies ahead of us.

14 The bar at the top reflects the change
15 in the average daily population for each
16 month from January 2015 to May of this year.
17 The lighter the shade of blue, the lower the
18 average daily population for that month.
19 The arrow depicts the total population for
20 our baseline, which is from July 2015 where
21 we had 8,082 individuals incarcerated. And
22 the current population from the end of
23 May 2017, which we had 6,604 individuals
24 incarcerated. Again, that's 18.3 percent

1 reduction from the beginning of our efforts.

2 We know that the pretrial population is
3 of great interest. And we have numerous
4 initiatives directed towards reducing the
5 size of this group. I'm going to spend a
6 few minutes describing the pretrial group to
7 correct previous information that has been
8 presented to this Committee and also
9 appeared in various media outlets.

10 31 -- 30.1 percent of the total
11 population is there because of an open case.
12 This figure includes those charged with
13 murder. It does not include those with
14 detainers. Since July of 2015, we have seen
15 a 4.4 percent proportional decrease in this
16 population. Now if you remove individuals
17 who are charged with murder, since they are
18 held during their trials, then the pretrial
19 population on excluding murder charges and
20 detainers is 25.5 percent of the total
21 population. Let me say that again because
22 this figure is the most commonly misquoted
23 and misrepresented. 25.5 percent of the
24 prison population is there on cash bail with

1 open cases, no detainers and no murder
2 charges.

3 For our intents and purposes, we are
4 very concerned with this group. There has
5 been a 12 percent proportional reduction in
6 the size of this group since July of 2015.
7 That is roughly 670 fewer individuals held
8 in prison on cash bail. Let's drill down a
9 bit more on this pretrial population and
10 take a look at people with cash bail amounts
11 of \$50,000 or less.

12 Currently, 8.1 percent of the total
13 population has a cash bail of \$50,000 or
14 less. The size of this group has decreased
15 by 22.6 percent since July of 2015. At the
16 end of last month, just under 2 percent of
17 the total population had a cash bail of
18 \$5,000 or less. While we have made progress
19 in this area and have initiatives such as
20 early bail review to target this population,
21 we still have more work to do so that people
22 are not held solely because they cannot
23 afford cash bail.

24 Moving onto detainers and the prison

1 population. Roughly half of the prison
2 population has a detainer of some sort.
3 This figure includes detainees from other
4 jurisdictions. Also of note with this
5 group, a majority of them have open cases
6 both from Philadelphia or from another
7 jurisdiction. They're a dynamic bunch. As
8 shown here on the slide, the proportion of
9 people with detainees in the prison has
10 increased over the past couple of years.
11 But the overall volume is down from July of
12 2015. So even though we have got over 300
13 fewer people in jail with a detainer, the
14 proportion has increased because other
15 sections of the population has decreased at
16 a faster rate. Currently, 18.3 percent of
17 the prison population is serving a sentence
18 of some sort. The size of this group has
19 decreased by 8.5 percent over the past two
20 years.

21 And last but not least is the seriously
22 mentally ill or SMI population. This group
23 of individuals have been deemed seriously
24 mentally ill during the intake process at

1 prison. Here, unlike any other category of
2 people that I have mentioned previously,
3 both the volume or the number and proportion
4 of SMI people have increased since July of
5 2015. We have seen a 28.9 percent increase
6 in the proportion of people who are SMI in
7 our prison. This group includes a mix of
8 individuals from the previous three groups
9 that I just discussed: Pretrial, detainers
10 and sentenced.

11 These numbers are general categories
12 which somewhat oversimplifies our prison
13 population, which is actually very complex
14 and which is why we needed 19 different
15 initiatives to reduce our jail population.
16 At this time, we will shift to our specific
17 strategy updates.

18 MS. WERTHEIMER: So, we are happy to
19 take any questions about the background and
20 introduction before we move on to the next
21 panel.

22 MR. EL-SHABAZZ: Thank you. I wanted to
23 talk with you about the SMI. Is it
24 affected, this population affected by what

1 is happening at Norristown? Is Norristown
2 considered those that are confined to
3 Norristown -- is that attributed -- and from
4 Philadelphia County, are they attributed to
5 the numbers in Philadelphia County?

6 And are the outside services that are
7 being looked at with respect to having
8 individuals that are seriously mentally ill
9 but have the capacity to be -- to not be
10 confined but to be -- to seek treatment, is
11 that one of the things that isn't included
12 in this?

13 MS. WERTHEIMER: So, I would actually
14 ask if we could hold answering that question
15 until the panel that represents the
16 initiatives that deal with the SMI
17 population is here including representatives
18 the Department of Behavioral Health.

19 MR. EL-SHABAZZ: Let me write it down so
20 I won't forget it.

21 MS. WERTHEIMER: Because they will able
22 to provide that information in their
23 presentation. And also, be able to more
24 comprehensively answer that for you.

1 MR. EL-SHABAZZ: Absolutely. Thank you.

2 COUNCILMAN JONES: Any other questions?

3 MR. HOLLWAY: Yeah, I have one. I just
4 want to make sure I understand the data a
5 little bit.

6 If the open cases with no detainers is
7 depending on whether you are including
8 murder 25 or 30 percent, why is the open
9 population with detainers 70 percent --
10 50 percent instead of 70 percent? See what
11 I'm saying. Shouldn't that be 100 percent
12 open cases with or without detainers?

13 DR. HENDERSON: Say that again?

14 MS. EISENBERG: Which figure are you
15 discussing?

16 MR. HOLLWAY: You start with open cases
17 with no detainers including murder as
18 30 percent.

19 DR. HENDERSON: Right.

20 MR. HOLLWAY: Okay. So then four slides
21 later, the population with detainers is
22 50 percent. So, that leaves 20 percent
23 unaccounted for on a binary thing, if I
24 understand it right. I'm missing something.

1 DR. HENDERSON: Okay. So, the question
2 is when you're looking at -- why don't the
3 30 percent and the --

4 MR. HOLLWAY: 50 percent.

5 DR. HENDERSON: 50 percent?

6 MR. HOLLWAY: That's with
7 detainees/without detainees and other --

8 DR. HENDERSON: There are other
9 proportions of the population that are not
10 represented in these figures such as holds
11 from other counties, material witnesses.
12 This isn't the whole entire population that
13 is being presented. These are just the
14 groups that we are focusing on for our
15 initiatives.

16 Does that answer your question?

17 MR. HOLLWAY: I think so. At some
18 point, I will circle back to what the other
19 people are. Thank you.

20 MS. EISENBERG: In addition, 20 percent
21 of the population or 18.3 percent of the
22 population are sentenced. So, that's a
23 category that is distinct from the ones that
24 you just mentioned.

1 MR. HOLLWAY: But this is open cases
2 with or without detainers. So, the
3 sentencing population shouldn't be in that.

4 DR. HENDERSON: Right. The sentence
5 population is not included with those.
6 That's separate.

7 MR. PODGUSKI: So, I just heard that of
8 that detainer population, that is either or
9 that is a person who is currently serving a
10 sentence with a detainer from another
11 jurisdiction, or a person with an open
12 charge with a detainer from another
13 jurisdiction.

14 COUNCILMAN JONES: Excuse me. Hold it.
15 For the first time when everybody speaks,
16 you have to say your name so that --

17 MR. PODGUSKI: Oh, I'm sorry. Rich
18 Podguski, State Parole.

19 DR. HENDERSON: Okay. So, the question
20 is -- can you please restate the question?

21 MR. PODGUSKI: So, is that population
22 individuals who are serving a sentence with
23 the detainer from another population or an
24 open charge with a cash bail?

1 DR. HENDERSON: Those are people with
2 open cases. That does not include the
3 sentence population.

4 MR. PODGUSKI: I'm sorry?

5 DR. HENDERSON: That does not include
6 any of the sentence population.

7 MR. PODGUSKI: And my second question is
8 concerning the mental -- the seriously
9 mental ill population. Do you have any
10 sense of a breakdown in terms of their cases
11 in terms of misdemeanors or felonies?

12 DR. HENDERSON: No. That's not
13 something I have readily available.

14 MR. PODGUSKI: Okay. Thank you.

15 COUNCILMAN JONES: Okay. Wait a minute,
16 that's it? Hold it. I'm sorry.

17 Of the 19 reforms, which ones have not
18 started? You said 12 have already begun.

19 MS. WERTHEIMER: Right.

20 COUNCILMAN JONES: What's the remainder?

21 MS. WERTHEIMER: So if you want to refer
22 to the slide right before the decline graph,
23 it should note on there with an asterisk
24 which ones have launched to date, so --

1 there is a comprehensive list there.
2 Anything that does not have a star next to
3 it are the things that have not yet
4 launched.

5 COUNCILMAN JONES: So, let's dig down
6 deeper into these reforms because I think
7 they're significant.

8 For example, risk assessment tool.
9 Where are we -- what phase are we in with
10 that?

11 MS. WERTHEIMER: So, Councilman, I would
12 like to defer to the next panel which is
13 going to go into strategy one in-depth for
14 you.

15 COUNCILMAN JONES: Okay. Does that
16 include most of the things up there?

17 MS. WERTHEIMER: So, what the rest of
18 the presentation is going to include are --
19 there is going to be six more panels, each
20 one representing the strategies you see on
21 that chart.

22 COUNCILMAN JONES: Thank you very much
23 for your testimony.

24 MS. WERTHEIMER: Thank you.

1 COUNCILMAN JONES: Wait a minute. I'm
2 sorry, Ms. Grey.

3 MS. BRADFORD-GREY: I wanted to ask --
4 this is great that we are reducing our
5 prison population. But is there any studies
6 about how that's working out in terms of
7 commitment to public safety? Are people
8 coming back? Or has there been any
9 discussion on whether or not there's a
10 savings generated, and will that be used to
11 increase treatment in communities so that
12 the people who are coming out can get the
13 benefit of increased treatment
14 opportunities?

15 MS. WERTHEIMER: So, I will speak to the
16 second question first.

17 With regards to savings, there have not
18 been significant savings to date just
19 because of the way the jails budget is
20 structured. There are some incremental
21 savings by having a lower population. But
22 the majority of the drivers of the jails
23 budget are operating costs that have not
24 been diminished despite the decline in

1 population to date.

2 I am sure that there will be further
3 conversation within CJAB and among the
4 various agencies if and when we do start to
5 realize savings about how we can reinvest
6 them into successful programs within the
7 criminal justice agencies.

8 COUNCILMAN JONES: So, new rule.
9 Whenever you do a acronym, at least the
10 first time, say what it actually --

11 MS. WERTHEIMER: I don't know what i
12 just said -- CJAB, the Criminal Justice
13 Advisory Board.

14 MS. BRADFORD-GREY: Anything about the
15 first -- can anyone answer the first
16 question in terms of the people that have
17 been released during this process, do we
18 know any of the -- what the recidivism rate
19 has been? Or is there a measure that we are
20 going to give in terms of the time frame
21 that we are going to look at in terms of
22 recidivism rate?

23 DR. HENDERSON: So at this time, we
24 haven't tracked the recidivism rates for

1 people who have been released, specifically
2 from MacArthur efforts. However, I know the
3 Reentry Coalition has some preliminary
4 numbers for their efforts, generally
5 speaking, for recidivism for the
6 Philadelphia prison. But those numbers, I
7 don't believe, have been released yet.

8 MS. BRADFORD-GREY: The Reentry
9 Coalition deals with the back end, right?

10 DR. HENDERSON: Right. So, we haven't
11 yet looked at those release through our
12 pretrial efforts at this time.

13 COUNCILMAN JONES: That is essential.

14 DR. HENDERSON: Right.

15 COUNCILMAN JONES: I think that might be
16 even a linchpin in the success of this. If
17 we -- if we commit to a more relaxed
18 understanding of who will be retained and
19 who will be held based on all kinds of
20 models that are out there, so those same
21 people that I said one going to save souls,
22 another one to save money, there might be a
23 third. And that third is do not increase
24 the crime rate because of these actions.

1 So, we have to measure that --

2 DR. HENDERSON: Absolutely.

3 COUNCILMAN JONES: -- aspect of it.

4 MR. MAIRENA: Adan Mairena.

5 So if the prison population has gone
6 down close to 2,000 people, who is it that's
7 not getting sent to jail?

8 MS. EISENBERG: What is --

9 MR. MAIRENA: Okay. If the numbers have
10 gone down --

11 DR. HENDERSON: Right. We have seen
12 those degrees largely with the pretrial
13 population, the cash bail population.

14 COUNCILMAN JONES: Could you repeat the
15 question and the answer?

16 MR. MAIRENA: Yeah. Who is the
17 demographic and the makeup of the folks in
18 the 2,000 that are not getting sent to jail,
19 that are not being incarcerated?

20 DR. HENDERSON: So, we don't have that
21 because it's been over two years. So that
22 2,000 is just -- that population changes
23 every day. People in and out. So, it's not
24 a specific group of 2,000 people. It's just

1 the overall population has decreased by that
2 much over the past couple of years. I don't
3 know if that helps explain.

4 MR. HOLLWAY: Let me see if I understand
5 your question. John Hollway from Penn Law.

6 As I hear the question, and correct me
7 if I'm wrong, it's more a question of is it
8 a -- are there descriptors that we can use
9 to describe the average population? In
10 other words, we know it's not people who
11 have been accused of murder.

12 MS. WERTHEIMER: Right.

13 MR. HOLLWAY: Is it low level --

14 MS. WERTHEIMER: Right.

15 MR. HOLLWAY: Misdemeanors and felonies
16 that are non-violent? Are there other
17 demographics that we can use to describe
18 that population in general?

19 MS. WERTHEIMER: So, I think we are
20 hesitant to use blanket phrasing to describe
21 everyone. But for the most part, this is
22 about more the low level, non-violent
23 offenders. But that's not inclusive of all
24 of the work we are doing, as you will hear.

1 MS. BRADFORD-GREY: One more last
2 question. In that population, I know part
3 of the MacArthur initiatives is to look at
4 racial bias and disparities. Have we seen
5 in the demographics if we are tracking who
6 in terms of ethnicity, race, gender, who is
7 being now kind of diverted in another area?

8 Do we know that? Has this impact or had
9 any impact on the racial disparity in terms
10 of who is given bail and who is given
11 conditions of release?

12 DR. HENDERSON: At this time, we don't
13 have the detail available. It is something
14 we are working on absolutely. Forthcoming.

15 MR. PODGUSKI: One last question. Would
16 it be safe to say that the 22 percent
17 reduction in cash bail across the various
18 levels is in some way driving the
19 18.3 percent?

20 DR. HENDERSON: It's certainly
21 contributing, yes.

22 MR. PODGUSKI: Okay. Thank you.

23 COUNCILMAN JONES: So again, that's why
24 we have to measure recidivism all along this

1 process. Where there is a action, there is
2 a equal and opposite reaction. We just need
3 to measure what that is.

4 DR. HENDERSON: Absolutely.

5 MS. WERTHEIMER: If I can just state for
6 the record to your point, this is about
7 increasing safety and increasing fairness in
8 the system. Everything we are doing is
9 because we believe by making this a more
10 fair system, it's actually increases public
11 safety across the City. And that's an
12 underlying principle that I feel needs to be
13 stressed at this point.

14 COUNCILMAN JONES: We agree. Let's just
15 quantify it.

16 MS. WERTHEIMER: Yes.

17 MR. HOLLWAY: So before we get to the
18 specific initiative, I would like to say a
19 couple things.

20 First, I think the work you guys have
21 done is outstanding as far as knitting
22 together the different initiatives. That is
23 extraordinarily difficult thing to do. You
24 have been at it for a long time. And the

1 progress that has been shown there is
2 atypically positive for any large city in
3 the country. And you guys are really
4 creating a shining example of what we ought
5 to be doing here nationwide. Thank you for
6 that.

7 MS. WERTHEIMER: Thank you.

8 MR. HOLLWAY: Given the progress you
9 have made so far, I guess my question is, if
10 we are looking at this just as a top line,
11 you know, have we taken care of the low
12 hanging fruit, the easy things to do? And
13 now the second half of what we have to do is
14 incrementally harder?

15 Do you think we will have the same rate
16 going into year two, year three? Can you
17 handicap for us what the rest of the goal
18 attainment looks like and whether you are
19 going to need additional resources or
20 things? Or you feeling good that this trend
21 is going to continue as is?

22 MS. WERTHEIMER: I think that, you know,
23 that there is a lot of data and evaluation
24 that is still in the pipeline yet to come.

1 So, it's hard for us to definitively say
2 that an evaluation connected to the
3 foundation that we can't speak on yet. I
4 think that some of these things are already
5 underway because they were less complicated
6 and involved. And as you might have seen,
7 two of the initiatives even started before
8 we were awarded the implementation grant
9 because they were things we can get up and
10 running without the grant award. And we
11 took that opportunity.

12 Some things have not been rolled out yet
13 just because they needed some -- another
14 initiative to start first for timing
15 reasons. So, I wouldn't categorize what we
16 have done as low hanging fruit versus what
17 we haven't done yet as not. I think there
18 is a mix across the board. And right now we
19 are just focused on getting those things up
20 and running and then evaluating them as they
21 are rolled out.

22 MS. BRADFORD-GREY: Julie, I swear this
23 is the last question. I just wanted --
24 because this is for the public, too.

1 Just want to know, what do you think is
2 contributing to the overall success of this?
3 I mean, MacArthur money is going to run out.
4 The grant is not here forever.

5 What can we do as a system, as a City to
6 continue some of these good works when we
7 don't have variance to MacArthur in the mix
8 trying to help us along?

9 MS. WERTHEIMER: So, I will speak just
10 from our perspective, from the
11 administration's perspective. But for us
12 it's -- there's been years of ground work
13 laid here. Not just the two years we have
14 been involved in this and not just the eight
15 years since CJAB was created, but even prior
16 to that of the various criminal justice
17 agencies working together. And so, there is
18 a really solid foundation already built on
19 cooperation. I think the fact we were
20 meeting weekly and now back to monthly has
21 really just increased that communication and
22 flow of ideas.

23 And so, while you know the grant may run
24 out, I think that there is a strong team and

1 a strong foundation, to use the word again,
2 to continue collaboration and continue new
3 ideas turning out. And there are other
4 areas not covered by this grant where the
5 same agencies are collaborating to try to
6 look at or enact other reforms.

7 COUNCILMAN JONES: So if I were to
8 interpret that to say, is that this grant is
9 to prime the pump which is to change the
10 direction within the departments and
11 attitudes and policies to get it moving.
12 And some of that will take over just by the
13 policy shifts. Is that --

14 MS. WERTHEIMER: It's definitely been a
15 catalyst for change.

16 COUNCILMAN JONES: So number two, if we
17 are looking at initiatives like Day
18 Reporting Centers or whatever, they will --
19 there will come line items from various
20 budgets/departments to accommodate those
21 policy shifts?

22 MS. WERTHEIMER: I --

23 COUNCILMAN JONES: This is more planning
24 than implementation?

1 MS. WERTHEIMER: Well, a lot of this
2 work is implementation. There are dollars
3 to actual programs.

4 COUNCILMAN JONES: Once you -- once you
5 set the ship in a direction, it is then the
6 responsibility of those individual
7 departments/programs to carry on.

8 MS. WERTHEIMER: Yes.

9 COUNCILMAN JONES: Okay. All right.
10 Anyone else? It's okay. Judge Lerner,
11 you've been scarily quiet.

12 JUDGE LERNER: Yeah, it's uncomfortable
13 position for me to be in. I'm Ben Lerner,
14 Deputy Managing Director Criminal Justice.
15 Just to follow up on what Julie said and in
16 further response to Keir's question, and I
17 say this from the perspective of having been
18 heavily involved in our criminal justice
19 system for longer than anybody else I think
20 in this room except for Charlie Hoyt back
21 there.

22 What we've already seen in terms of
23 putting together this grant application is a
24 huge sea change in the will of the different

1 partners in the criminal justice system to
2 pull together to achieve these results.
3 That did not happen overnight. And it did
4 not exist during most -- certainly, did not
5 exist during the years I spent as Chief
6 Defender. And it didn't exist during most
7 of the years that I was on the bench.

8 And to my way of thinking, the greatest
9 weapon we have in terms of making sure that
10 these efforts continue to bear fruit and
11 that we continue to make progress in a
12 fairer more rational, more efficient
13 criminal justice system, the greatest weapon
14 we have is this determination on the part of
15 all of the criminal justice partners to move
16 now in the same direction.

17 Sure, it's going to cost money. And
18 money will have to be provided in -- by
19 cooperative effort between this
20 administration, this City Council,
21 successive administrations and successive
22 City Councils. But the will -- the will
23 that I have described, I think, is
24 completely shared by the funders. And as

1 long as that remains the case, I think we
2 can be pretty confident that even after
3 there's no more MacArthur money, we are
4 still going to be moving forward and making
5 progress on these initiatives.

6 COUNCILMAN JONES: It's interesting. My
7 colleague Kenyatta Johnson has impeccable
8 timing. I was just thinking of what the
9 impacts have been that have had a ripple
10 effect. If you look at whether it's not
11 building a new prison that was a half
12 billion dollar expenditure or whether it was
13 changing the policy at DHS not to charge
14 juvenile offenders for criminal proceedings,
15 there are a number of rippling effects that
16 will live long after MacArthur.

17 And so, this collective consciousness
18 that I talked about in the beginning is a --
19 is going to go on as Judge Lerner said for
20 decades, so.

21 MS. BRADFORD-GREY: I did say -- I
22 swear. Overall -- I am doing this for good
23 public consumption.

24 Is there anything, any takeaways that we

1 have learned throughout our process? That's
2 the whole thing, learning about what we are
3 doing and really applying it in other areas.
4 If there are some takeaways, could you
5 really simplistically state what those are
6 so we can understand the common sense that
7 goes into this as well when we are starting
8 to really reevaluate some of the practices
9 and policies and changing them to fit
10 today's time.

11 MS. WERTHEIMER: I don't know that I can
12 point to any specific takeaways of this
13 time. I think anecdotally, we can probably
14 guess some things. But I think we really
15 need to have a full sense of the impacts
16 which we don't have yet to state
17 definitively. The one thing that I think
18 we've all been enlightened by is a better
19 understanding of how everyone's systems work
20 really from the inside, not just looking
21 from the outside but internally. Better
22 understanding processes, and also we have
23 learned a lot around data as you heard from
24 Dr. Henderson's presentation.

1 COUNCILMAN JONES: You guys put together
2 a chart that was seven pages long.

3 MS. WERTHEIMER: Yes.

4 COUNCILMAN JONES: Which had over 200
5 individual boxes of potential outcomes,
6 processes. Before that in this chamber, we
7 pretty much -- we knew that there was a
8 black box. Criminals went in, ex-offenders
9 came out, and that was it. I mean, we
10 listened to the testimony.

11 So, this evolution of consciousness when
12 the president of City Council Darrell Clarke
13 says, you know what, we need to take a
14 deeper dive into this, that is a seed change
15 of thought that is going to live beyond what
16 we are doing.

17 Councilman, welcome. Would you like
18 to --

19 COUNCILMAN JOHNSON: No.

20 COUNCILMAN JONES: Okay. All right.
21 Are there any other questions?

22 MR. EL-SHABAZZ: I tried not to. I
23 really did try not to. I was sitting on my
24 hand and trying to put my tongue out, as

1 well.

2 What we want to take away from this
3 because, again, this is for the record.
4 There are people here. There are people
5 that are questioning the authenticity of
6 this particular action. There are people
7 that are questioning whether or not it would
8 be effective. But we want to take away from
9 it what is it that we can show, what is it
10 that we can talk to people about to indicate
11 that this, in fact, public safety in
12 addition to because that's the big argument.

13 Is it public safety in addition to
14 dealing with the racial disparity, economic
15 disparity end of it. It's very important
16 because we are in light of the summer. And
17 if we look at last three months, the last
18 three months and we look at one month with
19 Philadelphia alone where four individuals
20 were killed by shot in the back of their
21 head. And we look at another individual,
22 for juveniles. When we are talking about
23 diverting juvenile and a mentally -- an
24 individual that was with special needs was

1 punched not one time but by several people
2 while they were filming it.

3 The people that are in the community are
4 saying you keep saying this or you want
5 this, but look at that. So, what we are
6 saying is, this is excellent. It is an
7 absolute great foundational start. It is
8 something that we understand because we are
9 partners in the system. But when I talk to
10 the person on the corner, what they bring
11 up, they don't see.

12 So, I am hopeful because I think that
13 you gave me this at the beginning. I am
14 hopeful that as the other parts of the
15 presentation come forward, that we'd be able
16 to statistically point to those things that
17 indicate, look, this is working. We are
18 saving people and we are keeping people
19 safe. And I think that's what the purpose
20 of the questions were from Keir and from the
21 rest of the people up here.

22 I don't want it to be looked upon when
23 someone reviews this record as we are
24 criticizing the process that we are going

1 through, because we are really not
2 criticizing the process that's going
3 through. You got to have a foundation. We
4 can't build a house without building the
5 foundation first. And so, we appreciate the
6 presentation with the foundation. And I
7 just want people to be a little more patient
8 who may view this that there is information
9 coming and there are results that we can
10 talk to. It may not be the result that you
11 want right away, but it will be a result.

12 Listen, it took us years to get in the
13 system. It's not going to take us two years
14 to get out of it.

15 MS. WERTHEIMER: Exactly.

16 MR. EL-SHABAZZ: I just wanted to kind
17 of put that on record from somebody like me
18 who actually has been advocating for public
19 safety aspect of it.

20 COUNCILMAN JONES: We all --

21 MR. EL-SHABAZZ: I am sorry. I
22 apologize. Okay. So that the record is
23 clear, I'm not suggesting that anybody else
24 up here isn't. But I have been kind of

1 outspoken about that, championing that. And
2 that is the basis of the questions. So, I
3 don't want anyone to take from the basis of
4 the questions or comments that there -- that
5 we are indicating that the work wasn't done
6 and it's not good work and, in fact, it's
7 not setting us on the right course.

8 MS. WERTHEIMER: And you are right. And
9 I think we all recognize that we didn't get
10 into the situation, the challenges we face
11 overnight. And so, we are not going to undo
12 them overnight. And while there is a very
13 specific goal with a specific time frame,
14 it -- this work is not going to stop, you
15 know, whether we hit the three-year mark
16 first or the 34 percent mark first.

17 This is about needing a catalyst for
18 change. And it's also about, you know,
19 generational change and undoing some of the
20 challenges. So, decriminalizing behaviors
21 that don't need to be criminalized,
22 understanding that we are hopefully
23 mitigating some of the collateral
24 consequences that might turn someone in the

1 other direction.

2 And so, yes, this is going to be a long,
3 long process not done in two years, not done
4 in three years. But you know, I think we
5 have an encouraging start.

6 COUNCILMAN JONES: We are going to hear
7 from Councilman Johnson, and then we are
8 going to move to bring up the next panel
9 because we have six.

10 Councilman Johnson.

11 COUNCILMAN JOHNSON: Thank you,
12 Mr. Chair. I am going to be brief because I
13 am coming in pretty much at the tail end of
14 your presentation. But I do want to commend
15 you and your team, Julie and Judge Lerner,
16 for the decrease in prison population. That
17 was something that was highlighted during
18 the budget process.

19 And the primary purpose of this
20 Committee under the leadership of this
21 distinguished panel is to reduce the prison
22 population here in the City of Philadelphia.
23 I definitely wanted to state that for the
24 record that I commend you and your team for

1 your efforts and starting us on the right
2 path. And as Mr. Shabazz mentioned, setting
3 that foundation as we look at criminal
4 justice reform not only on the City level
5 here but also could be a model with the
6 things that are taking place statewide to
7 Pennsylvania. Because our friends in
8 Harrisburg, one most notably, my protege
9 Jordan Harris is doing some great things
10 regarding criminal justice reform. And so,
11 I think we are going in a great direction.

12 There was one area, though, when I
13 looked at in the slides that was -- that
14 didn't show a level of decrease was prison
15 populations for detainers. Matter of fact,
16 I work on a constituent issue now Councilman
17 Jones regarding young man who came home
18 doing the right thing, get a detainer
19 because New Jersey was supposed to pick him
20 up when Pennsylvania left him -- when
21 Pennsylvania released him, and now he is
22 doing 90 days.

23 But give me an idea why there is an
24 increase in detainers under the prison

1 population?

2 DR. HENDERSON: Hi. I will explain. It
3 can probably be a little misleading because
4 there actually has been a decrease in the
5 number of detainees. But because our
6 pretrial population has decreased at a
7 faster rate, the proportion of people in
8 prison with a detainer has increased. So,
9 that number is also down. It's just that
10 the proportion has gone up because you have
11 got about twice as many people in the
12 pretrial group that are no longer
13 incarcerated. That can be a little bit
14 confusing.

15 With regard to specific detainees
16 issues, there is a subsequent panel who can
17 probably address your question a little bit
18 more thoroughly.

19 COUNCILMAN JOHNSON: Is there going to
20 be in the future any conversations
21 regarding -- I'm looking at the strategies
22 moving forward -- reducing incarceration for
23 pretrial defendants. Are we going to look
24 at specifically the issue of juveniles who

1 are spending time on State Road?

2 I know Judge Lerner, I will be there
3 some time in the near future taking a tour
4 of the facilities on State Road. But one
5 specifically looking at the issue of -- we
6 call it solitary confinement of juveniles.
7 Obviously, those on State Road have a
8 different perspective. Because obviously, I
9 think I was told, there is always someone in
10 the room with a young person who may be put
11 in "the hole" or some type of solitary
12 confinement.

13 But is there going to be a strategy of
14 looking at the juvenile justice aspect of
15 adults being -- I mean, juveniles being
16 charge as adults and serving time on State
17 Road.

18 MS. WERTHEIMER: Councilman, not under
19 this grant, not one of these strategies.
20 However, I know that our office and
21 Commissioner Carney and Commissioner
22 Figueroa will be working with you and your
23 staff and other Councilmembers on this issue
24 going forward.

1 COUNCILMAN JOHNSON: Okay.

2 COUNCILMAN JONES: If you look at what
3 that ripple effect has been, so identifying
4 some of these key reasons that are seemingly
5 symptoms of over-incarceration, once you
6 drill down, then it gets to issues like you
7 are talking about. And reform is a -- this
8 is the root and beginning, but it will
9 evolve into different strategies.

10 You just put forth a commission to talk
11 about gun violence. And so, that's a
12 different aspect in looking at reform. And
13 then as Mr. Shabazz says, the issue of
14 public safety. So these things are
15 connected, but this is just to start to look
16 at what are the symptoms of why are so many
17 people in jail? And is it a question of
18 public safety, or is it a question of
19 policy. And we are digging down now.

20 COUNCILMAN JOHNSON: Thank you very
21 much.

22 COUNCILMAN JONES: With that,
23 Ms. Williams, can you read the next panel to
24 testify?

1 THE CLERK: Sarah Allen, Michael
2 Bouchard, Dr. Jaime Henderson and Roseanne
3 Unger.

4 (Panel approaches Table.)

5 MS. BRADFORD-GREY: I just want to make
6 a statement in terms of reform. Under the
7 Criminal Justice Committee, I know my good
8 friend Curtis Jones, some of the reform is
9 the way we talk and the language we use
10 about the people in our system. If we say
11 everyone arrested, if we call them
12 criminals, that is how we are going to be
13 deemed. We generally we say in reform, you
14 are a person arrested and not a criminal.

15 COUNCILMAN JONES: Did I say criminal?

16 MS. BRADFORD-GREY: Yeah, you did.
17 That's all right. That's a part of --

18 COUNCILMAN JONES: Can we scratch that
19 from the record?

20 MS. BRADFORD-GREY: That is a real
21 reform effort across the country is the way
22 we talk about the people who are in our
23 system. Because the way we talk about it,
24 puts in the mindset and the psychology of

1 who they are.

2 COUNCILMAN JONES: We learn from each
3 other.

4 MS. BRADFORD-GREY: I am just quoting in
5 terms of us being in the criminal reform
6 nature, that some of our language does
7 contribute to the negative way people view
8 those who go into our system.

9 COUNCILMAN JONES: Put the accused.

10 MR. BETHEL: I'm with you.

11 COUNCILMAN JONES: Thank you, all --
12 thank you all for your patience. Obviously,
13 we are excited about what your work has
14 brung forth. So, we would like to hear what
15 the strategies are.

16 MR. BOUCHARD: Yes. We are starting
17 with Strategy One, Pretrial. My name is
18 Michael Bouchard. I'm the Director of
19 Pretrial Services for the First Judicial
20 District. I chair the Safety and Justice
21 Pretrial Subcommittee. I'm also a member of
22 the implementation team. With me are
23 colleagues from the court as well as the
24 Defender Association. And they can each

1 introduce themselves.

2 DR. HENDERSON: Jaime Henderson,
3 Director of Research and Development for the
4 First Judicial District.

5 MS. ALLEN: Good morning. I'm Sarah
6 Allen. I'm Chief of the Pretrial Unit from
7 the Defender Association.

8 MS. UNGER: Good morning, Roseanne
9 Unger. Director of Criminal Administration
10 from Municipal Court.

11 COUNCILMAN JONES: Don't be afraid to
12 move the mics a little closer.

13 MR. BOUCHARD: Each of my colleagues
14 leads one of the initiatives that I am going
15 to be giving a general overview about.

16 The pretrial subcommittee serves an
17 array of justice partners, including the
18 First Judicial District, Common Pleas and
19 Municipal Courts, the Defender Association,
20 the District Attorney's Office, Philadelphia
21 Police Department and the Managing Directors
22 Office. On average, we meet monthly to
23 discuss the initiatives within the Safety
24 and Justice Challenge that fall under our

1 purview. And the implementation team is
2 kept apprised on all subcommittee updates.

3 There are four major initiatives that
4 fall to the Pretrial Subcommittee. And two
5 of these have been launched while two are in
6 the preliminary stages. Today, I will
7 provide the Special Committee a general
8 overview of these initiatives. We look
9 forward to answering any questions you may
10 have about our initiatives that are
11 currently underway.

12 To begin, these two initiatives are
13 woven tightly together. And both are in
14 their preliminary stages. Philadelphia --
15 as an overview, Philadelphia has had a risk
16 tool in place since 1985. Risk tool is not
17 uncharted territory for Philadelphia. The
18 updated risk tool will be developed using
19 updated statistical techniques with
20 historical Philadelphia data to separately
21 forecast the risk of failure to appear and
22 new arrest.

23 Alternatives to cash bail are closely
24 linked with the risk tool, and will be a

1 robust range of alternatives to cash bail
2 based on risk level to ensure that more
3 individuals can be supervised safely in the
4 community while awaiting trial. The FJD
5 currently has an array of pretrial services
6 and supervision including automated court
7 reminders which were put in place by the
8 late 1990s as well as text and email
9 reminders which were put in place in 2014.
10 The FJD also currently has pretrial
11 supervision, which includes various levels
12 of defendant supervision.

13 The electronic monitoring piece of this
14 initiative has had progress. The RFP posted
15 and has closed. And the FJD is close to
16 finalizing the selection of a vendor, which
17 will be upgrading the wireless technology
18 and up to date hardware and software.

19 COUNCILMAN JONES: Excuse me. That's
20 800 new units?

21 MR. BOUCHARD: I'm sorry?

22 COUNCILMAN JONES: Is that 7 or 800 new
23 units.

24 MR. BOUCHARD: The initial phase is 700.

1 And then there will be another panel
2 discussing additional units that are part of
3 another initiative.

4 Next program that has launched is a
5 Pretrial Bail Advocates. This initiative
6 was designed to provide face-to-face counsel
7 to defendants in preparation for their
8 preliminary arraignment by the Defender
9 Association. Phase one of this initiative
10 was launched April 12 of this year at police
11 headquarters. A defender is stationed there
12 during one eight-hour shift, four days per
13 week to interview individuals and relay the
14 individualized information to the court at
15 preliminary arraignment.

16 The initiative plans to serve
17 approximately 60 individuals per week during
18 phase one. Expansion of this program is in
19 the plans once enough information has been
20 obtained from phase one to appropriately
21 expand the services. The Defenders have
22 noted that those who have the opportunity to
23 speak to them are much calmer and have noted
24 that there seems to be a better perception

1 of fairness in the arrest-to-arraignment
2 process. Again, there is not a lot of data
3 available as we just launched in April.

4 The final initiative is Early Bail
5 Review. In July of 2016, the courts
6 launched an Early Bail Review Program to
7 review cases within five days for
8 individuals who are in jail for non-violent
9 offenses with bails of \$50,000 or less and
10 no other hold. This new hearing process
11 provides an early release opportunity for
12 people who remain in custody because they
13 cannot afford bail.

14 Most of these hearings are presided over
15 by the President Judge of Municipal Court,
16 Judge Marsha Neifield. The statistic coming
17 from this program are extremely encouraging.
18 From July of 2016 through the end of
19 April 2017, 84.1 percent of defendants who
20 received an early bail review hearing
21 obtained release. 90.6 percent of
22 defendants released appeared at their next
23 court date. 88.2 percent of defendants who
24 are ordered to pretrial services show up for

1 pretrial orientation. The sum of this
2 through the end of April over 53,508 jail
3 inmate bed days have been saved with this
4 initiative.

5 Great accomplishments have been seen
6 with this initiative, as well. Attention
7 has been garnered from Chicago and New York
8 City. Both cities are looking to
9 incorporate similar programs into their
10 jurisdictions. We also have personal
11 stories from individuals who have been
12 afforded the opportunity of this program. A
13 single father of three cannot afford \$2,000
14 to get out of jail, and was released on
15 pretrial supervision through this hearing.
16 He was able to maintain custody of his three
17 children, maintain his financial benefits to
18 care for his children and was put in touch
19 with a community organization called Fathers
20 In Action where he attends and speaks to
21 other single fathers about the importance of
22 being a good role model and an attentive and
23 caring parent through good and bad times.

24 Also, a single mother cannot afford \$750

1 to post bail. But the EVR Initiative
2 permitted her release to pretrial
3 supervision. She also was able to maintain
4 custody of her children and maintain her
5 financial benefits to care for her children.
6 She likely would have been evicted from her
7 housing, leaving her homeless and likely
8 sending her kids through the foster care
9 system.

10 In general, pretrial services is also
11 putting individuals in touch with community
12 agencies and programs which include but are
13 not limited to Project Home, One Day At A
14 Time, Philadelphia Adult and Teen Challenge,
15 Fathers In Action and the Cartwright Center.

16 So in conclusion, I would like to thank
17 you all for this opportunity to share the
18 progress with our part of the MacArthur
19 Foundation Safety and Justice Challenge.
20 And we would be happy to field any questions
21 you may have at this time.

22 COUNCILMAN JONES: Thank you for the
23 measurements in particular. One of them
24 that I do not see is as we proceed, and I --

1 let me prefix that question with this.

2 This has a lot of similarities to the No
3 Bail System in DC to me. Prerelease, early
4 release, conditional release without cash
5 bail. Is that a true statement?

6 MR. BOUCHARD: The overall goal of this
7 plan is to reduce or eliminate cash bail in
8 Philadelphia.

9 COUNCILMAN JONES: So in that, which is
10 the way that Washington proceeds, they have
11 done that. But in their measurements and
12 when we went out to view their process, they
13 warned us things will happen. And so, you
14 need to kind of be ready for that. And then
15 look at statistically, how that would have
16 happened anyway. You can't predict certain
17 activities.

18 And but what I want to do is make sure
19 that we monitor those individuals and make
20 sure that what happened with Officer Mosely
21 in the 22nd District does not happen. We
22 had individuals that were out that may
23 have -- should have been retained, and we
24 lost an officer. So, I want to make sure

1 that we are at least looking at that.

2 I do not believe that with a cash bail
3 or without a cash bail we would have stopped
4 that. But I want to monitor as this
5 population is out there, what happens. So
6 if you are out, you were released, was there
7 any further activity while you were out?

8 The other thing is monitoring the steps
9 you take. So there is -- if an individual
10 had a bar fight on Friday, they -- the two
11 were best friends. You may say that that's
12 low risk. The probability of them going
13 back out and having another bar fight is
14 minimal. But if that were somebody who has
15 had several bar fights and maybe needs
16 treatment, there is a conditional release
17 that might say you need to seek treatment or
18 you need to have a Stay Away Order.

19 How are we making those risk
20 assessments?

21 MR. BOUCHARD: We -- as far as the risk
22 tool is, still preliminary. But all of
23 those things are things that are being
24 heavily considered. And the -- this

1 committee has stakeholders from -- which I
2 listed at the beginning of this -- from all
3 of the areas of criminal justice in
4 Philadelphia who will be part of those
5 discussions.

6 COUNCILMAN JONES: Because like in
7 Washington, I was very impressed with their
8 ability to say we are going to release you.
9 No problem; we are going to release you with
10 conditions, we're monitoring; we are going
11 to release you and you really need to get
12 help; or we are not going to release you
13 because we think you are a danger to your
14 yourself and others. Those steps and
15 getting those right are critical.

16 MR. BOUCHARD: Another part of the
17 alternatives to cash bail that will come
18 after the risk tool is implemented, so we
19 are talking 12 to 24 months down the road,
20 is a needs assessment that will be under
21 pretrial, as well. The details of that
22 haven't been meshed out. But the funding
23 through the grant is there for a needs
24 assessment, as well.

1 MS. BRADFORD-GREY: I am really happy to
2 hear that the overall goal is to either
3 eliminate or have less reliance on cash
4 bail. Just because I think -- I want to
5 quote some stats that we have from the
6 Defender Association. We are part of the
7 Early Bail Review Process. These are people
8 that do get bail for some period of time,
9 but then under the process Judge Neifield
10 does here from the District Attorney as well
11 as defense counsel about why this person can
12 be released into the community.

13 The Defender Association has represented
14 about 434 of the people that come through
15 the Early Bail Review Process. Out of that,
16 87 percent of the bail hearings have been
17 granted so that they have been released. I
18 do want to share with the public some stats,
19 that this is why we have to watch our
20 language in terms of who we are saying is
21 criminal just because they are arrested.

22 Of the -- we tracked the final
23 disposition, meaning the case of the 437
24 people, there were about 151 that have gone

1 through final disposition. Meaning, their
2 case has been closed in one way or another.
3 93 of the 151, their cases were withdrawn or
4 they were found not guilty. So this is
5 really, really speaking volumes to the
6 pretrial detained population as to whether
7 or not they still have their presumption of
8 innocence, and that they were being detained
9 before this processes for an average of six
10 to eight months to be found either not
11 guilty or case to be withdrawn.

12 Now the withdrawn in terms of went what
13 stage is a different story, because they
14 could have been withdrawn at a preliminary
15 hearing. But this person would have sat in
16 custody for a few weeks, possibly a month,
17 possibly two months just to get that
18 disposition and lost a lot of things in the
19 process.

20 Of the 151, 27 of those individuals were
21 found guilty of their -- their -- the
22 allegations. So, that means that they went
23 through the whole -- their case went through
24 the whole process. And they were given a

1 verdict of guilty. And 25 had entered into
2 a guilty plea. Six of those were diverted
3 in some area. It shows the overall majority
4 of the people were not found guilty of the
5 alleged, you know, crime that they were
6 alleged to have committed. It does speak
7 volumes to why we are looking at this
8 pretrial population, and why we are trying
9 to make more equitable decisions in terms of
10 what should happen to people.

11 COUNCILMAN JONES: Before I recognize
12 Mr. Shabazz, so are we upticking services
13 along with those conditions?

14 Are we finding the -- and I know it's
15 preliminarily. But are we -- so as Council
16 people, as appropriators of budgets, what is
17 going to be important going forward is if we
18 are letting folk go with conditions, and we
19 find that someone needs rehab or someone
20 needs anger management or someone needs
21 something to stabilize their behavior, we
22 want to be able to say, well, you know,
23 equally we need to add appropriations to
24 these kinds of services so that we don't

1 create a revolving wheel.

2 MS. ALLEN: Thankfully, through the
3 Defender Association, we have dedicated
4 staff to specifically handle these MacArthur
5 initiatives. Keir has dedicated social
6 workers to assist us as clients are
7 successful through their EVRs or through the
8 Bail Advocacy Program. Because our goal is
9 early intervention with social services will
10 not only lead to a more productive human
11 being, but will improve case outcome as
12 well.

13 So, we have initiated a text service to
14 try to engage clients in our services as
15 quickly as they get out. We have a
16 dedicated a system where we do actual phone
17 calls through our social services department
18 based on information that is gathered
19 through our interviews that clients might
20 need extra help accessing treatment. So, we
21 attempt to get them as soon as the EVR is
22 successful to engage in treatment so that we
23 can stop that revolving door within the
24 system.

1 MS. BRADFORD-GREY: I just want to say,
2 I do want to give a shout out to our Prison
3 Commissioner Blanche Carney. She has been
4 very accommodating with the Defender
5 Association staff up at the prison when we
6 are interviewing the people at Early Bail
7 Review. It does just go to speak as to how
8 this is a partnership and just allowing us
9 to be there and have the space to do the
10 things we do, these determination are really
11 key to the success.

12 COUNCILMAN JONES: Just want to measure
13 it so we can pay for it.

14 MR. BOUCHARD: If I may, just as a
15 follow up to Ms. Grey. This EVR population
16 is getting a hearing within five business
17 days. So, they are generally not sitting
18 for lengthy amounts of time. We are getting
19 them in as quickly as possible.

20 MS. BRADFORD-GREY: No. I don't think
21 that's what I was saying. I am saying but
22 for this process, people would be sitting
23 for lengthy amounts of time. And I quoted
24 the people who were found not guilty who we

1 know the case -- the length of a case would
2 take months. So but for this process, this
3 population would be sitting in jail losing a
4 lot only to be found not guilty.

5 MR. BOUCHARD: Absolutely.

6 MS. BRADFORD-GREY: So, the five-day
7 implementation has been working wonderfully
8 for those who have been deemed to be found
9 not liable of what they were accused of.

10 COUNCILMAN JONES: We are going to
11 recognize Mr. Shabazz and then Councilman
12 Johnson.

13 MR. EL-SHABAZZ: What I wanted --
14 Councilman Jones asked a question I wanted
15 to ask, and that is with respect to
16 services. And I am not surprised at all
17 with respect to the Chief Defender having in
18 place those social services. And I am just
19 hopeful that we are able to take the model
20 that the Public Defender, the Chief Defender
21 is using and kind of make that model wider
22 so that those individuals that don't qualify
23 for a Defender but actually need services,
24 we can kind of direct them there. I thank

1 you for that. And I thank you for the
2 question.

3 The other question with respect to the
4 risk assessment tool. I am always concerned
5 about risk assessment tools. I am concerned
6 as to whether or not we are speaking with
7 individuals and other stakeholders as to
8 eliminate those that are economically and
9 racially biased assessment tools that have
10 been used and we have seen them use. I
11 think we have to use some risk assessment
12 tools. I think we have to be careful with
13 respect to ZIP codes, with respect to gender
14 and with respect to race.

15 And are we, in fact, looking at those
16 aspects and trying to alleviate even the
17 propensity or the possibility of that
18 happening? Now, I'm not asking for
19 something that is perfect. It's not
20 perfect. But I clearly would like to see us
21 be able to measure and to let the public
22 know that those are not factors that are
23 being considered disproportionately: ZIP
24 codes, race or gender. That is the first

1 question.

2 And the second question and then I will
3 shut up -- well, I shouldn't have said that,
4 but I will try to shut up.

5 One of the things you talked about is
6 individuals being released and then no other
7 holds on them. Well, if they do have a
8 hold, what are we doing with respect to
9 that?

10 Example, if someone is in fact arrested
11 on a low level theft case but they are on
12 probation for another theft case and that
13 detainer is launched, are we doing something
14 within a short period of time because,
15 again, that is a non-violent offense? And
16 again, holding them in prison would escalate
17 the prison population.

18 Are we getting them before the back
19 judge? Is there some mechanism that we have
20 in place to deal with that aspect?

21 MS. ALLEN: I believe that's going to be
22 on Panel 3's discussion.

23 MR. EL-SHABAZZ: Okay. I'm missing my
24 panel thing. So, I will write that one

1 down. And the risk assessment tool and the
2 actual sharing the wealth of information
3 that the Defender has been able to gather
4 with respect to social services, are we
5 utilizing that for those individuals that
6 are not defender eligible?

7 DR. HENDERSON: I can speak to your
8 question about the risk assessment tool.
9 And I'm glad that you brought that up
10 because we need to be very aware of the
11 inherent bias of some criminal justice data
12 points. And with the advancements that we
13 have in the scientific literature regarding
14 predictive fairness, we have ways we can
15 explore any sort of disparate outcomes that
16 might happen through various iterations of
17 the model.

18 Throughout this whole process, we will
19 be very mindful not to include any sort of
20 factors which may be introducing bias. I
21 mean, we certainly -- you know, as you said,
22 we can't be perfect. We can only try to do
23 better than we currently are. And
24 throughout these discussions that we'll be

1 having about what does or doesn't go into
2 the risk tool, all of our partners are at
3 the table. All of the justice partners,
4 behavioral health partners are involved in
5 this discussion. So, it's going to be a
6 time intensive and lengthy process to make
7 sure that we have -- that we create
8 something that's the best that we possibly
9 condition.

10 MR. EL-SHABAZZ: And at this stage, and
11 I know it's the infant stage, do we have any
12 measurable data?

13 DR. HENDERSON: We do not at this stage.
14 We are just at the talking stage.

15 MR. EL-SHABAZZ: Thank you.

16 DR. HENDERSON: You're welcome.

17 COUNCILMAN JONES: Any other question,
18 Mr. Shabazz?

19 MR. EL-SHABAZZ: The only last question
20 was I added, I had so many questions. There
21 were three. The other one was what, if
22 anything, that we are doing with respect to
23 utilizing the model that the Defender has
24 put in place? That is, reaching out to

1 social services for those individuals that
2 are their clients to those individuals that
3 are not defender qualified?

4 MR. BOUCHARD: So again, back to there
5 will be needs assessment. And along with
6 that in the MacArthur grant funds is for
7 social worker under pretrial services. I
8 think that refer back to Councilman Jones
9 discussing DC who has an incredible social
10 service network.

11 MR. EL-SHABAZZ: Incredible money, too,
12 I understand.

13 MR. BOUCHARD: Lots of money. We really
14 try to utilize some of the --

15 MR. EL-SHABAZZ: Well, they have it
16 right now. I don't know what they're going
17 to have in the future.

18 MR. BOUCHARD: We will see what happens.
19 We want to -- we try to defer defendants to
20 programs in the community, and I listed some
21 of those, as best we can. Once we have a
22 social worker in place, you know, I would
23 love a team of social workers to be able to
24 do these type of things possibly in-house

1 one day. But until that time, we need to
2 utilize community resources and see what
3 type of future funding might become
4 available through justice reinvestment.

5 MR. EL-SHABAZZ: Is it possible to
6 capture economically what it will take so we
7 can go to Councilman Jones and Councilman
8 Johnson and the rest to ascertain
9 financially what it will take to get a
10 certain -- how many social workers to start
11 -- I'm not trying to go two grandiose --
12 social workers to start? What it would cost
13 to have that in effect? And at the same
14 time, reach out. There are numerous
15 community organizations -- in fact, I can
16 get a list of community organizations to you
17 guy so we can utilize them, as well.

18 If we can talk economically, because in
19 order to come to Councilman Jones and
20 Councilman Johnson and the rest of City
21 Council with respect to utilizing that
22 aspect for people that don't qualify for the
23 Defenders, we got to put a cost on it.

24 If you can, if the committee can if it's

1 not too arduous of a task, can get together
2 and get a reasonable workable number of
3 social workers, a reason workable number of
4 what it would cost. And we can kind of push
5 the chair and cochair to kind of push this
6 forward so the Mayor's Office to try to get
7 the fund and finances to do that.

8 But we need to have that data. Is that
9 a possible task, or am I talking before we
10 get to the next stage?

11 MR. BOUCHARD: You're talking before the
12 next stage, but it's not things we are not
13 currently talking about. As we --

14 MR. EL-SHABAZZ: I'm just not going to
15 ask any questions.

16 COUNCILMAN JONES: You're doing well.

17 MR. BOUCHARD: It's a good -- it's a
18 very good point to bring up. And I think we
19 do need to discuss it. But the costs like
20 that, the next stage is looking at the risk
21 tool and what population will be coming out
22 and is best served with pretrial supervision
23 for community safety, and then looking at
24 what those needs are. When we can get to

1 that point and start putting numbers to the
2 number of people, then we can start looking
3 at the financial resources that will be
4 necessary to properly serve that population.
5 It is in the -- it is in discussions, and I
6 think it is important.

7 MR. EL-SHABAZZ: Well, I thank you. And
8 thank my colleagues for being patient with
9 my foresight.

10 COUNCILMAN JONES: Thank you.
11 Councilman Johnson.

12 COUNCILMAN JOHNSON: Yes, thank you.

13 So the first question was already asked
14 regarding just making sure that there is
15 aggressive and thorough monitoring regarding
16 the risk tool that will be used and
17 specifically looking at the racial disparity
18 and dynamics and how you come up with your
19 data. And so, that question was already
20 asked. But just for the record, you know, I
21 am glad that you said that's something that
22 will be closely paid attention to.
23 Obviously, we want to make sure that as we
24 go through this process, you know, justice

1 is still equal and fair across the board.

2 Give me an idea of regarding the
3 Defender's Association Uptrust Pilot Program
4 and how it will be facilitated to expand
5 pretrial release of individuals, as well.

6 MS. ALLEN: Right now we are using, if I
7 may, the Up Trust Initiative in two
8 different ways in our office. We are using
9 it through the Early Bail Review population.
10 So that if someone is successful in EVR,
11 they receive a text to come into our office
12 for a legal interview. If any information
13 was garnered in the interview done by our
14 advocate, we specifically tailor text in
15 reference to social services to alert people
16 that we have services that they can be
17 connected to.

18 We have had some success with getting
19 clients in through the Up Trust Initiative,
20 so we are now using it after bench warrant
21 hearings to try to improve attendance for
22 people who have previously missed court. So
23 that if someone is released after a bench
24 warrant hearing, we send them a text to come

1 into our office not only for the initial
2 interview, but again to connect with social
3 services at an early stage.

4 COUNCILMAN JOHNSON: Thank you. You
5 also have a GPS ankle monitoring system. Do
6 you have any information regarding that
7 particular way to monitor individuals while
8 they go through the pretrial process, as
9 well?

10 MR. BOUCHARD: One of the initiatives is
11 updating our EM System. The cost of GPS
12 specific units is too high for this
13 initiative. We are switching to wireless
14 units. We currently use copper analog phone
15 lines that are required for our equipment to
16 function right now. So with this upgrade,
17 it's going to actually speed up the process
18 of defendants getting onto electronic
19 monitoring. But our new system will be
20 capable of handling GPS units in the future
21 if that becomes available.

22 COUNCILMAN JOHNSON: Do you have a
23 dollar amount on that figure in terms of the
24 infrastructure needed? I would think we

1 would save in the long run.

2 MR. BOUCHARD: I agree. For GPS units
3 specifically, it varies vendor to vendor.
4 So, it is something that if -- I can get to
5 you.

6 COUNCILMAN JOHNSON: Who represents the
7 First Judicial District that's on the panel?

8 MR. BOUCHARD: Several of us. I am with
9 Pretrial Services. I'm the Director of
10 Pretrial Services with First Judicial
11 District.

12 DR. HENDERSON: I'm the Director of
13 Research and Development.

14 MS. UNGER: I'm the Director and Court
15 Administration.

16 COUNCILMAN JOHNSON: Let Judge Murphy
17 know, and I am going to follow with you
18 Councilman Curtis Jones. I had a meeting
19 over there the other day with Judge Murphy
20 and her team regarding fines, fees and
21 restitutions regarding juveniles.
22 Obviously, it's a state jurisdiction. But
23 we want to see how we can still advocate on
24 a City level to see how we can be

1 supportive.

2 One of the topic of discussion was
3 utilizing more the GPS system. And I didn't
4 know you can talk to a person that's on
5 these new ankle bracelets that they have and
6 the technology that comes along with it. I
7 think it was the Councilman actually who's
8 probably on -- he was actually one of the
9 first people on the forefront pushing us to
10 go in that direction because economically
11 just makes good sense.

12 And so, we are going to -- as we move
13 forward, Mr. Chairman, I would like to
14 follow up with you and see how we can
15 continue pushing from a budget standpoint,
16 how we make that transition. Because the
17 more people that's not housed for, you know,
18 really violent offenses, more people we have
19 on the streets. But economically, we also
20 helps our City, as well, use those resources
21 to do a lot of other things we would like to
22 do. I want to state that for the record and
23 say thank you.

24 COUNCILMAN JONES: Just for the record,

1 Justice Dougherty and President Judge
2 Neifield and Skipper Woods come in each year
3 and talk to Council always on the forefront
4 of some of those reforms. We just started
5 listening, and that's just the way it was.
6 I mean, we get a lot of presentations. But
7 this, that collective consciousness, kicked
8 in. And so, when he said if we got 500 new
9 GPS bracelets, this would reduce the
10 population, you know, a light bulb went off.
11 We are talking about 700. And then at least
12 in one phase and then possibly more that
13 will make a world of difference in how we --
14 how we deal with individuals in custody, so.

15 MR. PODGUSKI: Thank you, sir. I just
16 want to say, again, that it's terrific that
17 you are utilizing a risk assessment. It's
18 equally terrific that you are developing a
19 needs assessment. And it sounds like you
20 are moving in the right direction of
21 employing a risk needs responsivity model in
22 what you do, which is what all the science
23 tells us in our business that we need to do.

24 Because once -- once you manage that

1 risk with all your GPS and you EM and you
2 begin to reduce the risk by using actuarials
3 and targeting those interventions to the
4 right risk level people and identifying the
5 areas of criminogenic need, that is where
6 you really begin to impact public safety in
7 a positive way. So, I am encouraged to see
8 that. I think it's the right direction.
9 And it's all about providing the
10 interventions to people who need them and
11 because it's their journey, right?

12 So when do you think that needs
13 assessment is going to be online? I would
14 love to see it.

15 MR. BOUCHARD: It's going to be quite
16 some time because the risk tools are going
17 to come first.

18 MR. PODGUSKI: I see, okay.

19 MR. BOUCHARD: And then, we are going to
20 move into the needs.

21 MR. PODGUSKI: Wonderful. Wonderful.
22 Thank you. Oh, the 53,000 save bed days is
23 quite a number, as well.

24 MR. HOLLWAY: Thanks for a great

1 presentation. I want to echo my earlier
2 comments. The complexity of what you guys
3 are doing is substantial, and the progress
4 we are making is very encouraging. I have a
5 specific question and a general question.

6 The specific question regards the risk
7 tool. It was unclear whether we have
8 selected the risk tool that we will be
9 using? And are we updating the one that's
10 been in place since 1985, or are we using a
11 different tool?

12 DR. HENDERSON: So, we will be using a
13 different tool. We will be creating our own
14 home-grown tool. The Arnold tool is out
15 there for jurisdictions to adopt. But we
16 will be developing and validating one using
17 our own Philadelphia data. It will be a new
18 tool and will use random for us. It's a
19 different technique than the standard tool.

20 What we have now is comparable and what
21 we have since the '80s is comparable to many
22 of the jurisdictions using risk tools. The
23 Arnold tool, the Virginia risk tool and
24 such. But we are going to be using an

1 updated scientific technique that is more
2 accurate and has a little bit more leeway in
3 predicting than the techniques from the '80s
4 an '90s.

5 MR. HOLLWAY: Thank. My more general
6 question is, obviously, as we -- I would
7 like to understand how we are defining or
8 measuring success in these initiatives?

9 I mean, at some point we can declare
10 victory from MacArthur if we just took every
11 third inmate and released them. We can do
12 that tomorrow and declare victory from a raw
13 numbers perspective. There must be
14 something more complex, and you are hearing
15 that from a lot of my colleagues up here
16 about the complexity of safety and economics
17 and the competing concerns.

18 So given that, how are we evaluating
19 these programs? And if you are here a year
20 from now, how would we know that we have
21 been successful?

22 DR. HENDERSON: Okay. Very good
23 question. And that question, you know,
24 speaks to a lot of work that is currently

1 underway, but we still have a lot of work to
2 do because it requires collecting a good
3 amount of data. We have a document right
4 now that is a -- that is 60-some pages long.
5 It's a list of performance measures for all
6 the different initiatives we have. So the
7 outcomes of interest vary by initiative.

8 I think, generally, we are looking at
9 the outcomes that have been mentioned by,
10 you know, panel members: Recidivism,
11 whether or not people are appearing to
12 court, complies to court orders.

13 But again, these outcomes of interest
14 vary by the specific initiative and what
15 those goals are. And because we have 19
16 different initiatives, they vary. But I
17 mean, you are looking at general things.
18 You know, you're right. Just reducing the
19 prison population, it's not a win overall.
20 You have to go deeper and see are these
21 people having the most successes.

22 For example, through our TCY Program.
23 Are these personal outcomes, you know, also
24 positive. Not just these case processing or

1 efficiency outcomes we would be looking at
2 for specific initiatives. I don't know if
3 any of my panel members would like to
4 address that, as well.

5 MR. BOUCHARD: I think it's covered very
6 well. We are especially focused on
7 recidivism rates, public safety and
8 appearances in court, which is the shell of
9 pretrial.

10 MR. HOLLWAY: You guys did something
11 that I think was smart in your presentation
12 and I assume reflected in these measures,
13 which you provided us with some anecdotal
14 information about individual's lives and
15 impact on individuals as well as the
16 aggregate statistics. I think both of those
17 are very important. I don't know if I'm
18 able to ask for this, but I would personally
19 love to see what those measures are for
20 success. I think making sure those are
21 clear now is actually vital to making sure
22 we understand the impact of these programs
23 later.

24 So if that's something that is able to

1 be shared with this body, I would love to
2 see it.

3 MR. BOUCHARD: That is something that we
4 can take to the implementation team to
5 review. And then if -- discuss it and get
6 back to you on that.

7 COUNCILMAN JONES: Okay. Seeing no
8 further questions for this panel, thank you
9 so much for your testimony. And keep up the
10 good work. We are moving in the right
11 direction.

12 Ms. Williams, will you please read the
13 next panel to offer testimony.

14 THE CLERK: Next panel would be Sarah
15 Allen, Michael Barry and Roseanne Unger.

16 (Panel approaches Table.)

17 COUNCILMAN JONES: Thank you so much for
18 your patience. There is a lot of good
19 information that we are going through, and
20 we really think it's going to be value added
21 at the end of this.

22 So remember, state your name for the
23 record. And please, begin your testimony.

24 MS. UNGER: Good morning. My name is

1 Roseanne Unger. And I'm the Director --

2 COUNCILMAN JONES: Pull the mic a little
3 closer.

4 MS. UNGER: Director in Court
5 Administration for Municipal Court. I also
6 Chair the Case Processing Work Group. With
7 me are two members of that work group.

8 MS. ALLEN: Good morning, Sarah Allen.
9 I am Chief of the Municipal Court Pretrial
10 Unit at the Defenders Association.

11 MR. BARRY: Good morning. My name is
12 Michael Barry. I'm Deputy of the Pretrial
13 Division for the Philadelphia District
14 Attorney's Office.

15 MS. UNGER: I would like to just give
16 you an overview of our initiatives. And I
17 welcome any help or support from my friends
18 here from the Working Group to correct me if
19 I misquote anything or jump in when needed.

20 The initiatives of the Case Processing
21 Work Group led by the FJD, DA and Defenders
22 Association and are aimed at reducing the
23 case processing time for both pretrial and
24 sentence populations. The first change we

1 implemented, which impacts our pretrial
2 populations, were revisions to our Smart
3 Room scheduling. This was completed back in
4 June of 2016. The Smart Room, for those who
5 don't know, is the first listing Common
6 Pleas Court after formal arraignment.

7 At the Smart Room listing, individuals
8 are often given the opportunity to resolve
9 their cases or receive a trial date. We had
10 reduced the time it takes for a felony case
11 to get to the first Smart Room listing in
12 Common Pleas Court by one week and, in some
13 cases, two weeks. So for the time period of
14 June through December of 2016, we reduced
15 the time from cases that were held for court
16 from preliminary arraignment to formal
17 arraignment by one week in close to 5300
18 cases. Further, we also reduce the time
19 from formal arraignment to Smart Room
20 listings on close to 3200 non-homicide,
21 non-custody matters from July 2016 to March
22 of 2017.

23 Around the same time we made revisions
24 to the Smart Room scheduling, the DA's

1 Office also agreed to expand the eligibility
2 and criteria for the Early Resolution
3 Program. ER starts immediately after rest
4 in the preliminary arraignment. The DA's
5 charging unit identifies certainly felony
6 offenses and makes misdemeanor offers in an
7 effort to resolve the matter earlier. The
8 offer are submitted to defense at the time
9 of arraignment and the case is schedule to
10 ER courtroom within two weeks for possible
11 resolution.

12 In addition to expanding to include
13 initial felony charges, the DA's Office has
14 also started to make felony offers on this
15 matter. The expansion started, like I said,
16 around May 31 of 2016. And we have seen
17 offer -- cases diverted from arraignment to
18 ER double since the expansion.

19 Currently in progress is our Continuous
20 Review Project. Municipal Court and Common
21 Pleas Court administrators prepared
22 continuous reports for review by the
23 respective judicial leadership. And
24 starting with Municipal Court, we have

1 reviewed the sample reports for judicial
2 leadership and recommended and approved our
3 next steps, which will include scheduling a
4 meeting with municipal court judges,
5 representatives from the District Attorney's
6 Office and Defenders Association. At this
7 meeting, we hope to identify key problem
8 areas as it relates to continuous requests
9 for each agency. Once we identify the major
10 issues, we can begin to work collaboratively
11 to find a solution. It's clear by each
12 agency's commitment thus far, we share the
13 common goal to work smarter and more
14 efficiently.

15 As you mentioned in opening argument --
16 opening statements, that we all have room to
17 improve. And we all recognize that,
18 especially when it comes our continuance
19 rate. We have our first meeting at the end
20 of this month. And we look forward to a
21 very productive meeting.

22 Moving onto our sentence population.
23 Back in February of 2016, the District
24 Attorney's Office expanded the eligibility

1 criteria for DUI treatment, court cases and
2 began accepting DUI cases into immediate
3 punishment program. Expanding the
4 eligibility -- in addition to expanding
5 eligibility for DUI Treatment Court, they
6 also agreed to reduce the prison requirement
7 for one-year cases. So previously, if you
8 were sentenced to -- on a one-year case in
9 DUI Treatment Court, you had to serve six
10 months incarceration. And the remaining six
11 months were served on house arrest. The
12 District Attorney's Office has agreed to
13 allow the individual to serve three months
14 of incarceration and the remaining nine
15 months on house arrest. Thus, resulting in
16 90 days saved per participant.

17 The DUI IP Program started when the DA's
18 Office began offering IP to those
19 individuals facing a 90-day sentence on DUI
20 cases but they were not eligible for DUI
21 Treatment Court. Previously, these
22 individuals would have had to serve 90 days.
23 But for the offer of IP, they now only serve
24 20 days, which is again a savings of 90 days

1 saved per individual.

2 Additionally, the FJD started scheduling
3 all DUI cases to a dedicated day for
4 Courtroom 404 for Discovery Courtroom. This
5 allows the DA's Office to screen again for
6 DUI Treatment Court or DUI IP cases which
7 they may have missed at the preliminary
8 arrangement stage.

9 The next initiative is early -- our
10 Early Parole Petition. The public defender
11 has increased its capacity to file early
12 parole petitions by including private
13 counsel cases in their filings. This
14 process ensures earlier release for people
15 serving sentences in Philadelphia jails.
16 Every county inmate is now being reviewed
17 for early parole.

18 The success rate of these petitions is
19 high. They filed 174 since the program
20 started, and have -- 108 have been granted.
21 The petitions that are denied are reviewed
22 and refiled in the future. The Defenders
23 Association is constantly working on trying
24 to have the clients released on acceptable

1 parole plan. And that concludes the
2 initiative for Case Processing.

3 Do we have any questions?

4 JUDGE LERNER: I think it would be
5 helpful if you could elaborate a little bit
6 more on one of the items in your case
7 processing reform pretrial population.
8 Specifically, get back -- yeah, there it is.

9 The early resolution expansion, I would
10 like to know a little more about what kind
11 of cases we're talking about there, whether
12 or not by early resolution we are talking
13 about anything other than offers by the
14 District Attorney's Office, guilty plea,
15 guilty plea offers. And also, is there any
16 information on the number or percentage of
17 those offers that are accepted leading to
18 the early termination of the case?

19 MR. BARRY: I will start with the
20 expansion. We really did two things when we
21 expanded. We looked for felony --
22 additional felony crimes that we know very
23 frequently get pled down to misdemeanor
24 crimes once they go through the process.

1 obviously, the idea behind this Early
2 Resolution Program is if the evidence is
3 there on certain cases, there is a kind of
4 general knowledge in the criminal justice
5 system that is a very likely outcome. And
6 rather than go through various steps to get
7 to that very likely outcome, we can perhaps
8 make that offer that we are going to make in
9 six months the first day to avoid the work,
10 the process and most importantly the time
11 spent in jail to get to that outcome.

12 So, we did increase eligibility on some
13 of those things. Specifically, there are
14 certain crimes that become felonies after
15 repeated offenses like retail theft and
16 theft from auto that we were willing to
17 knock down, some narcotics cases based on
18 when we look at them and low level
19 robberies. Others we saw that there were
20 cases that we felt would still be felony
21 guilty pleas, but that for this specific
22 program, early resolution, it's about guilty
23 pleas.

24 I mean, we have expanded -- we have

1 felony diversion programs like TCY and Drug
2 Treatment Court that divert felonies that at
3 times don't involve convictions. But early
4 resolutions about cases that we think are
5 headed towards a conviction or guilty plea
6 actually. I should be more specific.

7 We expanded that to include if two
8 robberies, robberies without weapons. Some
9 burglaries. All of these -- any time we --
10 as been expressed many times, safety is one
11 of the primary concerns of this program.
12 And whenever we are willing to open up an
13 expand some of our programs, we are
14 concerned about safety. From the get-go, we
15 really don't make offers on cases with guns.
16 We don't make offers on cases with weapons.

17 These are cases that --

18 JUDGE LERNER: Let me interrupt you with
19 what you just said. When you say you don't
20 make offers on cases with guns, are you
21 talking about cases where guns are used in
22 an offense? Or also cases where the offense
23 is just, I don't mean to say "just," but the
24 offense is an illegal gun possession?

1 MR. BARRY: As, Your honor, knows, we
2 take gun possession cases very seriously in
3 my office. At this time, we have not
4 expanded early resolution to gun possession
5 cases.

6 JUDGE LERNER: You're right. I didn't
7 ask that question to illuminate that answer
8 for me.

9 MR. BARRY: I understand that. Yes, I
10 know. But yeah, no. We have -- not at this
11 time. We take gun possession cases very
12 seriously. It's our philosophy remains that
13 those are not the type of cases that we feel
14 are appropriate for diversion or early
15 resolution.

16 JUDGE LERNER: So, how are we doing in
17 terms of acceptance of those offers? What
18 numbers or percentages are of cases that
19 might otherwise go on into infinity or
20 beyond are actually being disposed of
21 earlier?

22 MS. UNGER: So, we just reached the
23 one-year mark of the expansion. And we are
24 pulling that data now to compare it to prior

1 to expansion.

2 JUDGE LERNER: Thank you.

3 MR. BARRY: As I know is known, there
4 are a lot of reasons why people might not
5 want to do an early offer. A lot of people
6 want and deserve and should have their day
7 in court, too. We make our offers. That's
8 it.

9 MR. EL-SHABAZZ: First of all, good to
10 see you mike. How are you, man?

11 MR. BARRY: You too, sir.

12 MR. EL-SHABAZZ: Listen, you didn't
13 address the seriousness of how the District
14 Attorney's Office take gun possession cases.
15 But I do know that there are some cases that
16 are, in fact, gun possession cases but there
17 are circumstances, extenuating circumstances
18 with regard to that, that the office does
19 extend a diversionary program.

20 Would that be an accurate statement?

21 MR. BARRY: Sure. We give ARD on gun
22 cases occasionally. ARD are gun cases, the
23 oldest diversion program. It's statutory.
24 On the percentage of gun cases, we will give

1 ARD. There are -- I mean, it would depend
2 on the circumstances, but we would be open
3 to other programs.

4 MR. EL-SHABAZZ: I just want it to be
5 for the record clear, although there is a
6 policy that exists in the office at this
7 time and during the time that I was there,
8 there is also a policy that existed during
9 that same time where ARD, in fact, was given
10 for gun possession cases depending on
11 extenuating circumstances surrounding gun
12 possession case so that no one gets the idea
13 that there is blanket policy of anyone who
14 ever possessed a gun automatically was being
15 convicted or suffered a conviction at the
16 hands of that possession of a weapon.

17 And that's all I have. Thanks.

18 COUNCILMAN JONES: Thank you.

19 Are there any other questions?

20 Seeing none, thanks. Sarah, did you --
21 are you going to say something?

22 MS. ALLEN: No, I'm good.

23 COUNCILMAN JONES: You sure? You see
24 you're being advocated for.

1 MR. HOLLWAY: Still really nice to have
2 you here.

3 MS. UNGER: She was asked to fill in
4 for --

5 MS. ALLEN: I was filling in for Mr.
6 Kotter on early parole petition.

7 MS. UNGER: She is sitting in for
8 Mr. Kotter for early parole petition who
9 couldn't be here.

10 MS. BRADFORD-GREY: Do you have any
11 valuable information?

12 MS. ALLEN: Roseanne gave the
13 information that Byron passed to me for
14 early bail review. Our numbers are up a
15 little bit from what was reported. We are
16 now up to 500 that we have reviewed. But
17 it's still generally the same proportion
18 that are being granted. So, our Post Trial
19 Unit is continuing to work as hard on these
20 as is reported.

21 MR. EL-SHABAZZ: See, we wouldn't have
22 known that. Thank you very much.

23 COUNCILMAN JONES: Keir might wind up on
24 the other side.

1 MS. BRADFORD-GREY: Sarah is extremely
2 able to do this. I just wanted to hear her
3 voice.

4 MR. EL-SHABAZZ: Excuse me sir, Chair,
5 before you go into the next phase of this,
6 may I be excused?

7 COUNCILMAN JONES: Leave shall be
8 granted. Thank you, Mr. Shabazz.

9 I want to thank you. And again, this
10 adds more gravity to what and how difficult
11 some of this stuff is and intricate it is.
12 And thank you for the team relationship both
13 from the Defenders and the DA working
14 together. It can happen. In the courts it
15 can happen. Thank you.

16 Ms. Williams.

17 THE CLERK: Yes.

18 COUNCILMAN JONES: Will you read the
19 next group to testify.

20 THE CLERK: Sarah Allen, Charles Hoyt
21 and Derek Riker.

22 (Panel approaches Table.)

23 COUNCILMAN JONES: Thank you all for
24 your patience. And you can state your name

1 for the record and begin your presentation.

2 MR. RIKER: Good morning. I'm Derek
3 Riker. I'm Chief of the Diversion Court
4 unit at the District Attorney's Office.

5 MS. ALLEN: Good afternoon. Sarah
6 Allen, Chief of Municipal Court Pretrial
7 from the Defenders Association.

8 MR. HOYT: Good afternoon. I'm Charles
9 Hoyt, Chief Probation Officer, Philadelphia
10 Adult Probation.

11 COUNCILMAN JONES: See, this
12 interdepartmental cooperation is beautiful.
13 Okay. Please begin.

14 MR. RIKER: Members of the Committee, we
15 are going to each take -- we have three
16 initiatives we are going to discuss today
17 dealing with the population involving
18 individuals who are potentially facing a
19 violation of probation. We are each going
20 to discuss one of those with you.

21 If you want to ask questions after each,
22 that's fine. But it might be more
23 beneficial just to wait till the end to ask
24 questions.

1 I am going to discuss the Detainer
2 Alternative Program or DAP as it's more
3 commonly known. DAP provides adult
4 probation with an alternative to
5 incarceration for individuals who otherwise
6 taken into custody for failure to comply
7 with specific terms of their probation or
8 parole. Rather than being detained, DAP
9 provides individuals with an opportunity to
10 address the underlying issues, which are
11 placing them in jeopardy of committing a
12 technical violation. Specifically in these
13 cases, it's substance abuse issues.

14 We do this through intensive case
15 management by a dedicated probation officer
16 from APPD and a substance abuse case manager
17 from the Public Health Management
18 Corporation. These two individuals provide
19 a very personalized hands-on services for
20 the participants who are identified for this
21 program. They come to court every other
22 week for a period between eight and twelve
23 weeks to try to correct the drug usage. And
24 if they are successful, they are able to be

1 returned back to regular probation. If they
2 are unable to address their issues, then
3 they have to address them in front of their
4 back judge.

5 As an example of the lengths that this
6 program goes to try to help these
7 individuals, our substance abuse case
8 manager will personally escort these
9 participants to a drug intake facility to
10 make sure that they get into the program,
11 that all the financials are worked out, any
12 sort of insurance issues, that they
13 understand what expectation are of them.
14 And they will literally hold their hand as
15 they go through this process.

16 This initiative began back in January of
17 this year. And to date, 74 individuals have
18 been recommended for the program. The
19 current case load is 26. We have a cap of
20 30 people at any given time, and we will add
21 a few more people this week to that process.
22 So far, we have graduated 17 people from the
23 program. And our current savings of days is
24 over 3,550. So, it's quite a significant

1 number. Again, the program is only about
2 little less than five months long at this
3 point. We are moving in a very positive
4 manner with this.

5 MS. ALLEN: The next initiative actually
6 started pre-MacArthur based on some staffing
7 changes that were made at the defender and
8 the restructuring of our Pretrial Unit. The
9 courtroom that Ms. Unger discussed earlier
10 which is the Misdemeanor Calendar Room in
11 Courtroom 404 at the Criminal Justice
12 Center, was restructured within our office
13 that gave us the opportunity to review new
14 arrests as soon as they were arrested. So,
15 we were able to more rapidly identify people
16 who were being taken into custody as the
17 result of a new misdemeanor arrest with a
18 detainer.

19 We sought offer -- we seek offers on
20 those cases now within a week of their
21 arrest. Pre this change in staffing, those
22 offers were not sought until the first trial
23 listing, which was generally two months
24 after the client was taken into custody.

1 Now we seek the offer. We have the offer
2 relayed in custody for a potential plea in
3 front of that client's back judge. This has
4 expedited the resolution of the case from --
5 on average pre-November 2015 of 89 days. We
6 now have it below 30. So, we are seeing a
7 savings of 57 days per case when a client
8 accepts an advance review in consolidation
9 offer to their back judge.

10 To date, I mean, this is one of the
11 programs that's actually been up and running
12 the longest since we started pre-MacArthur.
13 We recommended our offers at 1,099 cases.
14 If you take on average how many days we're
15 saving on those cases, we are realizing a
16 gigantic savings in custody days through
17 this process.

18 MR. HOYT: Hi. I am here to talk about
19 violation of electronic monitoring. This is
20 a new program. Hasn't been launched yet.
21 We are hoping we launch it by fall of this
22 year. We are also in that same boat with
23 the electronic monitor not being bought yet
24 and the vendor. But as soon as we can get

1 that, we are ready to go. We already
2 interviewed and hired officers -- we
3 interviewed officer that are already
4 probation officers now. And we are going to
5 send in for their replacements and hire them
6 as things go on probably within the next
7 couple weeks.

8 The Violation Electronic Monitoring is
9 called VEM. The program is an alternative
10 to incarceration for supervision offenders
11 characterized as non-violent offenders with
12 non-violent potential direct violations,
13 this is what Mr. Shabazz was talking about.
14 People that have a lesser charge and are on
15 for a lesser charge. What are we going to
16 do about them. This is what we are trying
17 to do.

18 The policies and procedure for this
19 initiative have been drafted and presented
20 to the judicial leadership of both the
21 Municipal Court and Common Pleas Court. The
22 VEM Unit will consist of six probation
23 officers, one legal clerk and one
24 supervisor. There will be 240 new digital

1 monitors purchased for use in the VEM Unit.
2 The launch of this initiative is dependent
3 on the finalized purchase, as I said before,
4 purchase order of new digital equipment and
5 staff training.

6 VEM will roll out in two phases,
7 addressing two populations. A prison
8 population snapshot and, thereafter, a daily
9 review of the detained probation parolees.
10 Phase one will be a snapshot of the prison
11 population on detainer and are under APPD
12 supervision. Eligible candidates will be
13 selected from this list with potential
14 release to VEM. Giving priority to the
15 greatest length of stay.

16 Phase two will commence when the backlog
17 is caught up. Phase two will be a
18 day-forward program and reviewing cases
19 daily for eligibility of VEM.

20 Finally, we are -- at APPD, we are
21 really pleased with DAP which is still the
22 emphasis and eager to launch the violation
23 electron monitor in the fall hopefully of
24 2017.

1 COUNCILMAN JONES: Mr. District
2 Attorney, are we allowed to ask questions
3 now? You set the rule.

4 MR. RIKER: We are opening questions,
5 Councilman.

6 COUNCILMAN JONES: With your permission.

7 Out of all of these things, I have the
8 most hope and promise for what you do.
9 Questions technically.

10 Do you -- do you prefer the -- are these
11 ankle monitors GPS similar to what
12 Councilman Johnson talked about?

13 MR. HOYT: These are same monitors that
14 Mr. Bouchard talked about that are not
15 landline monitors, digital monitors, but not
16 GPS, no.

17 COUNCILMAN JONES: Why -- my natural
18 question would be, why not GPS versus just
19 these monitors?

20 MR. HOYT: I think it was a financial
21 issue. And I also -- there is other
22 problems in that we would have to hire more
23 people, I think, to deal with it.

24 COUNCILMAN JONES: Can you elaborate,

1 please.

2 MR. HOYT: Well, if you're going to have
3 it -- you're going to have to work 24/7 with
4 GPS. And you're going to have to respond if
5 somebody went somewhere. So if somebody
6 goes to 8th and Butler and they had to stay
7 away from there, you have to respond or else
8 you're going to be liable as a department.

9 COUNCILMAN JONES: Versus?

10 MR. HOYT: Well, versus now where the
11 person has to stay in the house. If they go
12 out, they get locked up.

13 COUNCILMAN JONES: In one case, once
14 they go somewhere, there is a group that
15 goes after them. In the case that you have,
16 what happens when someone just decides to
17 leave the house?

18 MR. HOYT: Well, the sheriff goes out.
19 What they try to find -- the sheriff goes
20 out, picks them up.

21 COUNCILMAN JONES: So, why wouldn't we
22 use the Sheriff's Department in both cases?

23 MR. HOYT: I guess we could. Like I
24 said, I think it was more financial issue.

1 But I think that the finances would also be
2 something that we would have to do, too. I
3 think it would have to expand us. But I do
4 believe you're right. I think it was mostly
5 a financial issue.

6 MR. MCSORLEY: Councilman, can I just
7 jump in for the GPS thing?

8 COUNCILMAN JONES: Sure.

9 MR. MCSORLEY: I'm Rich McSorley, Deputy
10 Court Administrator. To dovetail more on
11 what the Chief said, those kind of alerts
12 when it's a GPS, it's going to the -- the
13 volume of alerts is going to grow
14 dramatically as opposed to just the people
15 in the houses. That is part of the issue is
16 going to be. The sheriff can't handle a lot
17 of the volume we have now. And it's going
18 to grow, so we are going to have to deal
19 with that.

20 As far as GPS as mentioned by Councilman
21 Johnson early, Juvenile was using it
22 extensively. We do have a pilot program
23 planned for GPS an adult. We never used
24 wireless in adult. We had these old

1 landlines. We want to get the wireless EMs
2 in. Get that technology down. Then there
3 is a plan to start a pilot program with
4 small amount of GPS units to see how it will
5 work out with the adult unit.

6 COUNCILMAN JONES: So my question is,
7 you prefer the GPS wireless?

8 MR. MCSORLEY: Well, we haven't used it
9 yet. My own layman look at it, landlines
10 are going to go away. That's going to
11 happen, so we have to prepare for it.

12 COUNCILMAN JONES: Got it.

13 MR. MCSORLEY: I think the wireless we
14 are going to use for the first time in
15 Philadelphia, I am hoping for a great
16 result. It's the first time, it's a brand
17 new vendor that might be selected. And we
18 just have to see how it works out first.

19 If it works out great and GPS Pilot
20 Program works out great, then I am sure we
21 will be coming to City Council saying look
22 how much money we are saying.

23 COUNCILMAN JONES: We love it.

24 MR. HOYT: Yeah. I would just like to

1 say the staff and money -- GPS is better. I
2 think it would be better way to monitor an
3 individual for sure. But staff and money
4 would be the problem. And when we did this
5 initiative, this is what was offered. This
6 is the kind of money that was offered for
7 us.

8 COUNCILMAN JONES: So on the training of
9 the new staffers probation officers, when we
10 went to Bradford County, we noticed a
11 evolution in thought. And in that
12 evolution, it wasn't just I'm a probation
13 officer and my focus is to check for
14 violations both technical, actual and send
15 you back. It was more of a social worker
16 evolution where a correction officer and a
17 social worker had a baby, it would be this
18 new job description. Tough love, but love.

19 And so, are we changing the job
20 description to fit where we are going with
21 justice?

22 MR. HOYT: We are talking about
23 probation officers and you're asking me are
24 we changing their job description in trying

1 to do things with them? Is that --

2 COUNCILMAN JONES: Correct.

3 MR. HOYT: Yeah, we are. We received a
4 grant \$750,000 to work with GMU and Faye
5 Taxman. And there is a program called
6 Soaring, which is a kindler gentler way of
7 dealing with people and also more effective.
8 Also, we have motivational interviewing
9 throughout our whole department. And we are
10 constantly trying to stay up with that. We
11 have a needs tool already. And we try to
12 stay in tune with the needs. And we also
13 try to give the best and most recent therapy
14 and counseling and training.

15 MS. ALLEN: If I can follow up on what
16 Mr. Hoyt has said, we have been able to see
17 this improvement through the Detainer
18 Alternative Program because they hired the
19 probation officer that's currently assign to
20 that position was hired as a result of this
21 grant. And he is -- you would say it was
22 the marriage of a correctional officer and a
23 social worker because he knows how to draw
24 the line in the sand but he knows how to

1 give the clients the support they need to be
2 successful.

3 We are hopeful that model will continue
4 through the expansion of this VEM Project.

5 COUNCILMAN JONES: You find this to be
6 acceptable Mr. District Attorney?

7 MR. RIKER: I find it to be very
8 acceptable, the results particularly are
9 quite dramatic in terms of the day, saved
10 particularly in the ARC Program that we are
11 able to role with great credit to the
12 Defenders Association on the project.

13 In terms of the DAP policy, you know, we
14 are taking a little bit of a leap of faith
15 in that, as well. These individuals that
16 are on probation that we are saying we know
17 would otherwise be in custody that we are
18 saying let's keep them on the street and try
19 to work with them. It's not just the low
20 hanging fruit. We are dealing with medium
21 and high risk population. And we find that
22 the probation department does an excellent
23 job of maintaining strong oversight. When
24 the time is appropriate, if necessary,

1 taking that individual off the street. We
2 are very confident and comfortable with how
3 the policy and program is proceeding.

4 COUNCILMAN JONES: We have to discipline
5 ourselves to monitor costs. Because if you
6 are going to come to this body or Council
7 and say we need a little more money in this,
8 I guess it would go down better when your
9 documenting what you're saving. And you are
10 just anecdotally to me, not accounting
11 principals, saving money.

12 So if -- one of the things that we are
13 moving towards in our funding, if you save a
14 dollar, you should get a quarter back, at
15 least a nickel. So, we want to measure
16 these things so that we can reinvest in
17 programs that are worth it. I'm going to
18 let my chairs go.

19 MS. WERTHEIMER: I was actually planning
20 on responding to your comment if it's okay.

21 I think to your point, this is obviously
22 a discussion that's come up several times.
23 And as you may recall, the City is moving
24 towards program-based budgeting. Which

1 while we're starting with the internal
2 departments to the City, it will eventually
3 hopefully move to the independent agencies
4 with their cooperation where we will be able
5 to determine both cost and impact and
6 savings in the long run.

7 COUNCILMAN JONES: We want to balance it
8 out equitably.

9 MR. BETHEL: You have to answer the
10 question, do you have more time than Judge
11 Lerner?

12 MR. HOYT: I don't know how that
13 happened. I think I said in a room that I
14 had a lot of time. And he said, whoa, you
15 didn't beat me, right.

16 MR. BETHEL: I guess my question is to
17 the GPS. Obviously, I was involved with the
18 Juvenile. And I found it very effective
19 tool because there are times when incidents
20 happen we can note. I guess to me it's not
21 an all or nothing proposition. Because can
22 there be a market? I am glad to hear you
23 are going to do a pilot.

24 My concern is the individual's out on

1 maybe a domestic who violates. We
2 constantly have them coming back to his or
3 her victim's home. That would be -- are we
4 able to maybe even look at it from a
5 perspective of who may be in that
6 prioritization of who should be on them?

7 You follow what I'm saying, Charlie? I
8 mean, how many times have I been to a
9 residence where the person has gotten out
10 and they are violating a protection order
11 and this is after the fact. Or this is
12 something that could be used as a tool that
13 says, hey, listen, he's on probation. He's
14 out on ankle monitor. And guess what, he's
15 not supposed to be in this radius. This
16 will allow you to set that tone of
17 protection around the victim saying if he
18 comes into the zone, it will automatically
19 go off.

20 And so, I think there is opportunities
21 here even if not -- can't do them all. I
22 think there is a subset of more to the issue
23 around public safety. I remember when I
24 talked to Commissioner Ramsey, he was

1 excited about these coming on board. Part
2 of that excitement, we would know where
3 people are at, as well. Just something I
4 know you're thinking about that.

5 MR. HOYT: I think my only trepidation
6 was that we need a lot of people -- what you
7 did was great. What you guys did with
8 Juvenile because it was the police where it
9 was a partnership. You guys went wherever
10 they were at, and it was really good. And I
11 think that would work for us, too.

12 I was just saying, and I probably
13 shouldn't have said, it's going to be a
14 little bit more costly. That's all. I
15 think it's way more effective, and I think
16 it's the way to go. And if we could change
17 all those 800 and just 240 to GPS, it would
18 be great. It's just that we need that
19 cooperation like you guys gave to Juvenile,
20 like the police gave to Juvenile.

21 MR. MCSORLEY: I think Mr. Bethel you
22 hit the nail on the head. In the pilot we
23 do want to see what population on GPS. Not
24 everybody on EM should be subject to the

1 vigorous supervision of GPS. When we start
2 the pilot, I think it's going to be
3 discussed. Is it pretrial? Is it post
4 trial? Is it domestic? What are the cases
5 that we want to use it for first and target
6 those people that are most, you know, will
7 get the most use for it.

8 I don't think that everybody in the --
9 for a DUI EM release is going to need a GPS
10 bracelet. I don't think we need to know
11 where they are every second of the day.
12 Most of the people are allowed to get out
13 for periods of the day for work and
14 different things. It's going to be a
15 learning thing for Philadelphia. Who is
16 that population. I am sure we will sit down
17 with the police and other justice partners
18 and try to decide the best way to use it.

19 MR. HOYT: I think Kevin is right. I
20 think the domestic violence, the people that
21 have stay-away orders, I think it's really
22 good for because you can follow them and
23 know where they are going. Do you know what
24 I mean? And know if they are going to a

1 house to attack someone or beat someone.
2 They are the kind of cases I think the
3 specialized cases would be great for GPS.

4 MS. BRADFORD-GREY: I am really glad
5 that we are talking about both things in
6 this conversation because I really think
7 that there's room for reform and public
8 safety in the same conversation. One of the
9 things I want to make sure that we do, we
10 are not doing things just because we are
11 afraid of bad publicity, right.

12 I do want to make sure in terms of what
13 the Defender Association is doing in the ARC
14 Program and the VEM Program. When we talk
15 about speed up that process, can you just
16 elaborate. Are we now -- we don't want to
17 be a part of an assembly line justice. Yo
18 know, that's kind of what got us into some
19 of the challenges that we are seeing now.
20 No individualizing of the client, no
21 humanizing of the people that go through
22 this system. And so, sometimes we could
23 make people more desperate so that when they
24 get out, they have less than when they came

1 in.

2 Can you just elaborate on the fact that
3 the programs that we are putting in place,
4 they are not assembly line type of justice
5 that will get us in these same situations
6 that -- where reform is now necessary.

7 MS. ALLEN: Through the ARC Program,
8 since that is now centralized within one
9 unit of the Defender Association, the
10 benefit is we are able to give
11 individualized screening to the case and the
12 back case. We look at their reports that
13 are generated. We determine whether the
14 client has mental health needs. We
15 determine whether the client has a history
16 of drug and alcohol issues through their
17 probation. And we try and tailor specific
18 treatment reports to present to the judges
19 when the case ultimately goes in front of
20 them to accept an offer.

21 So, the whole focus whether we are doing
22 it pretrial or whether we are looking at it
23 through violations of probation is
24 identifying the needs of the clients and

1 connecting them with appropriate services.
2 So that when they are paroled, when they are
3 successful in their case, they are going
4 back to the community with a treatment plan
5 in place and with the -- what they need to
6 get successfully engaged in that treatment.

7 MS. BRADFORD-GREY: And that shift that
8 you just described, looking at it from a
9 pretrial perspective, is really a new way of
10 doing things in our system. And what is
11 some of the successful outcomes or what we
12 have learned from that process? I think
13 when I was practicing in this system, we
14 really started understanding what the
15 individual need at sentencing, at the time
16 sentencing. All the while, someone kind of
17 just sat and languished. Now doing a front
18 end look is much better for our system as a
19 whole, but much more effective to really
20 understand and advocate for certain needs to
21 be identified.

22 MR. RIKER: The front-end look is very
23 important because it provides -- the more
24 information we have about the individual,

1 the more opportunity it gives us to more
2 appropriately address that case.

3 Perfect example is on these early looks
4 by the Defenders Association, if they can
5 provide the District Attorney's Office, my
6 office, with more information about the
7 person, the background, what may have led to
8 criminal contact. It might open up the door
9 to more diversion programs, more diversion
10 opportunities for that person. It's
11 information I typically would not get in
12 police discovery. But by getting it far
13 enough in advance, it makes it worthwhile
14 for all parties to try and engage somebody
15 in a different matter.

16 MR. PODGUSKI: Yeah, I just want to
17 quickly say a couple things. I think,
18 Charlie, I think when you considered your
19 electronic monitoring solution, you really
20 went about it in a thoughtful way. I have
21 experienced in my tenure in this field when
22 individuals talk about GPS, oftentimes they
23 go into it with their eyes wide shut.

24 It has a role. It has a functionality,

1 and it's a very good tool. However, it does
2 have several operational questions which
3 agencies must confront not only in terms of
4 passive and active utilization of GPS, but
5 it really surrounds what you do when you
6 know, right?

7 So I think with our population of
8 offenders or parolees, should I say
9 reentrance, utilizing the wireless
10 technology because so many folks do not have
11 landlines anymore, I think is a pretty good
12 solution for you considering your
13 operational concerns and your fiscal
14 concerns.

15 The other thing I just like to say is
16 I'm really, really encouraged by the
17 Detainer Alternative Program because one of
18 the things that I like to say is when --
19 when we can supervise people in the
20 community safely, we should do that. And it
21 sounds like this program does just that.
22 And I would like to see it expanded because
23 it -- like I said before, it's about helping
24 people and getting the intervention and the

1 help that they need because it's their
2 journey.

3 MR. RIKER: Right now the DAP Program
4 covers 30 individuals. It's considered a
5 pilot project. Basically, rolled out to see
6 just a proof of concept model. The early
7 results are good. And hopefully, we will be
8 able to continue in that progress.

9 MR. BETHEL: Just one more stupid
10 question around the GPS. The equipment that
11 you're purchasing, is that able to be
12 upgraded to GPS if you so desire to go that
13 direction? Or is that a whole new piece of
14 equipment you have to purchase?

15 MR. HOYT: Yes.

16 COUNCILMAN JONES: Yes what?

17 MR. HOYT: No. We do the first part.
18 It can be upgraded to GPS.

19 MR. BETHEL: Just checking.

20 MR. HOYT: Sorry about that.

21 COUNCILMAN JONES: That was really --

22 MR. HOYT: I sort of just lost you after
23 you said that. I stayed right with your
24 question. Sometimes you're tough to deal

1 with that way, Kevin.

2 JUDGE LERNER: Derek, with regard to the
3 Detainer Alternative Program, right now what
4 is the most serious offense either back time
5 or front time that would be -- would make --
6 allow somebody to be eligible for that
7 program?

8 MR. RIKER: I think it would be --
9 specifically for an individual in the
10 program right now I'm not sure.

11 MR. HOYT: For DAP.

12 MR. RIKER: In terms of the eligible
13 offenses, with the exception of individuals
14 on probation for gun charges for, F1
15 felonies and for sex offenses and arson, the
16 majority of other offenses are all eligible
17 for participation in the program.

18 JUDGE LERNER: And how -- how automatic
19 is the process that gets somebody considered
20 for the program?

21 Does it have to be brought to your
22 attention through defense counsel or through
23 the probation department? Or how exactly
24 does that work?

1 MR. HOYT: It comes through the
2 Probation Department. The probation officer
3 takes urines and positive urines and they
4 have to refer them. It has to be a person
5 that had positive urines and then was
6 referred to treatment but either disengaged
7 or left treatment, didn't go. I mean,
8 disengaged or didn't go. And it has to be a
9 person on the verge of incarceration.

10 JUDGE LERNER: So what I am getting at
11 here is that there are a lot of situations.
12 Any judge -- any judge who has done felony
13 work is familiar with a lot of situations
14 where there are people on probation who will
15 be detained when they are arrested for a new
16 offense. And it -- either because of the
17 original offense or the new charge, they are
18 not somebody who you're going to be
19 referring automatically to the DAP Program.

20 If those people are lucky enough to be
21 represented by the Defender Association and
22 if there is a decent argument to be made
23 before a judge that a detainer should be
24 lifted, that argument is going to be made.

1 Then it's up to the court, obviously, to be
2 willing to schedule a prompt detainer
3 hearing.

4 With people who are represented by
5 private counsel, whether appointed or
6 retained, there is a -- there are two
7 hurdles that have to be cleared to get that
8 hearing. First there is the court hurdle.
9 But even before that, you have to have a
10 lawyer who is familiar enough and concerned
11 enough to take the laboring oar in getting a
12 hearing scheduled.

13 Is there anything that we are doing or
14 can do through the MacArthur process to
15 address those issues so that we can provide
16 a much wider range of prompt detainer
17 hearings for people who might not be
18 identified through DAP?

19 MR. RIKER: Well, again, Judge Lerner,
20 the DAP is sort of a smaller subset where
21 you're talking about I think is a bigger
22 issue that faces the system. I think part
23 of that is some of the case processing
24 review that we are going to do within the --

1 one of the other subcommittees. But in
2 general, I think you raise an excellent
3 point that that's part of the problem is the
4 awareness of some particularly private
5 counsel, court-appointed counsel who may not
6 be on top of the game as obviously the
7 Defender Office is traditionally.

8 JUDGE LERNER: Or the court. We got to
9 take our share of the responsibility, too --

10 MR. RIKER: Sure.

11 JUDGE LERNER: -- for this.

12 MR. HOYT: Judge, are you talking about
13 a detainer hearing?

14 JUDGE LERNER: Yeah.

15 MR. HOYT: All of our detainer hearings
16 are within eight to ten days. For every
17 case, they get a detainer.

18 JUDGE LERNER: I am talking about a
19 formal detainer hearing before the back time
20 judge.

21 MR. HOYT: Within eight to ten days, we
22 have a Gagnon I, which is detainer hearing.
23 And within 30 days, we have a Gagnon II
24 scheduled.

1 JUDGE LERNER: I understand that. But
2 you understand also that Gagnon II for
3 defendants who have open cases are often
4 hardly even procedures. That all that
5 happens is that the clerk in the room says,
6 Your Honor, there is an open case here,
7 shall I give it a date. And the answer is,
8 give it a date. Open case, detainer to
9 remain, give it a date without any specific
10 case-by-case consideration of whether or not
11 this is somebody who really from the point
12 of view of public safety needs to be
13 detained.

14 MR. HOYT: I agree. I agree. That --
15 what you're saying is they are just
16 disregarding the Gagnon II and just giving
17 it a date for open bill. And it's
18 staying -- and the person is staying in
19 jail. I am going through that right now.
20 We are auditing all our detainers again,
21 which we audit every six months. We are
22 seeing a lot of that. And you're right.

23 COUNCILMAN JONES: Excuse me. I just
24 want to remind people that we are on

1 television. And people won't know what a
2 Gagnon II is. Could you --

3 MR. HOYT: Gagnon I is a detainer
4 hearing. And it's a hearing to decide
5 whether the detainer remains on somebody or
6 not.

7 COUNCILMAN JONES: Very good.

8 MR. HOYT: A Gagnon II is a violation
9 hearing which deals with the violation
10 director technical.

11 COUNCILMAN JONES: Because you and the
12 Judge started getting into judge speak.

13 JUDGE LERNER: It's important that
14 people understand that the Gagnon I hearing
15 isn't a hearing before the probation judge.

16 MR. HOYT: It's trial commissioner.

17 JUDGE LERNER: It's a trial
18 commissioner. So the issues that I'm
19 talking about which may get somebody
20 actually released even though they've been
21 either convicted of a serious offense in the
22 past for which they are on probation or they
23 are charged with a serious offense in -- as
24 they are open case, an offense for which

1 they are presumed innocent, you -- to get
2 that person released it's a meaningful
3 Gagnon II hearing, a meaningful detainer
4 hearing before a judge that we need to
5 provide for.

6 MS. ALLEN: As the panel has mentioned
7 through pretty much every panel we have had
8 so far, we have taken years to create the
9 detainer problem. We have been working on
10 it for two years. I think through programs
11 like ARC and through programs like DAP,
12 judges are starting to not do with the
13 dreaded three letters we always heard when
14 we are doing violation of probation hearings
15 which is CFN, which is continued until
16 further notice.

17 You don't see those kind of continuances
18 anymore. Because I believe judges are now
19 aware that these types of programs exist.
20 And hopefully, that will then go to the next
21 step which is actually having a meaningful
22 Gagnon II instead of just continuing it
23 until further notice. But I think it's
24 going to take more time for the judges to

1 become more familiar with the types of
2 services that we are seeking to give to
3 clients so that they might feel more
4 comfortable lifting a detainer when there is
5 still an open bill. We got -- I think we
6 need more time to develop those
7 relationships.

8 JUDGE LERNER: Well, I plead guilty to
9 when I was on the bench not having been as
10 proactive as I think I should have been with
11 my probationers who had detainers. And I am
12 hopeful that through an expansion of these
13 programs and through this new level of
14 cooperation, that my successor on the bench
15 are going to be doing a better job with that
16 than I sometimes did.

17 MS. BRADFORD-GREY: May I just kind of
18 echo what Sarah said in terms of looking at
19 probation detainers and looking at providing
20 plans. The Defender Association, our Chief
21 of Social Services basically created a new
22 way to do same-day referral. Sometimes
23 people sat in custody just to get a referral
24 process going to figure out what treatment

1 program or treatment options were available
2 to them. Bringing in the service providers
3 who are in the communities that we paid for
4 already, bringing them into the criminal
5 justice system allows for same-day referral
6 services so that people are able to be
7 released with a plan versus waiting six to
8 eight weeks to get one.

9 Just that one little tweak has really
10 saved a lot of days. And I think that we
11 can do it more because these services are
12 available to people in the community now,
13 they just don't really know about them.
14 They don't know they can walk up to the door
15 of the wedge and get a referral for
16 treatment. They wait until they come into
17 the criminal justice system to figure out
18 what treatments are available to them.

19 We also have a Donafy App where we are
20 empowering people to understand what's in
21 their community based on their needs. These
22 are things that the Defenders Association
23 are trying to be proactive about. And we
24 are really hoping to partner with judges --

1 we actually already do. But probation and
2 any other stakeholders.

3 COUNCILMAN JONES: Thank you, Judge, for
4 your enlightened position post the bench and
5 the statute of limitations is up for any --

6 JUDGE LERNER: I think not.

7 COUNCILMAN JONES: No?

8 Any other questions for this panel?
9 Thank you again. Another insightful panel
10 and appreciate what you do. May I have
11 permission, Mr. District Attorney --

12 MR. RIKER: I think now is a good time.

13 COUNCILMAN JONES: -- to get the next
14 panel? Thank you, sir.

15 Ms. Williams.

16 THE CLERK: The next panel is Michael
17 Barry, Darlene Miller and Julie Wertheimer.

18 (Panel approaches Table.)

19 COUNCILMAN JONES: Okay. Thank you
20 again for your patience. We will try to
21 restrain our enthusiasm with these
22 questions. But you were providing so much
23 information, that we feel compelled.

24 MR. BARRY: I will take care of

1 Mr. Riker when this is all done and let him
2 know.

3 COUNCILMAN JONES: Please pull the mic
4 to you and state your name again for the
5 record. Begin your testimony.

6 MS. MILLER: I'm Darlene V. Miller,
7 Deputy Chief, Philadelphia County at the
8 Probation and Parole Department, and
9 Chairperson for the Racial and Ethnic
10 Disparity.

11 COUNCILMAN JONES: Was that you?

12 MS. MILLER: Yes.

13 MS. WERTHEIMER: Julie Wertheimer, Chief
14 of Staff, Criminal Justice, City of
15 Philadelphia.

16 MR. BARRY: Michael Barry, Deputy of the
17 Pretrial Division of Philadelphia DA's
18 Office and co-chair of the Racial and Ethnic
19 Disparity Working Group.

20 MS. MILLER: Good afternoon. We are so
21 pleased to present the following overview of
22 the initiatives and accomplishments of the
23 Work Group thus far. For the MacArthur
24 Safety and Justice Challenge, the red which

1 is the Racial and Ethnic Disparity Work
2 Group, has developed four initiatives. One
3 is the Civil Violations Notice, which is the
4 CVN; the Police Assisted Diversion, which is
5 also known as PAD; the Implicit and Explicit
6 Bias Training and Diagnostic Review for each
7 agency as it relates to the relative rate
8 index.

9 The first two initiatives, the CVNs and
10 the PADs are actually chaired by our
11 Philadelphia Police Department under Captain
12 Francis Healy. And unfortunately, he was
13 not able to be here today. An overview of
14 the Civil Violations Notice. By way of
15 Executive Order in June 2016, the Police
16 Department was given the authority to
17 transition criminal sanctions to civil
18 violation notices for such statutes as
19 disorderly conduct, obstruction of the
20 highway, failure to disperse and possession
21 of open containers of alcoholic beverages.

22 The goal of this was to reduce the
23 number of arrests and the amount of citizen
24 interaction with the criminal court system.

1 In relation to the goal of arrest reduction,
2 this was advantageous. For the period of
3 July 1, 2015 to December 31, 2015 where we
4 did not have CVNs in place, there were a
5 total arrests of 1,252. During the same
6 period of time one year later with the
7 introduction of CVNs, the arrest rate has
8 gone down. It was reduced to 289, which
9 represents a decrease of 963 arrests or a
10 76.9 decline.

11 There were during this period 416 CVNs
12 issued. These statistics support the claim
13 that this did have a positive review. Even
14 with this promising outcome however to date,
15 this program is facing two challenges. The
16 first one is actual impact or lack thereof
17 on racial and ethnic disparity within the
18 criminal justice system and the collection
19 of relevant related data.

20 To date, there is no evidence that CVNs
21 are affecting the disparity and determining
22 how to accurately record and report data
23 remains a concern with a pending solution,
24 however. Currently, the process requires

1 the police officer to complete a handwritten
2 48. And in conjunction with that with the
3 CVN. The reason why this is necessary
4 because the CVN in and of itself does not
5 contain all of the qualifying identifiers
6 that we need such as race and gender.

7 After being recorded, the Bureau of
8 Administrative Adjudication stores the data
9 by address not by person. Adjustments are
10 being made to this process to eliminate the
11 duplication of effort and to ensure that the
12 proper data is being collected.

13 The next phase of this initiative is the
14 development approval of a new CVN form which
15 will capture the necessary personal
16 information for the individual involved in
17 the incident. This will reduce the amount
18 of paperwork on the part of the police
19 department and increase police buy-in in
20 procedural application and compliance. That
21 is where we are in relation to the CVNs.

22 When we move forward to our next
23 initiative, which is the Police Assisted
24 Diversion Program, the goal of this

1 initiative is to provide individuals with
2 substance abuse issues a service treatment
3 alternative to arrest and court involvement.
4 In lieu of arrests, the police officer would
5 provide eligible individuals with an
6 opportunity for a drug and alcohol
7 assessment and transportation to a
8 designated treatment provider through
9 ProAct, which is our third-party partner.

10 After thoughtful consideration and
11 collaboration with various criminal justice
12 agencies in the work group, the following
13 criminal activity would trigger the
14 observing police officer to divert the
15 individual through the program. The charges
16 would be drug possession, prostitution
17 and/or retail theft.

18 Once the stop has been initiated, the
19 police officer will request a review of the
20 individual's criminal history. Due to a
21 lack of permission in data availability, the
22 charging unit of the District Attorney's
23 Office would perform the necessary criminal
24 history investigation. Eligibility would

1 require no conviction within the last five
2 years for first degree felony offenses such
3 as aggravated assault, robbery, burglary,
4 possession with intent to deliver, any
5 violation of the Uniform Fire Act and no
6 convictions for vehicular homicide,
7 homicide, rape, kidnapping, sexual assault,
8 trafficking or arson. And the person would
9 have no active probation or parole
10 supervision, nor would they be currently
11 participating in any other diversion
12 program.

13 Two police districts within the City of
14 Philadelphia have been designated as the
15 areas to pilot this initiative. It's the
16 22nd and the 39th. Selection of the police
17 district were based on the following
18 reasons. ProAct, the third-party triage
19 facility, where offenders will be brought
20 for preliminary screening for services is
21 located in the area that is equally
22 accessible by both districts, which is the
23 1701 West Lehigh Avenue. Both police
24 districts are also inclusive of communities

1 of individuals that are disproportionately
2 represented in the criminal justice system.

3 There has been some challenges that the
4 Work Group has encountered during the
5 development of this initiative. To take
6 advantage of a recommendation from one of
7 our technical assistant providers the Berne
8 Institute, community engagement meetings
9 have been conducted within the community.
10 These meetings have been with service
11 providers as well as with focus groups of
12 residents within the community who are
13 currently participating in treatment. It
14 was determined that we need buy-in from the
15 very community that we want to implement
16 this program.

17 Gathering the names of all treatment
18 programs and listing all available services
19 is crucial to the implementation of this
20 diversion program. The focus groups have
21 not been fully representative of the
22 community. However, we continue to work
23 with ProAct in developing a more oriented
24 focus group. Ultimately, the goal is to

1 establish trust and support between the
2 community and the criminal justice system
3 with immediately rendering of services while
4 we have the attention of the person that's
5 right in contact with the police department
6 at that time.

7 Another challenge is the selection of
8 hours in which to institute this program.
9 ProAct is not a 24-hour facility.

10 Therefore, we selected as a pilot the hours
11 between 7:00 a.m. and 3:00 p.m. The Work
12 Group is also proactively considering how to
13 handle contacts with individuals in need of
14 services both direct and indirect outside of
15 those noted areas -- noted hours of
16 operation that I just mentioned.

17 The final challenge involves determining
18 how to track the individuals receiving these
19 services and accurately record the programs
20 outcome. The Work Group is considering
21 various options for database development and
22 management. And the City of Philadelphia's
23 Managing Directors Office is waiting the
24 approval of a job announcement for a project

1 manager on this regard. Although this is a
2 pilot initiative and available resources are
3 still being ascertained, the Work Group
4 believes that the potential number of
5 individuals reached through the program will
6 make it worthwhile. Data on the program
7 process and procedures will be collected and
8 allow for an evidence-based determination to
9 allow for the feasibility and effectiveness.
10 That takes care of our PAD.

11 If I'm permitted to move forward, I will
12 go into our next initiative which is
13 Implicit and Explicit Bias Training.

14 COUNCILMAN JONES: Please proceed.

15 MS. MILLER: Thank you so very much.
16 This initiative is chaired by Rhonda also of
17 the Philadelphia Police Department. She,
18 too, was unable to be present today.

19 Implicit and Explicit Bias Training is
20 the third initiative and represents one of
21 the two largest undertakings of this Work
22 Group. This endeavor is especially
23 laborious due to the sensitive nature of the
24 topic. The required development of several

1 distinct training curriculums for the
2 various criminal justice agencies and the
3 size of the audience to be trained within
4 each agency. After reviewing submissions
5 and proposals from various organizations and
6 groups and while working with our budgetary
7 constraints, the Work Group selected the
8 Perception Institute as the training
9 partner.

10 On May 1, 2017, the leadership of the
11 various criminal justice partners received a
12 presentation from the Perception Institute
13 on the sciences of implicit and explicit
14 biases. The following morning presentation,
15 the Perception Institute conducted -- I'm
16 sorry, following the morning presentation,
17 the Perception Institute conducted
18 individual interviews with representatives
19 from each of our criminal justice agencies
20 in an effort to obtain background
21 information about the agency specifically
22 regarding its primary role in the criminal
23 justice system, and an overview of its
24 policies and procedures.

1 Following the May first site visit, the
2 Perception Institute was tasked with
3 developing specialized training curriculums
4 for each agency. These customized
5 curriculums will address the core context of
6 how bias linked to race and ethnicity have
7 the potential to result in differential
8 treatment and unequal outcomes for
9 individuals within each criminal justice
10 agency. A summary of the May 1 finding was
11 supplied to each agency and is currently
12 under review.

13 The next phase involves a manager's
14 training which provides the general
15 introduction to the mind sciences and a
16 separate individualized session tailored to
17 suit the unique needs of each agency. The
18 final phase involves a concerted effort to
19 train selected line staff members within
20 each agency who will then, in turn, become
21 train the trainers for their colleagues
22 within their agency. The challenge of this
23 initiative includes ensuring that the
24 curriculum is relevant for all of the par

1 participating agencies, sustaining any
2 positive gains indefinitely, identifying the
3 appropriate and willing individuals who will
4 embrace the role of a trainer and measure
5 the impact and fidelity of that curriculum.

6 Our next initiative and final initiative
7 for this work is the performance of the
8 diagnostic review of racial and ethnic
9 disparity at various decision points
10 throughout the criminal justice system by
11 calculating or referring to the Relative
12 Rate Index. This undertaking represents a
13 bold endeavor that has very little
14 historical precedent at the audit level of
15 the criminal justice system.

16 Currently, this work group in
17 conjunction with the data work group
18 actively determined the appropriate decision
19 points and variables to include in this
20 comparative measure of disparity. In the
21 next phase, the data will be extracted and
22 calculations finalized. Finally, each
23 agency can review the analysis results and
24 consider corrective strategies to address

1 their individual units. Jaime Henderson
2 will cover a more in-depth review of that
3 particular aspect of data analysis.

4 In conclusion, this overview presents an
5 account of the work completed to date by
6 this work group. While many challenges
7 remain, the work group strives to fully
8 implement all of its initiatives positioning
9 the Philadelphia criminal justice system to
10 make great strides in reducing racial and
11 ethnic disparity. And we continuously work
12 and meet twice a month. So, we are really
13 looking forward and we are positive of the
14 steps we have taken thus far.

15 Thank you.

16 COUNCILMAN JONES: Ground breaking comes
17 to mind and unprecedented. As I see the
18 evolution of this whole movement, we had
19 opportunity to go to different locales and
20 see how they are doing things, whether it's
21 Pittsburgh who I was very impressed with.
22 And that evolution of probation officers and
23 risk assessments and moving things into a
24 modern point of view or post stereotypical

1 racial, we will never be perfect. But we
2 can aspire to be better. And that is all we
3 can expect from government to constantly
4 evolve in the right direction. So this kind
5 of work, we would just -- it was almost
6 information overload as to the depths in
7 which we are looking at racial bias.

8 When folk talk about justice by ZIP
9 codes and whether you talking about the
10 dispatcher that gets the call and whether or
11 not everything is given equal weight in the
12 5th Police District as it is in the 19th
13 District in my councilmanic area. So
14 understanding those subtleties and those
15 preconceived notions even help people,
16 citizens feel better when they are engaged
17 in the process. That is isn't just because
18 I'm Black or this isn't because I'm poor, it
19 is because this is our system and it's fair
20 to everybody. That is essential.

21 MS. MILLER: One of the things I would
22 like to note that we are excited about is we
23 are going to be traveling to Baltimore as a
24 matter of fact next week to see their Police

1 Assistant Diversion Program. What you're
2 saying is so true, to go see how it is
3 actually implemented. We can compare what
4 we developed or trying to put into play and
5 see how they brought that farther along.
6 That is correct.

7 COUNCILMAN JONES: We want you to learn
8 a lot. We want to avoid some of the
9 tragedies that came from Baltimore. And
10 it's okay to learn from states,
11 municipalities. But it's even better when
12 we are the first at things, when we
13 trail-blaze things. I think what we are
14 hearing today is that we are second to none.
15 We are trying to take a little bit from
16 everywhere we researched and travel and
17 create an even a better model.

18 MS. BRADFORD-GREY: I just want to say,
19 I am really proud of our system for taking
20 on this issue racial bias. You know, racial
21 bias has been something that has been
22 unspoken but definitely known for a very
23 long time. Like the Council said and like
24 you said, this is a very sensitive topic.

1 But we all have to be brave enough and bold
2 enough to have the conversations. And I
3 will say myself when we are talking about
4 system change and organizations that need to
5 change, the Defender Association also really
6 had to take a look at our racial bias. And
7 it was really telling about the racial bias
8 that is inherent within public defenders.
9 And you know, I don't think people even
10 understood it or knew it in that way because
11 we are such bleeding hearts. We want to
12 make sure that everyone is treated fairly,
13 but we had to confront our own biases.

14 So, this has been a very, very amazing
15 exercise for everyone so that we can move
16 towards a better system with more fair
17 outcomes. So, I just want to say that.

18 MS. MILLER: That is the one thing I
19 like about being on this committee. It
20 allowed all of us from different agencies to
21 sit around the table and actually
22 acknowledge the fact that disparity does
23 exist. It's not a blame game. It's -- we
24 are now in the process where we can say we

1 recognize it. Now we are going to make
2 adjustments, and what can we do to work
3 together to make sure that when it starts
4 here, it trickles on down. Starts from the
5 rest and goes on through the process. We
6 are really excited about working on this
7 committee.

8 MR. BARRY: If I can add just one thing
9 with that. I know a few of you participated
10 in the training with the Perception
11 Institute. And they spoke about studies
12 about implicit bias through all industries,
13 not just the criminal justice system. And
14 one of the things that was most striking to
15 me and a lot of the people in the room, they
16 talked about studies done in the medical
17 community.

18 In particular, one study regarding the
19 provision of pain relief for children
20 reporting in ERs of abdominal pain, right.
21 It's the type of area where you think
22 everyone, doctors again, good hearted
23 people. People who want to serve in the
24 community. Bias you would hope wouldn't

1 exist. But the stark reality is they
2 studied it repeatedly. And that the
3 provision of pain relief varies based on
4 race and is given to racial minorities less
5 frequently. I'm sure those doctors had no
6 notion that they were providing, you know,
7 weren't providing medical relief to patients
8 based on race.

9 It just shows how ingrained it can be
10 and how it's much bigger than how you were
11 raised or how you see yourself. But that
12 it's really a psychological phenomenon. It
13 has to do with the mind sciences. And that
14 any person who is not open to it just needs
15 to be enlightened about some things about
16 how the human mind works to really see that
17 we should all be open to it.

18 MR. BETHEL: I am biased against the
19 racial and ethnic disparity because I was
20 able to be involved in the very beginning.
21 Obviously, Rachel is back there and Julie.
22 And to see where it's come, it's so exciting
23 to see the fruits of that labor. But I
24 would also make sure you give yourself a lot

1 more credit. You know, when you look at
2 what has already been instituted. When you
3 talk about the number of -- some reason not
4 being -- I know Councilman was very
5 instrumental in moving that forward last
6 year. The collateral consequences is also
7 significant. I mean, the fact that you have
8 almost 76 or 77 percent fewer people, that
9 \$250 fine they could not pay when they went
10 in the courtroom which resulted in them
11 staying in the system forever because they
12 never would pay that fine is significant.
13 And how that contributed to the recidivism
14 that is going on.

15 I think as you look through this
16 process, people always argued in diversion
17 program that I am blessed to run with the
18 City, even though I -- it's 1200 fewer kids
19 been arrested, but it's still 97 percent
20 African-American children. I got that. We
21 are in those areas. We are in those
22 schools. They are challenges. We are in
23 the challenging community. We know that
24 the. Reality is, where we police is

1 oftentimes a larger number of police
2 officers there. To have that tool to not be
3 able to give people that \$250 fine. If I
4 had money, I would come down here and I do a
5 Saturday class, pay my \$250. And I'm out
6 the door. If I don't have money, then I am
7 stuck in the system and it never gets out.

8 I think make sure you give your team and
9 the work being done a lot more credit
10 because long term, that diversion work that
11 you're doing that I see from the work that I
12 am doing has even a greater impact than
13 anything you can imagine. Again, I applaud
14 the work, Darlene, and the work you're doing
15 to lead the committee and the entire team
16 for really taking on this area.

17 It's -- it was challenging, but I think
18 the right place to be.

19 MS. WERTHEIMER: If I can just jump in
20 thank Councilman Jones for his leadership in
21 getting the legislation through for -- to
22 allow for CVNs. There was a lot of
23 publicity around it because it was a useful
24 tool during the convention last summer. It

1 was actually always planned and intended for
2 this purpose prior to the convention
3 factoring in.

4 MR. BARRY: One other note. I'm taking
5 Mr. El-Shabazz' place in not stopping. I
6 know if Captain Healy were here, another
7 thing he would point out is what he has
8 noticed with availability of CVNs is now a
9 lot of police officers aren't even issuing
10 the CVNs. In other words, when they are
11 confronted with the situation that would
12 have been a disorderly conduct or arrest or
13 public drunkenness arrest, that rather than
14 go to the CVN, they are just resolving it
15 otherwise.

16 Because they have seen the logic, this
17 doesn't necessarily need to be treated like
18 a crime. Once their eyes are open to that
19 extent, they become much more open to other
20 resolutions besides some sort of punishment.

21 MR. BETHEL: That's all about
22 leadership, too, right? That's all
23 leadership stepping up. Everybody knows I'm
24 a big fan of Commissioner Ramsey who is gone

1 and more importantly Commissioner Ross who
2 through his leadership makes that decision
3 that we weren't locking up kids. We are
4 giving \$25 ticket for marijuana, which was
5 an arrest, fingerprint and photograph. We
6 are going out here, stopping people for
7 disorderly conduct, et cetera. He was very
8 forethought in recognizing that this has to
9 change.

10 I think it ultimately comes down to
11 leadership from Council, from the law
12 enforcement, from your office and others to
13 say, you know what, and then giving those
14 tools to the police officer who says I have
15 more options. The more tools we give these
16 officers in the field to make different
17 decisions, the more inclined they are going
18 to do it. I think as long we can keep going
19 that path, we can continue to have that
20 success.

21 COUNCILMAN JONES: So on a practical
22 level as a Councilperson, whether you're
23 talking about the bike race and kids taking
24 jello shots one too many, enjoying

1 themselves up in one part of my district or
2 in another part of the district where it's
3 the Greek Picnic and they are doing some
4 things that, you know, Greek celebrations
5 do, it shouldn't alter their life.

6 We all were young once. And if you live
7 long enough, you will live through it. It
8 should not take permanent marks with you.
9 And so, that's what we learned.

10 Thank you so much for your testimony.
11 Ms. Williams, we are having too much fun.
12 Can you bring the next panel up, please.

13 THE CLERK: Next panel is David Ayers,
14 Rachael Eisenberg, Christopher McFillin,
15 Derek Riker and Jac Rivers.

16 (Panel approaches Table.)

17 COUNCILMAN JONES: Again, thank you for
18 your patience. Please have a seat. Pull
19 the mics close to you. And when you begin
20 your testimony, please state your name for
21 the record.

22 MR. AYERS: Good afternoon, I'm David
23 Ayers with the Department of Behavioral
24 Health. I'm the Manager of Criminal Justice

1 Program for the Behavioral Health and
2 Justice Related Services Division.

3 COUNCILMAN JONES: Welcome.

4 MR. MCFILLIN: Hi. My name is Chris
5 McFillin with Probation and Parole. I'm the
6 Director of Specialized Supervision.

7 MR. RIKER: Good afternoon, again.
8 Derek Riker. Chief of Diversion Unit for
9 the District Attorney's Office.

10 MS. EISENBERG: And Rachael Eisenberg,
11 Project Manager with the Managing Director's
12 Office of Criminal Justice.

13 COUNCILMAN JONES: I know I been here a
14 long time. This is the people I've already
15 seen before. That's okay. Can you begin
16 your testimony, please.

17 MR. RIKER: Sure. Thank you,
18 Councilman. Again, Derek Riker for the
19 District Attorney's Office. I am here today
20 to discuss the Choice Is Yours Program.

21 As many of you are very much aware, the
22 Choice is Yours Program started back in 2012
23 by the District Attorney's Office. It's
24 more commonly known as TCY, the MacArthur

1 grant opportunity has provided an
2 instrumental funding tool to not only ensure
3 that the lights are kept on at TCY but has
4 also importantly has allowed us to expand
5 the eligibility of the program. Originally
6 conceived and funded, the TCY Program was
7 for first time felony offenders charged with
8 sales or distribution of crack or powder
9 cocaine.

10 As a result of the MacArthur money, we
11 were able to modify the terms of the
12 eligibility to now open up eligibility to
13 individuals charged with selling essentially
14 any other narcotic. Which, obviously,
15 creates a bigger pool for us to draw from
16 and other candidates who previously are no
17 eligible are now given the opportunity to
18 take part in these important services. TCY
19 participants spend a year working with staff
20 from JEVS Humans Services, our social
21 service provider, to undergo job readiness
22 training or pursue educational goals like
23 GED, getting an online degree, some people
24 even go to college while they're in the

1 program.

2 To date, we have 100 active participants
3 in TCY, 39 individuals who have entered
4 since January were entered through the
5 MacArthur funds. Twenty-three have already
6 enrolled. We anticipate adding another 27
7 individuals under the terms of MacArthur
8 expansion.

9 TCY supports the goals of MacArthur both
10 directly and after the fact. TCY
11 participants are released on their own
12 recognizance at the time of arrest. And
13 almost all of them complete the program
14 without spending any time in jail. The 140
15 graduates of TCY have a recidivism, one-year
16 recidivism rate of less than 12 percent.
17 That's compared with other similarly
18 situated offenders whose recidivism rate
19 after one year is typically in the 30 to 40
20 percentile. It's a huge number.

21 We hope that by this expansion of TCY,
22 showing we are dealing with a bigger and
23 wider population, that we will continue to
24 have excellent results and that they will

1 provide the mechanism for us to gather a
2 more consistent revenue stream to ensure
3 that TCY stays a viable felony diversion
4 option in the years to come.

5 MR. AYERS: And good afternoon.

6 COUNCILMAN JONES: Good afternoon.

7 MR. AYERS: Like to introduce our
8 program for the Mental Health Working Group.
9 We call it the Continuity of Services
10 Coordination for the Services of the
11 Seriously Mentally Ill. And twofold purpose
12 for this program is to create a linkage
13 program to provide better communication and
14 connection to services and treatment for the
15 seriously mentally ill who can be safely
16 supervised in the community.

17 And secondly, to help reduce the jail
18 population by getting individuals diagnosed
19 with a serious mental illness out of custody
20 within 30 days and back into community
21 services and supports. I will just give you
22 a few of the basics of this program. It is
23 not yet started. It is on the cusp of
24 starting. We have two positions which I

1 will talk about, both job descriptions have
2 been completed and are ready to be posted.
3 And we are looking for a targeted startup of
4 July next month.

5 So, the basis of the program, we are
6 starting with individuals who are under the
7 supervision of the adult probation and
8 parole mental health units who have been
9 detained. And down the road, based on the
10 success of the project, which we anticipate,
11 we can look at scalability for potential of
12 pretrial estimation. We are starting with
13 this population to get a handle on what's
14 involved and how to iron out some of the
15 kinks as we encounter them.

16 There is two positions that MacArthur is
17 funding. One is a Defender Association
18 social worker. One is a clinical navigator
19 that will belong to the Department of
20 Behavioral Health Intellectual Disability
21 Services. These the two individuals will
22 work behind the walls to determine eligible
23 individuals who are interested in
24 participating in the program. The

1 individuals will be identified by adult
2 probation and parole. The two employees
3 will screen, engage the defendants behind
4 the wall, screen for behavioral health
5 history such as diagnosis, treatment history
6 and other supportive services such as case
7 management. And based on those
8 collaborative findings provide a package of
9 treatment and supports that APPD can then
10 take back to the courts as recommendations
11 for the individual's rereleased to the
12 community.

13 And the idea is that this happen within
14 a 30-day period. And one of the reasons 30
15 days was chosen, is that's a critical period
16 for benefit cutoff. So if we can get
17 individuals back out before their benefits
18 are compromised, it greatly eases their
19 reentry.

20 Thank you.

21 COUNCILMAN JONES: Do we have permission
22 to ask questions now? I just --

23 MR. RIKER: I think now is a good time.

24 COUNCILMAN JONES: You know, I beat a

1 dead horse.

2 So in the life of an elected official,
3 we get real live examples. It's not
4 theoretical. When someone walks in our
5 doors and need help, you know, we are
6 limited to our life's experiences. So when
7 we find resources like yours, it is
8 critical. Two cases.

9 One, I had a young person and the
10 difference between 302 and 201, all of those
11 things, you have to learn. But what we
12 found to be true was the limited amount of
13 post-release services available. Where do
14 they get their medicine? Where do they live
15 after being kicked out of a house based on a
16 protection order or based on other things?
17 What do we do to keep that from being a
18 revolving door?

19 Then I do understand that we used to
20 have mental health institutions that carry
21 the burden that you now have. So where do
22 you view us going with this? And do you
23 have to -- Im am asking a lot of questions.

24 Do you have to commit a crime, or is it

1 the 302 or 201, is that sufficient enough to
2 kick in the resources you have?

3 MR. AYERS: That was a lot of questions
4 wrapped into one. And it's a multifaceted
5 answer, as well. We deal with -- our
6 division deals with those who are seriously
7 mentally ill and have criminal justice
8 involvement.

9 COUNCILMAN JONES: Serious. Define
10 serious.

11 MR. AYERS: Serious mental illness would
12 be -- a mental illness is serious,
13 designated as serious, insofar as its impact
14 on that individual's life is substantial.
15 So schizophrenia, bipolar disorder, major
16 depression, things that can seriously affect
17 somebody's functionality. That would be how
18 you would categorize that as opposed to
19 something more minor.

20 So what our department as a whole, the
21 Department of Behavioral Health and
22 Intellectual Disability Services as a whole
23 is charged with serving any Philadelphian
24 with behavioral health issues, not just

1 those with criminal justice system contact.
2 So, you were mentioning parts of the civil
3 commit system in 302s and 201s. And
4 obviously, the department's goal is to serve
5 all Philadelphians who have the need, not
6 just those in the criminal justice system
7 obviously. But that's our subset
8 population. That's who we deal with.

9 That's part of our partnership in this
10 project is to get those who are the most
11 vulnerable and find themselves in situations
12 often that their illness is contributing to.
13 How can we get them what they need and all
14 them to be part of the community again with
15 the requisite supports and treatment and all
16 the things that they need to be successful.

17 COUNCILMAN JONES: So -- and I have my
18 prison commissioner here who deals with this
19 on a daily basis. But if a individual is
20 committed through that process and based on
21 maybe some domestic violence, when that
22 person is released, how does the treatment
23 kick in? What do -- what services including
24 if there is a stay-away order from the

1 original house, where do they go?

2 And how do we determine individuals who
3 really don't even know they have a problem?
4 How do we -- how do we guide that process so
5 that 48 hours, 72 hours they are not back in
6 intake? Where is the track to get them real
7 help?

8 MR. AYERS: Well, part of the answer to
9 that depends when you have somebody who is
10 encumbered in the criminal justice system as
11 well as struggling with their mental illness
12 and/or substance abuse issues. It is what
13 is there their legal posture. The answer
14 will somewhat vary based on what they are
15 going through in the criminal justice
16 system.

17 So, if somebody is in custody and
18 they're, say, incompetent to proceed as long
19 as they are in custody, the judge will often
20 commit them for inpatient treatment while
21 they are there. If they post bail and they
22 are on the street, their bail condition may
23 include mandatory treatment. So linkage
24 with some sort of mandatory treatment in the

1 community and then coming back to court on a
2 periodic basis with prove that they are
3 complying with what the court has asked.

4 So, a lot of it is a matter of when somebody
5 is out of custody and back in the community
6 is getting them linked to what it is that
7 they need. And that can be a real
8 challenge.

9 And so, our particular program, although
10 we are dealing with a subset of the
11 population being those under probation and
12 parole supervision who are detained, what
13 they need is the same as the other
14 individuals need, which is to follow the
15 medication regiment if prescribed, to get
16 them the stable housing environment, to get
17 them the other supports services they need
18 to succeed and not recidivate both in the
19 mental health or behavioral health version
20 of that definition, which is getting back
21 into emergency service or inpatient
22 treatment. Just try to keep them stable on
23 the street and in the criminal justice
24 version of that definition, which would be

1 violating and finding themselves back in
2 custody in that way.

3 COUNCILMAN JONES: I'm paying keen
4 attention to President's Trump's "skinny
5 budget." And one of the things that he is
6 targeting is Medicaid. And there is a
7 correlation between when you release and
8 those benefits you're trying to save. If
9 that safety net is cut, and we are going to
10 wind up having the police department and
11 subsequently the courts and the prisons
12 being the only line of assistance. And
13 that's just counterproductive.

14 Guys?

15 MR. PODGUSKI: Two questions. In terms
16 of the mental health continuity of services,
17 do you see it operating as a sort of a
18 mental health court diversionary model?

19 At the end of the day where -- when the
20 person goes back into the community, they
21 are stabilized, do you see that, you know,
22 in terms of disposition or charges? How do
23 you see that end game work out?

24 MR. AYERS: I think the key word in your

1 question is continuity of services. And
2 there are certain things in place now such
3 as mental health courts. One is Judge
4 Woods-Skipper Common Pleas Felony Reentry
5 Mental Health Court, other is the Municipal
6 Court. Not as much a formal program as
7 Judge Woods-Skipper's Court, but Judge's
8 Neifield Mental Health Room and the other
9 judges who preside over mental health cases,
10 Room 406 three days a week, those are all
11 pieces that are there. Some of those are
12 reentry, talking about convicted
13 individuals. Some are diversionary,
14 pretrial.

15 But we are looking -- apart from
16 MacArthur, we have a fairly small subset of
17 funding from that grant to address the
18 population. Beyond MacArthur, there is a
19 lot of things that we along with all of our
20 partners in the City are looking for other
21 opportunities to address before somebody
22 gets into the criminal justice system or at
23 the very beginning of their encounter with
24 the criminal justice system, CIT training

1 which exists now. Exploring opportunities
2 for identifying and engaging in --

3 COUNCILMAN JONES: Excuse me.

4 MR. AYERS: I'm sorry. Crisis
5 Intervention of Training.

6 COUNCILMAN JONES: There you go.

7 MR. AYERS: Thank you. I realize I am
8 using acronyms too loosely. We are looking
9 at a lot of places where we may be able to
10 partner with our other City agencies to
11 identify, engage and assist.

12 MR. PODGUSKI: When you consider --
13 because when you consider where at what step
14 in the intercept model you can intervene
15 with this population, there are plenty of
16 opportunities. And the end game goal is to
17 get them stabilized, get them back in
18 treatment, get them back on medications, so
19 outstanding.

20 MR. AYERS: Our charge as a division is
21 wherever somebody is in the criminal justice
22 system, whether it's intercept one or
23 intercept five, we want to be able to
24 identify opportunity to engage and assist.

1 That's what we are trying to do.

2 MR. MCFILLIN: Just so I can make
3 something clear, too. These are already
4 convicted people on supervision that are
5 court ordered to the mental health unit for
6 supervision that might have fallen off the
7 grid and got picked up on just a police pet
8 stop, and now are entering the system
9 without an open bill but we have a violation
10 of them not reporting. We are looking to
11 engage them immediately to get them out
12 within that 30th day.

13 MR. PODGUSKI: I see. One question for
14 Derek. When you talk about intensive job
15 training, can you elaborate on that a little
16 bit?

17 MR. RIKER: Sure. Essentially, what
18 happens for an individual who has been
19 referred to the Choice Is Yours Program is
20 the expectation is that they will
21 participate for a year. They have monthly
22 statuses in front of a judge through
23 responsible for doing 220 hours of community
24 service during that time. But the key

1 component is to get somebody a job, is
2 essentially what it is. People who pursue a
3 career track, they are expected to go to a
4 job readiness training three to four days a
5 week. It entails everything from how to
6 dress for an interview, how to write a
7 resume to skills involving computers, how to
8 operate Microsoft Word or Microsoft Excel.
9 Any sort of task or kind of nugget of
10 information that would help them in their
11 efforts to secure employment.

12 When they get employed, hopefully the
13 goal is they are working 20 hours a week.
14 If they are working 20 hours a week, we try
15 to get them a job working 40 hours a week.
16 We recently had an individual who started at
17 McDonald's. He started working the fry
18 station. He was working 15 to 20 hours a
19 week. Over the course of six months, he was
20 promoted to a management position. Those
21 are the kind of increases we want to see.

22 He is now a manager and he's hiring
23 other individuals in our program to work for
24 him. And so, it's that kind of progress

1 that we are hoping that they will partake
2 in. And I think TCY is really important in
3 terms of something Councilman has brought up
4 earlier talking about cost savings and
5 benefits for the City and the whole system.

6 To us, it's approximately 4500/5000
7 dollars to program somebody in TCY for a
8 year. Conversely, if that person is
9 arrested and spend a year in custody, it's
10 going to cost the county over \$30,000. We
11 would rather spend that money up front and
12 make them a productive member of the
13 community who doesn't reoffend, doesn't
14 cycle through the system. The project
15 works. The program works. It's a matter of
16 getting the funding to keep the lights on
17 and keep people going through it.

18 COUNCILMAN JOHNSON: Thank you, guys.
19 Appreciate the input. And again, there is
20 layers to this. Over seven pages, 200
21 different outcomes and you are some of those
22 outcomes. Thank you.

23 So Ms. Williams.

24 THE CLERK: Next panel is Dr. Jaime

1 Henderson.

2 (Witness approaches Table.)

3 COUNCILMAN JONES: Thank you, again.

4 DR. HENDERSON: Good afternoon.

5 COUNCILMAN JONES: State your name for
6 the record.

7 DR. HENDERSON: Jaime Henderson,
8 Director of Research and Development, First
9 Judicial District.

10 COUNCILMAN JONES: Please, begin your
11 testimony.

12 DR. HENDERSON: I'll keep it brief. I
13 know you've been here for a while. There's
14 been a lot of information thrown at you.

15 One of the main tenants of MacArthur
16 Safety and Justice Challenge is the decision
17 to be daily driven, meaning evidence should
18 be used to inform decision policies, so that
19 outcomes to more equitable and processes are
20 more efficient. The aim is to strive
21 towards evidence-based practices that are
22 supported by data.

23 We have a data team as part of the
24 MacArthur efforts that was formed during the

1 planning phase. It's the largest of the
2 MacArthur subcommittee comprised of 41
3 individuals across the Justice and
4 Behavioral Health Partners who are
5 researchers, administrators, attorneys and
6 IT experts. Over the past couple of years,
7 we have been busy with various activities,
8 including learning about each others data
9 system and business practices.

10 Generally speaking, our goals are to
11 improve and expand data sharing practices,
12 improve data integrity and generate
13 statistical supports and evaluations of our
14 initiatives. We want to provide better
15 data. Simply put, better data yield better
16 decisions. One of the challenges we faced
17 in the beginning was to figure out a way to
18 get everyone on the same page about who was
19 in our prison and why.

20 For example, the term pretrial is rather
21 broad and vague and meant different things
22 to different agencies. Thus, we recognized
23 the need to develop very specific granular
24 confinement categories to better understand

1 our multifaceted complex prison population.
2 We collectively, and by we I mean all of the
3 justice partners, refined how we categorize
4 and talk about the prison population.

5 I previously referenced the prison
6 snapshot of 2015, which we use as a baseline
7 for our statistics. The snapshot was the
8 source of all of our decision making during
9 the planning phase. We all sat around the
10 table looking at the same data agreeing we
11 had some serious issues and developed
12 reforms tailored to address Philadelphia's
13 prison population.

14 Additionally during the planning phase,
15 the data team developed data deliverable
16 that were required in order to be considered
17 for advancement to the implementation phase.
18 In October of 2016, two full-time research
19 assistants were hired specifically to work
20 on MacArthur efforts. They are housed in
21 the First Judicial District and are
22 currently generating monthly reports where
23 data are readily available.

24 The data team is responsible for

1 providing data to the City university of New
2 York, which is a MacArthur partner in the
3 this process so that our initiatives can be
4 evaluated externally. Additionally, we have
5 internal performance measures to track how
6 things are progressing. We are also
7 spending a considerable amount of time to
8 better understand race and ethnicity data in
9 our justice system. Where data are entered,
10 the categories available for classifying
11 race and ethnicity across the different
12 systems and the concurrent rates of race and
13 ethnicity race across the different
14 databases.

15 Another important endeavor that we are
16 working on is the race, ethnicity data
17 diagnostic. This is actually an initiative
18 that falls under the purview of race and
19 ethnicity disparity committee's strategies.
20 We are working to cull the race and
21 ethnicity information and different data
22 points from all of the agencies so that we
23 can generate a relative rate index at all
24 of the key decision points in the system.

1 The relative rate index can give you an idea
2 of which decision points need to be more
3 closely evaluated to uncover whether or not
4 disparities exist.

5 Lastly, while we are producing monthly
6 reports using data that are available, we
7 are working to create dashboards for all of
8 our initiatives to track progress. To
9 conclude, I would like to revisit or prison
10 population data. To accurately understand
11 who is in the prison, several databases are
12 required. It's a very complex population.
13 Most individuals have more than one matter
14 or hold, and the data is very nuanced.

15 Again, we are generating monthly reports
16 to monitor our prison population. And I
17 will conclude by revisiting some of the
18 important highlights about our, excuse me,
19 prison population. Here are some of the
20 important takeaways, again, with the caveat
21 that we still have a good bit of work to do,
22 and not all of our initiatives have
23 launched.

24 Since we began MacArthur efforts in the

1 summer of 2015, there has been an 18.3
2 percent reduction in the overall prison
3 population. A small percentage of people
4 are held on low cash bail amounts and 25.5
5 percent of the population are pretrial
6 holds. And that figure excludes people with
7 detainers and excludes those charged with
8 murder. Half of the prison population has a
9 detainer. This figure includes detainers
10 from other jurisdictions. It shall also be
11 stated that a notable percentage of these
12 people have open cases from other
13 jurisdictions as well.

14 17.3 percent of the population is
15 seriously mentally ill and 18.3 percent of
16 the population is sentenced. And as you
17 have heard from my colleagues, we have
18 targeted these groups in an effort to safely
19 reduce the jail population and to reduce
20 racial and ethnic disparities.

21 At this time, that concludes my
22 presentation. And I will happily entertain
23 any questions that may arise or defer to
24 Julie who may want to make some concluding

1 comments.

2 MS. WERTHEIMER: Just before we jump
3 into -- I decided to not move back up there.
4 It's too much movement.

5 We just wanted to take the opportunity
6 to thank the committee for allowing us to
7 present this update. I hope it was
8 comprehensive and informative as to the
9 extent of the work we have been doing, the
10 extent of the collaboration. And we look
11 forward to making more progress and
12 continuing this dialogue.

13 MR. MCSORLEY: Can I just dovetail on
14 that to turn things around. I have the
15 honor and pleasure of working side by side
16 with all the presenters here. Not only is
17 the MacArthur Initiative, the panel should
18 know that a lot of work from everybody here
19 who all have their own jobs. This
20 presentation itself, we have many, many
21 meetings. There is lot of hours and work
22 especially with Dr. Henderson going into
23 this presentation. And I just want the
24 panel to realize, and I think they do

1 realize, how much work went into it and our
2 appreciation as a panel to all presenters.
3 That everybody pulled together in a very
4 small amount of time and was able to bring
5 this to the panel. Thank you.

6 COUNCILMAN JONES: We wanted you to know
7 we didn't think originally that because of
8 the ongoing nature of the work, that we
9 would get this much information. It is far
10 beyond our expectations. And it just proves
11 that our intuition that we were going in the
12 right direction, excuse me, is founded by
13 the data that shows the needle moving in
14 that direction.

15 Again, long beyond the MacArthur grant,
16 we will be moving that needle because of
17 what the grant did and what it established.
18 And it gave us at least in Council, it
19 showed us what you already knew or
20 intuitively felt that this was the way to
21 go. But all of my colleagues are engaged
22 with this in one form or fashion now because
23 of your work.

24 So, we are grateful that you lent your

1 years, vast decades of experience to this
2 process and we appreciate. Want you to know
3 that the City of Philadelphia appreciates
4 it, as well.

5 MR. PODGUSKI: Just a few quick
6 follow-up questions. I think it's wonderful
7 that you are engaged in evidence-based
8 decision making and data-driven decision
9 making.

10 How many contributors do you have? How
11 many data sources do you have.

12 DR. HENDERSON: How many different
13 databases do we have?

14 MR. PODGUSKI: Yeah. About how many?

15 DR. HENDERSON: We have at least, I
16 would say, seven or eight.

17 MR. PODGUSKI: Really. Would you say
18 they are mostly comprised of nominal and
19 interval data?

20 DR. HENDERSON: Are you talking about
21 the level of measurement of these variables?

22 MR. PODGUSKI: Uh-huh.

23 DR. HENDERSON: It varies. You have got
24 every level of -- you have go ordinal,

1 integral ratio, nominal. They are all
2 present.

3 MR. PODGUSKI: And the end goal is
4 create a dashboard that can provide
5 descriptive statistics to community partners
6 and --

7 DR. HENDERSON: Correct. Correct. We
8 are working to assemble different data
9 points from the various agencies to create
10 these dashboards. So, we kind of have a
11 full picture from beginning to end of what's
12 going on that includes, you know, data from
13 all of the initiatives that we are doing.

14 MR. PODGUSKI: Interesting. Nice.
15 Good. That's all I had. Thank you.

16 COUNCILMAN JONES: Thank you so very
17 much. Ms. Williams -- thank you for your
18 testimony.

19 Ms. Williams, do we have others from the
20 public to testify today?

21 THE CLERK: Yes. First two members of
22 the public to testify will be Hannah
23 Sassaman and Joshua Glenn.

24 COUNCILMAN JONES: 215? Say where they

1 are from now.

2 (Witnesses approach Table.)

3 COUNCILMAN JONES: Welcome again to City
4 Council. Thank you for your patience as
5 well through all of this testimony. But I
6 hope it was as informative to you as it was
7 to us. Please, state your name for the
8 record and begin your testimony.

9 MR. GLENN: My name is Joshua Glenn.
10 I'm the cofounder of an organization called
11 The Youth Art and Self Empowerment Project.
12 I'm also a member of the No 215 Jail
13 Coalition, also a member of Incarcerate PA.
14 Also member of the community.

15 Thank you.

16 MS. SASSAMAN: And I'm Hannah Sassaman.
17 I'm the Policy Director at Media Mobilizing
18 Project. And we are also members of the No
19 215 Jail Coalition.

20 MR. GLENN: So, how y'all doing. My
21 name is Joshua Glenn. At the age of 16, I
22 was locked up and charged as an adult and
23 held in adult prison pretrial for 18 months
24 until my case was eventually dismissed.

1 Upon that time when I got out, you know, I
2 had lost all ties with my family. And
3 before that, we were poor in the first
4 place. And that's the reason why I couldn't
5 get out on the \$2,000 bail I was held on for
6 18 months.

7 So I have -- I just have a question for
8 the committee, and I just want to see if you
9 can answer it. Also, I just want to state
10 that most of the things that y'all proposed
11 and like most of the people that came and
12 testified, it wouldn't have stopped me from
13 being held for the 18 months because I was
14 locked up for a violent charge. It was
15 aggravated assault with a weapon, so none of
16 those things would have helped even though
17 all things proposed are good and we are
18 moving forward.

19 So my question is -- well, I also want
20 to give y'all a little bit of information on
21 some research that the No 215 Jail Coalition
22 did about ending cash bail in Philadelphia,
23 just other things that other states did
24 already. So, cities and states across

1 the -- cities across the United States are
2 using opportunities like the MacArthur grant
3 to reduce jail populations, but there are
4 also major opportunities to move forward
5 towards ending cash bail.

6 According to the No 215 Jail Coalition,
7 Washington, DC has ended the use of cash
8 bail. Defendants are never held because of
9 inability to pay. 90 percent of all
10 individuals arrested in 2015 were released
11 pretrial with nine out of every ten people
12 arrested released within 24 hours. Of
13 pretrial releases, 90 percent didn't commit
14 additional crimes before their trial dates.
15 And of the remaining 10 percent, the vast
16 majority of new crimes were non-violent.

17 New York City recently implemented major
18 bail reforms to reduce the number of people
19 held on minor offenses considering options
20 for further reducing cash bail. New Jersey
21 has implemented bail reform starting
22 January 2017. The new bail reform
23 prioritizes non-monetary release options
24 require an individualized risk assessment

1 before initial bail hearing establishes
2 comprehensive pretrial services agencies and
3 guarantees timelines for a speedy trial.

4 So my question for the committee is, how
5 can the Special Committee actively use the
6 MacArthur process along with other City and
7 community partners to set a concrete goal
8 for any ending cash bail in Philadelphia?

9 Thank you.

10 COUNCILMAN JONES: Does that contain
11 your testimony, as well?

12 MS. SASSAMAN: Sure. I think they are
13 related. I think we can talk. And just to
14 answer your question directly, Councilman
15 Jones, I found this extraordinarily
16 informative. And I shared the, like, great
17 respect that you shared back at the
18 MacArthur table about the granular
19 information. The public needs to know about
20 it. It's a lot of big change.

21 So, I also have a small -- two small
22 questions. So, we're focusing at Media
23 Mobilizing Project as many of you on the
24 intersection between the new technologies

1 that are coming in with the MacArthur
2 proposal and the civil and human rights of
3 people both in the community and who are
4 being detained in jail. So since that time,
5 you know, reporters have completed a number
6 of urgent analyses. And I have heard a lot
7 reflected on the committee today about the
8 potential racial base on predicted risk
9 algorithms. And just, I think the nuance is
10 important. Sometimes that bias comes up
11 when designers are using a factor that is
12 directly correlated with race.

13 I think that Councilman Kenyatta Johnson
14 brought a few of them up as did many of you
15 to guess whether or not someone will be
16 arrested again. And sometimes it's about
17 the complexity of the algorithm itself.
18 It's about the math problem is so complex
19 that it hides what factors it uses for any
20 particular individual and how it weights
21 those factor in those decision making.

22 And in the study that we are beginning
23 at Media Mobilizing Project, we are
24 reviewing 50 different predictive risk

1 algorithms as they are being implemented in
2 jurisdictions across the municipal state
3 level across the United States. We are
4 finding that validation is actually really a
5 big problem. There isn't a lot of regular
6 testing as to whether or not those
7 algorithms produce results that
8 jurisdictions are looking for, like a
9 reduction in failure to appear, continued
10 increase in public safety, but also in
11 testing around racial bias.

12 I know you guys don't have the answers
13 to this yet. This might be for Dr.
14 Henderson or just for the record for the
15 future. The question that we have is, is
16 will the algorithm that we are designing
17 here in the City to make these predictions
18 about pretrial arrest and failure to appear,
19 how will the City plan to test for and
20 account for racial bias and how the
21 algorithm make its predictions? Exactly
22 how? Who will oversee this algorithm as
23 it's being implemented? Will people from
24 the community get the opportunity to be part

1 of the oversight as well as maybe folks from
2 the Public Defender's side and prosectorial
3 side? How does the community help with that
4 validation.

5 I notice that City University of New
6 York was mentioned in the last panel as
7 testing the data driven initiatives. Are
8 they part of the validation process. So,
9 those are questions that we have that we
10 would love to continue to discuss.

11 COUNCILMAN JONES: Those are a lot of
12 questions.

13 MS. SASSAMAN: I know. I'm not succinct
14 individual.

15 MS. BRADFORD-GREY: Can I ask you a
16 quick question?

17 MS. SASSAMAN: Please.

18 MS. BRADFORD-GREY: I am going to forget
19 Joshua's questions real quick. I don't know
20 if we can go back to his question.

21 MS. SASSAMAN: Let's do that, yeah.

22 MS. BRADFORD-GREY: I think your
23 question was how can the Criminal Justice
24 Reform Committee help to move towards a more

1 compressive bill reform effort, one like we
2 are seeing across the country in different
3 states, not just DC.

4 MR. GLENN: Right.

5 MS. BRADFORD-GREY: I was just at the
6 National Legal Aid and Defender Conference.
7 And we were talking about all of the states
8 that have no cash bail and have moved to no
9 cash bail systems. And Maryland being one
10 of the most -- more recent ones also to look
11 at their cash bail systems, get -- write a
12 letter to the AG to ask if the cash bail
13 system to be deemed unconstitutional like
14 the Harris County, Texas, and then start to
15 find ways that really bring about what cash
16 bail does in their jurisdictions.

17 One of the things that they did, is it
18 was a wonderful report and how much of the
19 communities money goes to paying bill versus
20 going to them in their own thriving in their
21 neighborhoods and in their own households
22 and, of course, their own -- building their
23 communities. And they had millions and
24 millions of dollars going to private

1 industries like bail bondsmen versus going
2 back into the communities. They did an
3 extreme analysis of that -- of that funding
4 disparity. And seeing -- in figuring out
5 who is getting rich off of this and this is
6 benefitting our cities.

7 I think what we can do, and we are
8 learning every day from other jurisdictions
9 that are doing this, we are learning from
10 their challenges. We are learning from
11 their successes and we are taking all of
12 that in. I would say this. MacArthur is a
13 step towards that goal. And I am so happy
14 to hear by Mr. Bouchard from the pretrial
15 services office that said that is our
16 ultimate goal.

17 We learn a lot about our populations.
18 And if it is our goal, we will really sit
19 down and figure this out. One of the things
20 I hate to hear is that, well, we don't have
21 money to do so. I know I talked to many
22 people and many jurisdiction. And they
23 didn't start out with a big part of millions
24 of dollars. They started to make the point,

1 do pilot programs, figure out whether or not
2 there was something that was more effective
3 for public safety as well for just equity.
4 And they started to really work towards
5 implementing that so that they can bring it
6 to bigger -- larger scales. I don't think
7 this is the end of that conversation.

8 And I definitely you know -- I'm a huge
9 proponent of looking at the equity in what
10 we are doing in our system. Is it helping
11 people? Is it making our communities more
12 safe? I don't necessarily see that in terms
13 of the way we have been doing things for
14 decades. We still see violent crime that
15 are high and running rampant through our
16 cities.

17 I think that we have great leadership
18 amongst all of our stakeholders right now
19 that are really committed to doing better
20 for our citizens. And all the while,
21 holding public safety as a key factor that
22 we need to strive to. And so, Joshua, to
23 answer your question more directly, I think,
24 you know, we are not done. We really have a

1 committed justice reform committee looking
2 at that. Our Council President Darrell
3 Clarke does look at those things. He has
4 asked us about the opportunities that are
5 presented to us by learning these -- about
6 these other states.

7 And I will say looking at everything
8 that's going on around cash bail, the train
9 has left the station on this. It has. It
10 is no longer in talk mode. When we see that
11 case in Harris County and now it's going to
12 the Supreme Court, we know that this is
13 something that's going to be coming. The
14 question is going to be, are we ready for it
15 or are we going to be forced to be ready.

16 COUNCILMAN JONES: So, that was a lot.
17 So here is where I am. First of all, I want
18 to thank the 215 Coalition because the first
19 time I heard as an elected official about
20 bail reform, I heard it from you. It
21 prompted a trip to DC. I see two of my
22 colleagues over that took the trip with us.
23 It was very enlightening.

24 I want to also say that I talked to the

1 bail association, as well to hear their
2 points of view. And in an effort -- if you
3 look without our permission, folks are
4 already beginning to change that mindset
5 now. You heard the testimony about what
6 they are evolving to in risk assessment,
7 what we are evolving to on conditional
8 releases similar to what they do in
9 Washington, DC. And it is a evolving thing.

10 The one thing that we took from your
11 story initially when you testified was that
12 two years of your life you can never get
13 back. Two years of economic disaster to
14 your life you can never get back. And we
15 want to make those mistakes less and less.

16 And so, this is a body -- and I'm end
17 with the fact that I'm honored to be among
18 folks who have done this for decades -- and
19 I'm not just looking at you Judge Lerner,
20 because all of you have taken the time to do
21 this. And we are going to put this into a
22 collective and figure out what is just, what
23 is fair and what makes us safer. And what
24 we are learning, thanks to you, is some of

1 the myths of what makes us safe doesn't.

2 And we are going to find what does make us
3 safe and do it.

4 The only other thing that I will say is,
5 and I agree with Ms. Grey, is that we went
6 and saw Washington, DC's version. And
7 that's the Mercedes Benz of it. I think it
8 was \$83 million that is appropriated towards
9 the social service aspect of it, making sure
10 people got treatment where they need it.

11 Those resources being there. And then
12 there's New Jersey who has the Hugo version
13 of it where they are trying to patch
14 together different services that exist and
15 not put new requirements on their budget.

16 So, we are looking at what Philadelphia
17 can do and do it in the right direction. So
18 you know, your testimony when you -- you set
19 into motion a whole different level of
20 discovery for us. And we thank you in the
21 215 Coalition for bringing that issue
22 forward sincerely.

23 Now, you had a whole economist level of
24 question I think that Julie will respond to

1 that.

2 MS. WERTHEIMER: I will respond to that.

3 First as a member of both the committee and

4 also on the implementation team, I wanted to

5 just touch on the fact that as we presented,

6 we clearly have a whole range of initiatives

7 that are moving towards reducing our

8 reliance on cash bail. It steps in the

9 right direction. And we have been fortunate

10 to work hand in hand with the committee.

11 And this is, I think, a big step in trying

12 to get that message out to the public and

13 share feedback. I want to thank you for

14 your ongoing testimony with us. It's good

15 to see you again.

16 To Hannah's question, I think that these

17 are good questions. They are important

18 questions. And because this is not one of

19 the initiatives that's underway yet, they

20 are questions that I don't think we can

21 answer quite yet, but your point is taken.

22 COUNCILMAN JONES: What I want to do, we

23 have the stenographer for another ten

24 minutes. She sat here full all these hours

1 and did not take a break. If I could, I
2 want to bring up our last panel to testify
3 because she's going to leave us and we are
4 going to be in a room talking to ourselves.

5 MS. BRADFORD-GREY: Can I say something
6 really quickly to that. I won't take up
7 more than a minute.

8 We are learning more about the science
9 behind the algorithms in the Defenders
10 Association. We are hoping to sit at the
11 table with the people when they start
12 implementing the tool. We also wrote a memo
13 about it, what should be in it.

14 COUNCILMAN JONES: One other thing you
15 asked, how do we keep the people. And I'm
16 assuming you mean 215 as a part of the
17 people involved in this. I would not have
18 it any other way.

19 MS. SASSAMAN: Thanks, Councilman.

20 MR. GLENN: Thanks.

21 COUNCILMAN JONES: Ms. Williams, our
22 next group to testify.

23 THE CLERK: Next speaker is Jonathan
24 Yellin, Nick Wachinski and Jack Furlong.

1 (Witnesses approach Table.)

2 COUNCILMAN JONES: Please state your
3 name for the record, and thank you for your
4 patience and begin your testimony.

5 MR. WACHINSKI: Councilman Jones, good
6 afternoon, Members of the Subcommittee,
7 thank you again for the opportunity to be
8 here this afternoon. We have done a little
9 bit of a coordinated panel this -- for
10 today. After hearing the entire briefing,
11 which was very valuable on the MacArthur
12 Foundation grants project and its current
13 progress and where it is now, we want to be
14 very clear on the remarks we are going to be
15 offering this afternoon.

16 We are here just like the panel before
17 you to talk about the nuances related to the
18 use of bail in the state of Pennsylvania and
19 in the City of Philadelphia.

20 Nicholas Wachinski. With that said, Ms.
21 Grey -- Bradford-Grey, let me be very clear
22 that under Pennsylvania law, if we are all
23 going to adopt a reform vocabulary, we have
24 bail both secured financial and

1 non-financial. Cash bail, cash only bail,
2 the bane of freedom does not exist in
3 Pennsylvania. That's my first lead in.

4 On that note, I would also like to say
5 that cash-only bail, cash-only bail doesn't
6 exist under Pennsylvania law. When I close
7 on my testimony, I will explain that a
8 little bit more further.

9 We want to applaud all of the efforts
10 that have gone on to make the system more
11 fair, less -- with less emphasis on only
12 incarceration or freedom with looking at
13 alternatives in the various phases and
14 process. Improving efficiencies throughout
15 the process, shortening case processing
16 times and also looking at the system of bail
17 wholistically. We are here this afternoon
18 to offer a couple of perspectives on the New
19 Jersey system as well as to provide a
20 summary of the efforts of the bail bond
21 industry in that change that has been going
22 on. And that is one of the data points that
23 is missing.

24 Seated to my right is Jonathan Yellin

1 who is a bail bondsman in the City of
2 Philadelphia. Seated to my left is Attorney
3 Jack Furlong from the State of New Jersey
4 who has been a criminal defense bar for a
5 number of years. And has, in fact, a real
6 time on the ground perspective of bail
7 reform. I will then conclude wrapping up
8 some local Pennsylvania flavor on what they
9 have to say.

10 I defer to Mr. Yellin for his comments.

11 MR. YELLIN: Councilman Jones,
12 Ms. Bradford-Grey.

13 MR. FURLONG: When did he first notice
14 he was invisible?

15 MR. YELLIN: And esteemed members of the
16 Special Committee on Criminal Justice. My
17 name is Jonathan Yellin. And simply put,
18 I'm a bail bondsman. As a lifelong
19 Philadelphia area resident, myself and my
20 father, we own ABC Bail Bonds.

21 I've been a bailbond agent since 1995.
22 And I've been operating in the City of
23 Philadelphia since 2007. As you have
24 deliberated for the past several months, I

1 followed great interest about the
2 discussions about the use of alternative of
3 bail and risk assessment tools. However,
4 you have not heard about who we are, what we
5 do or how we work. Bail is about helping
6 people. More specifically, bail bonds are a
7 way for us to work with people and their
8 families to help them secure their freedom
9 once a court has determined their is
10 sufficient concern to impose a monetary
11 condition.

12 This monetary condition is required to
13 assure that the defendant is accountable and
14 returns to court. The amount of bail that
15 the court has set may be related to severity
16 of the criminal charge or the concern could
17 be related to the risk of flight. Please
18 let me be clear, that based on my
19 experience, I have watched judges and
20 commissioners way the information before
21 them regarding the defendant in a genuine
22 effort to assess the risk posed by the
23 defendant if released. This process
24 involves the examination of much information

1 available to the judge, the person as a
2 whole to be released. In Pennsylvania and
3 this city, based upon my experience, release
4 is always preferred. Once the bail is
5 determined, my staff and I work diligently
6 with the defendants, friends and families to
7 help their loved one to return to liberty.
8 Our goal is not to keep people in jail or
9 punish people, but rather our goal is to
10 find the easiest, fastest and least invasive
11 way to get them home to their families,
12 friends and lives. And in all of our cases,
13 the very people the defendant will be
14 returning home to are the ones we form the
15 closest personal professional relationships
16 with. The mothers, fathers, sisters,
17 brothers, grandmothers friends and so on are
18 the people who want to see this defendant
19 home and who have an interest in the
20 defendant's success in the criminal justice
21 process.

22 These individuals will be the people who
23 sign on the dotted line, and will be the
24 people who have an interest in guaranteeing

1 the defendant shows up for court. We have
2 referred to this as the circle of love or
3 the circle of responsibility because these
4 are the people who want to see the defendant
5 succeed in navigating the criminal justice
6 system successfully.

7 We do charge a fee for our service. I
8 can't avoid the truth. However, our fee
9 covers court reminders, defendant
10 interaction, if necessary recovery of the
11 defendant if he or she should fail to appear
12 for court. We are in essence the equivalent
13 of a pretrial services agency without the
14 need for taxpayer funding. However, just
15 because the defendant has some support and
16 we may be able to meet our fees for the
17 services we provide, does not mean that we
18 automatically provide bail services for
19 everyone defendant.

20 We conduct very thorough investigation
21 into the defendant's criminal history as
22 well as the defendant's community ties, also
23 several other factors allow us to gain a
24 picture of who the defendant truly is. If

1 we learn through our investigation that the
2 defendant is not who the court felt the
3 defendant actually was when the bail was
4 set, we can and do decline to post the bail.
5 Bail is about people. But more importantly,
6 bail is about holding people accountable.

7 This is our -- this is our assessment of
8 risk. While it does not come with a score
9 and it's not based on a computer algorithm,
10 it is accurate. And our results speak for
11 itself. Since our approval as a bail bond
12 company in Philadelphia, we have worked with
13 879 defendants to secure their liberty while
14 they await trial. 879 people would have
15 been in jail without our services. Of those
16 879 people, we have never had a case of
17 failure to appear that we have not resolved
18 in a matter of days. I like to think that
19 the lives of those 879 families are made
20 better because of us.

21 The vast majority of the bails that we
22 have written have been in the past couple of
23 years. Currently, we have 350 people out on
24 bail. That is 350 current success stories.

1 If these people were in jail right now, the
2 cost of \$100 a day, that would be costing
3 the City \$35,000 each and every day. Right
4 now that cost the City zero. Just like an
5 arraignment court, we are open 24/7, 365
6 because liberty is that important.

7 After listening to the testimony from
8 earlier, the reference -- the reduction in
9 pretrial jail population without detainers,
10 I can say with certainty that we have
11 contributed significantly to the reduction
12 of pretrial jail population in the past two
13 years. As far as day beds, we have saved
14 83,000 day beds last year in 2016 alone.
15 And this year, year to date, over 47,000 in
16 the first five years -- five months, I'm
17 sorry.

18 Our goal is not to harm or punish
19 people, but to help. We help attain
20 liberty, we help keep freedom and we help
21 clients navigate the criminal justice
22 process for the defendant as well as his or
23 her family. In doing this job, we also
24 provide public safety service to the men and

1 women of Philadelphia and Pennsylvania. We
2 are not insensitive to the concerns of the
3 community.

4 In fact on Mother's Day, my colleague
5 Nick Wachinski of Lexington National
6 Insurance Corp and I attempted to work with
7 the campaign organizers to double the amount
8 of mothers that were to receive bail for
9 that promotion. Despite making several
10 offers to work collaboratively, those offers
11 went unanswered. It felt like the
12 organizers of the program who seek to
13 abolish bail or reform our system were more
14 interested in making a point than helping as
15 many people as possible.

16 Too often we are treated as an outsider
17 when we have important input to offer. I
18 hope that speaking today will enlighten the
19 decision making and open the lines of
20 communication so we can -- so we can come to
21 the table as an equal stakeholder who lives
22 in the pretrial bail world on a daily basis.

23 Thank you for the time and opportunity
24 to address you.

1 MS. BRADFORD-GREY: I know the steno has
2 to go, but I will take issue that -- need
3 bathroom break? All right. We will pause
4 the hearing for a moment.

5 (Brief break taken.)

6 MS. BRADFORD-GREY: Look, I really like
7 you guys personally and everything. I do
8 have an issue with one of the things you
9 just said. I really think to put what the
10 effort was to create the Mother's Bail Out
11 Day in that light, that people were more
12 interested in grandstanding than helping
13 really does hurt our -- the cause of what we
14 were trying to do and really ind of creates
15 more separatism than bringing us together.

16 I will take responsibility myself for
17 not connecting you with the organizers of
18 that event because I know I was called to
19 ask to connect the bail bondsman to
20 organizers. And I did drop the ball in some
21 areas of that. But --

22 MR. YELLIN: We did connect with the
23 organizers.

24 MS. BRADFORD-GREY: You did. That's

1 fine. To kind of minimize that effort into
2 just grandstanding, I don't really think
3 that's a real great characterization of what
4 they tried to do and what they, in fact, did
5 do.

6 MR. YELLIN: I don't want to minimize
7 what they did. That's why I made the offer
8 to get involved and actually double the
9 amount of people that were able to get out.
10 And I thought that was the essence of what
11 was trying to be done, but --

12 MS. BRADFORD-GREY: The essence of it
13 was to start the conversation and raise the
14 awareness of who is in the prison and what
15 effects that has. So it wasn't just --

16 MR. YELLIN: To get people out of jail.

17 MS. BRADFORD-GREY: That starts the
18 ball. You know, you get people out of jail.
19 They are connected with families. Mothers
20 are connected with kids, kids are left
21 unattended to because mothers are in jail.
22 The whole thing centered around a movement.
23 And I just think to minimize it to a
24 grandstanding effort is kind of

1 counterproductive.

2 MS. WERTHEIMER: I just also want to
3 correct for the record that we did meet with
4 you, Nick, about this. At least once.

5 MR. YELLIN: No. With me?

6 MR. WACHINSKI: We're not saying that we
7 have been excluded from the conversation
8 period.

9 MS. WERTHEIMER: Okay.

10 MR. WACHINSKI: We're saying we have
11 been excluded from -- we have not been a
12 part of the process and we have some unique
13 insights. I think that is what his point he
14 was. He's not with me in that meeting. And
15 I would not take away from you that I sat
16 with you in the meeting to understand what
17 the grant was designed to do.

18 We haven't come to any of these meetings
19 and haven't presented any testimony saying
20 stop, do nothing, you don't need to do
21 anything. I fully appreciate that the
22 system in the City needs improvement as does
23 Jonathan. In fact, this isn't the first
24 time I have gone through a reform effort in

1 this City. I was here in 2010 when we had
2 the public safety problem. And I think the
3 pendulum likely swung a little too far back
4 towards being more Draconian than it should
5 have.

6 What we are ideally looking to do
7 springing forward as you enter the second
8 year is to come to the table and work with
9 this entire group as the conversations on
10 what role cash bail, excuse me, bail has in
11 this system. And I will admonish myself,
12 the speaker will admonish himself for using
13 the term. But it's a misnomer in this that
14 I just don't care for. I appreciate your
15 point absolutely. You and I did meet. And
16 we did not come to the table this first
17 year. Now that we understand the direction,
18 we would like to be a part of the process.

19 MR. BETHEL: I got a few questions, but
20 I will defer to the Judge and then come
21 back.

22 JUDGE LERNER: Thank you. I have a
23 question of substance, I guess, rather than
24 procedure. Not that the procedure that Keir

1 and Julie were talking about isn't
2 important, because I think it's essential
3 to -- it's essential to challenge witnesses
4 who are not as careful as they might be with
5 the way they present their positions, who
6 impose or who suggest, it seems to me,
7 counter the evidence that somehow or another
8 there is a -- their point of view is not
9 being taken seriously.

10 I take your point of view seriously
11 because for, among other things, I began
12 practice as an assistant public defender in
13 this City when cash bail not only was the --
14 almost the exclusive way of getting released
15 for a person charged with a crime but also
16 when except for a very few percentage of
17 defendants, everybody who posted cash bail
18 did it through a bail bondsman.

19 However, for a long time now in the
20 City, and I want to put aside for a second
21 whether or not there ought to be in the
22 future a place for cash bail at all in our
23 system. But putting that aside for a
24 minute, we have a system in Philadelphia now

1 obviously where anybody for whom cash bail
2 has been set can post bail through the
3 court. I don't really understand what you
4 have to offer in the area of cash bail that
5 isn't already provided for by the fact that
6 anybody for whom bail is set and whose
7 family can raise the money or can raise the
8 money themselves can post the bail unless
9 you're telling me that the bail bonding
10 system now is a lot different than I
11 remember it. And that people don't have to
12 pay a certain percentage of the bail to you
13 in order for you to put up the rest like
14 they have to pay a certain percentage into
15 the court.

16 So, maybe you can enlighten me on that.

17 MR. WACHINSKI: I would love the
18 opportunity to do that, Judge. As you know,
19 I have great respect for you having
20 practiced before you before I entered into
21 the world of bail bonds. I would say to you
22 unequivocally that the world of bail bonding
23 in the Commonwealth of Pennsylvania and the
24 City of Philadelphia is worlds if not

1 universes different than what you remember.
2 Most specifically, we have had a landmark
3 piece of legislation that cleared the House
4 of Representatives, Senate and the
5 Governor's desk in 2015. I can say
6 unequivocally that Pennsylvania is the only
7 state that has a statutory obligation for
8 public safety by any compensated surety.
9 These gentlemen and women that work in the
10 bail bonding industry must maintain contact
11 with their clients, unlike which you were
12 used to which is collect the money and see
13 you later.

14 Right now they have to maintain an
15 absolute connection with their clients and
16 understand whether their clients are, what
17 their clients are doing and must report any
18 suspicion of criminal activity to law
19 enforcement and the district attorney. And
20 they have to do that because they don't have
21 the power of arrest under Pennsylvania law.
22 But they do. The only -- of all 50 states
23 is Pennsylvania to have that statutory
24 requirement. Public safety service, number

1 one, is that they actually maintain and must
2 maintain or in report or suffer a financial
3 fine a civil penalty through the court
4 system for failure to do so. They actually
5 perform a little better in pretrial.

6 Let me go ahead on that note.

7 JUDGE LERNER: Can I ask you whether
8 anybody, any bail bondsman been fined under
9 that statute?

10 MR. WACHINSKI: I don't know. I cannot
11 speak to whether it has or has not happened
12 across the state. The statutes only in
13 place for two years. We are gathering
14 statistics for how many reports have been
15 made. It is high.

16 JUDGE LERNER: Okay.

17 MR. WACHINSKI: That said, the other
18 function I would say to you is that you talk
19 about the City's ability to take bail
20 postings directly, which is a 10 percent
21 number of which the City keeps 3 percent to
22 be able to facilitate the program. These
23 gentlemen and women who are in the bail
24 bondsman industry are insurance producers.

1 They are statutorily required to collect the
2 fee. The fee on average for all the
3 insurance companies that underwrite bail
4 bonds, my company being one of them, is 5 to
5 15 percent based on the risk. As a general
6 rule, this gentleman collects 7 percent as
7 the full fee. Up front he will take a
8 varying fee to work with cash flow struggles
9 that individual families have. That never
10 existed in the prior system. It was
11 10 percent up front. If you didn't have it,
12 you didn't get out.

13 His job is to work with families who
14 have had that bail imposed whose judges are
15 not removing it and making it an OR release.
16 He is working with folks to make sure they
17 can get out. And he tailors it to their
18 cash flow scenario. Bigger yet is one thing
19 that everybody across this country wants to
20 discount or discard or ignore, which is he
21 does that at no additional fee to the family
22 or the defendant. It's not like a credit
23 card where you pay percentage points per
24 month. It's not like a home loan. It's

1 interest free.

2 MR. BETHEL: Break this down for me
3 because I just -- I never really understood
4 the bail bondsman piece myself.

5 Kevin Bethel just got a \$20,000 bail I
6 can't pay it. Clearly, I don't have the
7 cash because if I did, I would just lay the
8 \$10,000 and keep on moving. I don't have
9 the \$2,000. I call ABC Company and I say I
10 have a situation. My mother is calling you
11 now. How does she go about getting that
12 money for me?

13 MR. YELLIN: You would -- we would say
14 if you have a -- can place a small down
15 payment of \$800, \$700, \$900 whatever
16 percentage that you have to put as a down
17 payment, we will take that as a down payment
18 up to the 7 percent total fee and put you on
19 a monthly payment plan.

20 MR. BETHEL: What is collateral? Am I
21 putting up my home? Is he putting up her
22 car? Other assets?

23 MR. YELLIN: She would sign a document
24 which is a contingency indemnity contract

1 that would say that she understands we are
2 putting up a bond for \$20,000. If she has a
3 property owner, we may ask for a -- for her
4 to place a lien on the property. But it's
5 not always required.

6 MR. BETHEL: But it's something that you
7 do?

8 MR. YELLIN: Sometimes, yes.

9 MR. BETHEL: I think that's what we
10 need to kind -- when we have this
11 conversation, this is a business.

12 MR. YELLIN: Absolutely.

13 MR. BETHEL: I understand it's a
14 business, and that's what you're running.

15 MR. YELLIN: Right. She would come in.
16 And if she didn't have the full 10 percent,
17 obviously if she had the 10 percent, it
18 would be in her best interest to go and
19 place that 10 percent because she would get
20 a portion of it back.

21 MR. BETHEL: That's -- I mean, that's
22 where -- you have heard the conversation
23 today and you see where things are going. I
24 mean, clearly you're trying to defend your

1 -- see, I was a kid grow up the
2 neighborhood. Man, the whole process was
3 about predatory and working on the
4 vulnerable. You know, if my mother wanted
5 to get appliances, she couldn't get it from
6 the appliance person because they wouldn't
7 give her credit. So, you go to to Rent A
8 Center and you have to pay an enormative
9 amount of money to get that refrigerator.
10 You know, now it's Pay Day Loans. If you
11 can't get -- you want to get Pay Down Loans.

12 Oftentimes I say this process where you
13 talk about liberties, is this really -- I
14 mean, you really have that conversation? If
15 that is the case, and I'm not being
16 defensive here. Because if that's the case,
17 then you wouldn't be here arguing keep bail.
18 You would be arguing that the liberties, the
19 rights of people are not having to pay a
20 cash bail.

21 Yes, you're filling a gap. But at the
22 end of the day, there is a policy decision
23 here. The City is going to make a policy
24 decision that is going to impact your work.

1 And if they make that policy decision that
2 are going to go to this, then you are no
3 longer going to be in business. That is a
4 reality. I think oftentimes people say they
5 hate change -- they hate the way things are
6 and they hate change. Things are changing.

7 This is not just me just getting on my
8 -- I was a cop for 30 years. And so, I
9 think I have enough credibility to say where
10 I have been in all of these spaces. For a
11 long time I seen the most vulnerable folk
12 are the ones that often time get challenged
13 by this process. I mean, I know my mom
14 would probably come if Kevin Bethel was in
15 trouble and give up her home and possibly
16 lose her home.

17 You're not breaking yourself down by
18 racial disparities. You're not breaking it
19 down by poverty level. You're filling a
20 need, which is fine. But the reality is
21 this whole movement is moving away from
22 that. And you come in here and you have
23 this conversation about bail and about --
24 this runs counter to all the things that

1 were just discussed for the City saying,
2 hey, guess what guys, we are going a
3 different way. I mean, for now until things
4 change, it's your space. But things are
5 changing. And a conversation, I won't sit
6 here and be a part of a process that sits
7 here and absorbs it and says, hey, it's
8 okay. I don't. I disagree with a process
9 that goes in and after people who are so
10 marginalized and most vulnerable and can't
11 afford things because I can't come up with
12 cash. I want to step in.

13 I'm not a cop anymore. I can have a
14 larger conversation. And the conversation
15 to me is this stuff has to stop. I respect
16 the work you're doing. I respect your
17 business. But I'm not going to sit up here
18 and absorb any of this to say, hey, you know
19 what, what we are doing is right or wrong.
20 I'm not saying what you're doing is wrong.
21 I respect the work you're doing.

22 But this whole thing -- all my life
23 growing up in the neighborhoods, I was a
24 part of that process. I remember all that

1 stuff. And folks come into my community and
2 just take from us and take all the things we
3 do and think it's okay. I don't believe
4 it's okay. I don't believe that Ms. Johnson
5 need to give up her house and lose all these
6 percentages because that's the only option
7 we have. If we as adults in this process
8 have ability to make that change where we
9 don't have to put those people through it,
10 then we won't.

11 Our objective up here today is to put
12 you out business. That should be our
13 objective. And I don't have any qualms
14 about that because that's the reality of
15 this process.

16 MS. BRADFORD-GREY: Can I -- thank you
17 so much my cochair and brother. I do
18 appreciate the sentiments and the place at
19 which it comes from because I can tell it
20 comes from real care and concern about those
21 who have been preyed upon by our system.

22 I will ask this. And you know when we
23 are talking about putting people out of
24 business, right, businesses change. And

1 they go in the way in which they have
2 learned through their work how to re-purpose
3 themselves. And you gave a speech saying
4 that you care about families and you help
5 families and you do all these things.

6 So is there a way to re-purpose your
7 work when we go to a no cash bail system, so
8 that you can now be a part of that
9 progression versus wanting to keep it the
10 same? I mean, there is people that wanted
11 to keep things the same all the time that
12 weren't necessarily beneficial to the people
13 that were involved in it, you know. There
14 was a whole war on keeping things the same
15 that shouldn't have been kept the same. And
16 you know, I guess the north won. And it was
17 no longer the same. And you couldn't get
18 free labor from people.

19 But you know, when I sat here and I read
20 the stats from our Early Bail Review that we
21 had engaged in where we normally would keep
22 people in jail to the end of their case,
23 where 63 percent of the population that
24 would have been in on bail were found not

1 guilty or cases were dismissed. Joshua
2 Glenn whose case was dismissed, he was in
3 jail for 18 months. Had his mother put up
4 her house or did what needed to be done and
5 got on payment plans, I mean, it would have
6 been giving money because -- just for him to
7 ultimately get the same disposition he got.
8 You don't see the logic or behind what we
9 are saying in terms of how it affects people
10 who cannot afford it and people believe in
11 their innocence, believe in the fact that
12 they shouldn't be in these -- behind these
13 walls and will do anything to make sure that
14 they're not stuck in prison?

15 MR. WACHINSKI: Well, I'm going to
16 respond to kind of both of you. And Mr.
17 Bethel, you know I have had several
18 conversations with you. We have a mutual
19 personal respect. We just have a difference
20 of opinion on this. And I didn't grow up
21 where you grew up, but I didn't grow up
22 rich. I grew up poor, too. My family
23 depended on credit.

24 And I remember the days when my father

1 mother -- I was up listening to my mother
2 crying or my father crying after he lost his
3 job of 27 years, and there wasn't enough
4 money. I came home with the one single
5 benefit of saying I got accepted to law
6 school, and my father cried himself to sleep
7 that night trying to figure out how we're
8 going to send this young man and not bury
9 ourselves in debt. So what your point was,
10 I don't disagree with. And I understand.

11 And this City, however, and in this
12 State our low level offenders are mostly
13 OR'd. When you get a bail in Philadelphia,
14 a bail amount in Philadelphia in my
15 experience comes associated with something
16 whether it's a long criminal history, it's a
17 serious charge. There are things that are
18 out there -- and Keir is going to disagree
19 with me. But I promise you that the bail
20 commissioners would also say that there is
21 something where they are not just dismissing
22 it. They do use a lot of alternatives.

23 That said, we need to get to Jack at
24 some point because he is going to raise a

1 number of different issues. Jonathan talks
2 about liberty. He talks about the truest
3 forms of liberty. Again, a point Jack is
4 going to raise. The things you're talking
5 about are also liberty invasive. Jack will
6 talk about that.

7 But the point that I understand what
8 you're trying to say is what else can you
9 guys do other than bail? The reason I
10 became interested in the system that works
11 with bail bondsman, again, I started in the
12 city. Practiced in front of you. Practiced
13 near colleagues that you and I have known
14 for years. I didn't know what bail was.
15 Didn't care. Didn't like bail bondsmen.

16 The reason I became a believer in bail
17 bondsman is I represented 19-year-old opioid
18 addicted, young African-American man in
19 Media, Pennsylvania. We got him into drug
20 court. We got him into diversionary
21 program. He failed to appear for admission
22 day. The judge looked me in the face and
23 said you got 30 minutes, get him in here.

24 I called a bondsman who was on the bond

1 for him who was interested in seeing this
2 young man succeed. He called his
3 girlfriend, his mother and sister. Within
4 25 minutes, they actually got the guy back
5 in. This is the type of service that he is
6 re-purposing his business to do. It's not
7 what Judge Ben Lerner remembers the days
8 gone by where it's collect the money and see
9 the defendant never. These folks are
10 providing a service.

11 But I'm going to defer to Jack to talk
12 about some of the liberty interest and some
13 of the concerns he has based on the policy,
14 wholesale policy shift in New Jersey.

15 MR. FURLONG: I'm not talking because
16 I'm waiting for the court reporter to let me
17 know she's okay. She's dying. Okay.

18 My name is Jack Furlong, spelled
19 F-u-r-l-o-n-g. I just want to say in
20 addition to all the thanks that have gone
21 around the room, thanks for still being here
22 at 2:20 in the afternoon which is
23 phenomenal. Send my regards to Councilman
24 Jones. I understand he had other

1 priorities.

2 But this woman is testimony to the
3 importance of live court reporting, not tape
4 recorders. They are actually the bull work
5 of our criminal justice system in our view.

6 I had a fairly short presentation that
7 got progressively shorter as I heard
8 everybody else. I tried many, many hundreds
9 of cases, ma'am. And I can read body
10 language of jurors pretty well. When I
11 watched you in front of these two guys, I
12 wanted today say, I'm not with them. You
13 know, that's my --

14 MS. BRADFORD-GREY: They're actually
15 friends. We just have different points of
16 view on this.

17 MR. FURLONG: Say no more. I was
18 interested when I saw that Josh Glenn walked
19 in because I read your website and I read
20 some of the case histories that you have
21 heard about before. And Mr. Glenn came back
22 up again. And I had the same reaction when
23 I heard that he had a \$20,000 10 percent
24 bond as a 16-year-old with an ag assault.

1 And 18 months later, he's still in jail. My
2 question wasn't why is the bail bondsman at
3 fault. My question is, why was his bail
4 \$20,000 18 months later when there was no
5 probable cause, the charges were dismissed?
6 Did a judge not have the authority to reduce
7 his bail in that 18-month time frame? If
8 one ADA or one deputy public defender didn't
9 bring a motion to reduce the bail, and the
10 answer is public defenders are hugely
11 overworked. And they only have so many
12 files that they can present. ADAs have
13 many, many files to deal with. I have no
14 criticism for either party. But for
15 whatever reason, a juvenile sat for 18
16 months. And you had a risk assessment
17 instrument available called a judge.

18 I don't understand how we got to this
19 point. Now, the reason I was asked to come
20 here -- sorry, I didn't mean to take a shot.
21 I really didn't.

22 MS. BRADFORD-GREY: Yes, you did.

23 MR. FURLONG: Little bit. Little bit.

24 I'm a criminal defense attorney. I've

1 been doing this for 40 years. Thank God
2 Judge Lerner is here because I needed
3 someone older than me in the building. I am
4 here to give you the five month overview of
5 New Jersey's bail reform so that you have
6 some real time opportunity to see how it is
7 going in New Jersey. Are you okay with
8 that?

9 MS. BRADFORD-GREY: We did here this
10 from Jersey. They themselves came.

11 MR. FURLONG: I mean, from someone who
12 is actually living there, not from Glen
13 Grant.

14 MS. BRADFORD-GREY: No. We had a whole
15 panel of people including the Public
16 Defender and the AG as well as the judge
17 that's overseeing it. We have the notes
18 from that hearing.

19 MR. FURLONG: Yeah. I think Angelo
20 Onefri testified, did he not? My friend and
21 prosecutor of Mercer County?

22 MS. BRADFORD-GREY: He was?

23 JUDGE LERNER: Yes.

24 MR. FURLONG: I'm here to give you a

1 contrarian view. They are absolutely
2 extolling the virtue of our program five
3 months out. They are telling you it's
4 working like a charm. I am here to tell you
5 there is a range of opinion in New Jersey
6 from working like a charm to abject train
7 wreck. And I tend towards the latter end.

8 I'm a criminal defense attorney. I have
9 been an assistant prosecutor. I've been a
10 municipal prosecutor. I have been a deputy
11 attorney general. I've been a county
12 counsel. And I've been a defense attorney
13 for like 35 years. And I can tell you that
14 my interest align with the defendants. My
15 interest align with every guy in the street
16 who is arrested because my job is to get
17 them out as soon as possible and keep them
18 out as long as possible, hopefully forever.
19 Your interest and your clients, my interest
20 and my clients align. That is who we
21 represent.

22 And that's why I'm comfortable saying
23 that I speak for them when I tell you that
24 this system has a host of problems. Very

1 briefly, New Jersey has -- let me know if
2 I'm going too fast, Madam Court Reporter.
3 I've been told to slow down in my lifetime.

4 New Jersey has five bail options: Cash,
5 walk in the door, hand the judge -- not the
6 judge, hand the clerk ten thousand bucks,
7 walk out the door. Two, bail bond. Hand
8 the bail bondsmen a 10 percent premium or
9 perhaps a lower premium. He will take
10 premiums, no interest. No interest is a
11 matter of law in New Jersey. Three,
12 property. If I own a home, I can post the
13 property with the court. Four, 10 percent
14 option. Five, release on recognizance.

15 In fact, New Jersey statute 2A-162-12
16 says notwithstanding A through D above,
17 nothing in ur statutory framework precludes
18 any judge releasing anyone on his own
19 recognizance. Whenever I see the low
20 hanging fruit, I think it was the Dean who
21 raised that before, the low hanging fruit of
22 that \$2,500 bail or that \$3,500 hundred bail
23 or that guy sitting 30, 60, 90, 100 days
24 out, I always wonder why we don't have a

1 default system that says someone go talk to
2 that guy. Because if he can't come up with
3 250 bucks, I think maybe we don't need to
4 worry about him running away because he's
5 got no place to go.

6 Why those people are in jail? The bail
7 bonds community isn't concerned about them.
8 They don't make money off of them. Those
9 people should be cut loose not six months
10 from now, not three years after you
11 implement a program. They should have been
12 cut loose yesterday. And someone in the
13 Municipal Court or the, I don't know what
14 you call your court systems here, someone in
15 the criminal division should be doing a
16 regular 30, 60, 90-day review saying, let's
17 get these people out. There is no reason
18 for them to be here.

19 They are coming to court. You know,
20 I'm -- Josh mentioned and I'm glad that he
21 read the stat that 90 percent of the people
22 in the DC system show up for court in a
23 non-cash bail scenario. That is a stat that
24 should exist in every state in the union

1 and, in fact, does. The FTA rate, failure
2 to appear rate hovers between 9 to 12
3 percent jurisdiction by jurisdiction. Most
4 people who up. They got no place to go.
5 Don't you remember that line Richard Gere?
6 "I got no place go." Okay.

7 In any event, as long as we understand
8 that we all want to reduce jail population
9 and understand you keep using the word
10 "prison." Prison is where you go after
11 you've been convicted. You have given up
12 constitutional rights. You've been
13 convicted. Jail is where you go where
14 you're invested with a number of
15 constitutional rights, more than any other
16 category of human being, the presumption of
17 innocence, the right to bail, the right to
18 due process, the right to a grand jury
19 presentation, the right to a speedy trial
20 and the right to effective assistance of
21 counsel.

22 So that trumps -- I shouldn't use that
23 verb anymore. That supercedes any other
24 history of rights in the Bill of Rights.

1 And yet, what do we see time and again.
2 This is what I want to emphasize New
3 Jersey's result. In all of our speedy trial
4 machine, all our permutations, we have not
5 fully staffed our court system. We need
6 more judges. We need more prosecutors. We
7 need more public defenders. We need more
8 courtrooms. We need more support staff. We
9 don't have a significant increase. I hear
10 it all the time.

11 Money should never play a part in the
12 administration of justice. New Jersey
13 speedy trial plan that Josh was talking
14 about two-years plus from arrest to trial.

15 MS. BRADFORD-GREY: Can I just say
16 something? You heard all the testimony that
17 went on here. You're talking about
18 expanding the net. We are talking about
19 narrowing the net. The things going on with
20 the police giving citations, we are no
21 longer arresting people for that are no
22 longer clogging our system is reform. you
23 are saying we need more, more of everything
24 just means keep doing business as usual so

1 we can keep generating the business of doing
2 the business as usual. I mean, narrowing
3 the net is where we are going. We talked
4 about that. I think Darlene from Probation
5 talked about the initiatives from the police
6 department to reduce the amount of people
7 that come through our system, so we don't
8 need more of everything you just named.

9 MR. FURLONG: I agree with you in
10 principal. I'm just telling you as a
11 general proposition. There is a reason I am
12 talking to you and not to everybody else in
13 the room. I was very concerned when Joe
14 Cracor, the public defender in New Jersey
15 signed on, in fact, was one of the chief
16 proponents along with the ACLU for bail
17 reform in New Jersey.

18 I said, you're opening the door. We are
19 never going to be able to shut. It's the
20 detention door. New Jersey has dramatically
21 upgraded the number of cases of detention
22 just over these five months. And virtually
23 now with the latest AG memo, all gun cases
24 are presumed detention cases. That means

1 every first and second degree case almost
2 without exception plus every school zone
3 third degree case, plus every sex case, plus
4 every domestic violence case including
5 disorderly, your misdemeanor, are all
6 presumed detention cases. Our population is
7 exploding with people who have no shot at
8 ever getting out.

9 I respect the desire not to punish
10 people for lacking cash resources. Why do
11 you want to punish those who do have
12 resources who are saying let me use that one
13 other option to get out? This is not Miami
14 Vice where I got guys walking in with
15 million dollars in suitcases. I'm talking
16 about a guy who can actually make two grand.

17 Am I going on too fast?

18 MS. WERTHEIMER: Can I just make a
19 point? We have heard a lot from New Jersey
20 as we stated. We heard an update from them.
21 We talked to them before this went into
22 effect. And I think there is an important
23 difference to point out, though, in what
24 you're saying in our process versus their

1 process. They did a statewide legislative
2 change to role this out. We are not doing
3 that. We are doing this from the ground up
4 with all the stakeholders at the table
5 making decisions together. And it's a
6 proactive.

7 And I think some of the things that are
8 happening in Jersey or reactive as a result
9 of it being a legislative process. This is
10 really, as you heard, pilot programs to test
11 things out, to see how they go. And I don't
12 think we are going to have the same kind of
13 issues that New Jersey has seen, the growing
14 pains that they have seen. I just want to
15 point that out in terms of relevance.

16 MR. FURLONG: Fair statement. I'm just
17 saying if you're relying on the New Jersey
18 model at all, let me just highlight four or
19 five pressure points for you.

20 JUDGE LERNER: Please don't.

21 MS. WERTHEIMER: We are not. We are
22 doing this the Philadelphia way.

23 MR. FURLONG: Okay. Don't scare me.
24 Don't threaten me. Seriously. Here are

1 where the pressure points are in New Jersey.
2 If I had to ask you to avoid a bunch of
3 problems, these would be the ones to avoid.

4 JUDGE LERNER: Can I say something?

5 MR. FURLONG: 48 hour detention on
6 arrest so that they can do risk assessment.
7 That 48 hours is costing marginal guys with
8 jobs their jobs. These are guys who are
9 at-will employees working for Burger King or
10 McDonalds who don't show up to work one day
11 and lose their jobs all so that someone can
12 do a risk assessment tool. It's not an
13 instrument. It's a tool. It's a racially
14 bias tool. I don't think there's any
15 question about that. Because if you're
16 young and African-American, you are more
17 likely to have an arrest on your docket then
18 if you're a white kid from the suburbs who
19 has the resources to avoid that kind of
20 problem.

21 And if you have an FTA, maybe it's
22 because you don't live in the same house
23 three months in a row. And the last notice
24 that comes from Trenton Municipal Court goes

1 to the wrong address. Now you got an FTA on
2 the docket. And your failure to appear
3 score goes up. Be careful what you wish
4 for. Be careful what you wish for.

5 After that, the detention motions.
6 Nature abhors a vacuum and so does the
7 prosecutor. We have seen a global expansion
8 of the number of detention applications
9 which expands that two days to five and six
10 days and up to a week. And the public
11 defender who is completely swamped, I get
12 the fact apparently the Defenders
13 Association in Philadelphia is fully funded.
14 In my neck of the woods, not so much. We
15 have on deputy public defender doing all
16 detention motions in my own county. She is
17 constantly asking for an additional five
18 days to prepare because of the number of
19 motions they didn't think they would be
20 facing on the legislative model.

21 After the detention motions, we have a
22 plea bargaining issue. And this is the last
23 thing I want to mention. I will cut out all
24 the speedy trial stuff. I can only tell

1 you, Judge, we talked about it briefly
2 beforehand. We are talking about a two-year
3 speedy trial model. Guy can be detained for
4 two years. And that number can be extended
5 if anyone files a pretrial motion either
6 side. And that tolls the clock. It's like
7 when you get to the end of an NCAA
8 basketball game and it's like a minute left,
9 it takes like 30 minutes to go because
10 everyone is calling timeout. That's the
11 deal.

12 But very briefly. There is a plea
13 bargain process that is taking place now
14 very, very quickly. The judges are pressing
15 us to resolve these cases within two, three,
16 four weeks of arrest. All that's doing is
17 economizing on the court's time but making
18 it very difficult for defense counsel to do
19 their jobs. We don't get to evaluate the
20 proofs. We don't get to say to our clients,
21 you know, I think you got a shot at trial
22 because they are not going to see a trial
23 anytime soon. There is a reason why in
24 Missouri v. Fry the Supreme Court

1 acknowledged that 97 percent of all criminal
2 cases resolve without trial.

3 Everything about bail reform runs the
4 risk of throwing the constitutional baby out
5 with the bath water. I ask you to slow down
6 and be cautious. You have done yeoman-like
7 work. You have been here forever. But I
8 get the fact -- this is my first rodeo with
9 you. But you guys are about to embark on a
10 system. And I didn't hear any panelist here
11 who was a representative of the criminal
12 defense bar other than the person who is
13 actually running the show right now say this
14 is what we are experiencing in my neck of
15 the woods on the street. We are getting
16 severe dislocations all as a result of bail
17 reform with clients who don't understand why
18 they can't get out. They are not Rico
19 murderers with lengthy jackets. These are
20 guys with domestic violence who might be
21 simple assaults, might be aggravated assault
22 and receiving stolen property and they are
23 being detained all in the name of bail
24 reform.

1 So with all due respect to everybody's
2 effort in the data driven results that you
3 think you're getting, algorithms are no
4 replacement for humanity in the criminal
5 justice system. I apologize. I can see
6 that I offended you.

7 JUDGE LERNER: Well, that's a great
8 defense lawyer speech. And I admire it.
9 But ad hominem cases, slogans are excellent
10 for political campaigns. But they don't
11 really help at all when it comes to making
12 difficult systemic decisions about reform.

13 If the presumption of innocence means
14 anything at all in our constitutional
15 system, it means that we should not be
16 locking up anyone pretrial unless a neutral
17 magistrate armed with information from both
18 sides can make an evidenced-based
19 determination that that individual is either
20 an unacceptable risk of not showing up or,
21 more seriously is a danger to himself or his
22 community or herself or her community.

23 That's hard to figure out. But what we
24 have heard today in the MacArthur report and

1 what we know we are trying to do is to
2 develop a series of weapons that will help
3 us answer that question for every individual
4 defendant. The Bail Advocates Program is
5 incredibly important in that regard. A risk
6 assessment tool, which will not be perfect,
7 but which will be tuned as best as humans
8 can tune it to weed out discriminatory
9 features. A bail review system such as the
10 one we already have in place here are all
11 instruments that will help us make the
12 determination in any individual case as to
13 whether an individual should be in or out.

14 It's an ongoing process, and it's a
15 difficult process. But one thing that I
16 think we do know already from experience and
17 that is simply that the amount of money that
18 an individual may be able to provide either
19 to a court bail system or a bail bondsman,
20 the amount of cash that's required for
21 freedom has nothing to do with either an
22 individual's likelihood to flea or
23 particularly an individual's dangerousness
24 to society.

1 If you post -- put \$500,000 bail on
2 someone who is accused of shooting a police
3 officer during the course of a robbery, what
4 you're doing in that case is hoping that
5 that means I'm holding you without bail.
6 And normally in an urban system, that's
7 sufficient. But there is no guarantee that
8 the amount of money that's -- that is
9 required for cash bail is going to have
10 anything to do with whether a particular
11 individual can get out or not.

12 So as Commissioner Bethel said, you're
13 arguing against the tide. The tide is that
14 we know as we move forward and as we perfect
15 these instruments that we are working on
16 now, that cash will become less -- cash bail
17 will become less and less of a feature of
18 our system until probably it disappears once
19 and for all as it should. I agree with what
20 the Commissioners said. Until that
21 happens -- until that happens and until we
22 are still using cash bail for certain
23 defendants and certain offenses as a last
24 resort, there is obviously a place for bail

1 bondsman in that system. But I don't think
2 that any of us are in any way convinced that
3 that place ought to remain indefinitely so
4 that a cash bail system remains
5 indefinitely. Because we don't -- we just
6 don't buy that.

7 MS. BRADFORD-GREY: Are we finished with
8 the testimony? I think you're wrapping up.

9 MR. FURLONG: Yeah. I'm taking this
10 opportunity to say to the Judge can I talk
11 to you afterwards? Because you said two
12 things that disturbed me. And I want to
13 make sure I talk to you before we leave if
14 you got a second.

15 MS. BRADFORD-GREY: I want to thank you
16 so much for your testimony today. I mean, I
17 know it didn't seem like we appreciated it.
18 But look, you have to listen to opposite
19 sides of the panel. So, I do want to thank
20 you very much for coming today and providing
21 testimony.

22 With that said, I think I'm going to
23 close the committee. And my script here in
24 absence of Councilman Jones, the hearing on

1 the resolution will now recess to the call
2 of the Chair. With that, this Council
3 concludes the business of the Special
4 Committee on Criminal Justice Reform for
5 today. Thank you all very much for your
6 attendance.

7 (Committee Adjourns at 2:37 p.m.)

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C E R T I F I C A T I O N

I, hereby certify that the proceedings and evidence noted are contained fully and accurately in the stenographic notes taken by me in the foregoing matter, and that this is a correct transcript of the same.

ANGELA M. KING, RPR
Court Reporter - Notary Public

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