

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -
COUNCIL OF THE CITY OF PHILADELPHIA
PUBLIC HEARING - COMMITTEE OF THE WHOLE

- - -
Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, April 12, 2005, 10:20 a.m.

- - -
Bill Numbers 050001, 050002, 050003, 040789,
040767, 050007, 050008.
Resolution Number 050022.

PRESENT:

COUNCIL PRESIDENT ANNA C. VERNA
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN JACK KELLY
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN MICHAEL A. NUTTER
COUNCILMAN JUAN F. RAMOS
COUNCILMAN FRANK RIZZO
COUNCILWOMAN MARIAN B. TASCO

- - -
V A R A L L O Incorporated
Litigation Support Services
1835 Market Street, Suite 600
Philadelphia, Pennsylvania 19103
215.561.2220 215.567.2670

1 Budget - 4/12/05

2 - - -

3 P R O C E E D I N G S

4 - - -

5 COUNCIL PRESIDENT VERNA: Good
6 morning, everyone. This is a continued
7 public hearing of the Committee of the Whole
8 regarding Bill Numbers 050001, 050002,
9 050003, 040789, 040767, 050007, 050008, and
10 resolution Number 050022.

11 We will now hear from the District
12 Attorney. Please approach the witness table.

13 THE DISTRICT ATTORNEY: Good
14 morning, Madam President and members of City
15 Council. My name is Lynne Abraham,
16 L-y-n-n-e, A-b-r-a-h-a-m, District attorney
17 of Philadelphia.

18 And I'm pleased to appear once more
19 before the Council considering the 2006
20 budget for the District Attorney's Office.

21 If you wish, Madam President, I
22 would move that the amended statement of the
23 District Attorney regarding her budget be
24 admitted into the record in whole. And I
25 will just briefly outline, if you wish, the

1 Budget - 4/12/05

2 few salient points that I think...

3 COUNCIL PRESIDENT VERNA: That would
4 be fine. We'll make certain that the
5 stenographer has a copy of your testimony.
6 It will be transcribed in full. And you can
7 simply summarize, if you will.

8 THE DISTRICT ATTORNEY: First I want
9 to thank City Council, its President and
10 staff for being so helpful last year when,
11 after my presentation to City Council, we
12 were facing an enormous budget cut which
13 would have decimated many of our services, as
14 I testified last year.

15 Council was extraordinarily helpful
16 in restoring a good deal of the budget cuts,
17 probably about half, for which I am thankful.

18 I want to talk specifically about
19 the Blueprint for a Safer Philadelphia. The
20 blueprint arose out of the culmination of a
21 variety of shootings in Philadelphia which
22 was, I think I can say with accuracy, the
23 Fahim Thomas Child's killing in North
24 Philadelphia outside the Pierce Elementary
25 School.

1 Budget - 4/12/05

2 And the legislature has been
3 extraordinarily helpful in rescuing what for
4 us would be the end of several important
5 programs. And I'll speak at length later, if
6 you ask me, on the blueprint.

7 But I do want to point out that the
8 blueprint, I believe, is one of the key
9 features of a better, safer Philadelphia.

10 And if it is fully funded and
11 implemented and brought to scale, I believe
12 that we can seriously impact violent crime
13 and homicides in the City of Philadelphia,
14 especially gun-related homicides and
15 shootings.

16 With regard to the other issues that
17 I brought up in my budget request is another
18 request, actually another plea for witness
19 relocation funding.

20 As you know, we have not received
21 sufficient funds to get us through the myriad
22 of requests that we get for witness
23 relocation.

24 We are holding our own, I am happy
25 to say. However, we are facing a severe

1 Budget - 4/12/05

2 crisis, if in fact the end of funding from
3 the Attorney General's Office is upon us.

4 The Attorney General has a fund of
5 money funneled through the U.S. Government to
6 his office. And we get about 50 percent of
7 that money. We get about \$250,000 a year.

8 The previous Attorney General, Jerry
9 Pappert, advised us that that money had run
10 out, and that we would be at the end of our
11 ability to provide witness relocation for our
12 victims and witnesses who were frightened
13 about coming to court and had been either
14 threatened, coerced or actually hurt or
15 threatened to be hurt or killed if they came
16 to court.

17 We have had a recent meeting with
18 the present Attorney General, and Attorney
19 General Corbett has advised us that he will
20 do what he can.

21 However, he advised us that the
22 Federal Government had cut his allocation;
23 and therefore, he wasn't sure but he would
24 use his absolute best efforts to try to find
25 us sufficient money to match the amount he

1 Budget - 4/12/05

2 had previously given us.

3 However, this does not answer all of
4 our questions. As you no doubt know, there
5 are many people who either believe or feel or
6 know that if they come to court, there are
7 real threats to their lives and safety.

8 And we need to be able to meet the
9 challenge of getting our cases tried. And we
10 can only get our cases tried if real live
11 witnesses come to court, come on the witness
12 stand, and testify truthfully and not out of
13 fear or threats or any kind of coercion from
14 anybody.

15 So, obviously witness relocation is
16 a big, big issue for us and for the safety
17 and the security of the City of Philadelphia.

18 We also brought up a few other
19 issues, although it doesn't cover every
20 issue. One of our major issues is economic
21 crime/cyber crime.

22 We see a trend, a growing trend
23 every year, of increased complexity from
24 computer-related and cyber crime. There
25 isn't a day that goes by that some newspaper,

1 Budget - 4/12/05

2 some story or some innovation in technology
3 isn't put to work against the interests of
4 citizens in general, and not limited to but
5 senior citizens in particular.

6 The Cyber Crime Unit, as you may
7 recall, was funded by a special allocation of
8 City Council several years ago. And we are
9 trying to keep that up and going.

10 But it's expanding, as more and more
11 people call us and tell us that their
12 identity has been stolen, that their computer
13 has asked them for information, that somebody
14 is putting dangerous spam on their computer,
15 that they are subject to phishing,
16 p-h-i-s-h-i-n-g, on their computers and they
17 have had their identity theft compromised or
18 stolen.

19 So we need to be able to do that, as
20 well as combat all the technological marvels
21 that are coming to our courtrooms.

22 Just last week, we talked to a
23 reporter about what's called the C.S.I.
24 effect. Television is ahead of technology
25 but jurors and witnesses expect gee whiz

1 Budget - 4/12/05

2 stuff, as I call it. And while technology
3 isn't the way television depicts it, we know
4 that we have to keep abreast of cyber
5 technology.

6 That means in our courtroom
7 presentations, in our ability to get and
8 analyze information, and track information,
9 and catalog it and present it in a
10 scientifically compelling way. And that all
11 requires funding and great expertise.

12 And the expert pool is relatively
13 small, given the size of the problem. So, we
14 are looking to Council for assistance in
15 that.

16 And essentially, what we are asking
17 this Council to do this year, recognizing the
18 considerable budget crisis that the Mayor has
19 depicted Philadelphia as presently going
20 through, that we are asking Council to keep
21 our budget at last year's level plus the cost
22 of living increase.

23 And that will at least keep our
24 present system going and allow us to carry on
25 the programs that we have -- that we have

1 Budget - 4/12/05

2 implemented and give high quality direct
3 service to the citizens of Philadelphia.

4 So, I thank Council for its
5 indulgence. And I'll be happy, along with my
6 staff, to answer as many questions as we
7 possibly can. And I appreciate your
8 cooperation and consideration.

9 COUNCIL PRESIDENT VERNA: Thank you
10 very much.

11 Would you mind elaborating on the
12 Blueprint for --

13 THE DISTRICT ATTORNEY: Yes.

14 COUNCIL PRESIDENT VERNA: -- a Safer
15 Philadelphia?

16 THE DISTRICT ATTORNEY: I certainly
17 will.

18 We call this an agenda to implement
19 a Blueprint for a Safer Philadelphia. It's a
20 ten-point program and there are several
21 initiatives. Would you like me to go down
22 the initiatives?

23 COUNCIL PRESIDENT VERNA: Do you
24 mind?

25 THE DISTRICT ATTORNEY: No, not at

1 Budget - 4/12/05

2 all.

3 I also didn't want to fail to
4 mention that I have brochures for Council
5 which I will give you in the next moment or
6 two, and I'll talk about that.

7 COUNCIL PRESIDENT VERNA: Regarding
8 the blueprint?

9 THE DISTRICT ATTORNEY: No.
10 Regarding child support. But I'll talk
11 about -- I didn't want to forget that, Madam
12 President.

13 The first program is the Youth
14 Violence Reduction Project or Partnership,
15 which we call Y.V.R.P. In 1998, my deputy
16 John Delaney and I, as well as the Police
17 Commissioner, several City officials, court
18 officials, probation officers, journeyed to
19 Boston to review their ten-point program.

20 It was instituted by clergy, police,
21 interested citizens, youth workers and
22 others, to stem violence in a part of Boston.

23 As a result of that two-day sojourn
24 in Boston, the partners, as we call them, got
25 together and formulated a program tailor made

1 Budget - 4/12/05

2 to Philadelphia's youth violence problem.

3 And what we did at that time is, we
4 reviewed the whole City and said, with a
5 small Federal grant that we obtained, what
6 area of the City are youths the most likely
7 to kill or be killed? We had our choice of
8 several police districts.

9 At that time, as you may recall,
10 there was an area of Philadelphia which got a
11 very bad name, and the people bitterly
12 resented it. So, I mean no disrespect but it
13 was called the badlands. It was the 24th and
14 the 25th District, where a lot of killing was
15 going on.

16 And so what we did was, we started
17 the Youth Violence Reduction Partnership
18 there. This is a broad-based
19 multi-disciplinary approach to preventing
20 people between the ages of 17 and 24 from
21 either killing or being killed.

22 This is only one of ten points. I
23 don't know how much detail, frankly, you want
24 me to get into, but I'm prepared to fully
25 delve into it.

1 Budget - 4/12/05

2 The Y.V.R.P. program has several
3 components: Identification, positive
4 support, surveillance, graduated sanctions
5 and gun suppressions.

6 What we did was, we went around the
7 community and asked everybody in the
8 community: The police, probation, teachers,
9 parents, social workers, psychiatrists,
10 mental health workers, judges, pick out the
11 125 young people in your district or division
12 that you believe are the most likely to kill
13 or to be killed.

14 It wasn't scientific, but it was
15 sort of a group think effort to attempt to
16 identify those people most at risk of either
17 one of those consequences.

18 As a result of that, we put together
19 a program which targets the City's most
20 dangerous and potentially the most violent
21 youths.

22 Because if you look at the homicide
23 figures, the people who are most likely to
24 kill or be killed range anywhere from 17 to
25 24 years of age.

1 Budget - 4/12/05

2 And as a result of that enterprise,
3 to cut it to its quick, we began our Youth
4 Violence Reduction Partnership.

5 It was extraordinarily successful.
6 But you can't measure success just in one or
7 two districts, since homicide is spread out
8 over the whole City.

9 And so, we asked the legislature, as
10 part of our ten-point program, if they would
11 fund the Y.V.R.P. program. And they have
12 agreed to do so, which will keep it up and
13 running only at its present level which is
14 really insufficient, in our view, to be a
15 real measure of success. It is in the 24th,
16 the 25th and a small part of the 26th, as
17 well as the 12th Police District.

18 But as you know, homicide is spread
19 about the City. And while this program will
20 keep it going, the money will keep it going,
21 it's far from optimum. We need to bring this
22 program to scale.

23 The public/private ventures has put
24 out a booklet that's called Alive at 25. And
25 that's the whole object of this Y.V.R.P.,

1 Budget - 4/12/05

2 keeping kids between 17 and 24 alive long
3 enough to live to their 25th birthday.

4 The second part of the program,
5 number two on our ten-point program, is the
6 Safe Neighborhood Initiative. This would
7 allow the hiring of special officers, along
8 with the Alcohol, Tobacco and Firearms
9 Division, as well as local and Federal
10 prosecutors and probation and parole
11 officers, to intensively supervise young
12 adults in high crime police areas.

13 This is the next cohort of the
14 highest number of people to kill or be
15 killed. That's 24 to 32. We were able to
16 get a grant to do that. So, that was done as
17 well.

18 The third component was a juvenile
19 justice curriculum in the School District of
20 Philadelphia. This is a year-long curriculum
21 for middle school students on the dangers of
22 violence, its criminal justice consequences,
23 and how to make responsible and informed and
24 intelligent choices in how they behave
25 themselves.

1 Budget - 4/12/05

2 better outcome for juvenile and adult
3 criminal consequences, meaning a lower crime
4 rate, safer neighborhoods, less criminal
5 involvement by juveniles.

6 A community educational involvement
7 is an initiative to reach the at-risk
8 populations of our City, through personal and
9 community involvement and faith-based
10 organizations.

11 We have been able to get some
12 funding through that, not for us but through
13 those people who will do that. And we have
14 engaged clergy of all denominations to help
15 us in that regard.

16 The fifth part, in no particular
17 order, is zone courts. This is the ability
18 of the court system to adjust itself to the
19 realities of modern crime fighting.

20 As you may know, from my various
21 appearances before Council, I have been
22 attempting to get the court system in tune
23 with modern realities, because what happens
24 is that court cases are assigned at random,
25 not with regard to what district they

1 Budget - 4/12/05
2 originated in, resulting in a police officer
3 or police officers being sent on any given
4 day to five, six, seven or eight or nine
5 courtrooms, depending on the roulette of when
6 each case comes up, meaning that police
7 officers are trying to get to various
8 courtrooms, with judges calling the calendar,
9 officers not there.

10 If the judge doesn't want to wait,
11 the judge does one of several things,
12 dismisses the case outright which forces us
13 to rearrest and to implement the program all
14 over again which is wasteful and time
15 consuming and not efficient or the judge
16 grants a continuance which counts against the
17 Commonwealth in our time to bring a person to
18 trial. And that results in time constraints
19 and pressures put on us which we shouldn't
20 have to have, and which we wouldn't have if
21 we have zone courts.

22 Here's the bottom line. The
23 District Attorney cannot tell judges how to
24 sit and where to sit.

25 So, I have an appointment with the

1 Budget - 4/12/05
2 Supreme Court later this month to ask the
3 court to direct the local courts, in its
4 wisdom, and if it decides to do so, to align
5 our courts on zone or geographic bases so
6 that officers who make an arrest in the 24th
7 District, let's say, will be in front of the
8 same judge for all cases arising out of the
9 24th District, eliminating some but not all
10 of the backing and forthing. We still have
11 to address the issue of juvenile courts and
12 of course our divisional courts.

13 But we're optimistic that the
14 Supreme Court will consider this because the
15 Supreme Court did accede to our request to
16 give us a gun court.

17 And we're very pleased that Justice
18 Sandra Shultz Newman as part of our
19 blueprint, met with the various partners and
20 agreed that we should have a gun court which
21 is the sixth part of our ten-point program.

22 The Supreme Court agreed to dedicate
23 a courtroom and a judge to hearing priority
24 cases having to deal with people who are in
25 illegal possession of firearms.

1 Budget - 4/12/05

2 This is not just sort of a make
3 weight. This is a very substantive program,
4 which addresses people who do not yet use
5 guns but who are in danger of using them in
6 the absence of direct intervention.

7 It's a multifaceted program that
8 addresses itself to... For example, if I'm
9 arrested for possession of a firearm that's
10 illegal, the first thing that I am given is
11 an assignment.

12 My record is reviewed, and assuming
13 I am not a violent, dangerous offender by my
14 criminal record -- Maybe my first arrest or
15 even my second arrest. Maybe I have a theft,
16 a retail theft case, nothing very
17 substantive.

18 If I am suitable for the gun court
19 program, I am immediately assigned a case
20 manager. This case manager requires that I
21 come to his or her office. And there are
22 especially dedicated case managers who will
23 interview me in depth.

24 This is not for use at court, so
25 their 5th Amendment implication, obviously,

1 Budget - 4/12/05

2 is still in effect. I'm not required to give
3 any information about myself that will
4 incriminate me and nothing will be.

5 But they ask me questions about my
6 background. They do an intensive background
7 survey of me. And they ascertain do I need
8 services right then and there. Do I need
9 mental health treatment? Do I need
10 interventions? Does my family, any support
11 systems that the court has to offer, can they
12 put them in place?

13 The benefit is that if I am a person
14 either in crisis or I'm impulsive or I am
15 angry or if I have anger management problems,
16 the manager can go to the court and ask the
17 court to implement corrective programs
18 pre-trial, which do not impact on my guilt or
19 non-guilt of the underlying case but which
20 seek to get me services so that I won't feel
21 the need to "A", carry the gun, and "B", that
22 I will be less likely to use it.

23 So, this is a pre-trial intervention
24 program much like our other corrective court
25 programs.

1 Budget - 4/12/05

2 When my case comes to court -- The
3 gun court so far has handled about 220 cases
4 with a very high -- This is only in the first
5 two months. So, it's a very, very expedited
6 program.

7 In the first two months we've
8 handled over 215 or 220 cases, a very high
9 percentage of guilty pleas, a very high
10 percentage of non-jury trials, and a very
11 high percentage of other consequences flowing
12 from guilty pleas, guilty verdicts, and the
13 like.

14 I might also add parenthetically
15 that Judge Jeffrey Minehart, the judge whom
16 the Supreme Court assigned to this court, is
17 just dandy. He's the dream of a judge that
18 every person wants: Right down the middle,
19 calls it as he sees it, keeps himself to the
20 facts and the law. And if every judge does
21 that, we would be just in a super peachy
22 situation.

23 So, we've done a tremendous amount
24 with that. And after the conviction, if
25 there is one, then there's after care,

1 Budget - 4/12/05

2 intensive intervention.

3 If the judge believes that there are
4 guns in my house that I shouldn't have, the
5 judge may sign an order giving authority of
6 police or the probation department to search
7 my house and take all my guns away, give me
8 intensive supervision.

9 And the interesting part is that,
10 unlike the situation with the probation
11 department, which is overloaded with cases --
12 Now, 200, 300 cases on a probation officer.

13 They're especially assigned and paid
14 for probation officers to this court who will
15 handle nothing but these gun court cases. So
16 it's a better result all around.

17 It is still too early, of course,
18 after just two months, to see what overall
19 impact it will have, but we are hopeful
20 within the year we will be able to do this.

21 The seventh part is the five-year
22 mandatory sentences for armed drug
23 traffickers. And we have accomplished that,
24 and... Let's see. There is a... I'll give
25 you the poster in a minute. Here it is.

1 Budget - 4/12/05

2 We have distributed this handout to
3 every Police District in Philadelphia. We
4 just reordered 30,000 of these. This puts
5 people on notice, through the Police
6 Department, through various citizens groups,
7 legislators, City Council people, if you
8 like, in your offices, both here and any
9 place else you'd care to, the notion that
10 you're on notice.

11 If you are... If you are in
12 possession of a gun when you deal drugs
13 for -- Let's use Mr. Taslowski as an example.
14 I have a gun, Mr. Taslowski has the drugs or
15 he has the gun and I have the drugs.

16 So, if we're out there on the corner
17 dealing drugs and either one of us is armed,
18 each of us will be arrested and each of us
19 will face a mandatory five-year sentence; no
20 plea bargains, no nothing.

21 This mirrors the Federal statute and
22 this is on both sides. There's information
23 available to our citizens.

24 The eighth and ninth part of our
25 blueprint are other statutory enactments

1 Budget - 4/12/05

2 which are presently being considered by our
3 legislature. That's amending firearms
4 possession, to increase the penalty for an
5 illegal firearm from a first degree
6 misdemeanor to a third degree felony.

7 It also would disable or prohibit a
8 person convicted of this offense from being
9 able to get a permit to carry a firearm. And
10 that's presently under consideration.

11 This is Jewel Williams' Bill, House
12 Bill 2799, and House Bill 2800 which was
13 introduced this past July and is presently
14 under consideration.

15 The ninth part of our ten-point
16 program is the Armed Violent Career Criminal
17 Statute which creates, again, another
18 mandatory sentence for violent criminals who
19 possess firearms, a minimum of which is five
20 years who have two prior convictions, ten
21 years if three or more prior convictions.

22 This is Dwight Evans' Bill, House
23 Bill 1795, which was also introduced the same
24 day as Jewel Williams' Bill, July 3, 2004.
25 That is also presently under consideration.

1 Budget - 4/12/05

2 And the last thing on our program
3 was the Federal Project Safe Neighborhoods
4 and the State Alternative Program. This
5 allows the Federal government to hire
6 firearms experts, as well as local
7 detectives, to work with the Federal and
8 local prosecutors on serious violent firearms
9 violations through the A.T.F., tracing all
10 firearms, targeted approach to violent hot
11 spots in Philadelphia. And that is part of a
12 budget appropriation of 2004.

13 Now, those are the ten points.
14 We're well on our way, but I have to sound a
15 note of caution, that all of these programs
16 are funded only in part and only for a brief
17 amount of time.

18 I've already spoken to
19 Representative Evans and other legislators
20 about permanent funding. And obviously, the
21 state is going to consider our joint request
22 from all of the partners involved: The
23 Police Commissioner, the School District, the
24 legislature, community groups, the District
25 Attorney's Office, the State Attorney

1 Budget - 4/12/05

2 General's Office, and other of our partners.
3 But I don't know what the future will be for
4 these programs.

5 Every crime-fighting program depends
6 on funding. And if the funding goes, all
7 these programs which we believe have a high
8 potential for success will be gone as well.
9 And that is the only note of caution that I
10 sound.

11 It's not a full funding. It's not a
12 dedicated source of funding. We're sort of
13 lurching from year to year hoping that
14 funding will continue. And that's the
15 ten-point program.

16 COUNCIL PRESIDENT VERNA: Thank you.

17 I certainly appreciate your taking
18 the time to go over the blueprint of the ten
19 points for a safer Philadelphia.

20 And I'm delighted to hear that at
21 long last somebody's talking about zone
22 courts.

23 THE DISTRICT ATTORNEY: Yes, indeed.

24 COUNCIL PRESIDENT VERNA: I guess
25 I'm dating myself, but way back when, many

1 Budget - 4/12/05

2 moons ago when I worked in the District
3 Attorney's Office and I was in charge of
4 listing cases, we did it manually.

5 If Officers Goode and Verna were
6 partners, I listed 10 or 12 of their cases in
7 one courtroom.

8 With all the modern technology that
9 we have today, I don't know why we would have
10 to have officers running to seven different
11 courtrooms in one day.

12 Don't they put the names of the
13 arresting officers on the bills of
14 indictment?

15 THE DISTRICT ATTORNEY: Of course.

16 COUNCIL PRESIDENT VERNA: And are
17 they not placed into a computer, where you
18 could just push a button and Officer Goode
19 and Verna's arrest come out?

20 It just seems so ridiculous to me
21 that with all of the modern technology that
22 we have today that we can't do something like
23 that.

24 THE DISTRICT ATTORNEY:
25 Councilwoman, we have been asking the courts

1 Budget - 4/12/05

2 which as you know are responsible for the
3 listing of cases. We don't list cases; the
4 court does. We have been asking the court to
5 do this for years, for at least seven, eight,
6 nine years.

7 COUNCIL PRESIDENT VERNA: I'll tell
8 you. I think...

9 THE DISTRICT ATTORNEY: And they
10 have refused to do so.

11 COUNCIL PRESIDENT VERNA: And I
12 think that every budget hearing that I've
13 attended I've asked the same question. And
14 at one time the court said, oh, it would be
15 unconstitutional to do that.

16 THE DISTRICT ATTORNEY: No, it
17 wouldn't.

18 COUNCIL PRESIDENT VERNA: Why?

19 THE DISTRICT ATTORNEY: It wouldn't
20 be unconstitutional. As a matter of fact, it
21 would be efficient and effective.

22 I think that the way that we best
23 serve the public is by giving them the
24 fastest, most efficient way to dispose of
25 cases, without it at all infringing on the

1 Budget - 4/12/05

2 defendants' constitutional rights.

3 But judges are reluctant,
4 extraordinarily reluctant. And the court
5 administration, the President Judge, the
6 former President Judge, Labrum Davis turned
7 us down cold. We have been asking and asking
8 and asking.

9 COUNCIL PRESIDENT VERNA: May I ask
10 why anybody would turn that down?

11 THE DISTRICT ATTORNEY: Do you want
12 my honest opinion?

13 COUNCIL PRESIDENT VERNA: Yes.

14 THE DISTRICT ATTORNEY: I think that
15 judges are afraid that they might have their
16 names well known in the community. And they
17 are concerned that they might be somehow
18 associated with any or all of their
19 decisions.

20 Here's my point. Here's what
21 victims and witnesses and defendants want and
22 are entitled to: A fast, expeditious,
23 correct way of determining: Are the police
24 right? Did they get the right guy for the
25 right reasons or are they wrong?

1 Budget - 4/12/05

2 We certainly don't want cases
3 disposed of because the officer was in
4 another courtroom and the judge dismisses the
5 case.

6 That is not justice for the victim,
7 and it isn't justice for the City of
8 Philadelphia, and it isn't justice for the
9 defendant either.

10 But what it's become is a series of
11 games that are played in the courts. And we
12 want the Supreme Court to even consider doing
13 it on a pilot project basis, to see whether
14 or not it works.

15 Now, we know, for example, that
16 Judge Minehart is in court every single day
17 on gun court.

18 We know that Judge Presenza has been
19 in drug court every year for what, five
20 years? Doing drug court. Judge Presenza,
21 doing the same kind of prosecutions that
22 we're talking about, and Judge Minehart in
23 the first few months of the drug court, have
24 done simply a sensational job.

25 They get through their case load.

1 Budget - 4/12/05

2 They're not breaking, you know, land speed
3 records. They're doing it quietly and
4 efficiently.

5 I believe the entire court system
6 will work the same efficient way by doing
7 things the way you and I both agree they
8 ought to be done, in zones.

9 COUNCIL PRESIDENT VERNA: And you
10 wouldn't have to have seven district
11 attorneys -- assistant district attorneys
12 working on this.

13 If a case is continued, it would go
14 before the same judge and the same assistant
15 district attorney would be assigned to it.

16 I think, as I said, with all of the
17 modern technology that we have today, I just
18 don't know why we are not taking full
19 advantage of it.

20 I found your testimony quite
21 interesting. However, I think we better get
22 back to the issue at hand, your budget.

23 THE DISTRICT ATTORNEY: Mm-hmm.

24 COUNCIL PRESIDENT VERNA: I see that
25 it is being proposed that your budget be...

1 Budget - 4/12/05

2 I believe, it's \$918,999 less than what you
3 had in '05.

4 THE DISTRICT ATTORNEY: That is
5 correct.

6 COUNCIL PRESIDENT VERNA: Now, you
7 are stating that you're requesting that your
8 budget remain the same as last year, with
9 only the increase being for cost of living.

10 However, we don't have a dollar
11 amount for that. Can you tell us how much
12 money you're asking to be...

13 THE DISTRICT ATTORNEY: \$30,472,788,
14 plus a COLA of \$473,000, give or take. It's
15 \$472,649. The \$30,472,788 includes the COLA
16 of the \$473,000, give or take.

17 COUNCIL PRESIDENT VERNA: So that's
18 what you're actually asking for.

19 THE DISTRICT ATTORNEY: Yes, ma'am.

20 COUNCIL PRESIDENT VERNA: The Chair
21 recognizes Councilman Kelly for a point of
22 information.

23 COUNCILMAN KELLY: Point of
24 information.

25 Thank you, Madam Chair.

1 Budget - 4/12/05

2 I just want to ask why the First
3 Judicial District will not list multiple
4 cases for the same officer for the same
5 courtroom. Is there any...

6 THE DISTRICT ATTORNEY: They just
7 refuse to do it, Councilman. And for the
8 life of me, I do not understand this. My
9 whole point --

10 COUNCILMAN KELLY: In other words,
11 the police officer would go from court to
12 court to courtroom.

13 COUNCIL PRESIDENT VERNA: And a
14 police officer in a busy district -- and
15 there's scarcely a district that isn't busy,
16 I might add -- could find himself assigned on
17 the same day to eight or ten courtrooms,
18 sometimes in the same building.

19 But when he's on the stand
20 testifying in, let's say, the eighth floor or
21 the ninth floor, and somebody wants him on
22 the fifth or sixth or seventh floor, he can't
23 be there.

24 When the case is called, we say to
25 the judge, judge, officer "X" is testifying

1 Budget - 4/12/05

2 in front of judge "Y".

3 Well, sorry. Case isn't ready.

4 Either dismissed or continued.

5 We say, well, you know, he's
6 testifying in front of another judge. Can
7 you wait?

8 They say, nope. Can't wait.

9 So, you're going to have to ask the
10 First Judicial District that question. I
11 refuse to answer for them. I don't see the
12 reason or the point of it.

13 But I've been arguing with them over
14 this question for seven or eight years. They
15 still haven't given me a satisfactory answer.

16 COUNCILMAN KELLY: Okay. Madam
17 Chair, I believe that this is something that
18 we should address the First Judicial District
19 for this. I think it makes sense.

20 COUNCIL PRESIDENT VERNA: Very well.
21 Thank you.

22 I just have another question or two.
23 I notice that just about every Council member
24 here wants to be recognized.

25 You mention the issue of your office

1 Budget - 4/12/05

2 not being able to retain experienced
3 prosecutors. What is the average stay of a
4 prosecutor? And can you tell us what the
5 average pay is at that time?

6 THE DISTRICT ATTORNEY: It's hard to
7 figure out an average, but here's the way it
8 usually works, Madam Chair. The starting
9 salary is what... 46... I'm going to give
10 you... \$46,000.

11 Now, the average starting salary in
12 our largest law firms is \$115,000 to
13 \$125,000.

14 So, if you really want to get
15 technical, although I said less than half, I
16 was hoping that you would ask me the median.

17 The median in Philadelphia is about
18 \$70,000, \$80,000 for medium sized law firms.
19 But I hasten to add that these great men and
20 women could go to the largest law firms and
21 get the \$125,000.

22 So, they come to us burdened with a
23 tremendous amount of student loan debt. And
24 we've been championing student loan
25 forgiveness for public service but we haven't

1 Budget - 4/12/05

2 been able to get that.

3 So we have a group of people who
4 stay just for the three-year commitment.
5 They give us a three-year commitment.

6 Many of the people stay for three
7 years, and then they move to the larger law
8 firms because then they have litigation
9 skills.

10 Then there's another group that
11 stays from between three and maybe five or
12 six years. A smaller group than stays from
13 five to maybe ten years. And some stay for
14 even longer than ten years.

15 Now, the difficult question to
16 answer is, many of those people don't really
17 come intending to spend either more than
18 three years or maybe more than five years.

19 But I must confess that the job is
20 so interesting, that even though it's a great
21 personal sacrifice, they stay longer.

22 But the history of the District
23 Attorney's office has been that we can't keep
24 the most attractive people because the lure
25 of big salaries outside is tremendous.

1 Budget - 4/12/05

2 And when they marry which they do
3 and have children which they do, their
4 expenses go up far more than we can
5 adequately compensate them. Even though they
6 deserve much more, we can't keep them.

7 So, if you want an average, it's
8 about... The average is somewhere between
9 four to six years, and the average salary
10 between four and six years is around \$60,000
11 which at the smaller firms would be their
12 starting salary six years previous. So,
13 they're working really for essentially
14 nothing.

15 COUNCIL PRESIDENT VERNA: Having to
16 do public service. That's what it is.

17 THE DISTRICT ATTORNEY: Well, public
18 service is; but, you know, you have to pay
19 the rent and you have to pay your student
20 loans.

21 COUNCIL PRESIDENT VERNA: Of course.
22 Of course.

23 And was this ever attempted to be
24 addressed, as to how we can keep
25 well-qualified prosecutors in the D.A.'s

1 Budget - 4/12/05

2 office and pay them a -- certainly a much
3 more reasonable salary?

4 THE DISTRICT ATTORNEY: Well,
5 Councilwoman, as you know, our budget, our
6 Class 100 funds only allows us as much leeway
7 as the amount in Class 100 allows us.

8 You may remember a few years ago our
9 starting salary was about \$37,000. And we
10 came to Council and said to you -- I think it
11 was two years ago -- we can't even attract
12 and keep people for their three-year
13 commitment at \$36,000.

14 We just had to raise it because the
15 prices of the marketplace were just too
16 spectacular. And we told you what we wanted
17 to do. And that's what we did.

18 But we just can't go any further on
19 the present budget, Councilwoman. And if we
20 suffer this \$1 million cut, there are going
21 to be substantial and dire consequences for
22 the citizens of Philadelphia.

23 COUNCIL PRESIDENT VERNA: The Clerk
24 of Quarter Sessions testified last week on
25 her budget. And she indicated that there

1 Budget - 4/12/05

2 would be five new courtrooms that would be
3 coming into existence. If in fact that were
4 to happen, would your budget be able to cover
5 it?

6 THE DISTRICT ATTORNEY: No.

7 COUNCIL PRESIDENT VERNA: Do you
8 know of five new courtrooms coming into
9 being?

10 THE DISTRICT ATTORNEY: I don't
11 know, but if you'll -- I think if you hearken
12 back to my testimony last year, when I
13 advised the Council that if the court system
14 was going to add courtrooms, we don't have
15 the manpower to cover them.

16 We can't sacrifice. We can't
17 sacrifice quality legal representation to
18 victims of crime and to the ultimate safety
19 of the community by just putting a warm body
20 in a room. It's not going to work.

21 We need D.A.'s. And we have D.A.'s
22 who are diligent and hard working and
23 dedicated, but they also need time to
24 prepare.

25 And time to prepare means they can't

1 Budget - 4/12/05

2 be, you know, hitched up to a courtroom where
3 they have no time off, they have no time to
4 call witnesses, they have no time to go to
5 the scene, they have no time to interview and
6 do all the things that they need to see and
7 do, and be in courtroom five days a week, ten
8 hours a day, and then start up the next day
9 and the next -- you just can't do it.

10 You do need prep time. You do need
11 down time. You need time to collect
12 yourself. And even if they work weekends,
13 which many of them do, how long can you beat
14 these people into submission? You just can't
15 do it.

16 So, I can tell you as a statement of
17 fact, we're not going to staff those
18 courtrooms. So, the court can do anything it
19 wants. There won't be any D.A. in there
20 without adequate funding, preparation, and
21 the proper way to represent victims of crime
22 and our neighbors. These are all our
23 neighbors, these victims.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 I think because of my questioning

1 Budget - 4/12/05

2 about an explanation of blueprint it really
3 did take quite a bit of time, and I know I
4 certainly went over my five minutes.

5 However, there are a number of
6 Council members that would like to be
7 recognized. For the first go-around we will
8 accommodate everyone with five minutes.

9 The first one to be recognized is
10 Councilman Goode.

11 COUNCILMAN GOODE: Thank you, Madam
12 President.

13 Good morning, Madam District
14 Attorney.

15 THE DISTRICT ATTORNEY: Good
16 morning.

17 COUNCILMAN GOODE: Let me start by
18 saying, I take no issue with the level of
19 your budget request. Public safety is a
20 serious priority of mine.

21 I want to talk a little bit about
22 the fact that you amended your testimony,
23 your written testimony, and also in your oral
24 presentation, I think, reflected the changes
25 in your written testimony. Can you tell me

1 Budget - 4/12/05

2 why there was a change in your written
3 testimony and how and why and when you made
4 that decision?

5 THE DISTRICT ATTORNEY: Yes. The
6 gentleman to my right, Mr. Taslowski -- As
7 you may know, I do not write my own testimony
8 throughout.

9 Mr. Taslowski does the first
10 testimony for me, and submitted it to Council
11 before I had a chance to thoroughly read it
12 and review it. And he went away on military
13 leave.

14 And when I reviewed it thoroughly, I
15 contacted the Council President's Office and
16 said that with her indulgence I'd like to
17 amend our testimony so that it more nearly
18 reflected my views of it.

19 And the Council President gave me
20 leave to do so.

21 I did so and I submitted a letter to
22 her with, I believe, sufficient copies to go
23 around to all of you, to indicate that with
24 no disrespect meant to my very noble and
25 worthy deputy, that I really wanted to put a

1 Budget - 4/12/05

2 different spin, if you will, to my testimony.

3 I am realistic and I'm not a
4 Pollyanna person. I understand, you know,
5 realities of the situation. But I didn't
6 want to -- I didn't want to sound the same
7 tone as the original budget message.

8 I wanted to be more in tune with my
9 own personal thoughts on these issues, and
10 being mindful of Council's assistance in the
11 past.

12 COUNCILMAN GOODE: My question,
13 though -- My line of questioning next really
14 relates to sort of a disconnect between that
15 written and oral testimony and the actual
16 budget reality. So, I ask you a series of
17 questions about your written and oral
18 testimony.

19 Does it actually reflect a change in
20 your budget? And to what extent does it?

21 THE DISTRICT ATTORNEY: I don't
22 believe it changes our budget at all, no.

23 COUNCILMAN GOODE: Okay. Does it
24 reflect a change in your programs and
25 initiatives?

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: No.

3 COUNCILMAN GOODE: Does it have any
4 dollars for witness protection and
5 relocation?

6 THE DISTRICT ATTORNEY: No, it does
7 not.

8 COUNCILMAN GOODE: Does it actually
9 provide new dollars --

10 THE DISTRICT ATTORNEY: I'm asking
11 Council for money. I've been asking Council
12 for money for witness relocation, Councilman.
13 We have never received any money from City
14 Council specifically earmarked for witness
15 relocation.

16 COUNCILMAN GOODE: So, you would
17 like to us do that on top of your budget
18 allocation?

19 THE DISTRICT ATTORNEY: Well,
20 obviously, Councilman, we obviously need as
21 many dollars as we can because Federal money
22 is drying up and state money is drying up.

23 And so, I'm presenting our budget to
24 you with the realities that whatever you give
25 us we will try to do our best with it.

1 Budget - 4/12/05

2 However, the best is not good enough
3 when victims' lives are at stake. So,
4 because I've gone to --

5 COUNCILMAN GOODE: So, your budget
6 does not currently reflect --

7 THE DISTRICT ATTORNEY: It doesn't
8 currently, but I'll be happy to receive any
9 additional assistance that Council wishes to
10 give us for any and all of our victim
11 assistance programs.

12 COUNCILMAN GOODE: Okay. Your
13 budget does not also have any money for
14 increasing the salaries of District
15 Attorneys -- Assistant District Attorneys,
16 other than the cost of living increases?

17 THE DISTRICT ATTORNEY: That's
18 correct.

19 COUNCILMAN GOODE: So, what new
20 dollars are there to improve public safety?

21 THE DISTRICT ATTORNEY: Say that
22 again. I'm sorry.

23 COUNCILMAN GOODE: What new dollars
24 are there to improve public safety?

25 THE DISTRICT ATTORNEY: Well,

1 Budget - 4/12/05

2 Councilman, you know, in light of the fact
3 that the Mayor proposed cutting our budget \$1
4 million, it's \$1 million to improve our
5 public safety capabilities.

6 COUNCILMAN GOODE: It's \$1 million
7 over what the Mayor suggested. But my
8 question is, what new dollars are there for
9 public safety in your current budget?

10 THE DISTRICT ATTORNEY: The dollars
11 that we have will allow us to -- If Council
12 agrees with our suggestion, we will be able
13 to keep our public safety dollars at the same
14 level as last year.

15 Being realistic about what I can ask
16 for and what I can get are two different
17 things. I could come in here and ask for \$10
18 million more in my budget.

19 I don't want to be unrealistic. I
20 want to try to help the Mayor and Council and
21 the City, given the budget realities.

22 And I believe that given the
23 programs that we have, plus the funding, the
24 new dollars we got from the state
25 legislature, with the programs that they have

1 Budget - 4/12/05

2 initiated, we will be able to keep the same
3 high level of programs.

4 COUNCILMAN GOODE: Madam District
5 Attorney --

6 THE DISTRICT ATTORNEY: So the new
7 dollars are -- the new dollars are the Youth
8 Violence Reduction Partnership, \$2 million.
9 Not for us. Not for us but --

10 COUNCILMAN GOODE: I'm asking, what
11 dollars in the City budget that you're
12 requesting are new dollars for public safety?
13 It's a simple question.

14 THE DISTRICT ATTORNEY: The only new
15 dollars are the same dollars that I had last
16 year.

17 COUNCILMAN GOODE: Okay. Thank you.

18 THE DISTRICT ATTORNEY: No
19 additional funding.

20 COUNCILMAN GOODE: I'd like to move
21 on. I have no problem talking about
22 challenging your level of budget request at
23 all.

24 And my next question will get to
25 where I'm really going. How do we actually

1 Budget - 4/12/05

2 buy more public safety?

3 THE DISTRICT ATTORNEY: How do we
4 actually what?

5 COUNCILMAN GOODE: Buy more public
6 safety.

7 THE DISTRICT ATTORNEY: I think we
8 have --

9 COUNCILMAN GOODE: If we wanted to
10 invest more money, how do we actually buy
11 more public safety? How do we actually buy a
12 reduction in crime and violence?

13 THE DISTRICT ATTORNEY: Well, I
14 think, Councilman, that there are so many
15 programs out there that have not really been
16 fully tested at any great length.

17 I find myself testifying in front of
18 the legislature and Council bodies on
19 programs that we have been proposing for
20 years which have never been implemented.

21 So, I believe that we can take the
22 programs, for example, implicated in the
23 ten-point program and direct all of our or
24 most of our dollars to that. Rethinking,
25 using the same...

1 Budget - 4/12/05

2 (Timer buzzes.)

3 COUNCILMAN GOODE: That's for me.

4 THE DISTRICT ATTORNEY: ...using the
5 same dollars that we have but in a different
6 way.

7 In other words, I think that full
8 planning, a full planning document which
9 implements the programs on the ten-point
10 program, plus some of our other programs,
11 will redirect the same dollars in a more
12 effective way.

13 So, I don't believe it's always and
14 only dollars. But I do believe it's a
15 different way of thinking about prosecuting
16 criminal cases.

17 For example, if we do zone courts,
18 we'll actually be saving the City, I believe,
19 millions of dollars in police overtime,
20 millions.

21 So, by asking for no more money
22 doing zone courts... It doesn't cost us any
23 money to do zone courts. We just put
24 district attorney "X" into a courtroom.

25 And those five or ten police

1 Budget - 4/12/05
2 officers who aren't working double overtime
3 shifts and day off shifts by making sure the
4 calendar is attuned as much as possible to
5 the officer's regular work shift or limiting
6 the number of regular days off will save
7 millions and millions of dollars. So...

8 COUNCILMAN GOODE: So, we need a
9 better strategy.

10 THE DISTRICT ATTORNEY: It's
11 rethinking the way we do it. And this is
12 more efficient, more effective. Its dollar
13 cost average is better.

14 COUNCILMAN GOODE: Thank you, Madam
15 District Attorney.

16 Thank you, Madam President.

17 COUNCIL PRESIDENT VERNA: You're
18 welcome.

19 The Chair recognizes Councilman
20 Nutter.

21 COUNCILMAN NUTTER: Thank you, Madam
22 Chair.

23 Madam District Attorney, good
24 morning.

25 THE DISTRICT ATTORNEY: Good

1 Budget - 4/12/05

2 morning.

3 COUNCILMAN NUTTER: I did -- I took
4 down a couple notes from your comments. So,
5 first, I'd like to get a law enforcement
6 definition of a super peachy situation.

7 THE DISTRICT ATTORNEY: I beg your
8 pardon?

9 COUNCILMAN NUTTER: A super peachy
10 situation; is there a law enforcement
11 definition?

12 THE DISTRICT ATTORNEY: Yes, there
13 is. There is. I'll tell you what I meant by
14 that. There are people who think that the
15 prosecution wants judges who are just
16 prosecution minded. There are other people
17 who want judges who are just defense minded.

18 My definition of a super peachy
19 situation is, if we get every judge in
20 criminal court who is 100 percent right down
21 the middle.

22 If a person who sits as a judge
23 delivers a verdict in accordance with the law
24 and the evidence, not shading it to one side
25 or the other, that is the optimum that people

1 Budget - 4/12/05

2 in a free state can hope for, and that's my
3 desired outcome.

4 COUNCILMAN NUTTER: Only in a way
5 that you could deliver it. I would strongly
6 encourage that after some of the activities
7 of the spring, you might want to -- you might
8 just want to relax.

9 THE DISTRICT ATTORNEY: I am
10 relaxed.

11 COUNCILMAN NUTTER: It was a totally
12 whimsical question, but I knew you'd have a
13 definition for it because you're right down
14 the line.

15 THE DISTRICT ATTORNEY: Thank you,
16 sir.

17 COUNCILMAN NUTTER: Let's go into
18 your testimony a little bit. You talked
19 about the Youth Violence Reduction Program.

20 THE DISTRICT ATTORNEY: Yes.

21 COUNCILMAN NUTTER: And I may have
22 missed, popping in and out of the room. I
23 know you were talking about possible state
24 support maybe, if I heard you correctly.

25 But when you talk about taking the

1 Budget - 4/12/05

2 program to scale, presently it is operating
3 in three police districts?

4 THE DISTRICT ATTORNEY: Essentially
5 24th, 25th, a little bit of the 26th, and
6 part of the 12th.

7 COUNCILMAN NUTTER: Okay. So, maybe
8 three-and-a-half or so.

9 THE DISTRICT ATTORNEY: Give or
10 take, yes.

11 COUNCILMAN NUTTER: What is your
12 estimate of what it would cost to take the
13 program city-wide.

14 THE DISTRICT ATTORNEY: We asked the
15 legislature, sir, for about \$13 million for
16 the program. And that's not city-wide, if I
17 could just make a bit of a correction.

18 What we do, when we look at the
19 Y.V.R.P. as presently contemplated is, we
20 look at the districts that have the most
21 homicides, and they are not the whole city.

22 It doesn't mean that we're not
23 mindful of a district that has one or two.
24 But when we look at the City as a whole, we
25 look at the districts that have the most

1 Budget - 4/12/05

2 violence prone component of people from 17 to
3 24. And so, we're looking at our youth
4 violence reduction --

5 COUNCILMAN NUTTER: Right.

6 THE DISTRICT ATTORNEY: --
7 partnership to expand to all those districts.

8 COUNCILMAN NUTTER: And what do you
9 think? That's about another six or seven or
10 eight or ten?

11 THE DISTRICT ATTORNEY: No. We got
12 \$2 million. So, we believe that we needed
13 probably another \$10 million, \$11 million
14 from the state.

15 COUNCILMAN NUTTER: No. No. No.
16 The number I gave was not in millions of
17 dollars. I was asking how many additional
18 police districts do you think that is? Is
19 that about a half a dozen, maybe seven or
20 eight?

21 THE DISTRICT ATTORNEY: Well, it's
22 the... Let's see. It's the 22nd. I'm just
23 going to do this off the top of my head, so
24 please forgive me.

25 COUNCILMAN NUTTER: It's all right.

1 Budget - 4/12/05

2 Go through -- Sure.

3 THE DISTRICT ATTORNEY: It's the
4 22nd, 23rd, the 18th, the 19th, the 16th, the
5 17th.

6 COUNCIL PRESIDENT VERNA: Amen.

7 THE DISTRICT ATTORNEY: Yes.

8 COUNCIL PRESIDENT VERNA: Boy, do we
9 need it there.

10 THE DISTRICT ATTORNEY: The 39th,
11 parts of the 14th, parts of the 35th. So --
12 and there's -- I'm sure there's another one
13 off the top of my head that I've forgotten.

14 COUNCILMAN NUTTER: It's all right.
15 So, maybe about nine or ten.

16 THE DISTRICT ATTORNEY: About nine
17 or ten altogether.

18 COUNCILMAN NUTTER: Okay. And \$13
19 million covers the nine or ten additional
20 districts?

21 THE DISTRICT ATTORNEY: We believe
22 that if we get that kind of money we'll be
23 able to bring to it scale, to see how the
24 program's working, and so we can really get
25 some true sense of a different approach to

1 Budget - 4/12/05

2 you were going on the state rep.

3 THE DISTRICT ATTORNEY: We have
4 money from the state.

5 COUNCILMAN NUTTER: I understand.
6 Okay.

7 THE DISTRICT ATTORNEY: But I want
8 to be cautious in my statement about that.
9 The District Attorney's Office per se gets
10 virtually nothing from that money. I want
11 you to know that. We're not getting any
12 additional --

13 COUNCILMAN NUTTER: I understand.

14 THE DISTRICT ATTORNEY: -- funding.
15 The money that is gotten from the state pays
16 the probation officers.

17 COUNCILMAN NUTTER: Right.

18 THE DISTRICT ATTORNEY: Parole
19 officers.

20 COUNCILMAN NUTTER: Mostly for
21 salaries.

22 THE DISTRICT ATTORNEY: And PAM and
23 those other groups that go out, the street
24 workers, and so forth. They're paid. We are
25 not getting any money from that.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: No; I
3 understand. I didn't think you were trying
4 to load up the budget or something. No. I
5 know where the money is going.

6 Let's go... The next to last page
7 on your testimony you talked about minority
8 prosecutor's reception and the recruitment
9 committee.

10 THE DISTRICT ATTORNEY: Correct.

11 COUNCILMAN NUTTER: Could you...
12 Maybe a two-part question, the second of
13 which is a data request.

14 So, could you give us a sense of
15 what the results were from the last
16 go-around?

17 And then my data request is, if you
18 could provide an analysis of your office,
19 from a demographic standpoint, year by year
20 over the past five years with a gender and
21 race breakdown.

22 THE DISTRICT ATTORNEY: We will get
23 that to you. Sure.

24 COUNCILMAN NUTTER: For the
25 attorneys.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: Sure. We'll
3 get that to you.

4 COUNCILMAN NUTTER: What was the
5 most recent situation?

6 THE DISTRICT ATTORNEY: Insofar as
7 success is concerned?

8 COUNCILMAN NUTTER: Yeah.

9 THE DISTRICT ATTORNEY: Highly
10 successful. Our incoming class of 20 hires,
11 this incoming class coming in in August, 50
12 percent are minority.

13 With regard to our --

14 COUNCILMAN NUTTER: These are
15 attorneys.

16 THE DISTRICT ATTORNEY: Yes.

17 COUNCILMAN NUTTER: Mm-hmm. Sure.
18 I have their names and their schools, if you
19 want them.

20 COUNCILMAN NUTTER: No.

21 THE DISTRICT ATTORNEY: With regard
22 to minority attorneys, do you want office
23 wide or attorneys?

24 COUNCILMAN NUTTER: On the data
25 request, you can break it out.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: Okay. Thank
3 you.

4 COUNCILMAN NUTTER: Keep the
5 attorneys in one group and the office --

6 THE DISTRICT ATTORNEY: Sounds good.

7 COUNCILMAN NUTTER: Why don't we do
8 attorneys and non-attorneys.

9 Is that a relatively high number, as
10 compared to the past few years?

11 THE DISTRICT ATTORNEY: Well,
12 it's -- We... I don't know. I think it's --
13 Let me just think if I can... I just don't
14 remember from last year's testimony, but we
15 endeavor to mirror in our employee base the
16 people whom we serve. So, we always have
17 minority receptions. We have a brochure. We
18 do special minority recruitment.

19 COUNCILMAN NUTTER: Right.

20 THE DISTRICT ATTORNEY: I'll provide
21 you with a copy of our brochure, if you'd
22 like to. We send people from our office
23 throughout the eastern part of the United
24 States at minority fairs.

25 We're hosting, by the way,

1 Budget - 4/12/05

2 indicated to the Council President, because
3 our salary scale is so low.

4 COUNCILMAN NUTTER: Right.

5 THE DISTRICT ATTORNEY: So, it is
6 always a constant battle to attract and keep
7 talent. Now, these people want to come.
8 They really want to come. But we can't keep
9 them.

10 I might also add that if you look at
11 the city's law firms, they have a dismal, a
12 dismal record of minority attraction and
13 payment.

14 Their figures are embarrassingly
15 small, sometimes in the lower one -- single
16 digit. And the Legal Intelligencer did a big
17 story about that, which I'd be happy to send
18 to you when I send our figures to show that.

19 COUNCILMAN NUTTER: Okay.

20 THE DISTRICT ATTORNEY: We are far
21 and away the best and even striving to be
22 even better than any law firm in
23 Philadelphia, small, medium or large.

24 COUNCILMAN NUTTER: Okay. I'll look
25 forward to the data. I know my time is up.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: Thank you.
3 We'll be happy to provide it.

4 COUNCIL PRESIDENT VERNA: Thank you.
5 The Chair recognizes Councilman
6 Rizzo.

7 COUNCILMAN RIZZO: Thank you, Madam
8 Chair.

9 Good morning.

10 THE DISTRICT ATTORNEY: Good
11 morning.

12 COUNCILMAN RIZZO: There's an issue
13 that is causing a lot of disruption in our
14 City that I'm going to ask where you think
15 maybe your office could help.

16 I've had conversations with the
17 Police Department. And it pertains to what
18 you've talked about a little bit ago as to
19 technology and some of our capabilities.

20 THE DISTRICT ATTORNEY: Mm-hmm.

21 COUNCILMAN RIZZO: Bomb threats have
22 become a real, real problem for the police
23 department, dozens of officers responding.

24 THE DISTRICT ATTORNEY: Mm-hmm.

25 COUNCILMAN RIZZO: And doing some

1 Budget - 4/12/05

2 research, that the Patriot Act has allowed
3 under exigent circumstances for police
4 agencies to almost immediately, without
5 search warrants or any document, to get
6 telephone information where the bomb threat
7 came from.

8 Our resources are limited at the
9 police headquarters when a person calls
10 9-1-1. But also now they're calling the
11 schools and there's technologies available in
12 the schools.

13 Unfortunately, not a lot of the
14 principals knew that the technology even
15 existed, to be able to determine the source
16 of the call.

17 The Police Department seems as
18 though they're just so overwhelmed with this
19 because there's just dozens and dozens of
20 these types of calls, clearing airports and
21 hospitals and transportation hubs.

22 Is there something that your office
23 can do? I think if something happens, and
24 people realize that this is bad and that this
25 is going to put people in jail that make

1 Budget - 4/12/05

2 these kinds of calls, that cause evacuations
3 of 30th Street Station and other
4 transportation facilities, what can the
5 Police Department do? What can the School
6 District do?

7 What can the District Attorney's
8 Office do to really focus on this problem?
9 Because if we added up the money that we
10 spend every time there's a suspicious --
11 there's a call made... I'm just appealing to
12 you for some help.

13 And again, I know your resources are
14 limited. But something has to happen here
15 because the Police Department's really not
16 doing much about it.

17 The School District's not really
18 doing much about it. And it just continues,
19 dozens and dozens of calls every week, that
20 are very disruptive and costly to our City.

21 THE DISTRICT ATTORNEY: Councilman,
22 the Patriot Act and the incidence of 9-1-1
23 and all the other terrorist incidents have
24 put a tremendous strain on every police
25 department in the country.

1 Budget - 4/12/05

2 And while we are part of the task
3 force on anti-terrorism, the anti-terrorism
4 task force, there is no money in the Patriot
5 Act or any place else to any prosecutor's
6 office to do anything.

7 In addition to that there... I'm
8 talking about local prosecutors. Federal
9 prosecutors, perhaps, but not local
10 prosecutors. I can tell you, no place in the
11 country is any local prosecutor getting any
12 money from the Patriot Act to do
13 anti-terrorism efforts.

14 So, to answer your question, if I'm
15 not getting any money, I don't know what I
16 can do.

17 The Federal Government, if you've
18 been reading the papers about our
19 anti-terrorism capabilities, it's an
20 extraordinary strain on the Police
21 Department.

22 And you're right. When people call
23 in a suspicious package or a briefcase that
24 some innocent person left on the subway
25 platform or the el platform, there's

1 Budget - 4/12/05

2 tremendous deployment of police personnel and
3 the bomb squad. That's all very expensive.

4 I don't know what I can do to try to
5 help the police, except what we've always
6 been doing, meeting with the U.S. Attorney,
7 as we do every month, on an anti-terrorism
8 task force; have some of our officers working
9 on the joint terrorism task force; and trying
10 to funnel information and deploy as best we
11 can to anticipate everything we can while,
12 we're not receiving any money for it.

13 So, the answer to your question is,
14 I'm not included in the budget pie, so I
15 don't know what I can offer you or the Police
16 Department.

17 COUNCILMAN RIZZO: District Attorney
18 Abraham, I understand the responses when
19 there's a suspicious package. We have an
20 obligation. And the money is spent.

21 I'm talking more so these unfounded
22 threats that now, because we met with all of
23 the cell phone providers and we met with all
24 of the land line providers. We have now a
25 process in place to find out where these

1 Budget - 4/12/05

2 calls -- if someone calls a particular school
3 and threatens that school, they now have the
4 capability of tracking the call and making an
5 arrest.

6 THE DISTRICT ATTORNEY: Absolutely.
7 Of course. Absolutely.

8 If they make an arrest for a bomb
9 threat that is unfounded or even if it's
10 real -- Obviously, if it's real the Federal
11 government may take the case.

12 But if a person calls in a false
13 police report about a threat of a bomb that
14 is absolutely without foundation, then the
15 police should make the arrest, and we will
16 prosecute, of course.

17 And we would also not only prosecute
18 locally but we would coordinate our efforts
19 with the U.S. Attorney's Office to make sure
20 that if this person was a threat to the
21 security and the integrity of the United
22 States of America, and that this person posed
23 a real and present danger to the safety and
24 security of the citizens of Philadelphia, we
25 would respectfully ask that the Federal

1 Budget - 4/12/05

2 government take that case and prosecute it
3 because there is immediate pre-trial
4 detention.

5 There is trial within 60 to 90 days.
6 There are very substantial Federal penalties
7 for this kind of activity, and very
8 substantial sentences without good time,
9 earned time or parole.

10 So, we would do whatever we could
11 locally after consulting with the
12 Philadelphia Police Department and our
13 Federal counterparts to see which
14 jurisdiction is better able to handle the
15 false, threatening phone call.

16 And all we need is whatever the
17 police want us to do. We're full partners in
18 anything they want us to do, as well as with
19 the Federal Government.

20 COUNCILMAN RIZZO: I think the
21 concern, and I know it's my... I have, like,
22 30 seconds.

23 COUNCIL PRESIDENT VERNA: 30
24 seconds.

25 COUNCILMAN RIZZO: I think the

1 Budget - 4/12/05

2 problem is that the Police Department is
3 under the impression that if they would bring
4 one of these nuisance calls to the District
5 Attorney, it would probably not be dealt
6 with.

7 THE DISTRICT ATTORNEY: They can't
8 be under that impression, Councilman, because
9 they have never yet called us for a case that
10 we would decline.

11 COUNCILMAN RIZZO: And I
12 straightened that out.

13 I said, well, tell me the last time
14 that you brought one there. And that was the
15 answer.

16 And I think that that may change
17 because really the resources are being spread
18 so thin, that they need to make sure that the
19 word gets out there -- and that's part of my
20 rationale speaking about it today -- because
21 it is getting out of hand in this city.

22 THE DISTRICT ATTORNEY: I can't
23 imagine a situation where somebody called in
24 a bomb threat. There are specific
25 Pennsylvania statutes that would cover

1 Budget - 4/12/05

2 exactly that.

3 There's risking a catastrophe,
4 there's threats and other statutes which we
5 would take in a heartbeat as long as we are
6 sure that the person whose cell phone it is
7 is the person that made the phone call.

8 For example -- And I want to be
9 clear on this. If you have a cell phone.
10 And you give to it me and I make the phone
11 call. And by the time the police get to you
12 it's two days later and you have your cell
13 phone back and it's not you who made the
14 phone call, we have to be sure that the
15 person in possession of the cell phone was
16 the one who made the call.

17 COUNCILMAN RIZZO: Okay.

18 THE DISTRICT ATTORNEY: So, we don't
19 have a problem about prosecuting anybody who
20 is shown to us by evidence, we can walk into
21 a courtroom and prosecute, is the person who
22 made the call. That's not the problem for
23 us.

24 You can assure the Police
25 Department, as I certainly will, and by this

1 Budget - 4/12/05

2 testimony am, we'll take any bomb threat.

3 I can't imagine anybody getting away
4 with that.

5 COUNCILMAN RIZZ0: Great. Thank
6 you.

7 Thank you, Madam President.

8 COUNCIL PRESIDENT VERNA: You're
9 welcome.

10 The Chair recognizes Councilwoman
11 Miller.

12 COUNCILWOMAN MILLER: Thank you.
13 Thank you, Madam President.

14 Good morning.

15 THE DISTRICT ATTORNEY: Good
16 morning, Councilwoman.

17 COUNCILWOMAN MILLER: Great. I
18 just -- In reading your testimony I have a
19 couple questions.

20 Is the blueprint that you're
21 describing, is that the same blueprint that
22 Representative Evans and Dr. Stick and those
23 people have put together?

24 THE DISTRICT ATTORNEY: This is our
25 blueprint. That's right. We worked --

1 Budget - 4/12/05

2 COUNCILWOMAN MILLER: So, it's the
3 same blueprint.

4 THE DISTRICT ATTORNEY: We worked on
5 it together. This is our blueprint. Sure.

6 COUNCILWOMAN MILLER: I understand.
7 I just didn't know whether it was another --
8 two blueprints or one blueprint.

9 THE DISTRICT ATTORNEY: Oh, no. No.
10 No. No. There's only one blueprint, and
11 this is it, ma'am.

12 COUNCILWOMAN MILLER: Okay. All
13 right. Great.

14 I want to get more information about
15 the juvenile justice curriculum that is being
16 taught in schools.

17 THE DISTRICT ATTORNEY: Yes.

18 May I call up George Mosee to do
19 that for you, ma'am, since he is the deputy
20 in charge of that curriculum for the school
21 system and he's the one who taught the
22 teachers, so to speak?

23 COUNCILWOMAN MILLER: Okay. Good.

24 COUNCIL PRESIDENT VERNA: Good
25 morning. Please identify yourself for the

1 Budget - 4/12/05

2 record.

3 MR. MOSEE: Good morning. I'm
4 George Mosee, M-o-s-e-e, Deputy for the
5 Juvenile Division in the D.A.'s office.

6 COUNCILWOMAN MILLER: Okay. Good
7 morning.

8 Just wondering. What exactly does
9 the curriculum entail? And how many weeks.

10 MR. MOSEE: Well, it's a 30-week
11 curriculum. It was developed to teach young
12 people the ramifications of criminal and
13 delinquent conduct.

14 It also exposes them to American
15 jurisprudence, and we hope that it whets
16 their appetite for careers in law
17 enforcement.

18 The 30 weeks will include lectures
19 by teachers, but will also include a video
20 series that we're currently developing. And
21 that series will include subject matter that
22 relates to what it means to be a victim of
23 crime, what it means to be somebody who
24 abuses drugs and tries to get off drugs. It
25 will also address some of the subject matter

1 Budget - 4/12/05

2 related to what it is that we do in juvenile
3 justice and criminal justice, some of those
4 things that we just can't expect the teachers
5 to be able to convey with the same expertise
6 as the people who actually work in the
7 system.

8 COUNCILWOMAN MILLER: And will this
9 be -- I know in your testimony you said it
10 will be taught in middle school. And will it
11 be for all students in a particular school?

12 MR. MOSEE: Every 6th, 7th and 8th
13 grade class will have the juvenile justice
14 curriculum -- will be exposed to the juvenile
15 justice curriculum as part of their social
16 studies curriculum.

17 COUNCILWOMAN MILLER: And you did
18 say that a part of the curriculum includes
19 consequences.

20 MR. MOSEE: That's right.
21 Consequences for juvenile -- for delinquent
22 conduct, for criminal conduct and for
23 violations of the school code.

24 COUNCILWOMAN MILLER: Okay. And
25 what about values, values clarification,

1 Budget - 4/12/05

2 those kinds of things?

3 MR. MOSEE: I'm sorry?

4 COUNCILWOMAN MILLER: What about
5 values clarifications?

6 I think a lot of what people think
7 that, you know, many, many young people just
8 don't have a particular set of values, and
9 that's what causes them to participate in
10 behavior that leads them to a negative
11 behavior.

12 MR. MOSEE: And I agree. And what I
13 think was necessary was for the school to
14 have a formal curriculum that would at least
15 allow them the opportunity to discuss
16 everything related to violence, related to
17 crime. And certainly values is a major part
18 of that.

19 And I would be remiss if I didn't
20 point out that part of our hope is that we'll
21 hear from young people vis-a-vis this
22 curriculum, that we'll get feedback from them
23 about what they think needs to be done in
24 order to make our community safer.

25 COUNCILWOMAN MILLER: So, that's

1 Budget - 4/12/05

2 good.

3 And when is it due to start?

4 MR. MOSEE: We've already started in
5 some schools. But we hope to have it fully
6 implemented in every school next year.

7 COUNCILWOMAN MILLER: Very good.
8 Okay. And I'd like to know... Actually, I
9 know it takes a while to access and evaluate.
10 But I'd like to -- I'm sure Council would
11 like to receive information on the progress.
12 Okay.

13 MR. MOSEE: Certainly.

14 COUNCILWOMAN MILLER: Okay. Thank
15 you.

16 I have another question regarding
17 ex-offenders or the reentry issues. Is the
18 District Attorney's Office involved with the
19 issue of offender or ex-offender reentry?

20 THE DISTRICT ATTORNEY: Well, we are
21 interested in it in several ways. The first
22 is that we're attempting to -- We went to a
23 seminar in England about juvenile reentry
24 programs in England to see whether that would
25 be something that we would want to consider.

1 Budget - 4/12/05

2 The issue became, what was the
3 effectiveness of their reentry program? And
4 it was not promising. So, therefore, to date
5 there has not been a juvenile reentry program
6 available.

7 We do work with the ex-offenders
8 program. As a matter of fact, Councilwoman,
9 people who are working for the Y.V.R.P., the
10 Youth Violence Partnership, are ex-offenders.

11 And they go out and talk to men and
12 women on the street who are the subject or
13 object of these partnership programs and try
14 to reach them.

15 Many of these, in fact, most of
16 these kids, if not all of them, are already
17 in the system. In other words, they are
18 parolees, probationers. So, they already are
19 in the system.

20 And part of that reentry program is
21 encouraging ex-offenders not to re-offend.
22 That's the whole object of the Y.V.R.P. and
23 the Safe Neighborhood Initiative.

24 Between 17 and 32, we're trying to
25 keep those people whom we have identified, as

1 Budget - 4/12/05

2 best we could, with not re-offending.

3 How we will eventually result in the
4 successful outcome of this case is too soon
5 to tell because of lack of funding, and lack
6 of bringing the whole project to scale.

7 There are so many more people we
8 could reach if we had the funding. You can't
9 judge any program as, quote, successful,
10 unless we can show how this program works
11 here as compared to either no program or a
12 different program there. So, by bringing it
13 all to scale, we hope to effect the reentry
14 process.

15 Now, here's the bottom line with
16 reentry. It's not only ex-offenders talking
17 to young men and young women about not
18 re-offending and the problems of
19 re-offending.

20 It's the economy and jobs. And the
21 availability of jobs, I think, is an
22 essential component of any reentry. And
23 that's going to be a central issue that has
24 to be addressed.

25 COUNCILWOMAN MILLER: I know. And

1 Budget - 4/12/05

2 that is an issue that we're actually trying
3 to work on.

4 I want to ask you a question. I
5 hope it's not out of line. But does the
6 D.A.'s office hire ex-offenders or would the
7 D.A.'s office hire an ex-offender.

8 THE DISTRICT ATTORNEY: No and no.

9 COUNCILWOMAN MILLER: Okay. We'll
10 talk later. All right. Thank you.

11 Thank you, Madam President.

12 COUNCIL PRESIDENT VERNA: The Chair
13 recognizes Councilman Clarke.

14 COUNCILMAN CLARKE: I would actually
15 like to follow up on that question, but it's
16 going to take some of my time. I know you'll
17 come back on that.

18 You do believe in people getting a
19 second chance.

20 THE DISTRICT ATTORNEY: It depends
21 on what the second chance is. I'm not sure.

22 COUNCILMAN CLARKE: Okay.

23 THE DISTRICT ATTORNEY: You have to
24 give me an example, and I can answer that
25 specifically.

1 Budget - 4/12/05

2 In other words, if you kill somebody
3 I'm not so sure that I would want you to get
4 out of jail to have a second chance.

5 COUNCILMAN CLARKE: Okay. All
6 right. I'm not going to... That wasn't...

7 Madam President, could you stop my
8 clock, please?

9 COUNCIL PRESIDENT VERNA: Stop the
10 clock, please.

11 The Chair recognizes Councilwoman
12 Miller for a point of information.

13 COUNCILWOMAN MILLER: All right.
14 Thank you.

15 What about the non-violent offenses?

16 THE DISTRICT ATTORNEY: Well,
17 non-violent offenders we do believe in second
18 chances. For example, we have youth aid
19 panels which take young people who have
20 offended, and we try to make sure that they
21 don't offend again by putting them out in the
22 community with community-based programs.

23 We also have gun programs for
24 first-time defendants, youth offenders who
25 carry guns but don't use them.

1 Budget - 4/12/05

2 We have a program called Don't Fall
3 Down in the Hood, which is sponsored by the
4 Institute for the Development of African
5 American youth, a long-term program of about
6 24 weeks, where we have these young people,
7 mostly young boys, not over the age of the
8 juvenile court jurisdiction, go into a
9 program which is part of their sentence, that
10 they have to go to this program. They have
11 to go to school. They have to meet victims
12 of violent crime and gunshot injuries.

13 And by working with these young men
14 and young women, we hope that they won't
15 re-offend. There are a variety of offenders:
16 Prostitutes, non-violent criminals who
17 deserve another chance.

18 But for rapists, no. For multiple
19 serial robbers, no. For violent repeat
20 offenders, no. And for murderers, no. They
21 can get their second chance. I'm in favor of
22 that.

23 But I think we have to direct our
24 resources to the people whom I believe we can
25 save from re-offending. And I believe we

1 Budget - 4/12/05

2 have a good track record on saving people
3 from re-offending.

4 COUNCILWOMAN MILLER: Well, that's
5 good. I just wanted to know if you have ever
6 hired someone that's a non-violent offender.

7 There are many people -- and I'm
8 sure you know better than I do -- that have
9 not committed violent crimes that are just
10 having a terrible, terrible time finding
11 employment.

12 And I can't remember... Excuse me,
13 Council President. Have we had the Personnel
14 Department here yet.

15 COUNCIL PRESIDENT VERNA: Yes.

16 COUNCILWOMAN MILLER: Oh, okay.
17 That's something I'd like to know about... I
18 believe the City of Philadelphia does hire
19 ex-offenders. I don't think a criminal
20 record keeps someone from becoming employed
21 with the City of Philadelphia.

22 And when they come back, I think I'm
23 going to ask that question. Because we can
24 do everything; we want to help people, we
25 have to be involved, too.

1 Budget - 4/12/05

2 All right. Thank you.

3 COUNCIL PRESIDENT VERNA: Again, the
4 Chair recognizes Councilman Clarke.

5 COUNCILMAN CLARKE: Thank you, Madam
6 President.

7 Good morning.

8 THE DISTRICT ATTORNEY: Good
9 morning.

10 COUNCILMAN CLARKE: I'd like to ask
11 you a question, one, first about your
12 testimony when you talked about new
13 initiatives. And I'd actually like to get a
14 copy of the ten-point program. I wasn't here
15 for the entire testimony as it relates to
16 that. So, I'm not sure about some of the --
17 particularly legislative initiatives.

18 (The District Attorney hands
19 Councilman Clarke a copy of the program.)

20 COUNCILMAN CLARKE: Thank you.

21 You talk about, you know, the
22 unfortunate death of Fahim Thomas Childs.

23 THE DISTRICT ATTORNEY: Mm-hmm.

24 COUNCILMAN CLARKE: And it
25 stimulated the legislature to fund gun court.

1 Budget - 4/12/05

2 Prior to that incident, had your
3 office formally requested funding for that?
4 Program in the preceding years.

5 THE DISTRICT ATTORNEY: We had been
6 asking for the Supreme Court to grant us the
7 right to have a gun court. And there was a
8 bill introduced, but it was attached as a
9 rider to another bill by then House
10 Representative... Wait a minute. Connie...
11 What's her name... Connie...

12 COUNCILMAN CLARKE: Connie Williams.

13 THE DISTRICT ATTORNEY: Connie
14 Williams. Thank you. I got a voice from the
15 back. Thank you very much. Connie Williams.

16 Which would have proved unworkable
17 in a disaster, and that we wouldn't have been
18 able to work that. So, we couldn't get it
19 then, but we have it now.

20 So we had asked for funding for a
21 variety of initiatives, not maybe
22 specifically a gun court. But not having the
23 funding to it, and the important piece was
24 not the funding because we didn't get any
25 real money from the initiative from the

1 Budget - 4/12/05

2 legislature except for a clerk.

3 But what we did get was the Supreme
4 Court's intersession to give us the right to
5 assign a judge specifically to gun court.

6 And the beauty of the gun court,
7 with the Supreme Court's final intersession
8 in this process, was that we'd be able to
9 track the effectiveness of the program. And
10 we also wanted additional components of the
11 program.

12 In other words, this was not just a
13 situation, Councilman, where we would take
14 anybody who didn't have a record and just
15 throw them into gun court and just process
16 the case.

17 We wanted specific preventative
18 measures pre-trial, and post trial
19 preventative measures which only the Supreme
20 Court could grant us.

21 And so, we went to the court. It
22 took a long time in granting us this request.
23 But I'm pleased to say that they saw the
24 wisdom of at least trying it.

25 And when the supreme court said, we

1 Budget - 4/12/05
2 will assign a specific judge, and we'll allow
3 you to assign case managers pre-trial,
4 probation officers post trial, we can at
5 least see in the relatively near term, are we
6 making a significant impact on people who
7 carry illegal guns.

8 COUNCILMAN CLARKE: So, the answer
9 to the question is, yes, your office had
10 formally requested of the Supreme Court --

11 THE DISTRICT ATTORNEY: Correct.

12 COUNCILMAN CLARKE: -- the ability
13 to authorize such a court or --

14 THE DISTRICT ATTORNEY: Correct.

15 COUNCILMAN CLARKE: -- authorize
16 your department's involvement.

17 THE DISTRICT ATTORNEY: Asked the
18 court to implement the program so we could
19 have a gun court judge.

20 COUNCILMAN CLARKE: Was there a
21 request for funding from the legislature --

22 THE DISTRICT ATTORNEY: No.

23 COUNCILMAN CLARKE: -- prior to...

24 THE DISTRICT ATTORNEY: No.

25 COUNCILMAN CLARKE: Never. Okay.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: There was no
3 request for funding because essentially we
4 didn't need the funding for us.

5 COUNCILMAN CLARKE: Until you got...

6 THE DISTRICT ATTORNEY: We needed
7 funding for the probation, the service,
8 the... What do you call them? The pre-trial
9 case managers.

10 And we needed money for the
11 post-trial probation officers specifically
12 assigned for that purpose.

13 And we needed a clerk or two clerks,
14 if you want to call them that or research
15 assistants, I think, is the proper term, to
16 monitor the effectiveness pre-trial and
17 post-trial of the program to see essentially
18 does it work.

19 Because there's no use in having a
20 program if it doesn't work. And this is the
21 best way to find it out.

22 COUNCILMAN CLARKE: Okay. So, no
23 pun intended, but the jury is still out,
24 would you say, on this?

25 THE DISTRICT ATTORNEY: Yes. It's

1 Budget - 4/12/05
2 only been open, what, three months? January,
3 February and March. Actually, yeah. The
4 beginning of or maybe the middle of January.
5 So, essentially two months and two weeks.

6 COUNCILMAN CLARKE: All right. So,
7 we can't really determine how effective --

8 THE DISTRICT ATTORNEY: Well, I can
9 give you figures, if you want, and tell you
10 what we've done.

11 COUNCILMAN CLARKE: I think you
12 referenced some numbers earlier. 200 and
13 something individuals.

14 THE DISTRICT ATTORNEY: Just give me
15 one minute.

16 COUNCILMAN CLARKE: You can give me
17 that a little later because we're on the
18 clock.

19 COUNCIL PRESIDENT VERNA: My memory
20 also is it was over 200.

21 THE DISTRICT ATTORNEY: I'm sorry.
22 As of March the 30th we had disposed of 203
23 cases, with the greatest number of them
24 guilty pleas.

25 COUNCILMAN CLARKE: Okay. All

1 Budget - 4/12/05

2 right.

3 Getting to my issue: Guns. In
4 prior testimony, not necessarily in budget
5 testimony, but from time to time you've had
6 occasion to come here and talk about some
7 initiatives that we, although not legally
8 authorized to do so at this point, as it
9 relates to guns.

10 In my estimation, you indicated some
11 level of support but it was rather
12 pessimistic, in terms of you acknowledging
13 that we would ultimately get something done.

14 The last time we had this discussion
15 it was essentially a situation where
16 Councilwoman Miller and myself co-sponsored a
17 series of gun bills that would require state
18 authorization.

19 THE DISTRICT ATTORNEY: Mm-hmm.

20 COUNCILMAN CLARKE: We did not have
21 that at this time.

22 We are now, unfortunately, due to
23 the levels of violence in the City of
24 Philadelphia have a bill introduced,
25 particularly one gun a month. And a number

1 Budget - 4/12/05
2 of other initiatives that the state is
3 seeking as it relates to gun violence.

4 I would like to ask you, given the
5 fact that now we at least have on the record
6 a bill, we at least have a number of
7 legislators willing to support that bill, and
8 we at least have a Governor who prior to him
9 becoming Governor, as the Mayor indicated, he
10 was willing to support one gun a month.

11 What will you, as the District
12 Attorney, beyond saying that you support the
13 initiative, plan on doing? What will you do,
14 in a tangible sense.

15 THE DISTRICT ATTORNEY: Two things.
16 First of all, I didn't express pessimism as
17 to any gun bill. What I think I said,
18 Councilman, just to correct the record...

19 COUNCILMAN CLARKE: You said here --
20 I mean, you -- not to paraphrase, but you
21 basically said, good luck. It ain't going to
22 ever happen.

23 THE DISTRICT ATTORNEY: Well, no.
24 What I said was, I wrote you a letter and I
25 said that I doubted that Council has the

1 Budget - 4/12/05

2 authority to pass gun legislation.

3 COUNCILMAN CLARKE: We knew that.

4 THE DISTRICT ATTORNEY: All right.

5 Well. Okay.

6 COUNCILMAN CLARKE: That wasn't what

7 we were seeking. We were asking the

8 Pennsylvania legislature --

9 THE DISTRICT ATTORNEY: That's

10 right. I did.

11 COUNCILMAN CLARKE: -- to give us

12 the authority.

13 THE DISTRICT ATTORNEY: That's

14 right.

15 COUNCILMAN CLARKE: And you

16 basically said, it's never going to happen.

17 THE DISTRICT ATTORNEY: We'll, I'd

18 be interested to see if it does happen,

19 frankly.

20 But I'll tell you what I have done,

21 and I'm prepared to make a copy available.

22 In 1999, I testified on House Bill then 46

23 and 402, which was, by the way, Dwight Evans'

24 Bill. It was called the Firearms Trafficking

25 Prevention Act. It was the straw purchaser

1 Budget - 4/12/05

2 and one handgun a month bill, for want of a
3 better term.

4 I brought my testimony. I testified
5 in full support of the straw purchaser
6 prohibition and the One Handgun a Month Act
7 that was in those two bills.

8 And essentially, as I mentioned the
9 in my testimony to you previously, I think it
10 was Blondell Reynolds Brown. Maybe it was
11 yours, but I thought it was her public
12 health.

13 COUNCILMAN CLARKE: We had a number
14 of them.

15 THE DISTRICT ATTORNEY: Whatever. I
16 was here whatever time you asked me.

17 And I said that the people up in the
18 legislature told me that it had no chance of
19 passing.

20 I am willing, happy... In fact,
21 I've already written and spoke to Dwight
22 Evans and Jewel Williams and Representative
23 Myers, and said, I will come up and testify
24 again to my desire to have one handgun a
25 month, plus a straw purchaser ban passed by

1 Budget - 4/12/05

2 the legislature. I still don't know if
3 Council -- If the legislature, Councilman, is
4 going to pass those acts.

5 I think they will pass the armed
6 career criminal bill. And I do believe
7 they'll pass the other bill which I referred
8 to is the raising the level of crime from a
9 first degree misdemeanor to a third degree
10 felony for carrying an unlicensed gun in
11 Philadelphia.

12 And that would also be added as a
13 prohibition against anybody getting a
14 firearm. It would be --

15 COUNCILMAN CLARKE: This is my
16 problem. And I know the bell rang. This is
17 my problem. With all of the legislation that
18 is being discussed, it costs money. You
19 earlier made a statement that all --
20 essentially, all crime fighting initiatives
21 cost money.

22 But we have before us a bill that,
23 frankly speaking, doesn't cost us any money.
24 If you limit the number of weapons that will
25 be available, you know, it's not a real cost

1 Budget - 4/12/05

2 to that.

3 THE DISTRICT ATTORNEY: I agree with
4 you.

5 COUNCILMAN CLARKE: For some reason,
6 you know, people don't feel the need to push
7 that at the level.

8 And I'm glad to hear you say that
9 you are willing to go and testify at the
10 state hearing --

11 THE DISTRICT ATTORNEY: I'll be
12 happy to go back.

13 COUNCILMAN CLARKE: -- as to this
14 particular bill.

15 Can I ask you today -- And I
16 understand if you don't want to give a public
17 commitment at this point.

18 Can you also initiate discussion
19 with other District Attorneys throughout the
20 Commonwealth because this is -- although the
21 City of Philadelphia is getting the headlines
22 as it relates to the level of violence.

23 There are also both second and third
24 class municipalities in the state that have
25 similar violent crimes.

1 Budget - 4/12/05

2 And we believe that if the -- if
3 everybody takes the responsibility from their
4 perspective peers -- We plan on interacting
5 with Council members throughout the
6 municipality -- I'm sorry, throughout the
7 Commonwealth.

8 I understand that there are a number
9 of advocates who are working with advocates
10 across the state, legislators working with
11 legislators.

12 I would like to ask, would you be
13 willing to interact with District Attorneys
14 across the state to lobby and get support for
15 this legislation.

16 THE DISTRICT ATTORNEY: Sure.

17 COUNCILMAN CLARKE: At a minimum, to
18 get the ability for Philadelphia to have it,
19 and hopefully somewhere down the line, maybe
20 the state.

21 THE DISTRICT ATTORNEY: Be happy to
22 do that. I've done it before. I'll be happy
23 to do it again.

24 COUNCILMAN CLARKE: Okay. Thank
25 you.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT VERNA: Thank you.

3 The Chair recognizes Councilman
4 Kelly.

5 COUNCILMAN KELLY: Thank you, Madam
6 President.

7 Madam District Attorney, I hope to
8 make your day today because first of all I
9 want to commend you and your staff, I think,
10 and especially your Nuisance Task Force in
11 closing down one of the notorious bars in
12 Burholme.

13 I know that your man Scott Sigmund
14 has been working with the Burholme Civic
15 Association to make sure that that facility
16 doesn't ever reopen.

17 And I just want to pass it on to you
18 that I think that Nuisance Task Force is
19 doing a very, very good job.

20 THE DISTRICT ATTORNEY: Thank you,
21 sir. I appreciate that. I'll tell Mr.
22 Sigmund of your kind remarks.

23 I'm sure... Is Michael here?
24 Where's Michael? Oh, there he is in the
25 front row. Mike Erdos is right behind you,

1 Budget - 4/12/05

2 sitting next to Joe Whitehead in the red and
3 blue tie. He's the chief of that unit. I'm
4 sure he'll go back and tell Mr. Sigmund.

5 I'll tell you something. I wouldn't
6 wanted to be on the other side of Mr. Sigmund
7 on anything.

8 COUNCILMAN KELLY: That's true.

9 THE DISTRICT ATTORNEY: He is
10 phenomenal. But I have to say, he's also
11 typical of all the men and women in the
12 office and all the men and women in that unit
13 in particular. It's a great unit.

14 COUNCILMAN KELLY: I also want to
15 follow up on Councilman Clarke about guns.

16 I want to again commend you for your
17 efforts working with the Police Commissioner,
18 and my good friend Joe Mamanna, in trying to
19 get guns off the streets of Philadelphia.

20 I think every gun that we take off
21 the street of Philadelphia is going to make
22 us a much safer City. And I hope that maybe
23 that program can continue.

24 I know it's -- I think there's a
25 time limit on it.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: No, there
3 isn't, as a matter of fact. No. Mr. Mamanna
4 and his -- the gentleman who owns City Blue
5 whose name just went out of my head, they
6 have agreed that, unlike the previous program
7 which was funded by a cash gift for "X"
8 amount of time and it ran out of money and
9 the program ended.

10 And I just want to say, just so that
11 Councilman Clarke understands, that I
12 contributed \$1,000 to that gun buy-back
13 program myself.

14 So, the money ran out --

15 COUNCILMAN KELLY: Well, I know
16 Councilman --

17 THE DISTRICT ATTORNEY: No, no, no,
18 no, no. I'm not saying that.

19 COUNCILMAN KELLY: I know Councilman
20 Clarke --

21 THE DISTRICT ATTORNEY: No, no, no,
22 no.

23 COUNCILMAN KELLY: I know Councilman
24 Clarke will probably --

25 THE DISTRICT ATTORNEY: No, no, no,

1 Budget - 4/12/05

2 no.

3 COUNCILMAN KELLY: -- try to outdo
4 you on that one.

5 THE DISTRICT ATTORNEY: No, no, no.
6 No, no. No.

7 COUNCILMAN KELLY: There's no doubt.

8 THE DISTRICT ATTORNEY: I have a
9 foundation, so I could do that.

10 But I just want you to know that Mr.
11 Mamanna and the gentleman who owns City
12 Blue... I apologize. I just can't dredge up
13 his name.

14 They have said to us that they're
15 willing to let this go a substantial period
16 of time to see if they can effectuate a
17 positive change. And that's why they
18 instituted a sliding scale of reward,
19 depending on the caliber...

20 COUNCILMAN KELLY: And type of gun.

21 THE DISTRICT ATTORNEY: As an
22 example, Councilman, the last time we had the
23 money the Commissioner noted that people
24 would go to gun stores and buy a \$30 gun and
25 turn it in for \$100 cash. They weren't doing

1 Budget - 4/12/05

2 that any more.

3 So now they have a sliding scale,
4 depending on the type, the caliber of gun,
5 they'll give you a sliding scale of reward
6 based on how powerful, how modern and how
7 lethal, if you'll excuse the expression, that
8 weapon is.

9 COUNCILMAN KELLY: Okay. I have a
10 question on child support unit.

11 THE DISTRICT ATTORNEY: Yes, sir.

12 COUNCILMAN KELLY: You mentioned you
13 collected \$191 million last year. How does
14 that compare to previous years?

15 THE DISTRICT ATTORNEY: I'll give
16 these out to you. Councilman, I don't know
17 how it compares with other years. I'm not
18 prepared to do that today, but I'll get you
19 the information.

20 The important thing is, Councilman,
21 that we have about 125,000 open cases in the
22 court system of Philadelphia of child
23 support.

24 And we collect it in a variety of
25 ways. First of all, we have people... For

1 Budget - 4/12/05

2 example, looking at... Okay. Let's say, a
3 Sam Smith. We have a person who owes child
4 support. We will comb all the court records
5 to see if there's any case that Sam Smith has
6 filed against anybody.

7 And if Sam Smith has filed a case
8 against anybody: An accident case, a
9 worker's compensation case, somebody dies and
10 leaves Sam Smith money, we file an order
11 against that person's name, so that -- It's a
12 non-distribution order. So that whenever
13 that money comes forth, we get the money that
14 is owed to the child first to give to the
15 children before he gets whatever...

16 COUNCILMAN KELLY: Before he gets...

17 THE DISTRICT ATTORNEY: Yeah. And
18 we also get -- We also collect it in a
19 variety of other ways.

20 But it's a very effective unit. And
21 I think you'll be pleased, when we give you
22 the numbers, to see how diligent the unit and
23 the court system is working with our
24 assistance in collecting child support
25 payments.

1 Budget - 4/12/05

2 Many of our clients are welfare
3 recipients, and they have no effective way of
4 collecting child support were it not for us.

5 COUNCILMAN KELLY: Yeah. What cost
6 is involved in providing the service? In
7 other words, does Sam Smith -- Do you have to
8 go after him? And does he provide -- at
9 least, to reimburse you for your -- for the
10 cost involved in collecting money from him?

11 THE DISTRICT ATTORNEY: There's a
12 \$10 10 cost for filing a complaint for child
13 support. That's it.

14 COUNCILMAN KELLY: That's it?
15 Compare it to the cost of running
16 it.

17 THE DISTRICT ATTORNEY: The \$10 is
18 just for filing the complaint. Our costs are
19 reimbursed in part by a Federal grant.

20 COUNCILMAN KELLY: But my point is,
21 Sam Smith, does he -- do you tack on anything
22 to charge him?

23 THE DISTRICT ATTORNEY: No.

24 COUNCILMAN KELLY: Nothing? Okay.

25 THE DISTRICT ATTORNEY: We are just

1 Budget - 4/12/05
2 interested in him paying to support his
3 children. That's all we care about, support
4 your children.

5 COUNCILMAN KELLY: But he doesn't
6 pick up any of the costs that you have to
7 incur --

8 THE DISTRICT ATTORNEY: No. The
9 Federal Government --

10 COUNCILMAN KELLY: -- in providing
11 the service.

12 THE DISTRICT ATTORNEY: No. The
13 Federal government pays two-thirds of our
14 costs to do that.

15 COUNCILMAN KELLY: Oh, okay.

16 THE DISTRICT ATTORNEY: So, we don't
17 pass it on to the... We're just happy if the
18 man supports his children.

19 COUNCILMAN KELLY: Right.

20 THE DISTRICT ATTORNEY: That's all
21 we care about. And it's mostly men. That's
22 why I'm saying man.

23 COUNCILMAN KELLY: Right. Okay.

24 Thank you. Thank you, Madam
25 District Attorney.

1 Budget - 4/12/05

2 Thank you, Madam President.

3 COUNCIL PRESIDENT VERNA: Thank you.

4 The Chair recognizes Councilman
5 Nutter.

6 COUNCILMAN NUTTER: Thank you, Madam
7 Chair.

8 Madam District Attorney, in a
9 similar way that Councilman Kelly did...
10 This was on my second go-around list... I
11 also have had just in my office staff a
12 wonderful experience with... As wonderful
13 experience as you can have, given the nature
14 of the work, the Nuisance Task Force, and
15 Mike Erdos who has been very, very helpful in
16 any number of situations.

17 And I just wanted to -- similarly to
18 Councilman Kelly, recognize him for his work,
19 and the work of the office that I do have a
20 fair amount of contact with.

21 THE DISTRICT ATTORNEY: Thank you,
22 sir.

23 COUNCILMAN NUTTER: Sure.

24 There's been a lot of discussion
25 with regard to the recent surge in violence

1 Budget - 4/12/05

2 and certainly gun violence with... And we
3 are presently seemingly on a path of almost a
4 homicide a day.

5 I don't know if you've articulated
6 directly on this issue, but I'd certainly
7 like to get your perspective on this recent
8 violence wave.

9 And you've talked about your
10 ten-point plan, of course. But beyond a
11 plan, I'd just like to know your thoughts
12 about what's going on.

13 THE DISTRICT ATTORNEY: Yes. My
14 thoughts are that gun-related violence in the
15 City of Philadelphia and elsewhere around the
16 country is the greatest public health menace
17 that we face, absent the overthrow of the
18 government or a terrorist attack.

19 As a matter of fact, it has been
20 likened, and I would agree with this, to
21 urban terrorism. And this country is awash
22 with guns. We're a gun-loving country.

23 It may be because of our history.
24 But if you look at our homicide figures
25 compared to the rest of the civilized world,

1 Budget - 4/12/05

2 and this is excluding wars, you know, and
3 rivalries that go back centuries and things
4 of that sort. Our homicide rate is higher
5 than any civilized country in the world.

6 I believe that it comes from a
7 variety of consequences. I've traveled to
8 Harvard. The author of a book called Private
9 Guns, Public Health. David Hemminway works
10 for a friend of mine who's the Dean of the
11 Harvard School of Public Health, as does Dr.
12 Deborah Prothrosthith, with whom I've also
13 met, and Dr. Alvin Pusant, who's featured in
14 the Philadelphia Inquirer this morning,
15 talking about gun violence.

16 Violent offenders don't care about
17 the laws. They don't care about City
18 Councils. They don't care about D.A.s. They
19 don't care about anything.

20 They're angry and hostile, and they
21 act out angrily and hostilely and at random.
22 It's not really predictable.

23 And I believe that I've said on many
24 occasions, and I repeat today that because I
25 go into so many schools and so many

1 Budget - 4/12/05

2 communities, as you undoubtedly know, I see
3 that the precursors to violence are evident
4 to us.

5 You show me a child, a baby who is
6 exposed in utero to alcoholism, abuse, a
7 physical and psychological abuse, drug abuse,
8 and then is brought up born into a family
9 which is awash in family violence, sexual
10 assault, television violence, violence
11 outside his or her window, abusive, unloving,
12 uncaring, unnurturing parents, who neither
13 read nor hold, nor cuddle, nor love, nor
14 nurture their children. Those kids will
15 start off in school developmentally delayed
16 and emotionally scarred.

17 And they carry out that emotional
18 scar and that anger and hatred and
19 resentment, and they demonstrate it in
20 schools.

21 So, you can see markers. It's not a
22 predictor.

23 COUNCILMAN NUTTER: Right.

24 COUNCILMAN NUTTER: But markers in
25 some kids' lives.

1 Budget - 4/12/05

2 You show me a kid who is a troubled
3 kid, and I'll show you a kid who most often,
4 but not always, has a very troubled youth.

5 COUNCILMAN NUTTER: But now that
6 that person has come of, you know, some age,
7 at least chronologically, possibly not
8 developmentally... But they're now in their
9 early or late teens, twenties, thirties. I
10 mean they're now out here, you know, from
11 under whatever notion of a protective wing of
12 a parent or grandparent or other person, how
13 are we supposed to deal with that person?

14 THE DISTRICT ATTORNEY: These are
15 the most difficult people that one ever could
16 see.

17 This past weekend, for example, I
18 watched a program on CNN called the Gangs of
19 Hollenbeck, in L.A. And these people who
20 were featured were -- the talkers, the people
21 who were speaking to the camera, were grown
22 men.

23 There were many gang members. That
24 was the featured story. They don't care
25 about anything except, you mess with me, I'm

1 Budget - 4/12/05

2 going to kill you. You come into my
3 neighborhood, I will kill you.

4 COUNCILMAN NUTTER: I understand.

5 THE DISTRICT ATTORNEY: So, I mean,
6 if you ask me, how are we going to reach the
7 unreachable? The answer is, we are going to
8 pay as a society a terrible price.

9 I am not aware right now of anything
10 that can dissuade a person who is a
11 gun-toting gang member who doesn't care about
12 law, who doesn't care about the rule of law
13 or courts or punitive sanctions.

14 You show me that kind of person.
15 I'm going to show you a person who will come
16 in and out of jail all of his life and
17 reassert his anger and hostility and
18 resentment against anybody who crosses, them
19 without fear of consequence.

20 COUNCILMAN NUTTER: In response to a
21 question that was raised by Councilwoman
22 Miller, you made a statement. I wrote it
23 down, I think, accurately. But I needed to
24 come back to it and I needed to get a better
25 understanding. This was a colloquy regarding

1 Budget - 4/12/05

2 offenders, whether possibly violent,
3 non-violent.

4 And you responded in one of the
5 exchanges that if the person killed someone,
6 that you were not sure that they should get a
7 second chance. Now...

8 THE DISTRICT ATTORNEY: If they get
9 a life sentence, Councilman, they won't have
10 a second chance.

11 COUNCILMAN NUTTER: I understand
12 that.

13 Suppose they served whatever their
14 term is or they get out under some legal
15 means. I'm not talking about a jail break or
16 something.

17 I mean, if you're 20 years old, you
18 end up in some kind of fight, you go through
19 the process, you get convicted. I don't know
20 what kind of sentence you get or whether
21 it's, you know, second degree, third degree,
22 involuntary manslaughter, any number of
23 things, which of course you'll know better
24 than myself.

25 But I mean, let's say you get, you

1 Budget - 4/12/05

2 know, 20 to something and you serve the 20.

3 I mean, now you're 40-some years old. You've

4 got, you know, I don't know... 20, 30, maybe

5 40 years ahead of you. I mean, what are you

6 supposed to do?

7 THE DISTRICT ATTORNEY: Well, there
8 are many offenders who get out of prison and
9 are totally reformed. As I mentioned in my
10 testimony, we work with ex-offenders and we
11 have a great success with ex-offenders. And
12 we're trying to prevent other people from
13 becoming offenders. I believe I said that
14 was in the context of hiring people.

15 Obviously, there are people that I
16 would not and could not hire as a law
17 enforcement officer. But there are many
18 people -- And I'll give you an example, even
19 a better example.

20 The great middleweight fighter
21 Bernard Hopkins is working with me right now
22 on an anti-crime program.

23 COUNCILMAN NUTTER: Mm-hmm.

24 THE DISTRICT ATTORNEY: There is no
25 better example of a person who not only

1 Budget - 4/12/05

2 deserved a second chance but got a second
3 chance and made good on it. He is a shining
4 example of a person who can and does get a
5 second chance.

6 COUNCILMAN NUTTER: Right.

7 THE DISTRICT ATTORNEY: And becomes
8 successful at it.

9 COUNCILMAN NUTTER: Well, that is
10 one of the premier --

11 THE DISTRICT ATTORNEY: It's that
12 kind of person that I'm in favor of.

13 COUNCILMAN NUTTER: I understand
14 that.

15 But If that is one of the premier
16 examples, again, that's why I didn't
17 understand the statement in its totality that
18 if you had killed someone, that you weren't
19 sure that the person should get a second
20 chance. I mean, what does that mean?

21 THE DISTRICT ATTORNEY: Practically
22 speaking... Practically speaking, in our
23 Commonwealth at least, many people who are
24 convicted of first degree murder and who get
25 life imprisonment do at some time in the

1 Budget - 4/12/05
2 future come out. Not everybody, but some.
3 And those people who come out and --
4 COUNCILMAN NUTTER: Everyone who
5 kills someone, even if they're convicted...
6 I mean, is it always first degree?
7 THE DISTRICT ATTORNEY: No. Of
8 course not.
9 COUNCILMAN NUTTER: All right. So,
10 I mean, some people do get out, right?
11 THE DISTRICT ATTORNEY: Everybody
12 eventually gets out one way or the other.
13 COUNCILMAN NUTTER: Okay. So,
14 you've got to give me a little better
15 understanding of -- I mean, what does that
16 statement mean?
17 THE DISTRICT ATTORNEY: What does
18 what statement mean?
19 COUNCILMAN NUTTER: When you say, if
20 you killed someone you're not sure if the
21 person should get a second chance. What does
22 that mean?
23 THE DISTRICT ATTORNEY: They get a
24 second chance, but it's demonstrable. It's
25 up to them. They have to go out into society

1 Budget - 4/12/05

2 and prove that they are exemplars of good
3 conduct.

4 For example, there are people -- And
5 I can tell you this, Councilman. There are
6 people who come out of prison and say, I'm
7 never going back to prison again and never go
8 back. They lead otherwise productive lives.

9 And that is certainly good, and we
10 make use of those people any way we can,
11 especially as exemplars to kids what not to
12 do.

13 On the other hand, there are other
14 offenders who are not deserving of a second
15 chance, serious violent offenders, sexual
16 predators and others who, I'm sorry that if
17 they came up for parole or probation or
18 release or early release or commutation, we
19 would oppose because we don't believe they
20 should get a second chance.

21 And unfortunately today, there was a
22 man who was arrested for killing or is being
23 sought for two killings who just got out of
24 prison last year and said -- He even wrote a
25 book about it. He said, I'm never going back

1 Budget - 4/12/05
2 to prison. Now he's wanted for two homicide.
3 So, you know, sometimes it works and
4 sometimes it doesn't. I'm going to err on
5 the cautious side. If you get a second
6 chance I'm going to be cheering for you, but
7 I'm going to be cautious.
8 COUNCILMAN NUTTER: Did I get the
9 bell?
10 COUNCIL PRESIDENT VERNA: You did.
11 COUNCILMAN NUTTER: Okay. I only
12 have one question, and then I'll go away.
13 COUNCIL PRESIDENT VERNA: If you
14 promise it's your last question.
15 COUNCILMAN NUTTER: It is absolutely
16 my last question of the District Attorney.
17 COUNCIL PRESIDENT VERNA: The Chair
18 recognizes Councilman Nutter.
19 COUNCILMAN NUTTER: Thank you, Madam
20 Chair.
21 Madam District Attorney, we received
22 from Personnel a list of a variety of
23 employees by department. I don't know how --
24 I don't know what the circumstance was that
25 generated this particular list. Maybe it was

1 Budget - 4/12/05
2 brought over by the Personnel Director.
3 I just needed to understand.
4 There's one person listed for the District
5 Attorney's Office. This is a list of City of
6 Philadelphia permanent employees not
7 residents of the city. It's dated April 5,
8 2005.
9 THE DISTRICT ATTORNEY: Correct.
10 COUNCILMAN NUTTER: There's one
11 person here listed a Garold Tennis.
12 THE DISTRICT ATTORNEY: Gary Tennis.
13 COUNCILMAN NUTTER: Okay. Garold,
14 G-a-r-o-l-d.
15 THE DISTRICT ATTORNEY: Sorry.
16 COUNCILMAN NUTTER: Who it would
17 appear from this form, if I'm reading it
18 correctly, was hired back in October of 1980.
19 THE DISTRICT ATTORNEY: Correct,
20 sir.
21 COUNCILMAN NUTTER: Has an
22 indefinite specific waiver.
23 THE DISTRICT ATTORNEY: Correct.
24 COUNCILMAN NUTTER: What is the
25 nature of that?

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: As I
3 understand this, Councilman -- I'm sorry. I
4 call him Gary. I don't know anybody calls
5 him Garold.

6 Ed Rendell hired Mr. --

7 COUNCILMAN NUTTER: Well, I don't
8 know him that well. I'm just reading the
9 name from the thing.

10 THE DISTRICT ATTORNEY: When you
11 said Garold, I couldn't tell who you were
12 talking about.

13 COUNCILMAN NUTTER: We're not
14 personal friends.

15 THE DISTRICT ATTORNEY: Gary Tennis
16 was hired by Ed Rendell. And Gary Tennis is
17 a Swedenborgian. He lives in Bryn Athen
18 which is a community -- a religious
19 community.

20 COUNCILMAN NUTTER: He's a what?

21 THE DISTRICT ATTORNEY:
22 Swedenborgian. I think it's S-w -- Church of
23 the New Christ, it's called. They're called
24 Swedenborgians.

25 COUNCILMAN NUTTER: Okay.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: And they
3 live in a community, an enclave if you will,
4 in Bryn Athen.

5 And Gary appealed to Ed Rendell to
6 grant him an exemption from living in the
7 City for religious reasons because he lives
8 in a religious community, and Ed Rendell
9 granted it. And he's been working in the
10 office ever since.

11 I think Mr. McPherson is trying to
12 whisper something.

13 COUNCILMAN NUTTER: You said a
14 religious waiver?

15 THE DISTRICT ATTORNEY: My First
16 Assistant came over to me to tell me that the
17 Civil Service Commission granted him an
18 exemption for religious reasons.

19 COUNCILMAN NUTTER: What's the
20 reason?

21 THE DISTRICT ATTORNEY: Hold on.
22 Just give me a moment, sir.

23 (Pause.)

24 THE DISTRICT ATTORNEY: As I
25 mentioned previously, Councilman, the Church

1 Budget - 4/12/05

2 of the New Christ requires people who are in
3 that church to live within an enclave, if you
4 will, a certain area closest to the church.

5 And when Governor Rendell hired him,
6 it was with the proviso, if possible, that he
7 get a waiver from the City of Philadelphia.
8 And he did get that waiver.

9 COUNCILMAN NUTTER: What is his --
10 What is his job?

11 THE DISTRICT ATTORNEY: He's the
12 head of our legislative unit. He writes and
13 lobbies for all these bills, including the
14 bills that Councilman Clarke and I talk about
15 extensively.

16 COUNCILMAN RIZZO: And it's never
17 been revisited?

18 COUNCILMAN NUTTER: I mean, you
19 became District Attorney in '91 in the
20 special --

21 THE DISTRICT ATTORNEY: Correct.

22 COUNCILMAN NUTTER: Okay. Have you
23 ever had any conversation with the gentleman
24 about the nature of this situation?

25 I mean, I understand you didn't hire

1 Budget - 4/12/05

2 him, but you are the District Attorney.

3 THE DISTRICT ATTORNEY: Yes.

4 COUNCILMAN NUTTER: And you're in
5 control of people in the office.

6 THE DISTRICT ATTORNEY: Councilman,
7 I had a conversation one time with Gary
8 because somebody else several years back
9 brought up -- and I can't remember in what
10 context -- that he didn't live in the City of
11 Philadelphia.

12 And I asked him what was the reason
13 why he was living in Bryn Athen but working
14 in the D.A.'s Office?

15 And he said that he had a religious
16 waiver granted to him by the Civil Service
17 Commission.

18 So, I mean, we don't inquire of
19 people's religion, but...

20 COUNCILMAN NUTTER: No; I
21 understand.

22 THE DISTRICT ATTORNEY: But -- And
23 frankly, when I first came here --

24 COUNCILMAN NUTTER: I never heard of
25 this.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: I don't go
3 down the list -- Well, there's only one
4 person. So, I didn't -- I didn't look at my
5 employee list and check addresses.

6 So, he was already on staff when I
7 came. And he's a wonderful employee. He's
8 marvelously talented. Probably has assisted
9 you in a million different ways that you may
10 or may not even be aware of.

11 And I saw no reason to countermand
12 what the Civil Service Commission had given
13 him which was a religious waiver. I'm not
14 looking for a lawsuit.

15 COUNCILMAN NUTTER: Well, I
16 understand that. On a more lighthearted way,
17 you know, I have innumerable people trying to
18 help me in many ways that I have no idea from
19 time to time.

20 But just... I guess my last
21 question is, are you aware of any other
22 public employee having a religious waiver on
23 residency?

24 THE DISTRICT ATTORNEY: Councilman,
25 I have no way of knowing who gets religious

1 Budget - 4/12/05

2 exemptions. You'll have to check with the
3 Civil Service Commission. I know nothing
4 about that.

5 COUNCILMAN NUTTER: I just wondered.
6 I had never heard of, I mean, of specific,
7 you know, training in background and language
8 and any number of... Okay. I did not -- I
9 did not know that. This is definitely my
10 last question.

11 Thank you, Madam President.

12 COUNCIL PRESIDENT VERNA: Thank you.

13 At this time the chair recognizes
14 and welcomes home Councilman Ramos.

15 COUNCILMAN RAMOS: Thank you, Madam
16 President.

17 Madam District Attorney, I want to
18 thank you. I want to start off like my other
19 colleagues. Thank you for a job well done.

20 A couple months ago I called your
21 office -- Though it was not one of the things
22 that you do, but I was reporting that a
23 Councilman on the other side of the river in
24 Camden had called that his niece had been
25 raped, and that they had an idea where this

1 Budget - 4/12/05

2 rapist was in the City of Philadelphia. And
3 your office responded. The Police Department
4 responded.

5 And a couple days afterwards, the
6 rapist was apprehended. And I just want --
7 And the Councilman, he didn't want me to
8 state his name, but he wanted me to thank you
9 whenever I got a chance, whenever I
10 remembered.

11 THE DISTRICT ATTORNEY: Please
12 convey my --

13 COUNCILMAN RAMOS: I want to take
14 this in a very public way to thank you for a
15 job well done.

16 And I will be asking your office for
17 many of these pamphlets on child support
18 because if you turn it upside down, it's in
19 Spanish. And the Spanish is very good.

20 A lot of times when we translate --
21 and that includes me -- the Spanish is not
22 very good. And when you get it from the
23 printer sometimes it reads atrociously. But
24 it's a very nice job that you've done here.
25 And I'll make sure that these pamphlets get

1 Budget - 4/12/05
2 to the people who need to read it in another
3 language.

4 THE DISTRICT ATTORNEY: Thank you,
5 Councilman.

6 COUNCILMAN RAMOS: In your prepared
7 text you mentioned that you met with the
8 Attorney General, Mr. Tom Corbett, and that
9 he pledged to work with the Office on issues
10 of coordinating information, sharing in order
11 to prosecute violence, street gangs, et
12 cetera. But did he commit to funding any of
13 this for you?

14 THE DISTRICT ATTORNEY: Not yet.
15 But here's what he told me, Councilman, as I
16 mentioned previously -- I don't remember
17 whether you were here because I was looking
18 at the Chair.

19 He said that the budget from the
20 Federal Government through which he is
21 funded, through this witness protection
22 program, via... I think it's P.C.C.D, The
23 Pennsylvania Commission on Crime and
24 Delinquency... had their cut in budget from,
25 I think, \$600,000 to \$400,000.

1 Budget - 4/12/05

2 We got \$250,000 of whatever monies
3 he got last year. So, he's going to have to
4 go back and see what the needs are of the
5 rest of the Commonwealth.

6 We have always gotten the lion's
7 portion of that money. But he couldn't
8 promise right then and there on the moment
9 when we had our meeting that he would, "A",
10 fund me or fund me to the extent that he had
11 in the past.

12 But he pledged that not only would
13 we continue our good working relationship on
14 gangs and guns and other violent conduct in
15 the City, but he would go back and check with
16 his people to see to what extent he could
17 fund our witness protection program.

18 I do want to add that... I want to
19 make this as clear and as stark as I can
20 because it's clear and stark to me. If we he
21 do not have a witness relocation program, our
22 ability to prosecute violent criminals in
23 this City will fall precipitously, and the
24 people out on the street who are wielding the
25 guns will have even more influence than they

1 Budget - 4/12/05

2 do already.

3 Already the impact of threats,
4 intimidation, violence is great. And we have
5 people who come to us and ask us to relocate
6 them. We are able to do that but only just
7 barely.

8 This program is critical for the
9 safety and security of Philadelphia. I don't
10 know how to say it any plainer than that.

11 If he can't give us money, we're not
12 going to be able to relocate people. And
13 people will just say, well, sorry. I didn't
14 see anything; I don't know anything; and I'm
15 not identifying anybody. And our homicide
16 clearance rate will drop even worse and lower
17 than it is right now.

18 COUNCILMAN RAMOS: So, what happens
19 if we don't get -- if you don't get the
20 funding from the order -- you've
21 distinguished -- You've had a distinguished
22 career. And to put it in, you know, to put
23 it in very simple terms, you think out of the
24 box.

25 THE DISTRICT ATTORNEY: Yes, sir.

1 Budget - 4/12/05

2 COUNCILMAN RAMOS: Have you gone
3 there -- Now, because it looks like, given
4 budget constraints in this era that we're
5 living, a limited amount of financial
6 resources.

7 I think we're going to have to go
8 back to thinking outside of the box. And the
9 more -- Not in the particular vein with
10 you're -- this particular issue that I'm
11 addressing with you.

12 But in a general sense, I just came
13 back from Rome, and I was very impressed by
14 their equivalent of town watch. You know,
15 town watch is a very big program. And people
16 are proud to be -- And we have a difficult
17 time getting people into town watch nowadays.

18 But they seem to have more
19 obligations, more authority, and not get
20 paid. And they're yet very proud of it. So,
21 they get summoned to be civil patrol for
22 these millions of people gone to Rome to pay
23 their respects to the Holy Father.

24 Are we going -- I think we're going
25 to have to go into an era -- go into this era

1 Budget - 4/12/05

2 and think, you know, out of the box, in the
3 event that we don't get funded for all these
4 other things that are so essential to the
5 quality of life of people.

6 Have you had any thoughts of where
7 you would go or is there anything else that
8 we can do?

9 THE DISTRICT ATTORNEY: Councilman,
10 first of all, I've been to Rome many times,
11 been to the Vatican as you have. Saw you on
12 television. I was very impressed by your
13 remarks.

14 But let me just point out the
15 difference between Rome and us. Nowhere in
16 the world, including in all of urban Rome, is
17 there anywhere near the thought of anybody
18 carrying a gun. Gun violence in Rome is
19 virtually non-existent. Does that comport
20 with your...

21 COUNCILMAN RAMOS: That's correct.

22 THE DISTRICT ATTORNEY: All right.
23 Nobody carries a gun, except a few police
24 officers, the Carbionetti (phonetic) and the
25 civil authorities, the police officers who

1 Budget - 4/12/05

2 are not the Carbionetti.

3 Nobody else has a handgun. You
4 might get mugged or robbed or beaten, but you
5 don't get shot and -- shot up by a nine
6 millimeter semi-automatic pistol. That is
7 not the case in Philadelphia.

8 So, being proud to be a civil guard
9 in Rome is not the same as being a town watch
10 person in the City of Philadelphia. That's
11 the first observation.

12 The second is this. Last year I
13 went to see Arlen Specter when he came here
14 to Philadelphia to ask him for funds.

15 And while he was able to give \$1
16 million to the violent crime impact team,
17 which would -- through the A.T.F. and Federal
18 authorities -- try to make a dent on gun
19 crime, with a liaison from my office. He
20 didn't give us any money to do that. It was
21 all to the Federal authorities. And here's
22 what the disconnect is.

23 I am meeting again, by the way, just
24 so you know, with Arlen specter again. It
25 was supposed to be on the 15th of this month,

1 Budget - 4/12/05

2 I think, but he cancelled it for other
3 reasons. So, I'm not quite sure what the
4 reasons are, not health-related.

5 I will speak to Senator Specter
6 again. I will ask him for funding. But here
7 are the sources of funding for local
8 prosecutors: Your own City government or
9 local government, the state government or the
10 Federal government.

11 The problem with looking for
12 grants -- and we are always looking for
13 grants -- is that -- and we will continue to
14 try to get grant funding -- is that the
15 President of the United States has cut a
16 tremendous amount of programs that local
17 prosecutors could tap into, including the
18 juvenile justice intensive block grants, the
19 local law enforcement block grants, the Burn
20 Memorial fund and others.

21 So, with an increase in gun violence
22 across the country with prosecutors,
23 thousands of us trying to get some money to
24 do programs, and all City governments being
25 like Philadelphia, up against budget

1 Budget - 4/12/05

2 realities, I can think out of the box all I
3 want. The question is, where does the money
4 come from?

5 When it's all said and done, the
6 rubber meets the road at the dollar. And
7 that's what we need to find. We need to find
8 sources of funding which we can plow into
9 witness relocation programs. And that's the
10 reality.

11 I'm trying to be as innovative and
12 as creative as I can. But when the President
13 says he's cutting money to victims'
14 assistance groups, which he's planning, and
15 which I'll talk about to a victim assistance
16 group, victim witness group, this Friday.
17 This Friday? Yes, this Friday.

18 It's a real... It's a real wakeup
19 call that the pipeline is drying up. And
20 we... That means our citizens. This City
21 will continue to suffer a tremendously high
22 price if we don't get sufficient funding for
23 crime. I mean, it's our number one priority,
24 period. Before anything else safety is the
25 number one priority of any government.

1 Budget - 4/12/05

2 COUNCILMAN RAMOS: Are you working
3 with our City administration in pushing and
4 kind of like demanding that we get funded for
5 these type of programs because it's our only
6 alternative as you have, you know, expressed
7 now, that unless we get the funding there's
8 no way that we can address -- there's no
9 other ideas outside of the box or any form of
10 volunteerism that can remedy any of these
11 problems.

12 THE DISTRICT ATTORNEY: Moving
13 companies do not want to volunteer. They
14 want to get paid.

15 I've spoken to the Mayor on
16 innumerable occasions about this issue and
17 related issues.

18 And he's not unsympathetic to my
19 plea, but he tells me about budget realities.
20 And I understand that. But you can't solve
21 crime unless you have victim relocation.

22 I mean, it is the... Look: People
23 not only experience it in their own lives.
24 They see it on television. They see it
25 across the country.

1 Budget - 4/12/05

2 And they want to be assured that
3 when they come to court and testify and do
4 their duty -- and they want to because it's
5 their own safety and security, in their own
6 neighborhood from criminals that they're
7 worried about.

8 They want to know, am I going to
9 live through this? And that's -- you have to
10 be able to answer unqualifiedly that we in
11 law enforcement have the money to take you
12 and move you and keep you as safe as we can
13 possibly keep you, if you follow the rules of
14 our witness relocation program.

15 COUNCILMAN RAMOS: How much does
16 this program cost?

17 THE DISTRICT ATTORNEY: It depends
18 on the length of the delay between the person
19 coming forward.

20 For example, if a crime happened
21 tonight -- And I'll use you as an example.
22 You're a witness and, you come to the police
23 and say, I'll tell you what happened but I'm
24 frightened.

25 From tonight you would be moved

1 Budget - 4/12/05

2 someplace else. Tomorrow or the next day, as
3 soon as we could get a moving company, we'd
4 pack up your belongings and store them
5 someplace until you were prepared to come and
6 testify and then move someplace else. Or if
7 you had made arrangements, we'd move you to
8 wherever you were going to move.

9 A lot of the cost depends on the
10 number of days between the time you come
11 forward and the day your case is tried and
12 how many days you have to come back.

13 So, it could be -- It's
14 exponentially a day rate multiplied by the
15 number of days we keep you housed in a paid
16 facility versus how quickly we can seek to
17 make arrangements.

18 If you have a relative someplace
19 that we can move you to, so that instead of
20 paying for a place in a hotel or motel,
21 someplace, you can go to your relative's
22 place and stay there inside or outside the
23 City. That obviously cuts down the cost of
24 the program. It just depends on a variety of
25 situations.

1 Budget - 4/12/05

2 COUNCILMAN RAMOS: With how much
3 money are you working with now?

4 THE DISTRICT ATTORNEY: We're
5 working with about \$250,000, but it's not a
6 lot of money. It sounds like a lot, but it's
7 very, very minor.

8 COUNCILMAN RAMOS: I agree with you.

9 THE DISTRICT ATTORNEY: And also, if
10 we move you... Let's say if you have a
11 relative in Oklahoma -- I'll just pick a
12 state. Remember, every time you come back to
13 Philadelphia to testify, we have to fly you
14 out and fly you back or drive you out and
15 drive you back. Either way it costs money.

16 COUNCILMAN RAMOS: Thank you, Madam
17 President.

18 COUNCIL PRESIDENT VERNA: You're
19 welcome.

20 The Chair recognizes Councilman
21 Clarke.

22 COUNCILMAN CLARKE: Thank you, Madam
23 President.

24 Real brief. To follow up on
25 Councilman Nutter's question. With respects

1 Budget - 4/12/05
2 to the gentleman, Gerald -- Gary... whatever
3 his name is.
4 THE DISTRICT ATTORNEY: Gary Tennis.
5 COUNCILMAN CLARKE: Gary.
6 THE DISTRICT ATTORNEY: Like the
7 game. Tennis.
8 COUNCILMAN CLARKE: Tennis. You
9 said that he is the head of the legislative
10 unit?
11 THE DISTRICT ATTORNEY: Correct.
12 COUNCILMAN CLARKE: You indicated
13 that he is one of your chief lobbyists?
14 THE DISTRICT ATTORNEY: Correct.
15 COUNCILMAN CLARKE: Does he
16 personally lobby for gun bills or does he
17 have people in his unit that do?
18 THE DISTRICT ATTORNEY: Councilman,
19 he writes most of the gun legislation that we
20 advocate for, as well as all the other
21 legislative changes.
22 COUNCILMAN CLARKE: But is he a
23 lobbyist in the true sense of the way? He
24 has --
25 THE DISTRICT ATTORNEY: He's a

1 Budget - 4/12/05
2 registered lobbyist. Yes, he is. He's a
3 registered lobbyist. He doesn't get paid to
4 lobby. You know, he gets paid a salary to be
5 an Assistant District Attorney who writes and
6 lobbies for legislation in the House and
7 Senate of the United States and also in the
8 United States Government. He lobbies for
9 laws in front of the United States Congress
10 as well.

11 COUNCILMAN CLARKE: Okay. Sticking
12 to the issue that I'm interested in, gun
13 violence, I'm -- And I don't know this
14 location. Where is it that he lives again?

15 THE DISTRICT ATTORNEY: Bryn Athen.
16 It's right outside the City of Philadelphia.

17 COUNCILMAN CLARKE: It's a religious
18 community?

19 THE DISTRICT ATTORNEY: Yes.

20 COUNCILMAN CLARKE: And I'm assuming
21 that the level of violence is nowhere near...

22 THE DISTRICT ATTORNEY:
23 Non-existent.

24 COUNCILMAN CLARKE: So... And I'm
25 not questioning this gentleman's

1 Budget - 4/12/05
2 capabilities. But I'm a little concerned
3 when you have your chief lobbyist not living
4 in the City of Philadelphia, not having what
5 I consider a true understanding of the level
6 of violence in the City unless you actually
7 live and breathe it. I'm a little concerned
8 about his compassion.

9 THE DISTRICT ATTORNEY: Well,
10 Councilman, I want to be absolutely honest
11 and fair with you, as I think I always try to
12 be. I'm not firing him. He's got a Civil
13 Service exemption.

14 I'll tell you what I think you ought
15 to do. If you've never met him, I think you
16 ought to sit down and talk with him.

17 I believe in my heart you will be so
18 overwhelmingly favorably impressed with this
19 guy, you won't be able to see why we should
20 let him go just because he lives someplace
21 else.

22 COUNCILMAN CLARKE: I'm not
23 suggesting that. I'm just concerned about --
24 You know, I'm very narrowly focused on gun
25 violence.

1 Budget - 4/12/05

2 THE DISTRICT ATTORNEY: He's your
3 man.

4 COUNCILMAN CLARKE: I want to see --
5 I will feel comfortable if I knew that, you
6 know, he was as passionate about the issue,
7 given the fact that he's the lobbyist for
8 your --

9 THE DISTRICT ATTORNEY: Wait until
10 you meet with him. I think you'll be so
11 overwhelmingly impressed, you'll say, gee,
12 how come I didn't have this guy do some stuff
13 for me? You talk to him.

14 COUNCILMAN CLARKE: All right.
15 I would like to --

16 THE DISTRICT ATTORNEY: He's helped
17 City Council. I don't want to use Michael
18 Nutter's joke about there's so many people
19 who are helping me in ways that I don't know.

20 COUNCILMAN CLARKE: Right. Okay. I
21 would like to meet him.

22 THE DISTRICT ATTORNEY: But he will
23 help you.

24 COUNCILMAN CLARKE: One last
25 question. Just for the record, what's your

1 Budget - 4/12/05

2 position on video surveillance in high
3 traffic drug areas?

4 THE DISTRICT ATTORNEY: I testified
5 previously on this, and I will say so again.
6 I believe that we must use every available
7 advantage that we can possibly muster to take
8 the sting and the bite out of criminal
9 conduct. And I absolutely believe that we
10 need video surveillance cameras.

11 And I likened this to several cities
12 that already have it. New Orleans has it.
13 Of course, London has them by the millions.

14 COUNCILMAN CLARKE: Baltimore.

15 THE DISTRICT ATTORNEY: Baltimore
16 has it. Chicago has it.

17 COUNCILMAN CLARKE: Chicago.

18 THE DISTRICT ATTORNEY: And I
19 believe -- In fact, I've spoken to the Police
20 Commissioner about this. And he may be there
21 right now, for all I know. He told me that
22 he had been invited out or invited himself to
23 Chicago to see how they are doing it.

24 COUNCILMAN CLARKE: Right.

25 THE DISTRICT ATTORNEY: To see

1 Budget - 4/12/05

2 whether and to what extent. The Mayor of
3 Chicago, of course, has put millions of
4 dollars in this video camera surveillance.
5 So, I think this is critical that we do this.

6 Even if there are violations of the
7 law, these cameras swivel. They have an ear
8 component.

9 COUNCILMAN CLARKE: Right.

10 THE DISTRICT ATTORNEY: Which if you
11 fire a gun, the camera turns sort of
12 directionally towards the sound of the
13 gunfire and focuses in on whatever the ear
14 and the technology and the chips tell it to
15 focus in on, so the police know where the
16 gunfire came from and where to go.

17 COUNCILMAN CLARKE: Do you have any
18 concerns about certain civil liberties...

19 THE DISTRICT ATTORNEY: No.

20 COUNCILMAN CLARKE: ...as it relates
21 to...

22 THE DISTRICT ATTORNEY: No. And
23 I'll tell you why. We as citizens only have
24 expectations of privacy in our zones of
25 privacy, in other words, in our houses, in

1 Budget - 4/12/05

2 our bedrooms, private places.

3 But we have no reasonable
4 expectation of privacy, according to the
5 Supreme Court of the United States and other
6 courts all around the country, on the public
7 street.

8 So that if a camera is taken --
9 Well, look at it this way, Councilman: You
10 know as well as I know that there are cameras
11 taking our picture every place we go.

12 In the supermarkets there are
13 cameras. In the airports there are cameras.
14 At the ATM there are cameras. When we go
15 through the EZ-pass there are pictures being
16 taken of us. Up on Roosevelt Boulevard when
17 we go through Grant Avenue there are
18 people -- there are cameras taking our
19 pictures.

20 So, cameras are an integral part of
21 safety and security, both homeland and local.
22 There is absolutely, positively, without a
23 hesitation of a doubt that cameras on a
24 public street where nobody has an expectation
25 of privacy, violates no privacy right

1 Budget - 4/12/05
2 established under our Constitution or our
3 laws.

4 COUNCILMAN CLARKE: Okay. Thank
5 you.

6 COUNCIL PRESIDENT VERNA: Thank you.
7 The Chair recognizes Councilwoman
8 Miller.

9 COUNCILWOMAN MILLER: Thank you,
10 Madam President.

11 I also want to thank you and your
12 office for working with my office around a
13 lot of the community's safety issues and all
14 those kinds of things.

15 THE DISTRICT ATTORNEY: Thank you.

16 COUNCILWOMAN MILLER: You're
17 welcome.

18 I do want to ask you one question.
19 More and more of our constituents are asking
20 us questions around identity theft.

21 THE DISTRICT ATTORNEY: Mm-hmm.

22 COUNCILWOMAN MILLER: And I know a
23 number of people that have been a victim of
24 identity theft. And right now I really don't
25 know what to tell them to do, who to refer

1 Budget - 4/12/05

2 them to.

3 Could you talk a little bit about
4 maybe ways people can prevent or are there
5 any booklets available and whatnot?

6 THE DISTRICT ATTORNEY: Well, first
7 of all, Councilwoman, I or members of my
8 staff would be happy to come out to your
9 constituents and speak to them about identity
10 theft.

11 As I mentioned in my earlier
12 testimony -- And I can't remember whether you
13 were here or not. But I mentioned that
14 identity theft is a growing problem.

15 And it's getting harder and harder
16 for people to protect their privacy because,
17 while we tell people about their Social
18 Security, their mother's maiden name, their
19 birth date and any other personal
20 information, we know that there are companies
21 which collect information about ourselves
22 which have been raided by computer hackers
23 and get that information that we don't want
24 them to have anyway.

25 If we go to a doctor or a hospital

1 Budget - 4/12/05

2 and give our information, somebody behind the
3 desk taking that information can sell it.

4 The American Red Cross blood bank up
5 on Spring Garden Street had an employee who
6 was selling the Social Security cards, the
7 birth dates, mothers' maiden names, and all
8 the other information about people who were
9 giving blood to give Sunami relief victims
10 blood.

11 So, I can honestly say that although
12 we try to impress upon us to... When I say
13 "us" I mean us as civilians... how to be
14 careful about your identity, and to make sure
15 you're protecting certain personal
16 information. It's getting harder and harder
17 to do, but we'd be more than happy to tell
18 people how to protect themselves.

19 The first thing they should do is
20 call the Federal Trade Commission. The
21 second thing -- and report it. Report it to
22 the Philadelphia Police Department. You
23 should also call and put a fraud alert on all
24 of your credit cards and your bank account.

25 They should also call the three

1 Budget - 4/12/05

2 Rizzo.

3 COUNCILMAN RIZZO: Madam President,
4 I'd appreciate it if this information we have
5 learned today about an employee that has
6 worked in the District Attorney's Office
7 since 1980, 25 years, that... You know, I'm
8 pleased with the fact that the District
9 Attorney has gotten a waiver that's in her
10 file and that that satisfies her.

11 But it doesn't satisfy me. What I'd
12 like to do is have the Personnel Department
13 to come back and walk us through for 25 years
14 what they have done to make sure -- And that
15 may all be -- The file may be absolutely
16 correct that every year the person had to
17 come back in and justify the waiver.

18 But the document that I saw appears
19 that doesn't happen any longer. So, I would
20 appreciate it if you could arrange for the
21 Personnel Department to come back and focus
22 on this particular individual, to find out
23 how a person could have a waiver for 25
24 years.

25 And again, it may have been handled

1 Budget - 4/12/05

2 correctly where every year, every two years,
3 every other year. But I think I'm more
4 concerned about the process here.

5 I'm more concerned -- Not about this
6 individual. Might be the greatest guy in the
7 world. But now we've identified the fact
8 that there's the potential that since 1980
9 nothing has been done. I hope that's not the
10 case.

11 COUNCIL PRESIDENT VERNA: I think
12 someone --

13 THE DISTRICT ATTORNEY: Councilman,
14 could I just add something. I don't want to
15 burden the record with this because in the
16 scheme of things -- This is of concern to,
17 obviously, some of you.

18 But here's the bottom line. Just
19 chatting with Ron Eisenberg, my Deputy for
20 Law, Mr. Tennis got a lawyer. His name is
21 David Rudovsky. I think you all know about
22 him. He threatened to sue the City if he
23 weren't granted an exemption because of
24 religious grounds.

25 And the City of Philadelphia --

1 Budget - 4/12/05

2 Because he was initially denied his right to
3 serve the City because of his religious
4 beliefs, under the First Amendment of the
5 Constitution.

6 Ed Rendell, for whatever reason Ed
7 Rendell chose -- And you'll have to ask Ed
8 Rendell -- the City agreed, the City of
9 Philadelphia government agreed to put him on
10 and not penalize him because of his religious
11 beliefs.

12 I have not revisited that question,
13 and I'm not going to revisit it.

14 COUNCILMAN RIZZ0: Well, I'm not
15 asking you to.

16 THE DISTRICT ATTORNEY: I don't
17 think he has to go back either.

18 COUNCILMAN RIZZ0: I asked the
19 Chair, in all fairness -- and I think you
20 heard me. I said, you had in your file what
21 you needed to conduct your business. But I'm
22 asking about process.

23 THE DISTRICT ATTORNEY: Okay.

24 COUNCILMAN RIZZ0: And I don't think
25 the Governor... The Governor won't answer me

1 Budget - 4/12/05

2 about where my \$6 million is for the state
3 police, so I doubt if he'll answer that
4 question. So...

5 COUNCIL PRESIDENT VERNA: That's the
6 Civil Service Commission.

7 COUNCILMAN RIZZO: But I'm more
8 concerned about the process. So, maybe what
9 you just said, District Attorney, is the
10 answer to the question, that someone was
11 intimidated into putting this waiver in
12 effect in...

13 THE DISTRICT ATTORNEY: Oh, no, no.
14 No. No. Please don't... No; please. I
15 don't mean... Nobody was intimidated.

16 COUNCIL PRESIDENT VERNA: It was a
17 court ruling, and apparently the Civil
18 Service Commission --

19 COUNCILMAN RIZZO: Okay. If that's
20 the case, I want to...

21 COUNCIL PRESIDENT VERNA: -- gave a
22 lifetime waiver.

23 COUNCILMAN RIZZO: Okay.

24 COUNCIL PRESIDENT VERNA: That is
25 what I'm assuming.

1 Budget - 4/12/05

2 COUNCILMAN RIZZO: That's not what
3 was said earlier. This is all new, Madam
4 President, what's going on here right now,
5 that a person has a lifetime waiver.

6 And that's fine. That's fine.
7 Just -- I just don't like people -- And I'm
8 not suggesting -- I don't like to be scammed.
9 And this may not be that. It's probably not
10 that, but I think it's worth hearing it from
11 the Personnel Department.

12 COUNCIL PRESIDENT VERNA:
13 Understood.

14 COUNCILMAN RIZZO: Whether privately
15 or publicly.

16 COUNCIL PRESIDENT VERNA:
17 Understood. Thank you. Thank you.

18 Are there any other questions or
19 comments from members of the committee?

20 (No response.)

21 COUNCIL PRESIDENT VERNA: Seeing
22 none, I thank you very much. And thank you
23 for all the wonderful work you do.

24 THE DISTRICT ATTORNEY: I thank the
25 Chair.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT VERNA: Thank you.

3 We will now hear from the Defenders
4 Association.

5 COUNCIL PRESIDENT VERNA: Good
6 afternoon. Thank you so much for your
7 patience. May I ask that you please identify
8 yourself for the record.

9 And before you start with your
10 testimony, I will simply say that we do have
11 a copy of your testimony. It will be given
12 to the stenographer. It will be transcribed
13 in full. So, if you would be kind enough to
14 summarize your testimony we would really
15 appreciate it.

16 MS. GREENLEE: I will, Madam
17 President.

18 COUNCIL PRESIDENT VERNA: Thank you.

19 MS. GREENLEE: Let me introduce --
20 I'm Ellen Greenlee, the Chief Defender,
21 Defender Association of Philadelphia.

22 On my left is First Assistant
23 Defender Charles A. Cunningham. And on my
24 right is my faithful Controller, Selim
25 Tawadros.

1 Budget - 4/12/05

2 Do you want their names spelled?

3 COUNCIL PRESIDENT VERNA: I don't
4 think that -- I think the stenographer
5 probably has it.

6 MS. GREENLEE: Selim Tawadros
7 S-e-l-i-m. T-a-w-a-d-r-o-s. Thank you.

8 COUNCIL PRESIDENT VERNA: Thank you.

9 MS. GREENLEE: Thank you again,
10 Madam President and members of City Council
11 for the opportunity to appear before you to
12 discuss with you the work in the Defender
13 Association and to thank you for your
14 continuing support and ask for your support
15 as we present our appropriation request for
16 fiscal year 2006.

17 I will briefly -- As you've
18 mentioned, you have a copy of our
19 testimony -- give you a snapshot of our work
20 as the premier and only Public Defender in
21 Philadelphia, is that we provide legal and
22 social service and investigative services, in
23 representing about 70 percent of the adults
24 and juveniles in Philadelphia who are charged
25 with criminal matters from the trial level

1 Budget - 4/12/05

2 through appeal.

3 We also represent 20 percent of
4 court appointments in homicide cases. We
5 represent, through our Child Advocate Unit,
6 now about 6300 dependent children.

7 And we represent in civil mental
8 health hearings more than 4200 respondents.
9 In calendar year 2004, just to get the
10 numbers straight, we received 68,000 new case
11 appointments.

12 We attended 350,000 court hearings
13 representing clients. And we provided in
14 excess of 73,000 ancillary services, such as
15 investigations, social service interventions
16 and interviews.

17 There has been no reduction in our
18 services, certainly not in the number of
19 courtrooms in which we staff or in the
20 caseloads or in the struggle that our staff
21 has to meet the needs of all our clients.

22 We are justifiably proud of the work
23 of the association. And I think it's fair to
24 say that it is -- it should be a matter of
25 pride to the City of Philadelphia and to

1 Budget - 4/12/05

2 members of City Council the quality of work
3 that the Defender Association does for the
4 poor citizens of Philadelphia.

5 A brief look at the work of just
6 several units. Especially in the area of
7 juvenile representation, we have been
8 striving over the last several years to
9 provide a more individualized representation
10 of our young clients because certainly it's
11 at that stage, with young people, that we can
12 make a difference in which direction they go.

13 In our juvenile unit which handles
14 those charged with criminal matters, in the
15 last calendar year we had 15,000 hearings,
16 which represented a 25 percent increase since
17 2002 which is a great deal of work.

18 We have expanded our team approach
19 to all five courtrooms in the juvenile system
20 which means that we have a senior attorney
21 who supervises the work of the younger
22 members of our staff who are representing.

23 And trying to provide that each
24 client in the juvenile setting is -- talks to
25 an individual attorney who will represent

1 Budget - 4/12/05

2 that person at a hearing.

3 This is a big change, as I'm sure
4 you're aware, in terms of the horizontal
5 nature of our practice, to try to make it
6 more individualized and to have a greater
7 effect on the outcome.

8 We also in our juvenile area are
9 involved in teleconferencing in which last
10 year we made 36 trips -- the trip, including
11 an attorney and a social worker, to 13
12 placements for review hearings.

13 This means that the City is not put
14 to the expense of having to bring in the
15 youngsters to Philadelphia for hearings. And
16 this also allows us, obviously, to get a look
17 at the placements which in many instances
18 have turned up some serious problems that we
19 are attempting to be -- to have addressed.

20 We also in the juvenile unit have
21 participated in the last year in two
22 statewide trainings. We are attempting to
23 try to upgrade the level of practice in the
24 juvenile defender offices throughout the
25 State of Pennsylvania.

1 Budget - 4/12/05

2 In addition to that juvenile unit,
3 we have a juvenile special defense unit which
4 handles those youngsters who are charged as
5 adults in more serious cases.

6 Last year we saw a very significant
7 rise in the numbers of juveniles being
8 charged as adults: From 298 in '03, to 420
9 in '04 which is a very significant increase.

10 We're happy to say that this
11 specialized unit of four attorneys and three
12 social workers and two investigators.

13 After preliminary hearings have been
14 held, we have had 68 percent of those
15 youngsters returned to juvenile court.

16 We also are busy right now in
17 working on the conditions of confinement. We
18 have approximately 42 youngsters who are
19 being held at the House of Correction in what
20 can only be described as some kind of
21 middle-aged sort of confinement.

22 And we are working with the prison
23 administration and the City to try to
24 alleviate the dreadful conditions in which
25 these youngsters are being held.

1 Budget - 4/12/05

2 The third of our juvenile units that
3 deals with children is our dependency unit,
4 the Child Advocate Unit which represents
5 approximately 6300 dependent children. There
6 also over the last several years we have
7 worked on a team approach which provides much
8 more individualized service to our children.

9 And we are also begun focusing over
10 the last year on those children who are aging
11 out of the system, who are reaching the age
12 of 14, 15, 16, to better prepare them, in
13 terms of education, housing, and jobs to --
14 to age out of the system and to get off the
15 dependency roles.

16 A part of the child advocate work
17 also has been to expedite the adoption
18 process, to get more children moving more
19 quickly into adoption.

20 A lot of these initiatives have been
21 the work of Judge Myrna Field, who's the
22 Administrative Judge of Family Court; has
23 been very innovative and very assertive, in
24 terms of these improvements in Family Court.

25 That's pretty much the focus of what

1 Budget - 4/12/05

2 we do with our juvenile clients. We also
3 have -- Obviously, all the departments are
4 busy.

5 Probation, parole and alternative
6 sentencing unit works very closely with our
7 adult social service. They handled 57,000
8 probation violation hearings last year which
9 is only important because it represents,
10 like, a 57 percent increase since the year
11 2000. So, probation violations are soaring.

12 They also are involved in early
13 parole. And of the 2700 petitions that were
14 granted last year, we have an 81 percent
15 success rate in getting people paroled early.

16 That units handles -- handled last
17 year 40,000 phone calls from clients and
18 families and everyone involved in cases and
19 letters. So, that's a tremendously busy
20 department.

21 Also busy in getting clients into
22 alternatives from jail through our
23 intermediate punishment programs, we've got
24 607 people into programs last year.

25 And also through our forensic

1 Budget - 4/12/05

2 intensive recovery program, we work with 65
3 different drug and alcohol and mental health
4 programs to get proper placements for
5 clients.

6 The last unit I would mention is our
7 homicide special defense unit. As you're
8 aware, our homicide unit began work in 1993.
9 We do 20 percent of court appointments only,
10 and since that time we've had 1,068
11 appointments in homicide matters.

12 And I think that you're well aware
13 that in that time frame, those 12 years that
14 we've been doing this, we have fortunately
15 had no client receive a death penalty.

16 I think that's a credit to the type
17 of representation that people get, where they
18 are assigned two attorneys, an investigator,
19 and a mitigation specialist to handle their
20 cases.

21 Our homicide unit also works with
22 the private bar in conducting continuing
23 legal education programs and consulting on
24 matters where they can be of assistance to
25 the private bar.

1 Budget - 4/12/05

2 A small part of that homicide unit
3 is our special defense unit which is really
4 only two people. They're kind of surprising
5 how much they're able to do.

6 Of course they do call on some of
7 the members of the homicide unit. But they
8 handle the high profile cases, complex cases,
9 all involuntary manslaughter, all rape
10 preliminary hearings. So they are a
11 tremendously, tremendously busy small unit.

12 Last year they handled 276 new cases
13 and 594 rape preliminary hearings which is
14 just incredible. And I didn't even count the
15 number of probation violations that they
16 handle.

17 That's just a kind of a snapshot of
18 the work that we do. The nitty-gritty is our
19 financial situation which I will broach to
20 you at this point in time.

21 For fiscal year '05, which is ending
22 shortly, we've had a very challenging year.
23 We had no increases in our budget, other than
24 a small amount of roughly \$123,000 for the
25 administrative pay plan that the City agreed

1 Budget - 4/12/05

2 to.

3 We've had -- We had no money for
4 salary increases. And still we are -- have
5 been able in this fiscal year to stay within
6 budget, due to very close monitoring of
7 expenses, holding the line on salaries,
8 postponing purchases, and significant changes
9 to our benefit plans.

10 One thing that differentiates us
11 from other departments that come here is,
12 obviously, we are not a City department. We
13 do not have the advantage of having benefits
14 and personnel and a number of things that are
15 taken care of by centralized agencies. We
16 operate like a private law firm.

17 From the appropriation that we
18 receive, we must pay all our expenses,
19 including salaries, benefits, insurance,
20 rent, utilities, professional services,
21 supplies, and anything else that we need to
22 run our business.

23 This differentiates us greatly, I
24 think, from City departments, so that for
25 fiscal year '06, when in our discussions with

1 Budget - 4/12/05

2 Budget Director Reed and her staff, the City
3 again proposed no increase.

4 This will be the third year where we
5 would be at the same level. With all the
6 savings that we have made, as we conclude
7 fiscal year '05, we cannot -- we cannot
8 sustain that level of funding without a
9 significant increase, in order not only that
10 there be fundamental fairness, in terms of
11 how we as the lawyers for the poor are
12 treated in terms of the City, but also
13 because we are lagging behind both the City
14 law office and the District Attorney's
15 Office, since this would be, as it presently
16 stands, the third year where we would have no
17 increase in our appropriation.

18 What we are requesting -- And I
19 should point out that we have been told by
20 Budget Director Reed's Office that since we
21 are not being asked to take a five percent
22 cut, that we will not get the two percent
23 that is included for salary increases.

24 But there is no way in the world
25 that we can take a five percent cut, since

1 Budget - 4/12/05

2 there's been absolutely no reduction in the
3 level of services that we are asked to
4 provide and must provide on a daily basis to
5 the City.

6 And we are not a City department.
7 We do not have the benefit of being part of
8 any City pension plan or having centralized
9 administration, in terms of personnel and
10 benefits.

11 So what we are requesting of Council
12 and requesting further consideration from the
13 City through the Budget Director and the
14 Mayor, is an increase in our appropriation of
15 \$1.6 million. Exactly it's \$1,646,450, and I
16 will break that down for you.

17 We first are asking for that two
18 percent wage increase. Customarily, when the
19 City negotiates with unions and comes up with
20 a formula, as they have this year of two
21 percent this year for '06, and then three
22 percent, and I think then four percent.

23 Customarily the Defender Association
24 has benefited from that amount to give some
25 kind of salary increases.

1 Budget - 4/12/05

2 We do not have any D.R.O.P. Program,
3 obviously, since we are not part of the City.
4 We do not have people who are in a financial
5 position to retire. So, we must request that
6 two percent wage increase be reinstated.

7 We are asking that attorney's
8 salaries which have been at a starting salary
9 of \$42,000 for three years now, since the pay
10 priority plan that Mayor Street and before
11 him Governor Rendell endorsed has run out,
12 that we move -- we intend to move the salary
13 to \$45,000.

14 And I think you know that that's
15 clearly at least where the District Attorney
16 is. And there can't be any question in
17 anyone's mind that Defenders work at least as
18 hard as District Attorneys do.

19 And I'm not saying anything negative
20 about the District Attorney, but you all
21 realize that the job of Public Defender is
22 not an easy job, with long case lists and
23 other things that have to be done for our
24 clients.

25 We proposed in September to move our

1 Budget - 4/12/05
2 starting salary to \$45,000. As I mentioned,
3 it's been three years at \$42,000. And that
4 implicates a bump to the newer attorneys who
5 are already at \$42,000. So, we have to keep
6 a space between the younger attorneys. So,
7 that move will cost us approximately
8 \$326,000.

9 We have also had to decide to
10 increase our social work salaries because we
11 are so woefully below not only what the City
12 pays at D.H.S. but what our social workers
13 can go out and earn in any private agency
14 probably about \$30,000.

15 For the last five years or more our
16 starting salary with a bachelor's degree has
17 been \$23,500. With a master's degree it's
18 been \$25,500.

19 COUNCIL PRESIDENT VERNA: That's
20 absurd.

21 MS. GREENLEE: We spend a great deal
22 of our time interviewing, hiring and then
23 losing people because we are not competitive.
24 I mean, we are not even close, in terms of
25 salaries.

1 Budget - 4/12/05

2 What we are doing is, we are moving
3 to the level of D.H.S. because our social
4 workers, especially the child advocate unit
5 which has half of our social workers, about
6 35 social workers, work on a daily basis with
7 the social workers at D.H.S.

8 D.H.S. starts its social workers at
9 \$28,700, and \$30,600 for comparable
10 experience.

11 We have had to do this in the
12 interests of stemming the attrition which is
13 really debilitating because we spend so much
14 time having to interview and find people who
15 will come and enjoy the experience but leave
16 after about a year because they can't afford
17 to live on our salary.

18 In addition to those salary issues,
19 we have -- we will have an increase in our
20 medical insurance. We project at about 15
21 percent come December when we renew.

22 We have over the last two years --
23 And I think it's clear since we were able to
24 hold expenses during fiscal year '05, that we
25 have put in place a number of items to save

1 Budget - 4/12/05

2 money on our health plans.

3 We have done away with the Blue
4 Cross/Blue Shield entirely. We have a \$500
5 co-pay for hospitalization. We have payroll
6 deduction for those employees still on
7 Personal Choice.

8 We have changed our prescription
9 plans to a three tier formulary plan. And we
10 have provided mail order prescriptions for
11 those who are on maintenance medicines. This
12 has made significant savings.

13 At this point in time we don't see
14 that there probably are anything like the
15 savings to be made this year. And we expect
16 that we will probably have a 15 percent
17 increase which will be roughly \$341,000.

18 The last two items are the benefits
19 linked to the increase in the salary and
20 increases in life insurance, Workers' Comp
21 and disability, since we have to pay all of
22 our insurance, which amounts to about
23 \$163,700.

24 And finally, we have to add to our
25 technology staff. We have a very lean, lean

1 Budget - 4/12/05

2 technology staff. We have an I.T. manager
3 and a staff of four who do the programming.
4 One does programming. One does hardware.
5 One does software. One does teaching. And
6 that's it for a staff, including interns and
7 students, of about 500 people. So, they
8 are -- we are stretched kind of thin.

9 What we are facing in the next year
10 is the implementation of a statewide system,
11 court history system, which we are not in a
12 position to handle at this point in time
13 because we do not have a case management
14 system.

15 As I've outlined in our testimony,
16 we have been begging over the last 15 years
17 from the state and especially the
18 Pennsylvania Commission on Crime and
19 Delinquency, to fund us so that we might
20 develop a case management system.

21 At this point in point there is no
22 choice about it. Something will have to be
23 done. We have alerted the City and M.O.I.S.
24 about the needs that we will have in the next
25 year.

1 Budget - 4/12/05

2 And obviously, we need to get moving
3 right away because we're either going to have
4 to develop our own case management system or
5 we're going to have to adapt one that's off
6 the shelf.

7 In any event, we will not have a
8 choice about that because the system --
9 criminal justice system will grind to a halt
10 in the fall of 2006 if the Defender is not on
11 line.

12 To that end, at this point in time
13 we are hiring a support specialist and a data
14 base application specialist. And that's the
15 last item on our budget list -- our
16 appropriation list -- our increase list at
17 this time, which takes us to an unhappy \$1.6
18 million plus change, in order for us to be
19 able to continue to provide the services we
20 have, in order for us to insure that our
21 staff receives the same kind of compensation
22 that comparable positions in the City
23 receive.

24 And with that, Council President, I
25 thank you for your time. I hope that -- I

1 Budget - 4/12/05

2 trust that was not too long.

3 COUNCIL PRESIDENT VERNA: No. You
4 were fine.

5 MS. GREENLEE: Or too much of what's
6 in our testimony.

7 We will... obviously would very much
8 like your support for this request when you
9 have a chance to look at it and determine the
10 validity of it, and also certainly will
11 appreciate the opportunity to work further
12 with City administration, with the Budget
13 Director.

14 COUNCIL PRESIDENT VERNA: I know
15 that you have indicated that you're
16 requesting an additional \$1.6 million above
17 the Mayor's recommended budget request.

18 MS. GREENLEE: That's correct.

19 COUNCIL PRESIDENT VERNA: And you
20 also indicated that you expressed your needs
21 to the administration.

22 Can you tell us what kind of a
23 response that you received?

24 MS. GREENLEE: Well, in all candor,
25 we actually only sent this request last week

1 Budget - 4/12/05

2 to the Budget Director. So, we haven't had
3 an opportunity to discuss the specifics of
4 the request.

5 COUNCIL PRESIDENT VERNA: So we
6 don't know what direction we're going either.

7 So, you're going to have to get back
8 to us, please.

9 MS. GREENLEE: Yes.

10 COUNCIL PRESIDENT VERNA: And I
11 would appreciate your doing that in writing.

12 MS. GREENLEE: Certainly.

13 COUNCIL PRESIDENT VERNA: You know,
14 there was a question...

15 The Chair recognizes Councilman
16 Rizzo.

17 COUNCILMAN RIZZO: Good afternoon.
18 Let me see. Yep. Good afternoon.

19 Talk a little bit about the
20 organization. You said that there's 500
21 people plus in terms...

22 MS. GREENLEE: Yes, including
23 interns and student. We're roughly at about
24 480.

25 COUNCILMAN RIZZO: Full-time?

1 Budget - 4/12/05

2 MS. GREENLEE: About 215 full-time
3 attorneys.

4 COUNCILMAN RIZZO: This residency
5 thing is always very controversial around
6 here. Could you tell us how many of your
7 employees live outside the City?

8 THE DISTRICT ATTORNEY: Well, the
9 percentage, Councilman, is 33 percent live
10 outside the City.

11 COUNCILMAN RIZZO: 33?

12 MS. GREENLEE: Yes.

13 COUNCILMAN RIZZO: So, since you're
14 not a City agency... But you described the
15 fact that, you know, there are certain things
16 that you don't get as not being a City
17 employee. But obviously you're not bound to
18 any City residency in your organization.

19 MS. GREENLEE: That's correct.

20 COUNCILMAN RIZZO: 33 percent.

21 Okay. Thank you.

22 Thank you, Madam Chair.

23 COUNCIL PRESIDENT VERNA: I'm sorry.
24 I was distracted. What was the percentage?

25 COUNCILMAN RIZZO: 33 percent of the

1 Budget - 4/12/05

2 full-time people. 400 and....

3 MS. GREENLEE: About 480.

4 COUNCILMAN RIZZO: 480 people. 33
5 percent of those folks live outside the City
6 of Philadelphia.

7 COUNCIL PRESIDENT VERNA: And they
8 are permitted to do that because you're under
9 contract.

10 MS. GREENLEE: Yes. That's correct.

11 COUNCIL PRESIDENT VERNA: Mm-hmm.
12 Very well.

13 I would appreciate it if you would
14 notify us of the outcome of your meeting with
15 the administration and what they propose to
16 do regarding the \$1.6 million

17 MS. GREENLEE: Thank you, Council
18 President.

19 COUNCIL PRESIDENT VERNA: Thank you.

20 MS. GREENLEE: We certainly will do
21 that.

22 COUNCIL PRESIDENT VERNA: Thank you
23 very much.

24 MS. GREENLEE: Thank you for your
25 time.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT Verna: You're
3 welcome.

4 This committee will stand in recess
5 until 1:45 p.m.

6 (A luncheon recess was taken from
7 1:00 p.m. to 2:00 p.m.)

8 COUNCIL PRESIDENT Verna: Good
9 afternoon.

10 This is the continued public hearing
11 of the Committee of the Whole.

12 We will now hear from the Law
13 Department.

14 Good afternoon. Please identify
15 yourself for the record and proceed with your
16 testimony. We do have a copy of your
17 testimony which will be given to the
18 stenographer. It will be transcribed in
19 full, so I would appreciate it if you would
20 simply summarize your testimony.

21 THE CITY SOLICITOR: Good afternoon.

22 Thank you, Council President Verna
23 and members of City Council.

24 I am Romulo L. Diaz, Jr., acting
25 City Solicitor. Thank you for the

7 I am accompanied today by the Law
8 Department's Executive Committee, Donna
9 Mouzayck, First Deputy City Solicitor; Don
10 Marino, Chair of Litigation; and Barbara Ash,
11 Chair of Social Services; as well as Chris
12 Lane, Director of Administration and
13 Management.

14 Under the City Charter, the Law
15 Department exists to provide quality legal
16 services --

17 COUNCIL PRESIDENT VERNA: Excuse me
18 just a minute, please. I've been asked if
19 you would please pull your microphone closer.
20 They're having difficulty hearing you.

21 THE CITY SOLICITOR: Under the City
22 Charter, the Law Department exists to provide
23 quality legal services to the City of
24 Philadelphia.

25 In sum, we fulfill that mission by

1 Budget - 4/12/05

2 supporting the administration's vision for
3 Philadelphia, meeting our responsibilities to
4 City Council, and managing our resources to
5 the City's budget goals for fiscal year 2006.

6 In FY 2006 we will continue many of
7 the efforts discussed previously with
8 Council. For example, we intend to emphasize
9 the collection of delinquent revenues owed to
10 the City and contain legal costs,
11 institutionalize court and administrative
12 reforms designed to achieve timely placement
13 permanently of children currently in the
14 child welfare system, and meet our
15 commitments to provide for equal opportunity
16 and diversity both for Law Department
17 contracting efforts and in the employment of
18 a qualified diverse work force.

19 Let me now summarize the Law
20 Department's FY 2006 budget request. Overall
21 we request \$13.8 mill for FY 2006 in the
22 General Fund.

23 This represents a decrease of \$1.4
24 million or nearly 10 percent from estimated
25 obligations for FY 2005. We will also reduce

1 Budget - 4/12/05

2 our General Fund budgeted staffing levels
3 from 198 to 185.

4 I would refer Council members to
5 Page 2 of my written testimony for our
6 request in connection with other City funding
7 sources.

8 As acting City Solicitor for just
9 over a week now, it is fitting that I
10 recognize the leadership of former City
11 Solicitor Pedro Ramos. During his tenure we
12 had many accomplishments to celebrate. And
13 I'd like to recite just a few of them.

14 We restructured our tax unit and
15 implemented a City-wide campaign aimed at
16 delinquent taxpayers to increase collections
17 in FY 2005 and beyond. We are on target to
18 increase our annual collections by more than
19 the \$10 million promised to Council last
20 year.

21 We partnered with D.H.S. and Family
22 Court to reform D.H.S.'s case management
23 system which now provides continuity of
24 representation and secures the best outcomes
25 for the children in the system.

1 Budget - 4/12/05

2 As a result of our negotiations and
3 agreement with the Pennsylvania Insurance
4 Department, the second stage of auto
5 insurance rate reductions has begun.
6 Reductions totaling approximately \$18 million
7 in Philadelphia went into effect between
8 September 2004 and April 2005.

9 We were successful in persuading the
10 Pennsylvania Supreme Court to overturn a
11 Commonwealth Court decision and reinstate the
12 City's Life Partner Benefits Ordinance.

13 Our litigation against S.E.P.T.A.
14 avoided catastrophic rate hikes and service
15 cuts which could have led to the dismantling
16 of our public transit system.

17 Our action provided an opportunity
18 for the Governor to explore and secure
19 alternative funding to keep the system
20 running through the end of FY 2005.

21 In short, the City of Philadelphia
22 has been well served by a dedicated Law
23 Department staff that is capable and ready to
24 meet its Charter responsibilities to all of
25 its clients, as well as to meet the

1 Budget - 4/12/05

2 expectations of Philadelphia residents.

3 I am honored and humbled to have
4 been given the opportunity by Mayor John F.
5 Street to lead the City Law Department.

6 Madam President and Council members,
7 that concludes my oral summary. And I
8 request that my formal written statement be
9 entered into the record.

10 I would be pleased to respond to any
11 questions that you may have at this time.

12 COUNCIL PRESIDENT VERNA: Thank you
13 very much.

14 The chair recognizes Councilman
15 Kenney.

16 COUNCILMAN KENNEY: Thank you, Madam
17 President.

18 As you know, the City Solicitor
19 represents both the administration and City
20 Council. And the City Solicitor will often
21 be faced with situations in which the
22 interests of those two clients conflict.

23 I would like to explore with you
24 today how you would resolve such conflicts,
25 in the context of ordinances which were duly

1 Budget - 4/12/05
2 passed into law, even over the Mayor's
3 objections.

4 And let me give you an example.
5 This past February Council enacted over the
6 Mayor's veto Bill Number 040326. That bill
7 amended the City's pension code to eliminate
8 the income offset provisions for disabled
9 City pensioners.

10 The Mayor in his veto message stated
11 that the City Solicitor had advised him --
12 and I guess that was Pedro at the time --
13 that Council did not have the power to make
14 such amendments -- make such amendments,
15 quote, apply during the life of current
16 collective bargaining agreements, end quote.

17 My question is, suppose the Pension
18 Board asked for your advice as to whether it
19 should follow the provisions of this bill.

20 Suppose further that as City
21 Solicitor you agreed with your predecessor's
22 conclusion that Council did not have the
23 power to make changes to the Pension Code
24 that apply during the term of current labor
25 contracts.

1 Budget - 4/12/05

2 Would your advice to the Pension
3 Board be to follow your legal advice and to
4 ignore an ordinance which was duly enacted by
5 Council? Do you have an opinion?

6 THE CITY SOLICITOR: Let me give a
7 short context for the answer, if I may, and
8 then respond directly to your question,
9 Councilman.

10 First of all, the City Solicitor, as
11 you suggest, under the Charter, represents
12 not only the administration but all 17
13 members of Council.

14 We have a responsibility and prefer
15 to offer written opinions as to the legality
16 of proposed legislation to all of our clients
17 so that there is consistency and transparency
18 in that advice.

19 There are opportunities, there are
20 times when it appears that some of our
21 clients prefer to have confidential advice,
22 and we adhere to that request.

23 But I have a responsibility to state
24 what I believe to be the law, at least with
25 respect to my responsibilities under the

1 Budget - 4/12/05

2 Charter and that of the Law Department.

3 In a particular matter where there
4 is a potential conflict between clients, we
5 not only have a longstanding policy as to how
6 we deal with those potential conflicts, but
7 we also have a Code of Professional Conduct
8 that we as lawyers adhere to under the
9 Pennsylvania Supreme Court rules. So, that's
10 the context.

11 And if I may respond to your
12 particular question, I don't know this
13 particular provision that you're referring
14 to. But if it were a question put to me as
15 to what my belief was as to the legality of a
16 particular ordinance, I would be duty bound
17 to give my best legal judgment.

18 If the issue were -- And I think
19 this perhaps may be part of your question,
20 although not articulated as such. If the
21 question were whether in fact, I should be
22 providing legal representation, shall we say,
23 if there is a difference of opinion as to the
24 legality of a particular ordinance, we have
25 honored those requests by City Council, and I

1 Budget - 4/12/05

2 would intend to do that in the future as
3 well.

4 COUNCILMAN KENNEY: I guess this is
5 a somewhat hypothetical question because you
6 have not yet made a decision on this but your
7 predecessor has.

8 If you believed that a bill that was
9 duly enacted by Council was not legal, would
10 you advise the City agency involved or the
11 Mayor not to enforce the provisions of the
12 bill, prior to any court making a decision on
13 its legality?

14 Certainly your opinion's a legal
15 one. You're a learned lawyer. It has
16 validity. But no court would have yet made a
17 decision on the validity or legality of the
18 law.

19 Would you then advise your client on
20 the administration side to ignore Council's
21 legislative prerogative in passing
22 legislation?

23 And why wouldn't the administration
24 just go to court and have a court determine
25 the validity of this particular ordinance or

1 Budget - 4/12/05

2 any other ordinance that there's a
3 disagreement on.

4 THE CITY SOLICITOR: There are a lot
5 of questions in that one question. So, if I
6 can just sort of separate them, if I may.

7 It seems to me that if I've come to
8 the conclusion, which is part of your
9 question, that it is duly enacted, I might
10 have a different result. I think that's
11 really the heart of the question, is whether
12 a particular ordinance is duly enacted.

13 And then in addition to that, is
14 there... Even for those that are duly
15 enacted, is there a responsibility of the
16 administration to follow it.

17 There are clear decisions in the
18 past by courts. There are also long-standing
19 policies about the limits of what City
20 Council is authorized to enact and what the
21 administration is obligated to follow.

22 But I go back to my earlier
23 response, Councilman, that I have to call
24 them as I see them. That is my duty to the
25 Charter, under the Charter, to the

1 Budget - 4/12/05

2 as a situation is that your predecessor
3 determined in his opinion that the law was
4 not valid, and therefore advised the
5 administration not to enforce it.

6 That, to me, gets really clearly
7 close to just dismissing the actions of
8 Council and, you know, having your lawyer
9 tell you that you shouldn't follow what
10 Council has passed.

11 And I think -- I mean, this
12 Council's role has been diminished
13 dramatically in the last five years to begin
14 with.

15 To diminish it even further by
16 saying that even though we go through the
17 process provided for in the Charter that the
18 Mayor vetoes it and we 17 of us, 16 of us
19 override that veto.

20 And then the City Solicitor says,
21 oh, by the way, I don't think it's legal, so
22 you really shouldn't enforce it. I mean,
23 where's the Charter powers granted to us by
24 the framers of the Charter as a legislative
25 body?

1 Budget - 4/12/05

2 THE CITY SOLICITOR: I am aware,
3 Councilman, that there are situations,
4 particularly relating to administrative
5 functions of the Mayor, relating to
6 contracting, for example, where there are
7 disputes as to the limits.

8 It has been, I think, the
9 long-standing policy of the Law Department
10 and prior serving Solicitors that in areas
11 where we can give deference to City Council
12 at all, we will.

13 In areas where there is a discretion
14 of the Mayor, with regard to his powers, we
15 certainly want to make sure that those powers
16 and authorities are supported in terms of our
17 interpretation. That's a long-standing
18 policy and interpretation of the Law
19 Department.

20 In terms of whether in certain
21 respects -- and McBride Principles is one
22 that comes to mind -- whether that is one
23 that as a matter of policy should be followed
24 versus whether as a matter of law it is
25 required to be followed.

1 Budget - 4/12/05

2 You know, I think the long-standing
3 policy is that we try to -- we try to at
4 least carry out the desires of Council where
5 possible.

6 But -- And with regard to -- If I
7 may finish.

8 COUNCILMAN KENNEY: The where
9 possible gets me -- has me more concerned,
10 that the wishes of Council, where possible.
11 I mean, the qualifier there does leave me
12 some serious issues. I mean, where possible
13 in your opinion. That's what is concerning
14 me.

15 And would it not be better advice to
16 the administration and to the government to
17 pass -- to follow the law duly enacted by
18 Council? Allow the administration to
19 challenge that in a court where a judge,
20 whose job it is to make decisions on whether
21 legislation is valid or not, would then make
22 a decision and we'd go from there.

23 As opposed to, you know, a
24 civilian -- albeit an attorney, but a
25 civilian employee of the government who is

1 Budget - 4/12/05

2 not elected saying that the Council, who is
3 elected, don't follow what they pass because,
4 you know, you don't have to. Don't you find
5 that somewhat concerning?

6 THE CITY SOLICITOR: I can
7 understand from your perspective your
8 concern.

9 But again, I go back to the point --
10 and I'd like to just reiterate -- that I have
11 to -- and my predecessors have spoken and
12 delivered opinions as to what they believe
13 the law requires.

14 With regard to the Charter and the
15 law of Philadelphia, there are clearly powers
16 which are reserved to the Mayor and to his
17 administration.

18 And with respect to those powers
19 reserved to the Mayor and his administration,
20 I would have to deliver an opinion in my best
21 judgment as to whether I believe that Council
22 enactments, if you will, cross over the line
23 into those prerogatives and those powers of
24 the Mayor. I think that is a responsibility
25 that any City Solicitor has under the

1 Budget - 4/12/05

2 Charter.

3 COUNCILMAN KENNEY: I don't think I
4 disagree with you on that point. I think you
5 are required and responsible to give your
6 learned researched opinion on what the law --
7 what you think the law is.

8 But as not -- as not a member of the
9 judiciary, and as not a member of the
10 legislative body, why should the -- why
11 should the view or the opinion of one City
12 Solicitor supersede in some way the elected
13 legislative body and/or a court of law which
14 is empowered to make those decisions on
15 whether or not a law is legal or binding?

16 THE CITY SOLICITOR: I think the
17 most direct answer that I can give you,
18 Councilman, is that that is what I understand
19 the Charter to authorize and expect and,
20 indeed, perhaps, require the City Solicitor
21 to do.

22 Where there are potential conflicts
23 of interest, as I had indicated earlier, with
24 respect to the interests of our clients, the
25 Mayor or City Council, as it may be, on the

1 Budget - 4/12/05

2 same issue, the same Code of Conduct
3 indicates that we should screen ourselves
4 from those conflicts.

5 We should make sure that we are
6 providing fair and objective counsel and
7 advice to all of our clients. And where it
8 is necessary and appropriate, I am fully
9 prepared to authorize outside counsel to
10 protect the prerogatives of Council wherever
11 appropriate.

12 COUNCILMAN KENNEY: Wouldn't you
13 think that in this particular case that we've
14 talked about for a little while now would be
15 one of the clearly conflicted situations,
16 where the very powers of the branches of
17 government are in conflict with each other,
18 wouldn't it be appropriate to then step back
19 and say, you know, I can't -- I am in
20 conflict with both my clients?

21 And I mean, based on the very -- on
22 the very basis of what their power is. This
23 is not just, you know, whether or not a
24 contract is legal. This is about the role of
25 the two branches of government. And once

1 Budget - 4/12/05

2 you're in the middle of that conflict, it
3 would seem that the City Solicitor should
4 say, I can't make a decision between those
5 two clients. We should get outside counsel.

6 THE CITY SOLICITOR: Well, I go
7 back, if I may, to my earlier answer. And
8 that was that we prefer to provide
9 transparent and clear advice.

10 And we prefer to provide that advice
11 early in the process so that we can advise
12 both our Council member clients as well as
13 the administration of how we see particular
14 legislation and as to its legal efficacy.

15 If there comes a point in time where
16 there is a significant disagreement, with
17 respect to the administration and Council's
18 views, of the legal responsibilities under an
19 ordinance, as you suggest, duly enacted by
20 Council, then at that point if Council says,
21 we want to have outside representation to
22 protect our interests, City Solicitors in the
23 past and this acting City Solicitor commits
24 to you today, that you will have outside
25 representation to protect your interests.

1 Budget - 4/12/05

2 COUNCILMAN KENNEY: Again, I don't
3 want to beat this horse to death further,
4 but... And I will contemplate -- most likely
5 put together a letter asking for you to
6 revisit this issue.

7 But I agree with you in total up
8 until the point where your advice --
9 potential advice to the administration or to
10 the executive is not to follow the law duly
11 enacted by Council unanimously.

12 That, to me, I think is where you
13 and I may depart on this particular issue.
14 But I will look to prepare something for
15 your... Take a look at it again. Perhaps
16 you'll be authorizing outside counsel.

17 THE CITY SOLICITOR: And Councilman,
18 if I may very briefly just respond. I don't
19 want my testimony to be mischaracterized, and
20 I don't mean it in any kind of a... I just
21 don't want my testimony to be
22 mischaracterized as somehow saying that I
23 would advise a client not to follow duly
24 enacted law.

25 What I really intend to suggest is

1 Budget - 4/12/05

2 that I am trying to, in these instances,
3 determine what I believe the law to be.

4 I would welcome a letter from you.
5 I would welcome the opportunity to respond,
6 particularly after I've taken a look at the
7 particular facts of this matter.

8 And should it come to a point where
9 Council believes that outside representation
10 of its interests are needed, I would be
11 prepared to take that action.

12 COUNCILMAN KENNEY: Thank you.

13 And again I apologize, because this
14 was not your decision. You are defending a
15 decision that was made by a previous City
16 Solicitor.

17 But I think in the end, the ultimate
18 decision or advice from that lawyer to his
19 client, the Mayor, was don't follow the law
20 we passed.

21 And I think that's -- And I don't
22 need you to comment on it. That's my
23 opinion. And I'll be contacting you shortly
24 by mail.

25 Thank you.

1 Budget - 4/12/05

2 THE CITY SOLICITOR: Thank you.

3 COUNCIL PRESIDENT Verna: Thank you.

4 The Chair recognizes Councilman

5 Goode.

6 COUNCILMAN GOODE: Thank you, Madam

7 President.

8 Good afternoon, Solicitor.

9 THE CITY SOLICITOR: Good afternoon,
10 Councilman.

11 COUNCILMAN GOODE: Congratulations
12 on your appointment.

13 THE CITY SOLICITOR: Thank you.

14 COUNCILMAN GOODE: I have two areas
15 of interest this afternoon, first starting
16 with --

17 THE CITY SOLICITOR: Thank you, sir.

18 COUNCILMAN GOODE: -- the City's
19 lease with S.E.P.T.A. which was executed on
20 September 27, 1968, and expires at the end of
21 this year. Could you please update me on the
22 status of negotiation of that lease.

23 THE CITY SOLICITOR: I think we
24 responded, Councilman, within the last week
25 to that matter, but let me just articulate

1 Budget - 4/12/05

2 today where we are.

3 We have undertaken a very serious
4 analysis of the lease, leaseback agreement.
5 We know that, at least according to our
6 interpretation, meaning the City Law
7 Department's interpretation, it would appear
8 that the termination date is at the end of
9 2005, December 31, 2005.

10 There is at least another school of
11 thought, if you will, that's been expressed
12 to me informally on behalf of S.E.P.T.A.

13 What we want to do within the Law
14 Department is to be able to advise the
15 administration with respect to our
16 conclusions, so that we can develop a
17 negotiation strategy going forward.

18 We have not yet formally commenced
19 that negotiation, but I would hope to be
20 doing that in the not too distant future and
21 would be pleased to keep Council informed as
22 to that.

23 COUNCILMAN GOODE: And that
24 information has already been forwarded to
25 Council in writing?

1 Budget - 4/12/05

2 THE CITY SOLICITOR: That is
3 correct.

4 And I think, Councilman, the letter
5 may have been dated April 5th, if I recall
6 correctly. April 4th, I'm told.

7 COUNCILMAN GOODE: Thank you.

8 As a follow up to that question,
9 aside from looking at the legal ramifications
10 of renegotiating that lease, is there someone
11 looking at the economics of that lease and
12 how it might benefit the City, in terms of
13 privatizing certain services or other
14 options?

15 THE CITY SOLICITOR: I can't speak
16 for the administration, but it would seem to
17 me prudent to look at all reasonable options
18 and look at all of the costs and benefits
19 associated with those options, in order to
20 make a determination as to a going forward
21 strategy for a lease, leaseback negotiation,
22 yes, sir.

23 COUNCILMAN GOODE: Okay. I'll look
24 forward to talking to you about that further.

25 My second area of interest is the

1 Budget - 4/12/05

2 executive order for minority participation
3 that was prepared by the Law Department. Can
4 you tell me why it has an 18-month expiration
5 date.

6 THE CITY SOLICITOR: I can't tell
7 you as to the 18-month period, but I
8 understand that we are currently in
9 discussion with Council staff and the Law
10 Department staff, in connection with
11 eliminating what otherwise would seem to be a
12 lack of synchronicity in the termination date
13 of the executive order and the expected
14 review of the disparity study and any updates
15 that may be required.

16 I believe that is about ready to be
17 concluded successfully, in terms of that
18 informal discussion, so that it would
19 terminate at the later of the report that is
20 required currently by the executive order or
21 the updated disparity study, so that we don't
22 have the disconnect that currently would
23 appear on the surface to be there.

24 COUNCILMAN GOODE: Thank you.

25 THE CITY SOLICITOR: You're welcome.

1 Budget - 4/12/05

2 COUNCILMAN GOODE: Thank you, Madam
3 President.

4 COUNCIL PRESIDENT VERNA: You're
5 welcome.

6 Mr. Solicitor, on Page 3 of your
7 testimony, you indicate that the Neighborhood
8 Transformation and Regulatory Affairs Unit
9 will collect in FY 05 \$3.4 million in
10 increased fines. How does this compare to
11 the original Mayor's revenue projection for
12 FY 05?

13 THE CITY SOLICITOR: There are --
14 There are two components of the revenue
15 projection, insofar as the Law Department is
16 concerned.

17 There is first the tax collections.
18 And let me just briefly summarize that, if I
19 may, before I get to the Neighborhood
20 Transformation unit number.

21 But in connection with the tax
22 collection projection, we had... I should
23 say former City Solicitor Pedro Ramos had
24 committed to City Council last year that the
25 Law Department would increase its tax

1 Budget - 4/12/05

2 collections by \$10 million over the base of
3 \$90 million the prior year.

4 And we are on target to exceed that
5 by a significant amount, we believe now
6 approximately \$105 million. So, we will meet
7 that commitment to City Council last year.

8 With regard to the non-tax
9 collections --

10 COUNCIL PRESIDENT VERNA: Can you
11 tell us where that would appear in the
12 revenue estimates? We're looking at...

13 THE CITY SOLICITOR: In terms of the
14 Law Department?

15 COUNCIL PRESIDENT VERNA: Yes.

16 THE CITY SOLICITOR: For the Law
17 Department, you're going to see that
18 reflected in the revenue grants numbers,
19 where you will see contingency fees to
20 outside counsel reflected in the numbers.
21 You won't see the exact. We don't account
22 for these numbers in the City Law Department
23 income, if you will.

24 What you will see in our Law
25 Department budget will be the numbers that we

1 Budget - 4/12/05

2 pay out to collection firms, outside
3 collection firms.

4 COUNCIL PRESIDENT VERNA: Where
5 would revenues be reflected in the budget?

6 THE CITY SOLICITOR: To the best of
7 my knowledge, I have not seen those revenue
8 numbers reflected in the Law Department
9 budget. They are reflected in the overall
10 City budget revenue numbers.

11 And the only way... And I will just
12 ask my colleagues for confirmation. They're
13 nodding their heads yes. The only way you
14 would see our collection numbers reflected
15 would be the extent to which we use outside
16 counsel. And therefore, commissions or
17 contingency fees paid to outside counsel
18 would be reflected in the revenue grants
19 numbers which are in the Law Department
20 budget.

21 COUNCIL PRESIDENT VERNA: I'm sorry.
22 I was distracted. I'm talking about
23 revenues. I'm not talking about fees. I'm
24 talking about revenues.

25 THE CITY SOLICITOR: And I guess...

1 Budget - 4/12/05

2 I understand your difficulty. This is not
3 a -- This is not a total budget reflective of
4 both the income from the Law Department to
5 the City General Fund or the other funds in
6 total. These are the budget numbers that
7 reflect before you the expenditures that
8 we're requesting authority for in FY '06.

9 And to the extent that part of our
10 appropriation request would authorize to us
11 pay outside collection firms for their
12 success in helping us with both tax
13 collection and non-tax collections, you will
14 see those appropriations requests reflected
15 in the revenue grants numbers. And I'm sorry
16 if I'm not being clearer than that.

17 COUNCIL PRESIDENT VERNA: Well,
18 maybe Diane Reed could explain. Where would
19 the revenues appear?

20 THE CITY SOLICITOR: Madam
21 President, the Budget Director advises me
22 that she doesn't have that information at
23 hand.

24 Could we provide that to you, for
25 the record? I understand that this is of

1 Budget - 4/12/05

2 concern to you. We want to be forthcoming,
3 but it's not going to be reflected in the Law
4 Department budget.

5 COUNCIL PRESIDENT Verna: As I said,
6 we don't know how to compare the original
7 Mayor's revenue projection for FY 05. The
8 revenues to us would appear to be much less
9 than originally projected. But I'd like you
10 to get back to us on that, please.

11 THE CITY SOLICITOR: I'd be happy
12 to, Madam President.

13 COUNCIL PRESIDENT Verna: On Page
14 23-4 of your detail, you have listed a
15 general budget reduction of \$1.1 million in
16 Class 200. Can you explain this reduction,
17 please?

18 THE CITY SOLICITOR: Just one
19 moment, Madam President.

20 COUNCIL PRESIDENT Verna: Sure.

21 THE CITY SOLICITOR: Sorry, Madam
22 President. I was confusing the section
23 number with the page number.

24 The number that you're referring to
25 which appears in Section 23 on Page 4, the

1 Budget - 4/12/05
2 \$1.1 million, the majority of that, about
3 \$680,000, reflects the technology investment,
4 if you will, in some of the enhanced
5 collection activities by the Law Department
6 that we discussed before, which is going to
7 allow us to back out of some of the
8 commissions that we were otherwise paying to
9 the outside collection firms.

10 So, this was an investment in
11 internal capacity in the Law Department to do
12 the collection work, which means that we then
13 did not have to pay the commissions to
14 outside collection firms.

15 About \$500,000 reflects a reduction
16 in our budget request for Class 200 dollars
17 which is consistent with what other agencies
18 and departments have had to deal with.

19 COUNCIL PRESIDENT VERNA: We would
20 certainly appreciate a breakdown.

21 THE CITY SOLICITOR: We'll be happy
22 to provide that to you, Madam President.

23 COUNCIL PRESIDENT VERNA: Thank you.

24 On Page 23-17 of your detail, you
25 show \$10,000 bankruptcy, TWA, US Air, Metal

1 Budget - 4/12/05

2 Bank. Why isn't this being charged to the
3 Aviation Fund?

4 You are also asking for \$40,000
5 P.G.W. multi-site agreement. What is it?
6 And why isn't P.G.W. paying for it? 23-17.

7 THE CITY SOLICITOR: Okay. Let me
8 just refer to the contract that's related to
9 the P.G.W. with multi-site agreement.

10 These are environmental clean-up
11 issues where we have both on behalf of P.G.W.
12 and on the City, engaged in contract work
13 with this particular firm, when it's done on
14 behalf of P.G.W., even though it has been
15 reflected on the City Law Department budget.

16 Those numbers are reimbursed by
17 P.G.W. to the City Law Department, where we
18 have other environmental work where we use
19 this firm. And then those numbers are paid
20 for out of our budget without reimbursement.
21 In connection with the --

22 COUNCIL PRESIDENT Verna: Excuse me.
23 I just don't understand why they would even
24 be in your budget.

25 THE CITY SOLICITOR: I'm sorry,

1 Budget - 4/12/05

2 Madam President?

3 COUNCIL PRESIDENT VERNA: I don't
4 quite understand why this would be in your
5 budget.

6 THE CITY SOLICITOR: It is an
7 anomaly, if you will, of a past practice. It
8 is one that we are changing. In fact, this
9 year, this fiscal year, I've spoken to the
10 P.G.W. general counsel.

11 And going forward our intention is
12 to have P.G.W. contract directly on behalf of
13 these services needed for P.G.W. and not
14 City-wide.

15 But we're looking at a three-year
16 snapshot in connection with our budget
17 request. So, you're seeing the year before
18 the current year and the year to come.

19 And so, you'll see some of these
20 transactions which may no longer reflect
21 where we're headed, but they remain for this
22 three-year snapshot on our budget tables.

23 COUNCIL PRESIDENT VERNA: Did you
24 respond to the \$10,000 bankruptcy T.W.A.,
25 U.S. Air, Metal Bank? My question is, why

1 Budget - 4/12/05

2 isn't this being charged to the Aviation
3 Fund?

4 THE CITY SOLICITOR: Well, we have
5 used this particular firm on bankruptcy
6 matters unrelated to the Aviation Fund.

7 I don't know why in this particular
8 matter we have listed T.W.A. and U.S. Air as
9 well.

10 But the Metal Bank matter is one
11 that is related to a super fund cleanup issue
12 for the City. And in that particular
13 context, we've been quite successful in --
14 through the bankruptcy procedure which took
15 place in Missouri, is my recollection, over
16 the last year.

17 We wanted to make sure that in
18 protecting the City interests. We were
19 being, I think, quite aggressive. And as a
20 consequence of the work that we did, both in
21 connection with the super fund litigation and
22 in the bankruptcy proceeding in Missouri, we
23 were able to eliminate the potential outside
24 liability to the City of something on the
25 order of \$20 million to \$25 million.

1 Budget - 4/12/05

2 So a \$10,000 investment for
3 bankruptcy, even though it may be mislabeled,
4 with regard to T.W.A. and U.S. Air for this
5 reason that I mentioned before, that we're
6 looking at a three-year snapshot, but for
7 that confusion. This is unrelated to the
8 Aviation Fund.

9 And I'm also reminded that if you
10 look, Madam President, on Page 35 of this
11 particular budget submission, where we have
12 the Aviation Fund legal services mentioned,
13 you'll also see the remainder the bulk of
14 that same contract for the same firm
15 reflected in the Aviation Fund category.

16 We have many situations like this
17 where we have a contract with a particular
18 firm. And depending upon the nature of the
19 work that's being done, bankruptcy could be
20 handled for any number of the funds.

21 We allocate the dollars to where we
22 believe the work is being done. And in this
23 particular instance, it would appear that the
24 firm did some General Fund work at about a
25 \$10,000 level.

1 Budget - 4/12/05

2 And you can see that over some
3 \$54,000 is allocated to the Aviation Fund for
4 the same firm.

5 COUNCIL PRESIDENT VERNA: Thank you.

6 On Page 23-16 of your detail, you
7 show \$20,000 for Keel Communications media
8 context, \$120,000 for Wojack and Associates,
9 lobbying services, and \$50,000 HIPAA
10 Compliance, City and P.G.W.

11 Can you explain these three
12 contracts and the services we receive and why
13 the General Fund is paying for P.G.W. and
14 HIPAA Compliance?

15 THE CITY SOLICITOR: Let me start
16 with -- Let me start with the Keel
17 Communications contract.

18 COUNCIL PRESIDENT VERNA: Mm-hmm.

19 THE CITY SOLICITOR: In fact, this
20 is an area where I, to the best of my
21 knowledge, we haven't used that contract
22 opportunity.

23 But going forward it seems to me
24 that as part of our tax collection efforts,
25 one of the improvements that I'd like is to

1 Budget - 4/12/05

2 see us having greater visibility and
3 publicity given to the City's efforts to
4 collect from delinquent taxpayers.

5 And I would think that we'd want to
6 be using a firm that has this kind of
7 communications capability. We haven't been
8 spending, but I'm now of a mind that we
9 should be looking to publicize our efforts to
10 enhance our collections.

11 With respect to what is listed here
12 for Wojack, I personally would have probably
13 characterized it as legislative services.

14 It has been important, in connection
15 with the work done on behalf of the City and
16 the General Fund, for us to have a presence
17 in Harrisburg, to keep abreast of what is
18 going on with regard to the General Assembly
19 and related offices in Harrisburg.

20 One of the successes that I
21 mentioned in my formal written testimony,
22 Madam President, was in connection with the
23 success that we had in increasing the ability
24 of the City to impose fines and to collect
25 additional fees which would benefit the

1 Budget - 4/12/05

2 General Fund.

3 For many years -- I'm told for well
4 over a decade -- the City has been trying to
5 increase the \$300 fee limit and fine limit
6 which is currently imposed.

7 The General Assembly this past year
8 did authorize the City to do that, up to
9 \$2,000, subject to an annual increased cap of
10 \$400.

11 That's the value of these kinds of
12 services which are performed on behalf of the
13 City and on behalf of the General Fund.

14 With respect to the P.G.W. matter,
15 again, any work that we do on behalf of
16 P.G.W. is subject to reimbursement. And so,
17 therefore, the General Fund is not ultimately
18 responsible for those expenses.

19 COUNCIL PRESIDENT VERNA: The Chair
20 recognizes Councilman Nutter.

21 Thank you.

22 COUNCILMAN NUTTER: Thank you, Madam
23 Chair.

24 Good afternoon, Mr. Diaz.

25 First... Which I'm sure these

1 Budget - 4/12/05
2 issues will come up at a different hearing,
3 but since I think this is your first
4 appearance since being nominated, what is --
5 what will you -- what will your policy be
6 with regard to requests specifically by
7 members of Council? And if you've answered
8 this question already, you'll just tell me,
9 regarding legal opinions on any number of
10 matters.

11 Are they -- When -- When they are
12 completed, does it solely come to the member?
13 Is it a public document? Is there discussion
14 as to whether or not the member wants it kept
15 public or private? What do you anticipate
16 your policy to be on that in that regard?

17 THE CITY SOLICITOR: I did respond,
18 but I'd be happy to summarize very quickly
19 for you, Council member.

20 We have, I think consistently, and
21 my policy and approach on this would not be
22 any different from former Solicitors. We
23 recognize that we represent the Mayor and all
24 17 members of City Council.

25 We prefer to offer written advice

1 Budget - 4/12/05
2 that can be shared so that all of our clients
3 can be comfortable that they are getting
4 consistent and uniform advice in a
5 transparent way.

6 But where we get a request from a
7 Council office to keep the advice
8 confidential, our policy is and will remain
9 to honor all such requests.

10 COUNCILMAN NUTTER: Okay. And how
11 does it work with regard to a legislative
12 matter? And again, if you went over this,
13 don't go over it again.

14 A bill gets introduced. It's going
15 through the process. At some point in time a
16 document will appear. Is that just a general
17 service? Is it for the purpose of trying to
18 assist a member in, you know, making the --
19 putting the legislation in its best form or
20 advising of potential legal issues? What is
21 the -- What's the policy and what's the
22 purpose?

23 THE CITY SOLICITOR: I think you
24 summarized the purpose. We want to be
25 helpful, in terms of our advice, and timely,

1 Budget - 4/12/05

2 and to assist in the development of
3 legislation that is going to be effective
4 legally.

5 In terms of our policy, we want to
6 make sure that we are providing consistent,
7 uniform, transparent advice. And I think you
8 can summarize why.

9 COUNCILMAN NUTTER: Well, I'd
10 only -- Making no comment whatsoever because
11 you have highly competent people over in the
12 unit, but I would only suggest to you as a
13 legislator that there are times when that
14 advice, possibly... We introduce a lot of
15 things around here, and sometimes you don't
16 know when something's going to move or not.

17 But the timeliness of the advice can
18 often be helpful or can be -- That's okay. I
19 know where you are -- or it can be a
20 hindrance to the process, depending on when
21 it arrives.

22 And so, I would only suggest to you
23 that sometimes, rather than just receiving
24 the document possibly a day or so before
25 either a hearing or even in some instances

1 Budget - 4/12/05

2 maybe before action to be taken by the body,
3 some amount of dialogue could be helpful to
4 the process, so that it's not viewed in some
5 instances as more of a game of gotcha.

6 And, you know, I just want to point
7 out to you that other than maybe the words
8 being spelled correctly, the bill might
9 possibly violate either the Home Rule Charter
10 or the state constitution or, you know,
11 treaties with three small countries in other
12 parts of the world.

13 It creates at times an environment
14 that is not necessarily conducive to getting
15 things done, as opposed to a fight. And, I
16 would much rather always get along than have
17 a fight.

18 So, we can have further discussion
19 about it, but there might be a timing issue
20 here that could cut down on some of the
21 swordsmanship.

22 THE CITY SOLICITOR: I think it's a
23 very helpful reminder that legislators act in
24 a realtime way. And our advice, if it is to
25 be useful, has got to also be in realtime. I

1 Budget - 4/12/05

2 will certainly keep that comment in mind, as
3 we try to meet your needs going forward.

4 COUNCILMAN NUTTER: I appreciate
5 that.

6 And I know, again, we put a lot of
7 things in the -- We put a lot of things in
8 the mix. And it's very difficult to keep
9 track and also know what is going on in our
10 various minds about the timing of what we're
11 going to do and how we're going to do it.

12 Having said that, the advice is
13 always appreciated. The work product has
14 been excellent. Even at times when I
15 completely disagreed with the analysis, I
16 appreciate the -- I appreciate the effort.

17 Let's talk about --

18 THE CITY SOLICITOR: I wish you had
19 been here when Councilman Kenney was putting
20 me through my paces.

21 Thank you. And I will share your
22 comments with your colleagues.

23 COUNCILMAN NUTTER: Thank you. I'll
24 read the transcript.

25 Let's go to Section 23-16 of the

1 Budget - 4/12/05

2 budget book. First, can you explain to me...
3 There's an item that seems to have a variety
4 of abbreviations.

5 Can you explain what the -- When you
6 go into minor object code 253, there's a
7 whole series of firms' names, with no dollar
8 amount for FY 05. And then there is a large
9 item on Page 17 under various legal services
10 as required.

11 First, what is this line item? The
12 first one is across from... Is that Christie
13 Parabu.

14 THE CITY SOLICITOR: The first one I
15 have on my list, Council member, is Ballard
16 Spahr.

17 COUNCILMAN NUTTER: Okay. Right. I
18 guess you're right.

19 That one actually does have a dollar
20 amount next to it. We've got labor. I
21 figured that out.

22 What is this next category which
23 seems to be repeated on any number of
24 occasions?

25 THE CITY SOLICITOR: Well, I think

1 Budget - 4/12/05

2 it will come as no surprise, Councilman
3 Nutter, that what we have tried to do in the
4 budget presentation is to honor both our
5 responsibility as lawyers, which I did
6 discuss earlier, in not providing detailed
7 information about representation of clients
8 or the amounts being spent on their behalf
9 related to the Federal investigation.

10 And what we have done is to list for
11 your information the firms with which we have
12 contracts.

13 In some cases they cover more than
14 just the Federal investigation and the client
15 representation. So we're talking about
16 investigation, cooperation and client
17 representation.

18 COUNCILMAN NUTTER: That's what that
19 line is, that I.M.V.S.T. So this is
20 investigation, cooperation/client
21 representation. Is that what that is?

22 THE CITY SOLICITOR: That is
23 correct.

24 COUNCILMAN NUTTER: Okay.

25 THE CITY SOLICITOR: And then what

1 Budget - 4/12/05

2 we have done at the bottom on Section 23, now
3 how I realize the Council President was
4 numbering these, Section 23-17.

5 The number that shows for the
6 General Fund in FY '05 as \$863,192, there is
7 not only in that amount in cooperation
8 activities of the City with the Federal
9 investigation and client representation, but
10 we have other miscellaneous outside counsel.
11 That essentially is a grouping that allows us
12 to cover costs as they occur that may not be
13 entirely foreseeable.

14 Right now we're using, with respect
15 to this category, some additional monies for
16 the labor negotiation re-openers. We're
17 anticipating that we'll have some expenses --

18 COUNCILMAN NUTTER: Those dollars
19 are contained within the \$863,192?

20 THE CITY SOLICITOR: That's correct,
21 with regard to the General Fund.

22 You will see in the Aviation Fund
23 \$109,000 which is comparable to the eight
24 sixty-three number on Section 23-17.

25 So, if you were to look at --

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: You've got legal
3 fees in the Aviation Fund related to the
4 Federal probe?

5 THE CITY SOLICITOR: That is
6 correct. And that appears on Page 23-35.

7 COUNCILMAN NUTTER: You're able to
8 charge those costs to the Aviation Fund?

9 THE CITY SOLICITOR: See, \$109,000
10 in FY '05.

11 COUNCILMAN NUTTER: Yeah. I see it.

12 THE CITY SOLICITOR: Let me just --
13 Let me just comment that one of the things
14 that we have been doing through outside
15 counsel representation -- And I'm not sure
16 that it's fully understood. We have made
17 sure that we have been responsive and timely
18 in our cooperation with the U.S. Attorney's
19 Office.

20 That has entailed a great amount of
21 work, to be responsive to requests for
22 documents subpoenas, things of that like.

23 In fact, what we have seen to date
24 is that we responded to more than 60 document
25 subpoenas. 325 document pages have been

1 Budget - 4/12/05

2 reviewed, 200,000 e-mail messages reviewed.

3 30,000 gigabytes of computer data --

4 COUNCILMAN NUTTER: Are you reading
5 from a document that we have or are these
6 your own notes?

7 THE CITY SOLICITOR: These are my
8 own summary notes.

9 COUNCILMAN NUTTER: Okay.

10 THE CITY SOLICITOR: So, when we
11 talk about the investigation/cooperation line
12 and client representation, we're talking
13 about a great deal of activity that allows
14 the City to be responsive to the U.S.
15 Attorney's Office in its request for
16 information.

17 COUNCILMAN NUTTER: Let me ask this
18 question: Solely for the Federal corruption
19 investigation up through and, I guess,
20 including today... So, I only want to talk
21 about matters that have been in court as of
22 today. What were the FY '04 costs related to
23 the Federal corruption probe?

24 THE CITY SOLICITOR: I cannot give
25 you that number. And the reason why,

1 Budget - 4/12/05

2 Councilman, is because we don't distinguish
3 between whether it's a matter in court or
4 not. If it's related to the investigation
5 and to the representation of clients --

6 COUNCILMAN NUTTER: Well, when you
7 say the investigation --

8 THE CITY SOLICITOR: -- we could
9 give you that number.

10 COUNCILMAN NUTTER: When you say the
11 investigation, what investigation are you
12 talking about?

13 THE CITY SOLICITOR: I'm talking
14 about the information requests and other
15 investigative matters, some of which we do
16 not know any details at all about, that --

17 COUNCILMAN NUTTER: Fine. Let me
18 rephrase --

19 THE CITY SOLICITOR: -- that have
20 been initiated by the U.S. Attorney's Office
21 or the F.B.I.

22 COUNCILMAN NUTTER: Fine. I
23 understand.

24 Then let me rephrase the question.
25 Up through today, what were the costs

1 Budget - 4/12/05

2 associated with the corruption probe for FY
3 '04?

4 THE CITY SOLICITOR: In terms of the
5 Federal investigation, the number that we
6 have for FY '04 is \$2,036,217, which includes
7 all City-related expenditures for FY '04.

8 COUNCILMAN NUTTER: Okay.

9 And up through what is now, I guess,
10 the third quarter of FY '05, what have the
11 costs been so far, either expended or
12 anticipated?

13 THE CITY SOLICITOR: I can give you
14 a number as of April 6th, which is the latest
15 calculation that we have concluded.

16 COUNCILMAN NUTTER: Right.

17 THE CITY SOLICITOR: And for FY '05,
18 the number that we have calculated is
19 \$944,260. That's as of April 6, 2005.

20 COUNCILMAN NUTTER: Gotcha.

21 And what at the moment are you
22 estimating... I'll hold that part of the
23 question. What did you estimate them to be
24 for FY '05?

25 THE CITY SOLICITOR: We estimated in

1 Budget - 4/12/05

2 the budget category, that included some
3 additional matters. Not exclusively for the
4 Federal investigation for '05, we had
5 estimated \$972,000, is my recollection.

6 COUNCILMAN NUTTER: Okay.

7 Do you think that -- But we still --
8 I mean, we still have, in essence, about a
9 quarter to go.

10 THE CITY SOLICITOR: I'm sorry?

11 COUNCILMAN NUTTER: We still have,
12 in essence, about one quarter of the fiscal
13 year left: April, May, June.

14 THE CITY SOLICITOR: That's correct.

15 COUNCILMAN NUTTER: You estimated
16 \$972,000. You're presently at \$944,000. Do
17 you believe that you'll stay within your
18 estimate or will it exceed the estimate,
19 fiscal year '05?

20 THE CITY SOLICITOR: Our current
21 best estimate is that not only for the
22 Federal investigation, cooperation and client
23 representation, but also the labor
24 negotiation reopeners and some of the things
25 I mentioned earlier, that we are going to

1 Budget - 4/12/05
2 require just under an additional \$300,000 in
3 FY '05. And I have communicated that
4 information to the Budget Director.

5 COUNCILMAN NUTTER: So you think in
6 FY '05 you'll need an additional \$300,000 for
7 probe-related and non-probe-related matters.

8 THE CITY SOLICITOR: For contract
9 requirements in '05. That's with, to be very
10 honest, a very aggressive management of our
11 contracts in all areas.

12 But in terms of the Class 200
13 dollars that will be required, over and above
14 what we have previously projected. We're
15 going to need just under \$300,000.

16 COUNCILMAN NUTTER: And within the
17 \$300,000 how would you break out the
18 labor-related matters versus the
19 probe-related matters?

20 THE CITY SOLICITOR: I can calculate
21 in a minute or two, if you will give me that
22 time.

23 COUNCILMAN NUTTER: Sure.

24 THE CITY SOLICITOR: If you want to
25 go on to the next question, I will come back

1 Budget - 4/12/05

2 to that number.

3 COUNCILMAN NUTTER: Well, the next
4 question is, what do you anticipate the FY
5 '06 probe-related costs to be?

6 THE CITY SOLICITOR: Of the number,
7 I actually have it now. I can go back to
8 that, Councilman.

9 COUNCILMAN NUTTER: All right.

10 THE CITY SOLICITOR: I had said that
11 just under \$300,000 in additional authority
12 would be required for our Class 200 funding,
13 inclusive of the Federal investigation. That
14 number was actually \$286,580.

15 COUNCILMAN NUTTER: Two eighty-six
16 five...

17 THE CITY SOLICITOR: \$286,500,
18 Councilman.

19 COUNCILMAN NUTTER: So, that's the
20 real number.

21 THE CITY SOLICITOR: That is the
22 number that we are projecting now in
23 additional funding that will be required.

24 I've backed out the numbers that we
25 have for the labor negotiation reopener work.

1 Budget - 4/12/05

2 And so, the remainder, backing out that labor
3 negotiation work, it looks like for the
4 Federal investigation itself that we'll need
5 \$166,580 in addition to what we have
6 projected.

7 COUNCILMAN NUTTER: So, the labor
8 work is \$120,000?

9 THE CITY SOLICITOR: That's correct.

10 COUNCILMAN NUTTER: Gotcha. Okay.
11 And then FY '06?

12 THE CITY SOLICITOR: For FY '06 we
13 believe that the number we have in the budget
14 before you is a good number. And that number
15 is in the General Fund, \$565,000; in the
16 Aviation Fund that's \$109,000, for a total
17 of -- I'm sorry. For a total of \$674,000.

18 COUNCILMAN NUTTER: Okay. So...
19 Let's see. We're at \$2,036,217 for FY '04.
20 We're at \$1,110,840 for FY '05. That puts us
21 at \$3.1 million. And then you're at another
22 six seventy-four... 3.8 or so?

23 THE CITY SOLICITOR: Going through
24 FY '06, that looks -- that certainly looks
25 ballparkish. I haven't done the math, but

1 Budget - 4/12/05

2 that loose ballparkish, Councilman.

3 COUNCILMAN NUTTER: Looks like three
4 eight two one oh five seven.

5 THE CITY SOLICITOR: The number that
6 I see my colleague, Mr. Lang here has is
7 \$3,817,051. Oh fifty-seven. Sorry.

8 COUNCILMAN NUTTER: All right.

9 So in the course of the three years,
10 I mean, maybe we've got a 4,000 or so
11 dollar -- maybe there's about a 4,000 or so
12 dollar difference between us. And we'll
13 figure that out in the course of the
14 afternoon, but we're at three eight?

15 THE CITY SOLICITOR: \$3.8 million, I
16 think, appeared to be a fair rounding. And
17 yes, that appears to cover the '04, '05 and
18 '06 projection at this time.

19 COUNCILMAN NUTTER: Okay.

20 THE CITY SOLICITOR: And of that I
21 would just go back and reiterate, based upon
22 the information I provided earlier with
23 respect to the responses to the U.S.
24 Attorney's Office, document reviews,
25 subpoenas, et cetera, the vast bulk of that

1 Budget - 4/12/05
2 expenditure is related to the City's
3 cooperation with document requests,
4 discovery, et cetera.

5 And we've estimated just the
6 production effort alone is taking about
7 two-thirds of all of the dollars that have
8 been spent or likely will be spent on the
9 Federal investigation.

10 And these are not the representation
11 of individual clients, if you will, related
12 to the use of outside counsel, but just the
13 production of documents and cooperation on
14 behalf of the City, relative to the Federal
15 investigation. We're spending about
16 two-thirds of all those monies just on that
17 effort alone.

18 COUNCILMAN NUTTER: So you're saying
19 two-thirds of the 3.8...

20 THE CITY SOLICITOR: At least
21 two-thirds.

22 COUNCILMAN NUTTER: ...is dealing
23 with documents and the review or production
24 of documents?

25 THE CITY SOLICITOR: Review of the

1 Budget - 4/12/05

2 documents, the electronic materials that have
3 been produced, all of the efforts on behalf
4 of the City to be responsive to the Federal
5 investigation.

6 Our calculation, if I recall
7 correctly, was 67 percent. 67 percent of the
8 numbers that we had spent in FY '04 were
9 related to the kind of activities that I
10 mentioned.

11 COUNCILMAN NUTTER: So, I mean...
12 All right. Two-thirds of three eight sounds
13 like 2.6?

14 THE CITY SOLICITOR: In round
15 numbers, I would accept that, yes.

16 COUNCILMAN NUTTER: Okay. So, \$2.6
17 million in dealing with documents and
18 reviewing documents and producing documents
19 and \$1.2 million in actual legal
20 representation?

21 THE CITY SOLICITOR: I think in
22 round numbers that's correct.

23 COUNCILMAN NUTTER: Okay. And
24 before this started... I mean, have they
25 already been budgeted in the Law Department,

1 Budget - 4/12/05

2 these kinds of numbers, over the past few
3 years?

4 THE CITY SOLICITOR: I'm sorry,
5 Councilman. Before what started?

6 COUNCILMAN NUTTER: Before this
7 whole situation started. I mean, the Law
8 Department did not have these dollars in its
9 budget in anticipation of massive...

10 THE CITY SOLICITOR: Well, they
11 certainly were not budgeted for this purpose.
12 We were not privy to the thinking of the
13 Grand Jury process nor the U.S. Attorney.
14 And, so, therefore, if you're asking have
15 dollars been reprogrammed? Were they
16 available for this purpose?

17 No, they were not available for this
18 purpose in advance of the investigation
19 commencement. We --

20 COUNCILMAN NUTTER: So they came
21 from somewhere else in the government.

22 THE CITY SOLICITOR: That is my
23 assumption, although I was not involved with
24 the Federal investigation at that time.

25 COUNCILMAN NUTTER: Okay. Well, I

1 Budget - 4/12/05

2 mean, I know my time expired, like, so long
3 ago I can't remember. But it's at least
4 clear to say these dollars were not in your
5 budget prior to this.

6 They had to come from somewhere else
7 in the budget, and therefore were not
8 available for other General Fund purposes to
9 fund other programmatic initiatives in other
10 departments of the government.

11 I mean, some one, some any number of
12 agencies within this government have not had
13 access to these funds to do what they do
14 because they're now being utilized for this
15 particular purpose.

16 THE CITY SOLICITOR: Councilman,
17 it's not that I don't want to be helpful to
18 you, but it seems to me that goes beyond the
19 scope of my competence or testimony.

20 I can only speak to what we have
21 been authorized to spend. I understand that
22 former Solicitor Ramos requested and received
23 a transfer ordinance to cover some of these
24 additional expenditures. I can't speak to
25 where they came from and what other purposes

1 Budget - 4/12/05

2 as a consequence were affected.

3 COUNCILMAN NUTTER: Now, I mean, the
4 main, I guess the -- so far, the big trial
5 seems to be wrapping up.

6 At what point in time or at least
7 for fiscal years gone by, why would we not
8 receive -- I mean, you -- And I appreciate
9 it. I mean, on the one hand we have a
10 listing of the firms. On the other hand, we
11 have no dollar amounts to go with them.

12 So, I mean... I mean, we've made at
13 least that progress because there was, I
14 think, a fight about a year or so ago as to
15 we couldn't even know who the firms were.

16 Why can't the budget at least show
17 for fiscal years gone by what the
18 expenditures were at those times?

19 Of course you can't anticipate what
20 FY '06 is going to bring. And we're in the
21 middle... toward the tail end, at least, of
22 FY '05.

23 Why can't the budget at least show
24 us what the past expenditures have been for a
25 previous fiscal year that has now been closed

1 Budget - 4/12/05

2 out?

3 THE CITY SOLICITOR: I will go back
4 to an earlier response before you joined us,
5 Councilman.

6 And frankly, the Code of
7 Professional Conduct which is applicable to
8 all attorneys practicing in this
9 jurisdiction, would essentially restrict me
10 and any City Solicitor from providing that
11 information without an informed consent from
12 the clients represented. We are not allowed
13 to provide that kind of information without
14 the clients informed consent. It has nothing
15 to do with our desire to make your review of
16 the budget.

17 COUNCILMAN NUTTER: You need the
18 client's informed consent before you can tell
19 at least the legislative body how the City's
20 money is being spent?

21 THE CITY SOLICITOR: Well, in
22 terms --

23 COUNCILMAN NUTTER: I mean, it's not
24 the clients' money; it's the City's money,
25 right?

1 Budget - 4/12/05

2 THE CITY SOLICITOR: It is the
3 City's money.

4 I think you did acknowledge that
5 we're trying to be responsive by providing
6 the dollars that are being used for this
7 purpose.

8 We're also providing the firms that
9 are doing the work for this purpose. It
10 seems to me asking us to take the next step
11 and provide the information as to the
12 identity of the clients represented by the
13 firms --

14 COUNCILMAN NUTTER: I didn't ask for
15 that.

16 THE CITY SOLICITOR: I'd like to
17 give it some more thought.

18 COUNCILMAN NUTTER: I haven't asked
19 for that.

20 THE CITY SOLICITOR: Okay. Okay.

21 COUNCILMAN NUTTER: Don't --
22 Don't -- I haven't asked for that.

23 What I asked you was: You have a
24 listing of firms. We know what the overall
25 amount is. You know who's billing us what or

1 Budget - 4/12/05

2 providing the representation.

3 My question is: We've got a
4 previous fiscal year. The books have been
5 closed on that. You know what the
6 expenditures are. And there's a listing of
7 firms. And all I'm asking is, why is there
8 not a listing of what the expenses were from
9 back at that time?

10 You can't do it for '05 because
11 we're in that fiscal year, and you don't know
12 what they're going to be in '06. But why
13 would there at least not be a listing for a
14 previous fiscal year which is over and done
15 and you know what those costs are?

16 How does that violate anything or
17 say anything about what might be going on
18 within the probe, other than what the
19 expenses were in a previous fiscal year to
20 any or all particular firms?

21 THE CITY SOLICITOR: My recollection
22 of a year ago is that, you know, in a similar
23 set of questions and answers, then City
24 Solicitor Ramos commented, if I recall
25 correctly -- and I would concur -- that it

1 Budget - 4/12/05

2 gives rise to perhaps erroneous conclusions
3 about the involvement, non-involvement,
4 intensity of involvement of individual
5 represented clients. Whether we have
6 released the information or not, certainly --

7 COUNCILMAN NUTTER: We don't know
8 who the clients are.

9 THE CITY SOLICITOR: Please; may I
10 finish the answer?

11 COUNCILMAN NUTTER: Okay.

12 THE CITY SOLICITOR: Whether we have
13 provided the information to you directly or
14 you have gotten that information and the
15 public gotten the information from the press,
16 certain clients and certain firms are clearly
17 linked in the public's mind.

18 And I think the information that we
19 would provide to you, with regard to the
20 expenditures as to certain firms, could give
21 rise to erroneous conclusions about the
22 clients represented. That would be our
23 concern, Councilman.

24 COUNCILMAN NUTTER: I understand.
25 Okay.

1 Budget - 4/12/05

2 Well, this... You've projected 500
3 or 600-some odd thousand between the Law
4 Department, the Aviation Fund for the
5 upcoming fiscal year. This... I mean, 3.8
6 over three fiscal years. I mean, it seems to
7 be moving at about, you know, a million or so
8 a year.

9 Do you have any estimate of the
10 total costs of this probe, you know, toward
11 its conclusion?

12 THE CITY SOLICITOR: I think what
13 you will see, because we don't believe -- I
14 don't believe that we have reflected an
15 average cost that is, you know, divisible by
16 three.

17 COUNCILMAN NUTTER: No; I
18 understand.

19 THE CITY SOLICITOR: I think we have
20 seen the Federal investigation costs of the
21 City and perhaps the intensity of the
22 investigation itself -- but I can't speak to
23 that -- the costs to the City have -- have
24 increased in FY '05 and... I'm sorry. Was
25 that FY '05 or '04? Was it '04?

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Well, you had
3 big up-front costs.

4 THE CITY SOLICITOR: I'm sorry.
5 '04. '04.

6 COUNCILMAN NUTTER: Right.

7 THE CITY SOLICITOR: You see a
8 lessening of those costs in '05. And we are
9 projecting currently that they will continue
10 to go down. And we are hopeful that we are
11 accurate in that projection in '06.

12 COUNCILMAN NUTTER: All right. But
13 at the moment, I mean, you would not feel --
14 you would not be able to definitively say
15 that given where you're projected to be, that
16 going over \$4 million is outside the realm of
17 possibility.

18 THE CITY SOLICITOR: I have not
19 heard anything from the U.S. Attorney's
20 Office which would give me a confidence as to
21 when the investigation would end and the
22 responsiveness the City might anticipate and
23 its related costs, no, sir.

24 Okay. Thank you, Madam Chair. I'll
25 come back.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT VERNA: Thank you.

3 The Chair recognizes Councilwoman

4 Tasco.

5 COUNCILWOMAN TASC0: Thank you very

6 much.

7 Good afternoon.

8 THE CITY SOLICITOR: Good afternoon,

9 councilwoman.

10 COUNCILWOMAN TASC0: I'm just going

11 to take you in a different direction and

12 leave those questions to Michael.

13 What is the policy -- I have an

14 interest in the collection of outstanding

15 real estate tax to the City of Philadelphia.

16 And what is the policy around collecting

17 those dollars?

18 I have a situation where there is a

19 property that is owned by an individual with

20 over \$350,000 tax and water bills owed to the

21 City.

22 And we proceeded to move to take the

23 building under the N.T.I. acquisition

24 program, but was told that the gentleman had

25 a permit to work on the property. And as

1 Budget - 4/12/05

2 long as he was working on the property, we
3 couldn't take it. Now, does that make sense
4 to you?

5 THE CITY SOLICITOR: I'm not aware
6 of that particular situation. But what I am
7 assuming is that the question was related to
8 the viability and the economic value of the
9 property and whether it would continue to be
10 usable as opposed to vacant, and not usable,
11 and therefore acquirable for N.T.I. purposes.

12 I'm not familiar with this
13 particular circumstance. I'd be happy to
14 provide a response on the record
15 particularly, if you could be so kind as to
16 give us an address. I will check it out and
17 respond to you.

18 COUNCILWOMAN TASCOT: Well, what is
19 the process where your collections on a
20 property, if the City -- if it is owed City
21 money.

22 I see that you have on the back of
23 your testimony a chart of the taxes you have
24 collected, real estate taxes you have
25 collected.

1 Budget - 4/12/05

2 And how long -- And, you know, what
3 is the process, and how long does it take to
4 collect the taxes or move to have the
5 property taken to Sheriff's sale?

6 THE CITY SOLICITOR: It is from our
7 perspective, from a collection perspective,
8 it's a long process. It's one where we
9 attempt at every juncture to work with the
10 taxpayer to seek a negotiated resolution.

11 We meet with taxpayers each and
12 every day. We try to be helpful to them to
13 develop payment opportunities.

14 But in the end, if it turns out that
15 it is not possible for us to come to a
16 satisfactory resolution or payment plan or
17 other negotiated result, then the process of
18 getting it to a Sheriff's sale for tax
19 purposes is quite lengthy, I'm told as long
20 as 18 months to two years.

21 COUNCILWOMAN TASC0: So, in the
22 meantime the business owner gets another
23 license to operate the business under another
24 name. They get a license to open the gas in
25 another name. And they get the electricity

1 Budget - 4/12/05

2 opened in another name, proceed to run the
3 business, and again get in the cycle of not
4 paying the real estate tax.

5 It is an issue that exists. And I
6 think we need to figure out how we deal with
7 that. This is not just this one property.
8 I'm sure there are many.

9 THE CITY SOLICITOR: I agree with
10 you. It's a real issue. It's one that we
11 certainly have grappled with. And I know
12 from dealing with P.G.W., they've been
13 dealing with it.

14 One of the enhancements that we have
15 been trying to put in place, not only within
16 the Law Department, but working with Licenses
17 & Inspections and the Revenue Department and
18 other agencies of the City government, we
19 want to make sure that when people come and
20 request approvals and privileges, if you
21 will, from the City, that we're also checking
22 in realtime to find out what kind of
23 obligations that they have outstanding to the
24 city.

25 Let me just give you an example. If

1 Budget - 4/12/05

2 you're coming and requesting a business
3 privilege license or you're requesting a
4 contract or a lease with the City, we are now
5 putting into our standard terms and
6 conditions a requirement that people be up to
7 date.

8 I don't care what name you've used.
9 But if we can relate it to you that you are
10 up to date in connection with your City
11 obligations with regard to taxes, with regard
12 to payments of water bills, et cetera. So,
13 therefore, we are attempting to do that.

14 It is not something that will happen
15 overnight, certainly not with the antiquated
16 legacy computer systems that we have. But we
17 recognize it's a challenge that has to be
18 met, and we're working on it right now.

19 COUNCILWOMAN TASC0: But it's been
20 going on -- You just got here, so I just want
21 you to know it's a problem that has been
22 going on for so long.

23 And the City in the end loses
24 dollars because they never collect the real
25 estate tax. But the business has the

1 Budget - 4/12/05

2 opportunity, continues to operate, probably
3 by the same owner, just using different names
4 and different individuals to gain licenses
5 and permits to run that business.

6 I think that we need to find a way
7 to move more quickly on taking these
8 businesses to Sheriff's sale, particularly if
9 you look at some of the businesses. And
10 they've been working with the Revenue
11 Department to try to make agreement after
12 agreement after agreement.

13 And I'm certainly pro-business, but
14 you don't see the blight that ends up in the
15 community as a result of what goes on in the
16 community.

17 A building will sit for two or three
18 years. We don't move to Sheriff sale. We
19 don't move to collect the taxes or they come
20 back and they reopen under another name or
21 assumed name or some other way they do it
22 just to operate. And the City's still out
23 the money that we should collect. And we
24 could put it in the General Fund.

25 THE CITY SOLICITOR: We agree with

1 Budget - 4/12/05

2 you. And I think we're moving in the right
3 direction. We certainly need to keep moving
4 aggressively in that direction.

5 But one of the things that we're, I
6 think, projecting right now, and we're very
7 pleased with -- and we need to stay committed
8 to it -- is that last year former City
9 Solicitor Ramos committed to City Council to
10 increase tax collections by \$10 million.

11 Our best projection right now is
12 that we expect to increase those collections
13 this year by \$15.6 million over the previous
14 fiscal year.

15 Part of that has come from the
16 improved technology, the investments that we
17 have made within the Law Department. Part of
18 it has been to realign the way we collect
19 older delinquent accounts.

20 We previously paid commissions to
21 collection agencies, that we paid out of our
22 own pocket, which are now reflected, as
23 Council President knows, in our grant revenue
24 budget line items.

25 But now we are moving with regard to

1 Budget - 4/12/05

2 tax collections, and in particular with the
3 Linebarger firm which is doing the City's
4 older tax collections right.

5 We're using our statutory fee
6 provisions, so that rather than having it
7 come out of the City's pocket, the statutory
8 attorneys' fees of 18 percent are being used
9 to compensate the Linebarger collection firm.

10 That means that the City does
11 better, in terms of its bottom line. We
12 increase the opportunities for collection.
13 And we're continuing to be as aggressive as
14 we possibly can.

15 But we also are looking at, internal
16 to the Law Department, with the realignment
17 of our resources, to not only just have liens
18 that sit unpaid and without, you know, any
19 collection on, as far as legal title is
20 concerned.

21 We have instituted a process within
22 the Law Department where we have organized a
23 judgment execution unit. We taken the
24 judgments that we have already -- if There
25 are liens, we have tried to get them to a

1 Budget - 4/12/05

2 judgment.

3 If we have a judgment, we want to
4 actually execute on those judgments. We want
5 to make sure we're taking every step that we
6 can, within our statutory authority, to
7 collect all of the money that we're owed
8 sooner than before.

9 And yet we have to certainly balance
10 that concern against those of the taxpayers
11 who think in some instances that we need to
12 be mindful of their particular circumstances.

13 It's a balance, but on balance we
14 think that we're got to make sure that the
15 City's revenues are protected and collections
16 continue to increase.

17 COUNCILWOMAN TASCO: Thank you.

18 Let me just go a little bit to the
19 City Council Ordinance and the Executive
20 Order 205.

21 How is it that you determine -- How
22 do you determine whether an executive order
23 is better than an ordinance, as in the case
24 of our City Council's ordinance around the
25 MBEC program and the Law Department's

1 Budget - 4/12/05

2 issuance of a statement that it was -- the
3 ordinance was not legal, and then the
4 subsequent 205 Executive Order.

5 THE CITY SOLICITOR: I don't know
6 that I would feel qualified to testify as to
7 which is better, but I can testify as to
8 which we believe is legally sustainable, and
9 with respect to the contracting activities
10 and the expectations of the ordinance.

11 Certainly because these are -- have
12 been long the subject of City Solicitor
13 opinions, which have found that in the area
14 of contracting, that the areas that were
15 addressed in the former ordinance were areas
16 that were within the Mayor's prerogative.
17 Certainly the legal authority is there to
18 address the MBEC related matters through an
19 executive order.

20 In addition, if I may continue...
21 In addition to that the passage of time
22 certainly made it necessary that the former
23 disparity study be updated which was done and
24 was the basis for the Mayor's executive
25 order.

1 Budget - 4/12/05

2 I understand that there has been an
3 interest expressed by City Council to make
4 sure that the expiration date, which
5 previously was 18 months, be synchronized, if
6 you will, and recognize the need to update
7 the disparity study in the future.

8 And we have provided the Council
9 staff a proposed revision that we would will
10 be acceptable, which will provide that the
11 expiration date will be the later of the six
12 months after the presentation of the report
13 that is expected of MBEC by the executive
14 order or the update of the disparity study.

15 So, we are trying to work with City
16 Council to make sure that the executive order
17 addresses substantively the concerns of
18 Council, in a way that are consistent with
19 the authority of the Mayor under the Charter.

20 And we will continue to work with
21 you in every way possible to try to meet your
22 needs, consistent with the Charter
23 responsibility of the Mayor.

24 COUNCILWOMAN TASC0: When you
25 were... Do you see it's your responsibility

1 Budget - 4/12/05

2 to look at other cities, in terms of what
3 they're doing around ordinances in this area
4 and their legality, in determining how you
5 came to your decision? Or you just looked at
6 it from your point of view, without looking
7 at other cities, to see where they have
8 adopted ordinances around minority
9 participation and the legality of such?

10 THE CITY SOLICITOR: Well, in terms
11 of the authority of the Mayor and Council,
12 it's clear to me that it's not going to be
13 especially helpful for me to know what the
14 law is in Dallas, Texas.

15 But in connection with the best
16 practices, and what can be learned from
17 looking at what others have done around the
18 country, you know, obviously we are trying to
19 address a system of need here in
20 Philadelphia, that reflects the successes in
21 other places, the best practices, if you
22 will.

23 From everything that I have seen in
24 the executive order, it has been developed in
25 a way that we think takes into account what

1 Budget - 4/12/05

2 others have experienced, tried to avoid the
3 Constitutional and other legal challenges
4 that other municipalities and the Federal
5 government have encountered, with regard to
6 this kind of effort.

7 And we've also recognized the local
8 experience, in terms of the need to not look
9 only at City contracting.

10 We've got a very significant budget
11 impact in the City of Philadelphia. But when
12 you look at it relative to the private
13 market, clearly, if there are opportunities
14 to look beyond the City and to help, in terms
15 of minority, women owned and disabled
16 business owners to look for opportunity, we
17 have an obligation to do that.

18 So, the executive order in many
19 respects goes well beyond the authority --
20 The executive order goes beyond the authority
21 that is applicable to City agencies, and
22 tries to create an opportunity for
23 replicating our success in connection with
24 non-profits, in connection with the private
25 sector, by creating task forces that are

1 Budget - 4/12/05

2 broader than just City agencies and the City
3 government.

4 COUNCILWOMAN TASC0: I guess my
5 question, though, is, have you seen
6 successful ordinances in other cities that
7 could have been and that were comparable to
8 ours that have not been challenged and have
9 been successful?

10 THE CITY SOLICITOR: I personally
11 have not seen such an ordinance. Not that
12 they don't exist, but I just did not do that
13 particular research, Councilperson.

14 COUNCILWOMAN TASC0: Well, would it
15 have been helpful to do an analysis of
16 research around other cities, to see if our
17 ordinance would have withstood legal
18 challenge? Or was the issue solely to
19 determine whether it was Council's right or
20 prerogative to issue an ordinance versus the
21 Mayor's right to do so?

22 THE CITY SOLICITOR: Let me just go
23 back because I don't want to leave the
24 misimpression, Councilperson, when I said I
25 personally had not seen ordinances in other

1 Budget - 4/12/05

2 cities as part of this effort.

3 I don't mean to suggest that we have
4 not within the Law Department done that kind
5 of effort. Certainly there was a review.
6 And I'm happy to provide for the record the
7 results of that review.

8 But you raised an issue that I think
9 is important to come back to. And that is
10 were there legal issues of potential
11 deficiencies of the ordinance.

12 And it seems to me that the most
13 important one that I have to raise in that
14 regard is our concern related to the
15 staleness, if you will, of the record on the
16 disparity study.

17 So, one of the most important
18 improvements, if you will, in connection with
19 the substance of the executive order, apart
20 from who should have addressed it, whether
21 Council or the Mayor, substantively speaking,
22 the updated disparity study, which was the
23 baseline for constructing the current
24 executive order, was critical, we think, to
25 making sure, as much as we possibly can, that

1 Budget - 4/12/05

2 our program withstands legal challenge.

3 And the ordinance in and of itself,

4 without that updated disparity study, we

5 think would have been subject to challenge.

6 And frankly, it was potentially vulnerable to

7 such a challenge. We think we have addressed

8 that in the current executive order.

9 COUNCILWOMAN TASCO: So, you think

10 that because we didn't have the disparity

11 study when we passed the ordinance made the

12 ordinance somehow flawed and subject to legal

13 challenge because the information that we

14 drafted the ordinance on was stale. Is that

15 what you're saying? Or could we have used

16 the disparity study that you... that was used

17 to draw the executive order to enforce the

18 ordinance?

19 THE CITY SOLICITOR: My recollection

20 is that there was a disparity study

21 previously done.

22 But I think one of the improvements

23 of the current executive order that we

24 discussed a moment ago is that there is a

25 need to have a review of the situation, in

1 Budget - 4/12/05

2 terms of disparity, in the market for
3 minority, women and disabled contracting.

4 That has to be reflected in all of
5 the benchmarks that are set, with regard to
6 City contracting. It is a continuing area of
7 concern, I think, in all litigation to ensure
8 that we have a very narrowly tailored remedy
9 to meet the Constitutional requirements that
10 the Supreme Court has established for this
11 kind of a program.

12 It's an important program. I think
13 we would all agree that we want to do
14 everything possible to create the strongest
15 foundation against a court challenge.

16 We hope it won't happen. But if it
17 does happen, we want to make sure that we
18 have protected the program.

19 We think this executive order does
20 that. And with the new addition that we
21 discussed to update that disparity study into
22 the future, we think that we have a more
23 robust legal basis for protecting the
24 program.

25 COUNCILWOMAN TASC0: Thank you.

1 Budget - 4/12/05

2 Thank you.

3 CHAIRWOMAN BLACKWELL: Thank you
4 very much.

5 Councilwoman Blondell Reynolds
6 Brown.

7 COUNCILWOMAN BROWN: Thank you,
8 Madam Chair.

9 Good afternoon.

10 THE CITY SOLICITOR: Good afternoon.

11 COUNCILWOMAN BROWN: Let me start
12 out by first commending you on your diversity
13 statistics. The Law Department in the few
14 years I've been here consistently does what I
15 call get it right with regards to the hiring
16 of women and people of color. And we would
17 hope and expect that that trend would
18 continue under your leadership.

19 THE CITY SOLICITOR: Thank you,
20 Councilwoman. And I, you know, like in so
21 many things, we all stand on those -- the
22 shoulders of those who have come before us.
23 And as you know, I was hired by former
24 solicitor Nelson Diaz. And his efforts in
25 this regard were certainly continued by

1 Budget - 4/12/05

2 former City Solicitor Pedro Ramos. I'm
3 building on their record and those that have
4 preceded them. And I know that it's of great
5 concern to Council and to the Mayor.

6 But independent of that, I will have
7 to tell you, if no one had told me a thing
8 about this issue, it's something that
9 personally matters to me. And you have my
10 commitment to build on that record.

11 COUNCILWOMAN BROWN: We thank you
12 for that.

13 THE CITY SOLICITOR: Thank you.

14 COUNCILWOMAN BROWN: On Page 1 of
15 your testimony, you talk about -- in your
16 opening paragraph there you talk about a
17 number of the efforts that you intend to
18 align.

19 One of which, and I quote is,
20 provide high quality public education and
21 comprehensive coordinated social services for
22 children, adults and families. Elaborate, if
23 you will, on what you mean by high quality
24 public education for that constituency.

25 THE CITY SOLICITOR: One of the

1 Budget - 4/12/05

2 things that, you know, I was reflecting on as
3 I developed the testimony for today's hearing
4 was that the Law Department doesn't exist in
5 a vacuum.

6 And I could have, you know, the
7 Romey Diaz, you know, top hits list. But to
8 be very honest, the most important thing,
9 given the fiscal resources that we have, the
10 challenges that the City faces...

11 COUNCILWOMAN BROWN: Mm-hmm.

12 THE CITY SOLICITOR: ...is that the
13 Law Department has got to be there in support
14 of the overall priorities of this
15 administration and to meet the concerns of
16 Council.

17 For this year, reflective of our
18 budget priorities, I have listed the ones
19 that include high quality public education
20 and social services.

21 But an example of that is what we
22 have done in connection with the realignment
23 of our resources and the work that we have
24 done with D.H.S. and Family Court, to make
25 sure that we are providing quality team

1 Budget - 4/12/05

2 efficiency in how we manage the case load for
3 those families.

4 THE CITY SOLICITOR: No; absolutely.

5 And among the people with me today
6 is our Chair for Social Services, Barbara
7 Ash. She and her team are under tremendous
8 pressure dealing with real world, real people
9 issues day in and day out. They do a
10 tremendous job. And we're so thankful to
11 their efforts in protecting our children.

12 COUNCILWOMAN BROWN: Well, I have to
13 say I couldn't agree with you more. We've
14 together had worked on a couple of adoption
15 public service initiatives. And her work and
16 commitment of that team was revealed. So, I
17 could not agree with you more on that.

18 On the bottom of Page 1, you talk
19 about staffing levels being reduced. Are
20 they due to layoffs or the D.R.O.P. Program
21 or what?

22 THE CITY SOLICITOR: They're
23 principally related to managing our budget
24 resources, making sure that our reductions in
25 the staffing levels are sustainable without

1 Budget - 4/12/05

2 damaging our capability to meet our
3 commitments.

4 I think every manager in America,
5 whether public or private, has got to manage
6 resources.

7 COUNCILWOMAN BROWN: Sure.

8 THE CITY SOLICITOR: We understand
9 we're a part of that budget process.

10 We're managing our resources. But
11 at the same time, through hard work, and I
12 never ever, you know, forget the fact that
13 we've got a lot of people in the Law
14 Department doing hard work.

15 We think that we can maintain these
16 reductions and meet our commitments to the
17 City of Philadelphia and its residents.

18 As part of that, we do have a few
19 limited number of individuals in the D.R.O.P.
20 Program. My recollection is that we had
21 about a dozen in the program through 2009.
22 And I'd be happy to provide you the specific
23 numbers, but at least directionally about a
24 dozen people over a several-year horizon.

25 So, we're not talking about D.R.O.P.

1 Budget - 4/12/05

2 as being our principle effort to reduce our
3 numbers. It's through attrition and making
4 sure that we're redeploying our resources to
5 the highest value work in the Law Department
6 wherever possible.

7 COUNCILWOMAN BROWN: Okay.

8 And then my final question speaks to
9 the... I'm curious about the P.G.W.
10 collection statistics in FY '02, FY '03 and
11 FY '04. It says that an estimated -- and I
12 guess the operative word is estimated -- \$12
13 million was collected.

14 But for '05 and '06 there appears to
15 be a shift. Why was a decision made to shift
16 collections to P.G.W. and how are they doing,
17 based on what you know?

18 THE CITY SOLICITOR: The best
19 information I have, in terms of how they're
20 doing, is that they're doing very well
21 indeed.

22 They've had a lot of support from
23 the Council, in terms of making sure that
24 they are moving forward and making those
25 collections and not shifting the collection

1 Budget - 4/12/05

2 burden onto others.

3 But the latest information that I
4 have is that the collection rate at P.G.W.
5 has had approximately 93, 94 percent.

6 That is significantly higher than
7 they have been over the last few years, where
8 they were in the mid 80s to upper 80s
9 percentile range.

10 And one of the things that the
11 P.G.W. executives and general counsel and I,
12 along with the former City Solicitors, talked
13 about over the last couple of years, was
14 giving them more tools to essentially focus
15 their collection efforts in a holistic way
16 and not just pieces of it.

17 They felt that they had more of an
18 incentive to do the collection work right,
19 because it mattered to them as to their
20 bottom line. We agreed with them.

21 That shift has been made as of this
22 last fiscal year. And so what we have
23 attempted to do, so that you can compare
24 apples to apples, is to reflect what we
25 thought was in the base relative to P.G.W.

1 Budget - 4/12/05

2 collections done by the Law Department in
3 years past, and you could then measure how we
4 were doing going forward.

5 So the \$90 million that we show for
6 the Law Department non-P.G.W. work last year
7 now can be compared to what we believe we're
8 going to achieve this year.

9 And by the end of FY '05, our
10 projection is that we will collect \$105.6
11 million, significantly over the commitment
12 made by former Solicitor Ramos last year at
13 this hearing when he said we would improve it
14 by \$10 million.

15 We think this year with luck and a
16 one-time major settlement, that we're going
17 to get it up to \$15.6 million over last year.

18 COUNCILWOMAN BROWN: Okay, then.

19 And then finally, on Page 2 of the
20 testimony, you talk about community
21 development. Just briefly, what does that
22 mean in the Law Department? What is that?

23 THE CITY SOLICITOR: That is
24 primarily the funding source for the
25 attorneys representing our housing work.

1 Budget - 4/12/05

2 COUNCILWOMAN BROWN: Oh, okay.

3 THE CITY SOLICITOR: The Community
4 Development Block Grant which is... you know,
5 continues to be under pressure, in terms of
6 Federal funding is one that we have a concern
7 with. But this represents the allocation
8 from the O.H.C.D. folks.

9 COUNCILWOMAN BROWN: Okay.

10 THE CITY SOLICITOR: Based upon
11 their Community Development Block Grant
12 dollars that are used for housing attorneys
13 in the Law Department.

14 COUNCILWOMAN BROWN: Very well.
15 Thank you for your testimony.

16 THE CITY SOLICITOR: Thank you very
17 much, Councilwoman.

18 COUNCILWOMAN BROWN: Thank you,
19 Madam Chair.

20 COUNCIL PRESIDENT VERNA: You're
21 welcome.

22 The Chair recognizes Councilman
23 Nutter.

24 COUNCILMAN NUTTER: Thank you, Madam
25 Chair.

1 Budget - 4/12/05

2 Mr. Diaz, I need to... This was not
3 on my list, but you responded to some
4 questions by Councilwoman Tasco, talking
5 about the executive order related to minority
6 business.

7 And I took down a statement that the
8 executive order was an attempt to address
9 many of the issues that have been raised by
10 Council in the past and that you were trying
11 to work with Council on the MBEC related
12 issues. Is that a somewhat fair
13 characterization of what you said earlier?

14 THE CITY SOLICITOR: I don't recall
15 having said exactly that, but I certainly
16 recall having said that the Law Department
17 was attempting to work with Council to
18 address what I understand are some
19 outstanding issues. I think we've resolved
20 them, in connection with the future disparity
21 studies and the termination date of the
22 executive board, yes, sir.

23 COUNCILMAN NUTTER: On the point of
24 working with Council, could you explain to me
25 what the nature of the work with Council was

1 Budget - 4/12/05

2 in the development of the executive order?

3 THE CITY SOLICITOR: Well, with
4 regard to the development of the executive
5 order, I understand that there was a concern
6 expressed by Council -- and I am sure that is
7 where you're coming from -- a concern
8 expressed by Council that there had not been
9 sufficient coordination between the Law
10 Department on this issue and City Council.

11 COUNCILMAN NUTTER: When you say "a
12 concern expressed by the Council," I know...
13 And Council is a quite wonderful collection
14 of 17 unique members. Was this a collective
15 expression? Were these individual
16 expressions? How are you aware of the
17 Council's concerns?

18 THE CITY SOLICITOR: I recall a
19 hearing on the executive order, and the prior
20 ordinance that Solicitor Ramos testified
21 at...

22 COUNCILMAN NUTTER: Mm-hmm.

23 THE CITY SOLICITOR: ...perhaps two
24 months ago. I was in attendance and heard
25 concerns expressed at that time.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Okay.

3 THE CITY SOLICITOR: That's my
4 reference.

5 COUNCILMAN NUTTER: I understand.

6 So, what is your knowledge or
7 information with regard to any involvement by
8 the Council or any of its uniquely qualified
9 17 members having been involved in the
10 creation of the executive order? What
11 exactly was the working-with-Council
12 relationship that you reference by way of the
13 Law Department?

14 THE CITY SOLICITOR: In that
15 context, I would stipulate to the fact that
16 what I heard was that Council did not believe
17 that it had been consulted --

18 COUNCILMAN NUTTER: Okay.

19 THE CITY SOLICITOR: -- fully and
20 coordinated with, as to the development of
21 the executive order.

22 COUNCILMAN NUTTER: Do you have any
23 information...

24 THE CITY SOLICITOR: If I may, my
25 testimony was with reference to now that the

1 Budget - 4/12/05

2 executive order is out and there are some
3 continuing concerns that have come to my
4 attention from Council members, those have
5 been addressed. I understand that we have an
6 agreement as to those issues.

7 Our draft revisions are now with
8 Council staff. And I would hope that the
9 Council, through its staff, would clear those
10 revisions so that we could seek a revised
11 executive order.

12 So, I was speaking in terms of the
13 recent past, not the --

14 COUNCILMAN NUTTER: You said that
15 you're aware of what the concerns of the
16 Council were, and that you've sought to
17 address them, and that there are people now
18 working on these issues?

19 THE CITY SOLICITOR: We have a
20 draft. And, in fact, I had a conversation
21 with Mr. McPherson last Friday about it. And
22 I understand that we are essentially in
23 agreement as to the revisions, and we are
24 awaiting confirmation of that from Council
25 staff.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Okay. I'm just
3 trying to understand the process. Did
4 someone from the Law Department talk to each
5 of the members individually or is this you
6 just reviewed the notes of testimony from a
7 particular hearing? How would you know what
8 all the concerns were?

9 THE CITY SOLICITOR: Again, I'm not
10 talking about the origin of the executive
11 order.

12 COUNCILMAN NUTTER: I'm not either.

13 THE CITY SOLICITOR: I'm talking
14 about once the executive order was issued --

15 COUNCILMAN NUTTER: It's now been
16 issued. How do you know what the concerns
17 are?

18 THE CITY SOLICITOR: It was brought
19 to my attention by members of the Law
20 Department, who had been in contact with
21 Council staff. And I understood that to be
22 Mr. McPherson, among others.

23 And those issues that had been
24 raised we believe we have addressed in a
25 proposed revision of the executive order.

1 Budget - 4/12/05

2 Whether your office or you in
3 particular have been consulted, we haven't
4 gone behind the curtain to, you know, to
5 ascertain that. We've been working with
6 Council staff.

7 COUNCILMAN NUTTER: Okay. So
8 there's been no discussion with each of the
9 individual members about this.

10 You're working with Mr. McPherson,
11 who's on the Council President's staff, and
12 through that process you're addressing all of
13 the concerns by the Council. Is that...

14 THE CITY SOLICITOR: I have not had
15 any individual conversations with Council
16 members. We're happy, certainly, to have
17 those conversations.

18 And I think as I began my testimony,
19 I'm now in my eighth day as City Solicitor.
20 I would certainly put this as a priority, if
21 you tell me that is your desire, sir.

22 COUNCILMAN NUTTER: Okay. Thank
23 you. I do appreciate that.

24 In a slightly different area, I
25 noticed on our financial disclosure form

1 Budget - 4/12/05

2 there is an item that makes reference to
3 honoraria and that we are supposed to list
4 sources over \$100. You're, I'm assuming,
5 familiar with that.

6 THE CITY SOLICITOR: I'm familiar
7 with the concept. I don't have the form
8 before me, nor am I familiar with the
9 instructions immediately, with respect to
10 that provision. But if you'll ask your
11 question, I'll tell you if I can respond
12 today or in writing.

13 COUNCILMAN NUTTER: Sure. Whether
14 under City law or the Home Rule Charter or
15 any state statute, are we allowed to accept
16 honoraria at all?

17 THE CITY SOLICITOR: Councilman,
18 because it is an important issue, and I don't
19 want to give you an off-the-top-of-my-head
20 answer, and because we're dealing with both
21 state and local ethics rules, I would propose
22 to provide that response to you in writing,
23 if I may.

24 COUNCILMAN NUTTER: That would be
25 great. Okay.

1 Budget - 4/12/05

2 There was testimony earlier by the
3 District Attorney who made a statement with
4 regard to the demographic composition of her
5 office, and seemed to indicate that the
6 racial and gender breakdown of the office was
7 at a superior level.

8 And I asked if she could -- and she
9 agreed, and so now I'll ask if you can --
10 provide an overview and an analysis of the
11 past five years for attorneys and
12 non-attorneys a breakdown by race and gender
13 in the Law Department, so that I can have a
14 better understanding and make comparison
15 between the two. You've mentioned some of
16 the information in your testimony but we may
17 want to go into a little more detail. Can
18 you do that?

19 THE CITY SOLICITOR: I'd be more
20 than happy to provide that to you for the
21 record. I don't have the information, in
22 terms of the five past five years.

23 COUNCILMAN NUTTER: No; I understand
24 that.

25 THE CITY SOLICITOR: But in

1 Budget - 4/12/05

2 connection with our employee demographics,
3 you know, we're proud of the fact that we
4 have 50 percent minority staff, 69 percent
5 women. We have just under 1 percent
6 disabled.

7 We are always committed to trying to
8 improve on that record. And I'll provide the
9 five-year statistics that you're looking for
10 as quickly as possible.

11 COUNCILMAN NUTTER: Last question.
12 There have been many, many twists and turns,
13 going back to the MBEC, over the years.

14 Now, my recollection is, is that it
15 was originally created by an ordinance of
16 City Council. Is that correct?

17 THE CITY SOLICITOR: I can't confirm
18 that. I understand there was an ordinance.
19 I don't recall if the so-called Ortiz
20 ordinance created MBEC. I just don't recall
21 that.

22 COUNCILMAN NUTTER: No. It was back
23 from an earlier -- an earlier point in time.
24 I think it may have been 1983.

25 Has there been a subsequent

1 Budget - 4/12/05
2 executive order creating the Office of
3 Minority Business Enterprise?

4 THE CITY SOLICITOR: I am not
5 personally familiar with such an executive
6 order.

7 COUNCILMAN NUTTER: Okay. So, my
8 recollection is -- and I'm sure you'll check
9 back at the shop -- that there was a bill
10 that was passed. I believe the Mayor vetoed
11 it, the Mayor at the time. Council overrode
12 the veto. The Law Department, of course,
13 opined that Council did not have the
14 authority to create such an entity.

15 And one of the many opinions that is
16 on the shelf somewhere in the Law Department,
17 you know. When Council acted, and then you
18 go into the room where you keep all of these
19 opinions, like Formal Opinion Number 7 and a
20 few others, and you just, you know, pull them
21 down and hit us with what we can and cannot
22 do.

23 THE CITY SOLICITOR: Well, we
24 consider them important precedent,
25 Councilman.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Yes. No; I
3 understand.

4 THE CITY SOLICITOR: And we rely on
5 that. We believe it creates the continued
6 consistency --

7 COUNCILMAN NUTTER: I understand.
8 I'm just giving you a hard time.

9 THE CITY SOLICITOR: -- of legal
10 analysis and opinion.

11 COUNCILMAN NUTTER: Absolutely.
12 Yeah. Sometimes the footnote is longer than
13 the rest of the commentary on the page.

14 THE CITY SOLICITOR: Well, we
15 lawyers tend to like footnotes.

16 COUNCILMAN NUTTER: I understand
17 that.

18 So, I'm just trying to get a little
19 better understanding of the footing that
20 we're on here, in terms of its standing at
21 the moment, creation of a process and
22 procedure by executive order.

23 Councilwoman Tasco again raised the
24 issue of why in this kind of matter. I mean,
25 this is not your garden variety executive

1 Budget - 4/12/05

2 order, based on the weight of the issue. And
3 I think the executive order itself is upwards
4 of maybe 17 pages. Is that possibly one of
5 the longer executive orders in the City's
6 history?

7 THE CITY SOLICITOR: Again, I have
8 to confess I can't give you personal
9 testimony on that issue, but I will take the
10 point that it is a substantive and lengthy
11 executive order.

12 COUNCILMAN NUTTER: Right. It just,
13 of course, begs to the next question which is
14 why we wouldn't create such policy by
15 ordinance which is law and has a slightly
16 higher standing in the whole scheme of things
17 than an executive order.

18 But I think it would be helpful if
19 you could in a separate document lay out the
20 history of the creation of the first attempt
21 by the City to set policy by way of minority
22 business enterprise, the ordinance, in any
23 subsequent either bills or executive orders
24 that have been formalized since that time,
25 and then provide a sense of what's the legal

1 Budget - 4/12/05

2 status of the entity at the moment.

3 THE CITY SOLICITOR: I'm happy to
4 provide that for the record. And I'm sure
5 we'll have the requisite footnotes.

6 But I will tell you this,
7 Councilman: Whether there is an executive
8 order that existed or exists currently
9 creating MBEC, it clearly does exist.

10 It clearly is within the authority
11 of the Mayor to allocate resources to the
12 function. The mission, I think, of MBEC is
13 clearly laid out in the executive order. It
14 has a -- It has a clear going forward
15 expectation. But I'll be happy to provide
16 the review of the historical record on this
17 point.

18 COUNCILMAN NUTTER: It would be
19 helpful.

20 THE CITY SOLICITOR: And address the
21 establishment of MBEC.

22 COUNCILMAN NUTTER: Great. Thank
23 you. Thank you very much. Look forward to
24 working for you. I think we'll have a good
25 time. Thank you.

1 Budget - 4/12/05

2 Thank you, Madam Chair.

3 COUNCIL PRESIDENT VERNA: You're
4 welcome.

5 The Chair recognizes Councilwoman
6 Blackwell.

7 COUNCILWOMAN BLACKWELL: My light
8 was on by mistake.

9 COUNCIL PRESIDENT VERNA: Thank you.

10 The Chair recognizes Councilwoman
11 Miller.

12 COUNCILWOMAN MILLER: Good
13 afternoon, Mr. Diaz.

14 THE CITY SOLICITOR: Good afternoon,
15 Councilwoman.

16 COUNCILWOMAN MILLER: Can you tell
17 us what's happening with the lien sales? Has
18 that program ended, lien sales?

19 THE CITY SOLICITOR: The tax lien
20 sale program -- The tax lien sale program has
21 not ended. The tax liens have been sold.
22 They are currently continuing to be executed
23 upon, if you will, through the tax sale
24 process.

25 COUNCILWOMAN MILLER: But we're not

1 Budget - 4/12/05

2 able to make substitutions, correct?

3 THE CITY SOLICITOR: The issue with
4 regard to the tax lien sales, Councilwoman,
5 is that the pool of available properties to
6 substitute for those coming up for sale is
7 dwindling.

8 As a consequence, it becomes
9 increasingly more difficult to substitute
10 properties in kind for those that would
11 otherwise be subject to a tax lien sale.

12 So, except for those properties that
13 are legally deficient and the City has a
14 responsibility to substitute, we have
15 recently communicated that we do not have at
16 this -- at this point the ability to
17 substitute, at the request of Council
18 members' offices, for those properties
19 scheduled to be sold because the only way
20 that we could generally make the tax lien
21 servicer putting these properties up for sale
22 would be through cash. And we don't have the
23 budget for that, Councilwoman.

24 COUNCILWOMAN MILLER: So, then,
25 there absolutely won't be any substitutions.

1 Budget - 4/12/05

2 That's what you're saying, correct?

3 THE CITY SOLICITOR: Generally
4 speaking --

5 COUNCILWOMAN MILLER: If we don't
6 have the cash.

7 THE CITY SOLICITOR: Generally
8 speaking that would be the policy. We, you
9 know, continue to work with the tax lien
10 servicer wherever there is an opportunity to
11 address a concern. We try to do that. But
12 bottom line is as you suggested.

13 COUNCILWOMAN MILLER: Okay. Are
14 there any programs that help delinquent real
15 estate tax homeowners? Do you know?

16 THE CITY SOLICITOR: I'm sorry?

17 COUNCILWOMAN MILLER: Are there any
18 programs that's available to help people that
19 have delinquent real estate taxes if they are
20 having a hardship, they're facing a hardship?

21 THE CITY SOLICITOR: In fact, one of
22 the things that we have instituted -- and I
23 know that some Council members have
24 participated in the conversations with the
25 Sheriff and the Linebarger Firm about the tax

1 Budget - 4/12/05

2 lien sales, is that, first of all, we want to
3 make sure that we are making people aware of
4 their options early on.

5 For example, the Office of Housing
6 and Community Development has grant programs
7 that can be made available to those that
8 otherwise might be subject to a tax lien
9 sale.

10 It's important that people know what
11 their rights are early enough so that they
12 can access them. And obviously funds are
13 limited.

14 But the unfortunate situation, as I
15 understand it, is that some of these funds
16 remain unclaimed, which means to me that we
17 need to do a better job of letting people
18 know what their options are before they get
19 to the critical end of a long process that I
20 described earlier, as taking as much as 18
21 months to two years to complete. And one of
22 the things that I talked about earlier,
23 Councilwoman, is the desire to use
24 communication tools to let people know that.

25 Last year we were focused on making

1 Budget - 4/12/05

2 sure that we were developing technology and
3 redeployment options that made sense, so that
4 we could maximize our tax collections within
5 the Law Department.

6 As we have matured this program, if
7 you will, it seems to me that we need to go
8 out and communicate what we are doing and
9 tell people that the City is serious, the
10 City Law Department is serious about these
11 collection efforts.

12 But it's got to be a two -- It's got
13 to be a two-pronged message. We're serious
14 and we're going to collect, but we have
15 options. Here they are. You need to know
16 what they are. And you need to take
17 advantage of them.

18 That is the reason why I
19 communicated earlier that we need to be
20 looking at communication mechanisms. And
21 that's one of the things that I have
22 identified I'd like to focus on as part of
23 our collection effort going forward.

24 COUNCILWOMAN MILLER: Okay. All
25 right. Very good. Thank you.

1 Budget - 4/12/05

2 Thank you, Madam President.

3 COUNCIL PRESIDENT VERNA: You're
4 welcome.

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

7 (No response.)

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

10 THE CITY SOLICITOR: Thank you,
11 Council President and Council members.

12 COUNCIL PRESIDENT VERNA: We will
13 now hear from the Commerce Department.

14 Good afternoon. Thank you for your
15 patience.

16 Kindly identify yourself for the
17 record and proceed with your testimony. We
18 do have a copy of your testimony. We will
19 give it to the stenographer. It will be
20 transcribed in full. So, I would just ask
21 that you summarize your testimony if you
22 will.

23 MS. NAIDOFF: Be happy to do that.
24 I'm Stephanie Naidoff. I'm the City
25 Representative and the Director of the

1 Budget - 4/12/05

2 Department of Commerce.

3 COUNCIL PRESIDENT VERNA: Welcome.

4 Good afternoon.

5 MS. NAIDOFF: Good afternoon, Madam

6 President and members of City Council.

7 I'm seated here with Charles Isdell,

8 the Director of Aviation; Duane Bumb and

9 Mjenzi Traylor. I'm sorry. He was here just

10 a few minutes ago. I'm sorry. Mjenzi

11 Traylor, the First Deputy of the department.

12 We're here today to present

13 testimony on behalf of the department's FY

14 2006 operating budget request of

15 \$239,661,470, an increase of \$13,039,032 over

16 FY 2005 estimated obligations.

17 Do you want me to skip through all

18 those details, since they are on the record?

19 COUNCIL PRESIDENT VERNA: I think

20 everyone has... All of the members have a

21 copy of your testimony. So, as I said, if

22 you would simply summarize.

23 MS. NAIDOFF: The Office of the City

24 Representative is the part of the office that

25 supervises the part of the budget that

1 Budget - 4/12/05

2 involves the Class 500 dollars for the

3 Philadelphia Cultural Fund, which recently

4 awarded 224 local arts and cultural grants.

5 In addition, they supervise the

6 other parts of the City -- They supervise the

7 provision of services to City ceremonies and

8 other initiatives such as festivals and

9 events, such as the Fashion Festival at

10 Becook, and the Sunoco Welcome America

11 Celebration.

12 On the commerce side of the house,

13 on the Department of Commerce side, we

14 function as the coordinating entity for the

15 City's economic development programs and

16 initiatives.

17 We directly manage the K.O.Z.

18 programs, the neighborhood economic

19 development programs, including those funded

20 through the C.D.B.G. contracts, economic

21 development related capital improvements,

22 international business development including

23 the Sister Cities Program, and business

24 services through the Mayor's Business Action

25 Team.

1 Budget - 4/12/05

2 We also contract and work closely
3 with P.I.D.C. and P.C.D.C. on loan programs
4 and other business services, and the Urban
5 Industry Initiative, an independent
6 non-profit, that works with issues concerning
7 manufacturing businesses in the City and the
8 economic development arm of the Empowerment
9 Zone and Renewal Community Programs are all
10 housed within our office, so that we can
11 better coordinate economic development
12 activities.

13 The next part of my testimony
14 relates to the C.D.B.G. budget. And since
15 that will be discussed at a subsequent
16 hearing, I'll just go through that and turn
17 to the new initiatives which discusses the
18 blueprint and particularly the ten objectives
19 which I reviewed recently with Council in two
20 hearings.

21 I list the two objectives -- the ten
22 objectives there, and talk about the fact
23 that these objectives will provide the
24 framework for the initiatives and priorities
25 that our department will pursue.

1 Budget - 4/12/05

2 I then go on to talk about the
3 large-scale development projects including
4 the Cira Center and Comcast Center, both of
5 which are under way and will provide more
6 than 2 million square feet of new office
7 space in Philadelphia.

8 We also note the residential
9 renaissance taking place, particularly in
10 Center City but also throughout the
11 neighborhoods, as a result of the successes
12 of the Neighborhood Transformation
13 Initiative.

14 That Center City has actually seen a
15 total of over 6,000 new housing units and
16 throughout the City there's a total of 10,000
17 new housing units that have gone up.

18 And despite that tremendous boom,
19 the vacancy rate actually remains quite low.
20 We note particularly --

21 COUNCIL PRESIDENT VERNA: I'm sorry.
22 Did you say the vacancy rate?

23 MS. NAIDOFF: Yes.

24 COUNCIL PRESIDENT VERNA: Remains
25 quite low?

1 Budget - 4/12/05

2 MS. NAIDOFF: Yes, in our housing
3 market.

4 We note here specifically the
5 expansion of the knowledge industry
6 institutions, and we note the University of
7 Pennsylvania and Children's Hospital,
8 redevelopment of the former Civic Center
9 site, and the Fox Chase Cancer Center plans
10 for expansion at their northeast
11 headquarters.

12 I note also the tremendous boom in
13 retail development, and as a result of the
14 blueprint... Have talked about the fact that
15 we will be creating a retail advisory board
16 to help us coordinate and encourage the
17 expansion of retail development throughout
18 the City.

19 In neighborhood economic
20 development, we talk about the fact that we
21 are going to focus on commercial corridors as
22 a primary neighborhood economic development
23 initiative because we believe that commercial
24 corridors provide the backbone for our
25 residential neighborhoods.

1 Budget - 4/12/05

2 We believe -- We recognize that
3 strengthening commercial corridors builds
4 stronger, more vibrant and stable
5 neighborhoods.

6 Business attraction and expansion
7 efforts will include small and neighborhood
8 businesses with a particular focus on the
9 commercial corridors.

10 Talk then about the business
11 attraction and retention efforts, and the
12 fact that we've had a very successful
13 partnership with P.I.D.C., Center City
14 District, the Greater Philadelphia Chamber of
15 Commerce and the Governor's Action Team to
16 pro-actively meet with and address the issues
17 of the City's largest businesses whose leases
18 are about to expire. And this has been
19 carried over now into our business attraction
20 efforts.

21 And we talk about hospitality and
22 tourism on Page 6. And that is increasing at
23 this point in -- especially in -- as a result
24 of the Philly's More Fun When You Sleep Over
25 Campaign.

1 Budget - 4/12/05

2 Talk about the five tourist
3 attractions that are the top draws, and
4 especially about the expansion of the
5 Convention Center which we believe is a very
6 important and necessary step in our ability
7 to continue to grow our tourism market.

8 On the Aviation Fund, we have seen
9 some tremendous successes at the airport in
10 recent times, particularly as a result of the
11 arrival of low-cost carriers.

12 We had 28.5 million passengers who
13 utilize P.H.L. this past year which is an
14 increase of 15.5 percent over 2003. And our
15 international passengers rose to 4.1 million
16 which is a 17 percent increase.

17 The low-cost carriers... I'm trying
18 to skip over some of this. Our average air
19 fares now rank slightly lower than the
20 national average, compared to 20 percent
21 higher in 2003.

22 In addition, in February of this
23 year Standard and Poors reaffirmed our A
24 credit rating with a stable outlook.

25 To meet the growing demand, we're

1 Budget - 4/12/05
2 moving forward with a number of plans,
3 including the terminal expansion program.

4 We recently requested the City
5 Council authorization to issue airport
6 revenue bonds to cover the expansion and
7 renovation of Terminals D and E and to have
8 some improvements to Terminals B and C as
9 well and A east; also, to do the resurfacing
10 of one of our major runways.

11 And we're in the major -- in the
12 last stages of a master planning process
13 which will allow us to relieve some of the
14 congestion and delays that occur at the
15 airport.

16 Lastly, we talk about the fact that
17 the airline use and lease agreement which
18 became effective in 1974 is coming up in June
19 of 2006 for renewal, and we have entered into
20 negotiations with the airlines about that.

21 Sorry. Quick and dirty summary.
22 Readers Digest summary.

23 COUNCIL PRESIDENT VERNA: Very good.
24 Thank you.

25 On Page 3 of your testimony, you

1 Budget - 4/12/05

2 state, now that the City has committed to
3 creating a fund of \$125 million from unlocked
4 water and sewer bond reserve funds...

5 MS. NAIDOFF: Mm-hmm.

6 COUNCIL PRESIDENT VERNA: ...and
7 will leverage state and Federal funds to
8 address the standard public responsibilities
9 of planning, land assemblage, environmental
10 remediation, demolition, and infrastructure.

11 What do you mean by unlocked bond
12 reserve funds?

13 MS. NAIDOFF: This has to do with
14 our request, which we will be coming back in
15 a more formal sense to request from City
16 Council the, use of the reserve funds under
17 the water and sewer bonds to create this \$125
18 million economic development fund that we've
19 been talking about for some time now.

20 COUNCIL PRESIDENT VERNA: Can you
21 tell us how these bond funds will be used?

22 MS. NAIDOFF: We are assembling the
23 list at this point, as I had mentioned the
24 last time I was questioned about it. We will
25 be putting -- We are putting together a list

1 Budget - 4/12/05
2 of the allocations of -- the proposed
3 allocations of that money.

4 COUNCIL PRESIDENT VERNA: Do you
5 have any indication as to what the cost of
6 unlocking these funds will be and who will
7 pay for it?

8 MS. NAIDOFF: I believe that the...
9 Turn to the Budget Director. I don't know if
10 she has more information than I do.

11 I believe that there is -- the
12 cost -- the major cost is the securing of a
13 surety bond which I think was in the
14 neighborhood of about \$4 million. I'll have
15 to get you some more specific information,
16 Madam President, on that. But I think it was
17 \$4 million dollars. And I believe that the
18 \$125 million is net of the costs. I think
19 the total amount in the reserve funds is --

20 COUNCIL PRESIDENT VERNA: How
21 would --

22 MS. NAIDOFF: -- over \$130 million.

23 COUNCIL PRESIDENT VERNA: -- the \$4
24 million be paid? And who would be paying for
25 it?

1 Budget - 4/12/05

2 MS. NAIDOFF: The proceeds of the
3 reserve funds would cover the expenses of
4 securing that. And what nets out would be
5 the \$125 million, which would then be
6 available for the use of those infrastructure
7 projects.

8 COUNCIL PRESIDENT VERNA: Would the
9 water rate payers be paying for this
10 investment?

11 MS. NAIDOFF: No, I don't believe
12 so. I think that this is money that is under
13 current bond issues is required to be kept in
14 reserve funds.

15 And we believe that by buying the
16 surety bond, we can unlock those reserve
17 funds and use that money for other projects,
18 such as these infrastructure projects, as
19 long as we are able to secure that surety
20 bond.

21 COUNCIL PRESIDENT VERNA: But aren't
22 the water rate payers paying for that reserve
23 fund?

24 MS. NAIDOFF: They're paying for the
25 bonds, yes.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT VERNA: So they,
3 in essence, would be paying for this \$125
4 million dollar issue.

5 MS. NAIDOFF: I don't think this is
6 a new issue. What we're talking about is
7 reserve funds that are already there that are
8 under the current bonds. And we are under
9 the --

10 COUNCIL PRESIDENT VERNA: Let me
11 tell you --

12 MS. NAIDOFF: -- current debt.

13 COUNCIL PRESIDENT VERNA: -- I don't
14 think... You know, this was brought up last
15 year. And I don't think we got a very good
16 explanation about the \$125 million, and how
17 it would be used, who would be paying for it,
18 and who would oversee the expenditures.

19 I think this is much, much too
20 vague. And I think that Council certainly
21 should be more informed as to how this is
22 going to be spent.

23 MS. NAIDOFF: I certainly understand
24 what you're saying. And we intended at the
25 point that we come forward with the actual

1 Budget - 4/12/05
2 proposal for this, to provide you with
3 complete testimony.

4 COUNCIL PRESIDENT Verna: It is in
5 the budget. So, I just don't know when you
6 would be coming forward, I mean. The budget
7 hearings are practically over.

8 You are requesting \$4 million in
9 economic stimulus funding.

10 MS. NAIDOFF: Mm-hmm.

11 COUNCIL PRESIDENT Verna: How will
12 these funds be used? And can you tell us,
13 what is the total amount the City has spent
14 in economic stimulus funds over the last five
15 years?

16 MS. NAIDOFF: I would need to
17 provide you with that report. I don't have
18 that with me.

19 COUNCIL PRESIDENT Verna: All right.
20 When you provide the report, can you let us
21 know what projects have they gone to, and how
22 have the benefits of this program been
23 factored into the Mayor's revenue estimates?

24 MS. NAIDOFF: Yes, I will do that.

25 COUNCIL PRESIDENT Verna: I have one

1 Budget - 4/12/05

2 last question.

3 MS. NAIDOFF: Mm-hmm.

4 COUNCIL PRESIDENT VERNA: I see a
5 number of Council members want to be
6 recognized.

7 On Page 15-63 of your detail, you
8 are requesting \$10 million in the Grants
9 Revenue Fund for your Economic Development
10 Division.

11 You do not list the grants title,
12 award period, nor the objective. Can you
13 tell us what these funds are for and what is
14 the likelihood that you will receive these
15 funds?

16 MS. NAIDOFF: If you'll give me one
17 minute.

18 COUNCIL PRESIDENT VERNA: Sure.

19 MS. NAIDOFF: I'm told that that is
20 a number that we include in the budget as a
21 standby appropriation for grants that we may
22 receive.

23 COUNCIL PRESIDENT VERNA: But isn't
24 the normal process that it comes out of
25 Finance, so that you know when you get the

1 Budget - 4/12/05

2 grant and we know when you get the grant?

3 Isn't that the way it's been done in the
4 past.

5 MS. NAIDOFF: No. I think we've
6 always done it this way. Maybe Mr. Gordon
7 can -- John Gordon can explain it.

8 COUNCIL PRESIDENT VERNA: Welcome,
9 Mr. Gordon. Please identify yourself for the
10 record.

11 MR. GORDON: John Gordon, Assistant
12 Commerce Director.

13 This standby appropriation in the
14 amount of \$10 million has been in the budget
15 for at least 20 years. It hasn't always been
16 necessarily \$10 million, but there's always
17 been a standby appropriation.

18 COUNCIL PRESIDENT VERNA: Okay.
19 Thank you, Mr. Gordon.

20 The Chair recognizes Councilwoman
21 Tasco.

22 COUNCILWOMAN TASCO: Yes.

23 Thank you, Madam President.

24 I want to follow up on your
25 questions about the stimulus funds. I know

1 Budget - 4/12/05

2 that the President has asked what were some
3 of the projects that were funded last year.

4 I'd like to know if you've targeted
5 those areas where that money would be spent
6 in year 2006.

7 MS. NAIDOFF: All right. We'll
8 provide that in the report.

9 COUNCILWOMAN TASC0: Also, I'd like
10 to know the criteria for determining which
11 projects or entities receive economic
12 stimulus.

13 MS. NAIDOFF: I'm sorry. I didn't
14 hear the beginning of your question.

15 THE CITY SOLICITOR: I'd like to
16 know what is the criteria for which
17 projects -- for determining which projects or
18 entities receive economic stimulus funds.

19 MS. NAIDOFF: We'll provide that.

20 COUNCILWOMAN TASC0: Do you -- Are
21 the dollars spent directly through you or
22 through P.I.D.C.?

23 MS. NAIDOFF: We authorize them, and
24 it is -- the accounting is done through
25 P.I.D.C. They issue the checks.

1 Budget - 4/12/05

2 COUNCILWOMAN TASC0: Who determines
3 who gets the money, though?

4 MS. NAIDOFF: The City
5 administration.

6 COUNCILWOMAN TASC0: Commerce or the
7 City? Define that for me, please.

8 MS. NAIDOFF: It's a process that
9 involves four departments signing off on it:
10 Our department, the Finance Department, the
11 Mayor's Office and P.I.D.C.

12 COUNCILWOMAN TASC0: So, if someone
13 is interested in getting some of the stimulus
14 dollars, they apply to your department or to
15 P.I.D.C.?

16 MS. NAIDOFF: It's generally not
17 done through an application process. It's
18 done when we have negotiated agreements for
19 development projects that we believe will
20 create jobs and benefits for the City of
21 Philadelphia, and the projects need some
22 additional support, some City support in
23 order to move forward.

24 COUNCILWOMAN TASC0: Well, what kind
25 of funds were given to the American Business

1 Budget - 4/12/05

2 Financial Services Group? Were they stimulus
3 dollars?

4 THE CITY SOLICITOR: It was \$1
5 million of that was stimulus.

6 COUNCILWOMAN TASC0: So what happens
7 now that they have gone out of business and
8 did not bring those jobs into the City? How
9 does the City recapture the dollars that they
10 gave to this company?

11 MS. NAIDOFF: I believe the City got
12 more than the million dollars. I believe it
13 was \$2.2 million in wage tax revenues from
14 that company on behalf -- from the employees
15 of that company, so that we more than made up
16 the amount of money that we invested.

17 COUNCILWOMAN TASC0: Well, what did
18 the City lose when they proceeded to
19 foreclose and use predatory lending practices
20 on some of the people who live in the City of
21 Philadelphia? How much did we lose?

22 MS. NAIDOFF: That I don't know.

23 COUNCILWOMAN TASC0: I think we
24 ought to look at that.

25 MS. NAIDOFF: Mm-hmm.

1 Budget - 4/12/05

2 COUNCILWOMAN TASC0: The other
3 question I have about that is, who vetted
4 this company before they came into the City?

5 MS. NAIDOFF: I don't know the
6 answer to that, since I was not around at
7 that point.

8 COUNCILWOMAN TASC0: Someone who can
9 answer that question.

10 MS. NAIDOFF: Perhaps we can get you
11 some information.

12 COUNCILWOMAN TASC0: Was it P.I.D.C.
13 who gave the grant?

14 MS. NAIDOFF: Peter Longstreth will
15 be able to address that.

16 COUNCILWOMAN TASC0: I'd like to
17 know how they determined this company was
18 worthy of a grant. Did they vet them in any
19 way to see what their business practices
20 were?

21 MR. LONGSTRETH: Peter Longstreth,
22 President of P.I.D.C. Happy to be here.

23 This goes back three or four years.
24 At the time American Business Financial
25 Services was located in Bala Cynwyd and was

1 Budget - 4/12/05

2 considered a very vibrant and successful
3 company and a target for attraction to the
4 City.

5 We went through about a two-year
6 process of reviewing with them a variety of
7 different options in the City and
8 underwriting the credit risk.

9 And at the time it was considered,
10 once again, a very positive opportunity for
11 the City to attract 1,000 new jobs which
12 represented the largest attraction in over 25
13 years.

14 So, I would say we went through the
15 normal underwriting process that we go
16 through with most companies, and ended up
17 with a financial structure that was largely
18 collateralized by a very valuable building
19 here in the City.

20 COUNCILMAN TASC0: So who gets the
21 building?

22 MR. LONGSTRETH: Pardon me?

23 COUNCILWOMAN TASC0: They
24 collateralized it with us?

25 COUNCIL PRESIDENT VERNA: Yeah. I

1 Budget - 4/12/05

2 think they were Lord & Taylor building; were
3 they not?

4 MR. LONGSTRETH: Pardon me?

5 COUNCIL PRESIDENT VERNA: Weren't
6 they located at the Lord and Taylor building?

7 MR. LONGSTRETH: Yeah, the Wanamaker
8 Building which has \$110 million worth of
9 value.

10 We have a second position on that
11 building for the \$15 million worth of debt
12 involved.

13 And then, as it relates to the grant
14 money that went to them, once again, the
15 Commerce Director has indicated the wage
16 taxes that were paid during the two years
17 that they occupied it more than offsets that.

18 Now, obviously, nobody is happy with
19 the outcome. We feel particularly badly for
20 the employees, the shareholders, the
21 creditors. And obviously we're one of those
22 creditors.

23 But we are somewhat reassured by,
24 one, having the collateral on the vast
25 majority of the funding that was provided;

1 Budget - 4/12/05

2 and then secondly, having the taxes collected
3 during the two years that they did occupy the
4 space.

5 COUNCILWOMAN TASC0: I also know
6 that through their business practices a
7 number of people in the City lost their
8 homes. I'd like to have someone calculate
9 what that impact was to the citizens of the
10 City of Philadelphia.

11 MR. LONGSTRETH: Okay.

12 COUNCILWOMAN TASC0: The other thing
13 is, when you are attracting these businesses
14 to the City, do you look at the kind of
15 business they are and what their practices
16 are, and as opposed to their financial
17 conditions? Sort of like a character review.

18 MR. LONGSTRETH: Yeah. We
19 certainly -- We certainly try to. Based on
20 what you're saying, I'm not sure we're always
21 successful as we'd like to be, but we
22 certainly try to.

23 COUNCILWOMAN TASC0: If you had been
24 forewarned, say in 2003, that there was some
25 problems with this company, what would you

1 Budget - 4/12/05

2 have done? Could you have done anything to
3 recapture your dollars or protect the
4 investment of the City?

5 MR. LONGSTRETH: Are you saying --

6 COUNCILWOMAN TASC0: Had you known
7 in 2003 that this company had the possibility
8 of going out of business or at least were
9 maybe not going out of the business at that
10 time but at least had some -- had been cited
11 by the Federal Government for their lending
12 practices, what would you have done?

13 MR. LONGSTRETH: We closed on this
14 transaction in May of 2003. And so, you're
15 saying after we had closed we had realized
16 that there were these irregularities what
17 could we have done?

18 COUNCILWOMAN TASC0: Mm-hmm. Yes.

19 MR. LONGSTRETH: Is that... Yeah.

20 Basically, the way the documents are
21 written, as long as they were meeting their
22 obligations under the agreement -- and that
23 related to, obviously, paying their rent and
24 meeting their job requirements -- I'm not
25 sure there would be too much that we could

1 Budget - 4/12/05

2 have met, as long as they were within the
3 law.

4 COUNCILWOMAN TASC0: Well, at that
5 time I sent a letter to the Mayor questioning
6 their business practices, as related to the
7 citizens of the City of Philadelphia and the
8 predatory lending practices they were engaged
9 in. I got no response.

10 MR. LONGSTRETH: Yeah. I -- I
11 didn't see that letter, but I'm not sure we
12 could have satisfied your concerns because it
13 was, in fact, after the closing of the
14 transaction, I assume.

15 COUNCILWOMAN TASC0: Currently, Ms.
16 Naidoff -- Mrs. Naidoff -- the City Council,
17 as you know, was just engaged in a discussion
18 regarding contract reform. Do you believe
19 that should P.I.D.C.'s economic stimulus
20 contracts be part of the contract reform
21 proposal?

22 MR. LONGSTRETH: I'm not sure I
23 understood the question, but...

24 COUNCILWOMAN TASC0: Well, in the
25 bill that's on the calendar now, relative to

1 Budget - 4/12/05
2 contract reform, P.I.D.C., P.C.D.C., and some
3 of these other agencies that give contracts
4 to companies like American Business
5 Financial, they're not included in the
6 legislation.

7 Do you believe that since this is --
8 these are contracts that are given out by the
9 City, don't you think should they be part of
10 the contract reform proposals?

11 MS. NAIDOFF: Because they are not
12 directly contracts given out by the City, I
13 think we'd have to get a legal opinion as to
14 whether that would fall within the confines
15 of what you're talking about.

16 COUNCILWOMAN TASC0: But you're
17 giving out City dollars.

18 MS. NAIDOFF: Yes. And that would
19 be the issue, whether the dollars would
20 control that.

21 COUNCILWOMAN TASC0: All right.
22 Does your contracts that are left from
23 P.I.D.C.'s economic stimulus fund go through
24 the City's Contract Review Committee? What
25 is the Contract Review Committee?

1 Budget - 4/12/05

2 MS. NAIDOFF: I'm told no.

3 MR. GORDON: Could you please repeat
4 the question?

5 COUNCILWOMAN TASC0: What is the
6 Contract Review Committee? And do the
7 P.I.D.C' s economic development stimulus
8 funds go through that Contract Review
9 Committee?

10 MR. GORDON: Well, the Contract
11 Review Committee is an administratively
12 created committee to review professional
13 services contracts.

14 COUNCILWOMAN TASC0: Who is part of
15 that committee?

16 MR. GORDON: The Finance Director
17 and some designees of the Finance Director,
18 Procurement Commissioner, Budget Director's
19 Office.

20 COUNCILWOMAN TASC0: So that's the
21 Contract Review Committee?

22 MR. GORDON: Right.

23 COUNCILWOMAN TASC0: And they review
24 all of the requests for contracts?

25 MR. GORDON: Professional services.

1 Budget - 4/12/05

2 Contracts for professional services.

3 COUNCILWOMAN TASC0: What
4 constitutes a contract for professional
5 service? What could you use to stimulus
6 money?

7 MR. GORDON: Engineering services,
8 architectural services, legal services,
9 consultants.

10 COUNCILWOMAN TASC0: Well, we
11 submitted -- And I looked at your
12 testimony...

13 COUNCIL PRESIDENT VERNA: The Chair
14 recognizes Councilman Goode for a point of
15 information.

16 COUNCILMAN GOODE: Thank you, Madam
17 President.

18 I believe Councilwoman Tasco was
19 asking whether the economic stimulus money
20 had to go through the Contract Review
21 Committee.

22 COUNCILWOMAN TASC0: Right.

23 MR. GORDON: No, it did not.

24 COUNCILWOMAN TASC0: It does not go
25 through the review committee.

1 Budget - 4/12/05

2 So I could put in a request for some
3 stimulus dollars for a consultant to work in
4 my district in the commercial corridors.
5 Would that be something that would be
6 considered?

7 MS. NAIDOFF: The economic stimulus
8 dollars are generally large dollar contracts
9 that we use to support business attraction,
10 retention and creation -- job creation
11 efforts.

12 COUNCILWOMAN TASC0: So, the
13 Commerce Director... Are you part of that
14 committee?

15 MS. NAIDOFF: The?

16 COUNCILWOMAN TASC0: The Contract
17 Review Committee?

18 MS. NAIDOFF: I am a member of the
19 committee, but Mr. Gordon serves as my
20 designee.

21 COUNCILWOMAN TASC0: But then the
22 P.I.D.C. economic stimulus dollars do not go
23 through that committee.

24 MS. NAIDOFF: That's right.

25 COUNCILWOMAN TASC0: So, solely the

1 Budget - 4/12/05

2 dollars are granted by the... by whom?

3 MS. NAIDOFF: They're City contracts
4 for professional services. So, if a
5 department is engaging an engineering firm to
6 do surveys, for example, that would go
7 through that committee.

8 COUNCILWOMAN TASC0: Okay. But who
9 determines how the economic stimulus dollars
10 are spent?

11 MS. NAIDOFF: That's generally done
12 on recommendation of our department, in
13 consultation with the Mayor's Office.

14 COUNCILWOMAN TASC0: Okay. We'll
15 probably come back to that.

16 Let me ask you a question about the
17 Cultural Fund.

18 MS. NAIDOFF: Mm-hmm.

19 COUNCILWOMAN TASC0: Is the Office
20 of Arts and Culture still in existence?

21 MS. NAIDOFF: No, it is not.

22 COUNCILWOMAN TASC0: Last year we
23 appropriated \$100,000 for that department.
24 What happened to it?

25 MS. NAIDOFF: That money was used to

1 Budget - 4/12/05
2 continue the payments for the Art Commission
3 staff which formerly was done under the
4 Office of Arts and Culture, and also to
5 support some staffing needs that we had, in
6 order to continue the transition, as those
7 programs were accepted or were picked up by
8 other City departments.

9 COUNCILWOMAN TASCO: Well, you know,
10 we -- I now serve on the Arts and Cultural
11 Fund. And we have budgeted \$2 million
12 appropriations for that fund, but we do not
13 have dollars for administrative support which
14 the Arts and Cultural Fund Office did provide
15 support.

16 Do you ever see that office being
17 opened again? And what support can you or
18 your office give to the Arts and Cultural
19 Fund?

20 MS. NAIDOFF: We don't envision the
21 creation again of the Office of Arts and
22 Culture.

23 We have taken some rather
24 comprehensive steps to make sure that all of
25 the programs that were carried out by that

1 Budget - 4/12/05

2 office have been picked up by other City
3 departments and other staff members who are
4 expert in the areas and able to carry out
5 those functions.

6 We believe that the day-to-day
7 activities with the percent for art, the
8 Sculpture Conservation Program, Art in City
9 Hall, and the collection management functions
10 are all functioning well now within the
11 Public Property Department. And the Art
12 Commission, as I mentioned a moment ago, is
13 functioning well. That's now in the Planning
14 Department.

15 And I am carrying out the role of
16 the Mayor's liaison to the arts and culture
17 community and working with him particularly
18 on the effort to find sustainable funding for
19 arts and cultural organizations.

20 COUNCILWOMAN TASC0: Well, what
21 administrative support can your office give
22 to the Arts and Cultural Fund?

23 MS. NAIDOFF: I don't know that we
24 can give any. I'd be happy to help in my own
25 personal capacity as the Mayor's liaison to

1 Budget - 4/12/05

2 the arts and culture community.

3 COUNCILWOMAN TASC0: So they're left
4 to fend for themselves, with no
5 administrative -- no increase in their
6 appropriations for administrative work.

7 MS. NAIDOFF: Well, I think it's no
8 different than any other appropriation, in
9 that any organization that gets an
10 appropriation has to account for a certain
11 amount of administrative overhead as part of
12 the receipt of those funds. And that's the
13 way it's done generally.

14 COUNCILWOMAN TASC0: I'll come back.

15 Am I finished, Madam President? If
16 not, let me just go ahead?

17 COUNCIL PRESIDENT VERNA: There are
18 other members that have been waiting. So, if
19 you don't mind, we'll do a second go-around.

20 COUNCILWOMAN TASC0: I have one
21 question.

22 COUNCIL PRESIDENT VERNA: Okay.

23 COUNCILWOMAN TASC0: I want to go to
24 the question the President asked about the
25 \$125 million, which you may or may not be

1 Budget - 4/12/05

2 able to answer for this fund.

3 Who pays the debt service on the
4 this fund?

5 MS. NAIDOFF: The rate payers.

6 COUNCILWOMAN TASC0: Oh. Okay.

7 Do you have an overall City plan for
8 the water -- for the waterfront, that where
9 you're going to use the fund for whatever
10 you're going to use them for, infrastructure
11 and all of those? Is there a design plan for
12 the riverfront?

13 MS. NAIDOFF: As I mentioned before
14 to the President, that's what we are putting
15 together now, is a proposed list of projects
16 along the waterfront, in order to capitalize
17 and galvanize the development that is going
18 along -- on now along the 38 miles of
19 waterfront. And we will back to you with
20 that list.

21 COUNCILWOMAN TASC0: Is the City
22 Planning Department involved in this?

23 MS. NAIDOFF: Yes.

24 COUNCILWOMAN TASC0: Okay. Thank
25 you.

1 Budget - 4/12/05

2 COUNCIL PRESIDENT VERNA: Thank you.

3 The Chair recognizes Councilwoman
4 Brown.

5 COUNCIL PRESIDENT VERNA: I'm sorry.
6 Councilman Goode, you're next. You had asked
7 for a point of information. Your light went
8 off.

9 COUNCILMAN GOODE: Thank you, Madam
10 President.

11 COUNCIL PRESIDENT VERNA: Thank you.

12 COUNCILMAN GOODE: Good afternoon,
13 Ms. Naidoff.

14 MS. NAIDOFF: Good afternoon.

15 COUNCILMAN GOODE: My questions are
16 really around budgeting personnel for the
17 next fiscal year and in the future, in light
18 of the new economic development blueprint.

19 How will staff capacity be adjusted
20 to implement the blueprint?

21 MS. NAIDOFF: The capacity issue has
22 not been addressed yet. But what we have
23 been talking about is how we will allocate
24 the various functions and activities that we
25 have outlined in the blueprint, among not

1 Budget - 4/12/05

2 only the people in our department but the
3 related agencies who work with us on a
4 regular basis, like P.I.D.C., P.C.D.C.,
5 Innovation Philadelphia. And we are actually
6 talking to all of them at this point about
7 how to carry out those initiatives.

8 COUNCILMAN GOODE: How many staff
9 persons or consultants do you consider to be
10 directly assigned toward the implementation
11 of the blueprint?

12 MS. NAIDOFF: I don't think at this
13 point I could give you that answer.

14 COUNCILMAN GOODE: Why not?

15 MS. NAIDOFF: Because I don't think
16 the decisions are made yet about how we're
17 going to carry out all of the initiatives.

18 COUNCILMAN GOODE: I'm just asking
19 at this point in time how many staff people
20 you have directly assigned toward
21 implementation of the blueprint.

22 MS. NAIDOFF: Well, in -- sometimes
23 I guess you would have to say all of the
24 members of our department are engaged in the
25 blueprint.

1 Budget - 4/12/05

2 COUNCILMAN GOODE: Okay. What will
3 be accomplished during the next fiscal year,
4 in terms of the implementation of the
5 blueprint?

6 MS. NAIDOFF: We've laid out the
7 blueprint, in terms of the next three years.
8 So, we don't have specific goals for the next
9 year.

10 COUNCILMAN GOODE: Okay. Last
11 question is, what's the total dollar amount
12 in new resources to be allocated for the
13 implementation of the blueprint?

14 MS. NAIDOFF: The only specific
15 allocation of new dollars is the one million
16 dollar commitment to the Knowledge Industry
17 Partnership.

18 COUNCILMAN GOODE: And that's it for
19 fiscal year '06?

20 MS. NAIDOFF: (Indicating).

21 COUNCILMAN GOODE: That's it for
22 fiscal year '06?

23 MS. NAIDOFF: That's for the next
24 three years.

25 COUNCILMAN GOODE: That's the only

1 Budget - 4/12/05

2 commitment?

3 MS. NAIDOFF: That's the only
4 new-dollar commitment we've made.

5 COUNCILMAN GOODE: You're not
6 counting the \$125 million?

7 MS. NAIDOFF: No, because we have
8 been talking about that as part of this
9 budget proposal.

10 COUNCILMAN GOODE: Okay. Thank you.

11 Thank you, Madam President.

12 COUNCIL PRESIDENT VERNA: You're
13 welcome.

14 The Chair recognizes Councilwoman
15 Brown.

16 COUNCILWOMAN BROWN: Thank you,
17 Madam President.

18 Good afternoon.

19 MS. NAIDOFF: Good afternoon.

20 COUNCILWOMAN BROWN: I'd like to
21 follow up first on the questions raised by
22 Councilwoman Tasco regarding the arts and --
23 the Office of Arts and Culture.

24 Am I hearing you say that all of the
25 former functions and roles of that department

1 Budget - 4/12/05

2 had been fully integrated into other
3 departments within government? None remain
4 in transition?

5 MS. NAIDOFF: I think it's probably
6 not fair to say all of the functions have
7 been assigned out to other departments.

8 Certainly the programs that I
9 mentioned have been assigned to a variety of
10 departments, such as Public Property and the
11 Planning Department.

12 But as I mentioned, we maintain
13 within our department a strong presence in
14 the role that I carry out for the Mayor as
15 the liaison to the arts and business
16 community -- arts and culture community, and
17 have been spending a fair amount of time and
18 energy, particularly on the project of trying
19 to find sustainable funding for arts and
20 cultural organizations.

21 COUNCILWOMAN BROWN: And so citizens
22 outside of government who want to contact any
23 of the programs that have now been integrated
24 into other departments, the way for them to
25 get to those programs is now how?

1 Budget - 4/12/05

2 MS. NAIDOFF: Many people know
3 directly to call the Public Property
4 Department or the Planning Department, but
5 otherwise calls come through us. We've had
6 one yesterday about the Caulder Sculpture
7 Garden. Obviously, when we get those calls,
8 we get the right people involved.

9 COUNCILWOMAN BROWN: Okay. And you
10 say not all of them have been fully
11 integrated. Which programs remain?

12 MS. NAIDOFF: I was just referring
13 to the fact that I have retained within... we
14 have retained within our department my
15 specific role as the liaison to the arts and
16 culture community.

17 COUNCILWOMAN BROWN: Okay. Now to
18 follow up on Council President's questions
19 regarding the \$125 million, is there any --
20 and knowing that what you've already stated
21 which is the full breakout has not been -- is
22 not public yet -- is there any consideration
23 in that pending document on commercial
24 corridor development?

25 MS. NAIDOFF: The \$125 million, if

1 Budget - 4/12/05

2 it is made up of the reserve funds from the
3 water and sewer bonds, will have to be used
4 for related projects, for water and sewer
5 projects.

6 And the Mayor has committed this to
7 his new River City Initiative. So, what
8 we're looking at is those kinds of
9 infrastructure projects that will help
10 advance the new River City Initiative.

11 COUNCILWOMAN BROWN: Okay. All
12 right.

13 Neighborhoods that have a
14 significant number of residential properties,
15 is there any -- do you know if there are any
16 trends that speak to the number of openings
17 or closing of those businesses along those
18 commercial corridors?

19 MS. NAIDOFF: No, I don't know of
20 any.

21 COUNCILWOMAN BROWN: Forgive me?

22 MS. NAIDOFF: I don't know of any.

23 COUNCILWOMAN BROWN: You don't know
24 of any?

25 MS. NAIDOFF: You were asking

1 Budget - 4/12/05

2 whether I knew of any reports about that?

3 COUNCILWOMAN BROWN: Yes.

4 MS. NAIDOFF: No, I don't know of
5 any.

6 COUNCILWOMAN BROWN: So, currently,
7 then, the Commerce Department is not keeping
8 a handle on, if you will, businesses in the
9 commercial corridors that are opening or
10 closing and the whys to that.

11 MS. NAIDOFF: Well, we have -- we
12 have a number of people whose primary focus
13 is the commercial corridors and the
14 neighborhood -- and neighborhood economic
15 development.

16 And they do keep a fairly close --
17 They keep fairly close tabs on what's
18 happening, but nobody keeps a list or report
19 of the openings and closings.

20 COUNCILWOMAN BROWN: Okay. Can you
21 or a member of your team tell me what
22 percentage of our City's commerce activities
23 attributed to neighborhood commercial
24 corridors versus downtown businesses.

25 Councilman Goode has a point of

1 Budget - 4/12/05

2 information, Madam President.

3 COUNCIL PRESIDENT Verna: The Chair
4 recognizes Councilman Goode.

5 COUNCILMAN GOODE: I'm going back to
6 the question before that. Isn't it a
7 requirement of P.C.D.C.'s contract to
8 track --

9 MS. NAIDOFF: I'm sorry?

10 COUNCILMAN GOODE: Isn't it a
11 requirement of P.C.D.C.'s contract to track
12 openings and closings of businesses?

13 MS. NAIDOFF: I will have to find
14 out. I don't know the answer to that.

15 COUNCILMAN GOODE: Okay. Thank you.

16 COUNCILWOMAN BROWN: I was struck by
17 the discussion during Councilman Goode's
18 hearing on the blueprint, where Councilwoman
19 Tasco raised a number of what I believe to be
20 legitimate concerns about neighborhood
21 commercial development and the City's
22 priorities and where we want to invest
23 dollars which is now what drives these
24 questions.

25 So, can -- if not now, sometime soon

1 Budget - 4/12/05
2 hereafter -- this information be provided to
3 Madam President on what percentage of dollars
4 we yield from commercial neighborhood
5 corridors versus downtown?

6 MS. NAIDOFF: Yes. Be happy to do
7 that.

8 COUNCILWOMAN BROWN: That would be
9 useful.

10 Can you or a member of your team
11 speak to the amount of capital development
12 that has happened over the past four years?
13 And for me, my interest is looking to see has
14 there been an increase, a decrease, a
15 fluctuation or whatever.

16 MS. NAIDOFF: You're talking about
17 in the neighborhood?

18 COUNCILWOMAN BROWN: Yes,
19 specifically within neighborhoods.

20 MR. TRAYLOR: Councilwoman, we'll
21 have to try to get that information for you.

22 COUNCILWOMAN BROWN: Okay. Let me
23 just make sure I've covered all my questions
24 here. There was one other item in your
25 testimony.

1 Budget - 4/12/05

2 MR. TRAYLOR: The \$1 million in
3 capital dollars per year have been spent now
4 over the last... How many? Over the last
5 three years, \$1 million.

6 COUNCILWOMAN BROWN: For?

7 MR. TRAYLOR: For capital
8 improvements in the neighborhood corridor.

9 COUNCILWOMAN BROWN: And you say
10 that was over the last three years.

11 MR. TRAYLOR: Over the last three
12 years.

13 COUNCILWOMAN BROWN: Okay. My final
14 question comes from your testimony on Page 5
15 where you say, and I quote, business
16 attraction and expansion efforts will include
17 small and neighborhood businesses, with a
18 focus on commercial corridors.

19 What strategies, tactics or plans
20 are in place or under way to speak to that
21 reality, where you want to deal with business
22 attraction and expansion efforts? Can you
23 elaborate on that for us?

24 MS. NAIDOFF: Several things. We
25 have indicated in the testimony that we have

1 Budget - 4/12/05

2 a very, you know, successful team effort
3 that's been going on for a number of years
4 now, in terms of primarily business
5 retention.

6 And now that that cycle of leases
7 expiring is coming to a close, except for
8 occasional ones... The bulk of them, though,
9 have now been processed.

10 So, we're now going to turn our
11 attention to the business attraction effort.
12 And that's a team effort of the Commerce
13 Department, P.I.D.C., the Chamber of
14 Commerce, Center City District and the
15 Governor's Action Team.

16 COUNCILWOMAN BROWN: The business
17 retention focused on commercial corridors?

18 MS. NAIDOFF: No. That's actually
19 mostly for the downtown area.

20 COUNCILWOMAN BROWN: Okay.

21 MS. NAIDOFF: The commercial
22 corridors effort is addressed in the
23 blueprint when we talk about the fact that
24 there are a number of agencies and
25 departments and programs that focus on it.

1 Budget - 4/12/05

2 And so, our first step now is to
3 look at -- and we have begun this process of
4 looking at -- the variety of ways in which we
5 fund and support commercial corridors.

6 And we're trying to see if there are
7 some better ways of leveraging all of those
8 efforts, so that we get more successful
9 effort, more bang for our buck, frankly, in
10 order to make sure that all of those efforts
11 come together in a more consolidated fashion.

12 COUNCILWOMAN BROWN: Okay. I guess
13 my final comment would be, when we think of
14 the Mayor's N.T.I. program and the targeted
15 communities that are being impacted by that,
16 the hope is that there's a link or a bridge
17 to business corridors within those N.T.I.
18 areas so that we, indeed, have neighborhood
19 transformation in its purest form.

20 MS. NAIDOFF: Mm-hmm.

21 COUNCILWOMAN BROWN: And so, maybe
22 I'm missing the link. Is there a link?

23 MS. NAIDOFF: Well, we believe
24 there's certainly a link.

25 And as I said in the testimony, we

1 Budget - 4/12/05

2 believe that the commercial corridors provide
3 the backbone of the neighborhood economic
4 development.

5 What I'm saying is that we think
6 that at this point there are so many
7 different avenues in which the City
8 administration is looking at commercial
9 corridors, that perhaps there's a better way
10 of consolidating or at least coordinating
11 those efforts, so that we leverage those
12 dollars better.

13 COUNCILWOMAN BROWN: Thank you for
14 your testimony.

15 Thank you, Madam Chair.

16 COUNCIL PRESIDENT Verna: You're
17 welcome.

18 Councilman Rizzo, did you still want
19 to be recognized?

20 COUNCILMAN RIZZO: Thank you, Madam
21 Chair.

22 If I have any time left over,
23 Councilman Nutter would like to have it.

24 Good afternoon.

25 MS. NAIDOFF: Good afternoon.

1 Budget - 4/12/05

2 COUNCILMAN RIZZO: One of the areas
3 that you've been very responsive to me has
4 been businesses that are being... There's an
5 attempt, as you know... Businesses are
6 trying to be picked off by other states.

7 And I know that Virginia is one of
8 those states that is making a very, very
9 aggressive pitch here in the City of
10 Philadelphia offering, obviously, lots of
11 opportunities.

12 And I know that you indicated that
13 we do as much as we can do here, but there's
14 also some need -- some help we need from the
15 State of Pennsylvania.

16 So, could you tell me... Do you
17 know presently how many states are actually
18 aggressive at this point trying to locate
19 businesses into their states like Virginia?

20 Are there others that are really
21 focused on Philadelphia right now? And why
22 do you think that? Do they feel as though
23 things aren't good here or it's just that
24 this is the way their strategy is? Why are
25 they looking at Philadelphia? And why am I

1 Budget - 4/12/05

2 getting so many calls from businesses that
3 are receiving these letters from other
4 states?

5 MS. NAIDOFF: I think that's a very
6 astute observation. I woke up this morning
7 to an ad on radio about the State of Florida
8 looking for some leads in Philadelphia.

9 I just think that this is a trend
10 that is going on all across the country. And
11 I would venture to say there's probably not a
12 state that doesn't have this kind of business
13 attraction effort.

14 So, what we are seeing here is
15 probably the same thing you would hear from
16 colleagues and friends in other parts of the
17 country.

18 And hopefully, they will hear about
19 Philadelphia and Pennsylvania attracting
20 business in their jurisdictions as well.

21 COUNCILMAN RIZZO: I don't mean to
22 interrupt you, but I don't hear any of my
23 colleagues in other places getting mail from
24 Philadelphia or Pennsylvania.

25 I haven't really... You know what

1 Budget - 4/12/05

2 would be interesting? If you could have your
3 staff show us what we do and Pennsylvania
4 does to go after businesses.

5 Because it's kind of depressing to
6 have these folks call --

7 MS. NAIDOFF: Mm-hmm.

8 COUNCILMAN RIZZO: ...and say that
9 Virginia is coming here to sit down to show
10 me opportunities that I have in another
11 state.

12 Maybe we are just a little too close
13 to the scene here. But I think it would be
14 good to educate -- It would be educational
15 for us to see and be able to say, well, look,
16 we do the same thing.

17 But I've never seen, honestly, other
18 than a few ads a few years back about what
19 we're doing as a city and in concert with the
20 state to attract business here.

21 MS. NAIDOFF: I'd be happy to show
22 you. The state has actually been active in
23 this for quite some time.

24 And as you know, the City is just
25 beginning its efforts with the Select Greater

1 Budget - 4/12/05

2 Philadelphia effort which is being put
3 together by the Greater Philadelphia Chamber
4 of Commerce and which we are supporting. We
5 do think that kind of collaboration is the
6 way to proceed on this.

7 And working together with the
8 business community, I hope that it won't be
9 very long before you start hearing from
10 friends and colleagues who say they hear
11 Select Greater Philadelphia ads in their part
12 of the country.

13 COUNCILMAN RIZZO: Well, I'm glad
14 that the new leadership is doing that, but
15 you would have hoped that that would have
16 been in place long before now.

17 And I'm not trying to be critical.
18 It's just that it seems as though other
19 places, especially, like you said, the south,
20 the sun belt, is very aggressive; and as a
21 matter of fact, from what I hear, successful.

22 Because I know one particular
23 business that is trying to survive in the
24 inner city that just, I think, is today or
25 tomorrow making a decision to leave

1 Budget - 4/12/05

2 Philadelphia. And I've tried to twist their
3 arm, but it's not working.

4 MS. NAIDOFF: Well, I'm sorry to
5 hear that. But I do hope that in a very
6 short order you'll feel that there is a great
7 deal of successful effort going on in
8 Philadelphia to attract businesses.

9 COUNCILMAN RIZZO: Well, that's
10 good. I'd like to see some of that so I can
11 be aware of it.

12 MS. NAIDOFF: I'd be happy to do
13 that.

14 COUNCILMAN RIZZO: Thank you.

15 And also, I want to thank the folks
16 at the airport for all of the good work that
17 they do constantly getting involved in
18 requests and different issues there. And
19 they're very responsive and try to be as
20 cooperative with a place that is just
21 bursting at the seams.

22 And I just hope that all the plans
23 that we all want to see happen there happen
24 and happen quickly.

25 But again, thanks for the good work

1 Budget - 4/12/05

2 at the airport.

3 MS. NAIDOFF: Thank you for saying
4 that. Mr. Isdell and his staff are here to
5 hear those nice words. Thank you.

6 COUNCILMAN RIZZO: Thank you.

7 Madam President, Councilman Nutter
8 can have my last 34 seconds.

9 COUNCIL PRESIDENT VERNA: Thank you.

10 The Chair recognizes Councilman
11 Nutter.

12 COUNCILMAN NUTTER: It's just
13 incredibly generous.

14 Good afternoon, Ms. Naidoff.

15 MS. NAIDOFF: Good afternoon.

16 COUNCILMAN NUTTER: And Mr. Traylor.

17 MR. TRAYLOR: Good afternoon.

18 COUNCILMAN NUTTER: Mr. Longstreth..

19 I didn't catch the other gentleman's name at
20 the table.

21 Let me go to -- Let's go to Page 10
22 of the testimony which at least has a listing
23 for both P.I.D.C. and P.C.D.C. in a number of
24 performance indicators.

25 What I've wanted to ask was how

1 Budget - 4/12/05
2 many... Whether it's just those two agencies
3 or there may be others, what was the total
4 reconciliation on jobs either created, slash
5 affected, and the total number lost? And
6 what was the net last year? Did we have a
7 plus? Did we have a growth in jobs in the
8 City or did we have a loss in jobs in the
9 City?

10 MS. NAIDOFF: The loss figures, as
11 we understand it, were in the neighborhood of
12 3,000. So, if you look at the total here, it
13 looks like we gained some, if you add the
14 3,000 in P.I.D.C. and the 100 in P.C.D.C.

15 COUNCILMAN NUTTER: Okay.

16 Now, there was a report not too long
17 ago from the Department of Labor that seemed
18 to have a slightly different view of the job
19 situation. So, can you explain the
20 difference?

21 MS. NAIDOFF: I can try. I actually
22 don't have my materials here about that, but
23 there are several measures, apparently,
24 within the Department of Labor for job loss.
25 And the figure of 10,000 which is the one I

1 Budget - 4/12/05

2 think that had been...

3 COUNCILMAN NUTTER: 10,600.

4 MS. NAIDOFF: Yes.

5 ...had been publicized recently, was
6 from a particular status called the Bureau of
7 Labor Statistics Q.C.E.W, Quarterly Census of
8 Employment, which is based mostly on
9 unemployment figures.

10 And there is another statistic that
11 is called the C.E.S., is it? The C.E.S.
12 which is the one that we rely on and many
13 other jurisdictions do, too, because we
14 believe it's more credible. It is not
15 limited to unemployment figures and it is
16 also, as I understand it, not limited -- it's
17 not calculated on a county basis.

18 And in looking at counties only,
19 Philadelphia has typically come out with
20 larger numbers than we believe are realistic
21 for Philadelphia because they are only
22 looking at a concentrated --

23 COUNCILMAN NUTTER: Come out with
24 larger numbers?

25 MS. NAIDOFF: Of job losses.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Right.

3 MS. NAIDOFF: Because they're only
4 looking at an area that has a very intense
5 population; whereas, in other areas, where
6 you have a county that covers much more --
7 covers rural and suburban figures --
8 landscapes, you get a different calculation
9 for job creation and job loss.

10 I can provide you with additional
11 information, Councilman.

12 COUNCILMAN NUTTER: Well, I mean,
13 are you saying that the Bureau of Labor
14 report was wrong?

15 MS. NAIDOFF: No, I'm not saying
16 it's wrong. I'm saying that they have
17 different measures.

18 And in the judgment of our policy
19 analysts who follow this -- and apparently
20 this view is shared by many others in other
21 jurisdictions -- the better calculation is
22 the C.E.S. calculation, as opposed to the
23 Q.C.E.W.

24 COUNCILMAN NUTTER: Okay. Well, I
25 mean, has a document... Has a document been

1 Budget - 4/12/05

2 put together to explain this or has there
3 been a follow-up or have you challenged the
4 assumptions of the Department of Labor?

5 I mean, it's not like the report
6 was, you know, issued in secret or silence.
7 I mean, I believe it was on either the front
8 page of the Inquirer in the A section or it
9 was on the front page of the business
10 section.

11 MS. NAIDOFF: Mm-hmm.

12 COUNCILMAN NUTTER: It has been
13 talked about.

14 MS. NAIDOFF: Yes.

15 COUNCILMAN NUTTER: In any number of
16 places since that time.

17 MS. NAIDOFF: Mm-hmm.

18 COUNCILMAN NUTTER: There's been no
19 information put on any record anywhere that
20 either disputes it or says, you know, they're
21 right; we're wrong; this is why this report
22 versus that report.

23 So... I mean, that's the
24 information that's out in the marketplace.
25 And I guess, as you could imagine, it doesn't

1 Budget - 4/12/05

2 necessarily present the rosier picture
3 for... What was that earlier today we
4 learned of peachy... peachy situation? We
5 learned from the District Attorney earlier.
6 There's a certain law enforcement concept.

7 MS. NAIDOFF: Oh.

8 COUNCILMAN NUTTER: Anyway...

9 MS. NAIDOFF: I would just say to
10 you that when we were first contacted by a
11 number of reporters about the 10,600 figure,
12 I worked with the Budget Director and the
13 policy analysts who track these numbers and
14 was given a very comprehensive explanation of
15 it myself which is what I would propose to
16 share with you.

17 And we did try to explain that to
18 the reporters who were covering this story.
19 Unfortunately, they didn't choose to include
20 that in their reports.

21 COUNCILMAN NUTTER: Well, has there
22 been a report put out by the City, I mean,
23 the next day or couple days later? I mean...

24 MS. NAIDOFF: I'm told that we sent
25 a letter to the City Council President with

1 Budget - 4/12/05

2 that information. We'll get another copy and
3 distribute that.

4 COUNCILMAN NUTTER: Well, I
5 understand that. I can appreciate that.

6 The City Council President doesn't
7 have a newspaper.

8 MS. NAIDOFF: Right. Well, we did
9 what we could, in terms of talking to the
10 press about it. It was not successful.

11 COUNCILMAN NUTTER: Okay. So,
12 what's the number?

13 MS. NAIDOFF: I remember the number
14 as something around 3,000. I'd have to get
15 you the specifics on that.

16 COUNCILMAN NUTTER: So, you're
17 saying there was a net gain in jobs in
18 Philadelphia of 3,000?

19 MS. NAIDOFF: If you believe the --
20 If you look at the C.E.S. figures and the
21 numbers in this chart of 3,100, yes, there
22 would be a net gain of -- very slight gain.
23 I would say it's really a tradeoff.

24 COUNCILMAN NUTTER: Okay. Well, I
25 mean, there is a little bit of a difference

1 Budget - 4/12/05

2 from a 10,600 deficit to a 3,000 positive.

3 MS. NAIDOFF: Right.

4 COUNCILMAN NUTTER: It's a little
5 bit of a swing. There's a slight gap between
6 those two numbers. So...

7 MS. NAIDOFF: We do believe that the
8 rate of loss is declining, the losses are
9 declining. And we believe that it won't be
10 too long now before we'll begin to show some
11 more positive figures.

12 COUNCILMAN NUTTER: Okay. Can
13 you... Thank you.

14 Can you provide us with an update
15 on... There's been some discussion publicly
16 about efforts to create regional -- a
17 regional funding mechanism for art and
18 culture, involving not only Philadelphia but
19 the four counties around us. What is going
20 on with that effort?

21 MS. NAIDOFF: There are a number of
22 efforts going on. There are some efforts
23 with respect to public funding. There are
24 efforts with respect to private funding.

25 The Mayor's effort is a committee

1 Budget - 4/12/05

2 made up of business and civic leaders, and we
3 are looking primarily at an approach that
4 would engage the entire region in a funding
5 effort to support all of the arts and culture
6 organizations.

7 COUNCILMAN NUTTER: And on the City
8 of Philadelphia side of this and the people
9 involved, who are they?

10 MS. NAIDOFF: I would... If you'll
11 give me an opportunity to check, I'd be happy
12 to see if those people are willing to let me
13 provide their names.

14 COUNCILMAN NUTTER: What do you
15 mean?

16 MS. NAIDOFF: It's a private effort
17 that so far has not been identified publicly,
18 and I think the individuals involved need to
19 be allowed the opportunity to let us know if
20 they choose to be identified that way.

21 COUNCILMAN NUTTER: I thought I read
22 about this in the newspaper.

23 MS. NAIDOFF: I don't think you saw
24 any list of names.

25 COUNCILMAN NUTTER: Okay. Maybe not

1 Budget - 4/12/05

2 a list of names but just that it was going
3 on. This is... This is an effort that's
4 been reported publicly but the effort is
5 private? Is that the way this works?

6 MS. NAIDOFF: I meant that it's not
7 an official commission or task force of the
8 Mayor, so that we don't have permission from
9 the members to release their names.

10 COUNCILMAN NUTTER: Okay. Okay.
11 Let's put the names aside.

12 What is the kind of the sum and
13 substance of it? I mean, what's -- what is
14 the effort?

15 MS. NAIDOFF: We've been looking at
16 a variety. First of all, the group is
17 comprised of people who are business and
18 civic leaders who have some track record of
19 commitment to and passion for the arts. So,
20 that was the basis on which we identified the
21 participants.

22 And we've been looking at a variety
23 of privately funded efforts that have been
24 going on around the country, things like
25 United Arts Funds, for example, or an

1 Budget - 4/12/05
2 endowment campaign or a workplace effort.
3 And we have been studying the
4 success of the various efforts that have been
5 going on in other parts of the country,
6 trying to decide what we think will work here
7 in Philadelphia and in this region.
8 COUNCILMAN NUTTER: And is there a
9 plan at this point?
10 MS. NAIDOFF: No, there is not.
11 COUNCILMAN NUTTER: Okay. Do you
12 have any sense of a timetable for one?
13 MS. NAIDOFF: We would hope that we
14 would have something in place by sometime
15 this summer because our hope and expectation
16 is that we might even be able to get
17 something in place by the end of the year.
18 COUNCILMAN NUTTER: Okay. And this
19 involves representatives from the other four
20 counties?
21 MS. NAIDOFF: Yes, it does.
22 COUNCILMAN NUTTER: Okay. Okay.
23 And will you need anything with regard to
24 action by the City Council?
25 MS. NAIDOFF: Not that I can

1 Budget - 4/12/05

2 anticipate at this point.

3 COUNCILMAN NUTTER: Okay.

4 And is Council involved in this
5 particular effort?

6 MS. NAIDOFF: I'm sorry?

7 COUNCILMAN NUTTER: Is City Council
8 involved in this particular effort?

9 MS. NAIDOFF: No, there is no member
10 of City Council in this.

11 COUNCILMAN NUTTER: Any particular
12 reason?

13 MS. NAIDOFF: We have actually no
14 elected officials, other than the Mayor, who
15 participates.

16 COUNCILMAN NUTTER: Okay. So, I
17 mean, the decision was made that there would
18 be no elected officials involved. Is that...

19 MS. NAIDOFF: No. I think that
20 really it was hoped that what we would be
21 doing is spurring private philanthropy,
22 private giving.

23 It stemmed from the notion that
24 there is a perception in some quarters that
25 Philadelphia is not raising the amount of

1 Budget - 4/12/05

2 money for the support of arts and culture
3 that we are capable of doing.

4 And the notion was, how can we
5 galvanize this, how can we expand it so that
6 we can get private philanthropy raised to a
7 different level.

8 COUNCILMAN NUTTER: Do you think any
9 of the private philanthropic efforts are in
10 any way affected by the very public
11 demonstrations of some amount of withdrawal
12 of City support for art and culture?

13 Whether it's the elimination of the
14 Office of Art and Culture or the proposal to
15 eliminate funding from the city-owned Art
16 Museum or proposed cuts last year in the art
17 and culture fund -- or cultural fund, rather,
18 or restrictions, in terms of hours of use of
19 libraries or the closing of recreation
20 facilities?

21 Do you think any of that might cause
22 concern in the private philanthropic
23 community, that would at least cause a person
24 to ask a question, why should I as a person
25 of some means continue to contribute money in

1 Budget - 4/12/05
2 the City when the City itself is withdrawing
3 its support?

4 MS. NAIDOFF: I think that's a good
5 question. And obviously some others have
6 asked it as well.

7 But quite frankly, I have not seen
8 that at all. I see just the opposite.
9 There's been a fair amount of discussion at
10 the meetings about the fact that all public
11 funding, Federal, state and local, all
12 local -- all public funding for arts and
13 culture organizations is being reduced.

14 And in fact, the whole objective
15 here is to see if we can get the private
16 community to step up because the arts and
17 culture organizations are so important to our
18 City. They're so important to our citizens.

19 And we hope that by this effort we
20 will gain more support within the private
21 community: The foundations, the
22 corporations, and individuals who care about
23 these organizations will step up and provide
24 greater support than they have in the past.

25 COUNCILMAN NUTTER: Well, I

1 Budget - 4/12/05
2 understand that. But what is your
3 perspective on any impact that the withdrawal
4 of public funding for these entities could
5 possibly have on the incentive or the
6 inspiration by those who are inclined to make
7 their own contributions?

8 I mean, is there no relationship
9 between the City support for art and culture
10 and private support?

11 MS. NAIDOFF: I think that there are
12 obviously a number of people who are
13 affiliated with the organizations that are
14 facing the most immediate impact of the cuts,
15 to be very concerned about it.

16 But I do think that in the final
17 analysis, the discussions that I have
18 heard -- and I can only speak to the things
19 I've heard -- have not turned on the issue of
20 the City's funding as any kind of
21 disincentive to giving.

22 It's just the opposite. People are
23 talking about how we can encourage the
24 private sector: The foundations, the
25 corporations, and the individual -- wealthy

1 Budget - 4/12/05
2 individuals in this community, to provide
3 more support for our arts and culture
4 organizations.

5 COUNCILMAN NUTTER: Well, I mean, I
6 appreciate your answer. And I won't -- I'll
7 try to move on and not be too torturous about
8 this.

9 But, I mean, based on your response,
10 at least from a theoretical standpoint, if we
11 played this out to its illogical
12 conclusion... I mean, if you're not willing
13 to at least acknowledge some proportional
14 relationship between public funding and
15 private funding, and if you're now saying
16 that even in the event of reduced City
17 funding, that somehow the private sector is
18 energized and inspired that much more to
19 give, then the illogical conclusion of that
20 is, if the City withdrew all of its support
21 for these many institutions, those of a
22 philanthropic nature would stumble over
23 themselves in an effort to throw more money
24 at these organizations. Right?

25 MS. NAIDOFF: No. I think you're

1 Budget - 4/12/05

2 making a conclusion that doesn't fit with the
3 comments that I was trying to make.

4 COUNCILMAN NUTTER: Well, I
5 established a premise, that it is an
6 illogical playing out of the facts.

7 I mean, Madam Secretary... I mean,
8 you may want to avoid the harsh reality,
9 but -- And again, you're only speaking from
10 what you've heard.

11 So, in some of my conversations, it
12 is -- it just has no basis in fact, that a
13 person who is inclined to give is
14 automatically that much more inspired to give
15 to something that the public sector, owner of
16 many of these institutions and facilities,
17 the logic would say, if we don't want to
18 support them, why should I, the person with
19 my own private dollars, put money into that,
20 when I have many other people chasing after
21 me for other, you know, worthy causes,
22 whether here in Philadelphia or anywhere else
23 across the country? I mean, you cannot --

24 MS. NAIDOFF: I think you're
25 positing a premise that I was not intending

1 Budget - 4/12/05

2 to create.

3 COUNCILMAN NUTTER: Okay.

4 MS. NAIDOFF: I wasn't saying that
5 any drop in Federal, state or local funding
6 is the source of any inspiration for giving.

7 What I'm saying is that it is not
8 standing as an obstacle to people --

9 COUNCILMAN NUTTER: I understand.

10 MS. NAIDOFF: -- feeling encouraged
11 and inspired to give at higher levels.

12 COUNCILMAN NUTTER: Okay. Lastly on
13 this particular topic, is it your experience
14 that for those who are inclined to give, are
15 they more inclined to give for capital
16 projects, as opposed to operating costs?

17 MS. NAIDOFF: I think an initial
18 reaction to any kind of fund raising is that
19 it's easier to get people to part with their
20 money to give -- make their gifts, when they
21 have something specific, like a capital
22 project, or a commission, or a specific
23 program at a museum than general operating
24 support.

25 And that's exactly why we are now

1 Budget - 4/12/05

2 engaged in this effort to provide some higher
3 level of giving specifically targeted to
4 general operating support.

5 COUNCILMAN NUTTER: Okay. I'm sure
6 we'll revisit this particular topic.

7 Earlier there was some discussion --
8 I think it was raised by Councilwoman
9 Tasco -- with regard to the contracting
10 process. And I believe specifically there
11 was some discussion with regard to P.I.D.C.
12 and professional services contracts. Is
13 there someone at the table who can respond to
14 those types of questions?

15 MS. NAIDOFF: Mr. Longstreth is here
16 to talk about P.I.D.C. contracts.

17 COUNCILMAN NUTTER: Okay.

18 What would you estimate to be the
19 amount of professional service contracting at
20 the organization?

21 MR. LONGSTRETH: The total contracts
22 in 2004 were a little bit more than \$4
23 million.

24 COUNCILMAN NUTTER: Okay. What was
25 your overall spending in 2004?

1 Budget - 4/12/05

2 MR. LONGSTRETH: P.I.D.C.'s total
3 operating budget is about \$8 million.

4 COUNCILMAN NUTTER: Eight.

5 MR. LONGSTRETH: Eight. Little bit
6 less last year.

7 COUNCILMAN NUTTER: All right. But
8 that includes, I'm assuming, staff and...

9 MR. LONGSTRETH: Yeah. That's our
10 operating budget. It does not include the \$4
11 million of contracts.

12 COUNCILMAN NUTTER: Okay.

13 MR. LONGSTRETH: Or at least -- It
14 includes some of it but not all of it.

15 COUNCILMAN NUTTER: All right. But
16 you think \$4 million was for professional
17 services contracts?

18 MR. LONGSTRETH: Correct.

19 COUNCILMAN NUTTER: Okay. Is there
20 a formalized process for the awarding of
21 professional services contracts?

22 MR. LONGSTRETH: P.I.D.C., yes.

23 COUNCILMAN NUTTER: I'm sorry. I
24 didn't hear you.

25 MR. LONGSTRETH: Yes.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Okay. What is
3 it?

4 MR. LONGSTRETH: Basically, we go
5 through a competitive process, in which we go
6 out and select a number of -- go through a
7 preliminary selection process, in which we
8 generate a list of candidates, and then go
9 through a normal competitive bidding process.

10 Early in that process we sit down
11 with MBEC and get their input, in terms of
12 the minority and women-owned business
13 elements of it. And frankly, when we make
14 our selection, we review that with them as
15 well.

16 COUNCILMAN NUTTER: Okay. Has that
17 process ever hampered your ability to get
18 things done?

19 MR. LONGSTRETH: No. I mean, I
20 would say that all -- that is the standard
21 process. Not every contract falls under that
22 process but it's the majority. And it does
23 not hamper our ability to operate.

24 COUNCILMAN NUTTER: What types of
25 contracts would not fall under that process?

1 Budget - 4/12/05

2 MR. LONGSTRETH: Well, in some cases
3 where we're selecting, perhaps, a law firm or
4 a provider -- either a provider that is --
5 that is sort of a generic provider of service
6 or one that's very specialized, we may not go
7 through a selection process.

8 COUNCILMAN NUTTER: Okay. You would
9 just pick someone, and...

10 MR. LONGSTRETH: Yeah.

11 COUNCILMAN NUTTER: Okay. Can you
12 provide to the Chair a listing of all of the
13 contracts that you let last year?

14 MR. LONGSTRETH: I'd be happy to.

15 COUNCILMAN NUTTER: Since last
16 fiscal year.

17 MR. LONGSTRETH: I think we provide
18 that routinely to the City. I'd be happy to.

19 COUNCILMAN NUTTER: Okay. I assume
20 that has the name of a company that received
21 the contract, the amount, and what the nature
22 of the contract was?

23 MR. LONGSTRETH: Correct.

24 COUNCILMAN NUTTER: Okay. That
25 would be great. Thank you.

1 Budget - 4/12/05

2 Thank you, Madam Chair.

3 Madam President...

4 COUNCIL PRESIDENT VERNA: Yes. The
5 Chair recognizes --

6 COUNCILMAN NUTTER: I'm sorry. I'd
7 like to recapture the 34 seconds that I was
8 given by Councilman Rizzo.

9 COUNCIL PRESIDENT VERNA: If
10 Councilwoman Tasco has no objection to it, I
11 don't.

12 COUNCILMAN NUTTER: Thank you.
13 The issue was raised earlier about
14 the company that made the recent big
15 announcement. And again, Councilwoman Tasco
16 asked a number of questions about that.

17 The response seemed to revolve
18 around, I guess, a certain comfort level,
19 that since the City apparently received more
20 in wage tax revenues than the City expended
21 in the attraction of the company. And what
22 was that amount? How much did the City...

23 MS. NAIDOFF: \$1 million investment
24 and \$2.2 million in wage tax revenues.

25 COUNCILMAN NUTTER: So, \$1 million.

1 Budget - 4/12/05

2 lasted a couple of years. And they went out
3 of business, obviously.

4 I'm not trying to say this was a
5 great deal. I'm saying we're all very, very
6 disappointed that they went out of business.

7 I am, I guess, grasping for a
8 rationale that says that the \$2.2 million
9 worth of wage taxes that were received by the
10 City was good, was incremental and was
11 positive. And if that can be used to
12 rationalize having lost \$2 million, so be it.

13 But it's bad news. I mean, I'm not
14 trying to turn this into anything but making
15 the best of a very bad situation.

16 COUNCILMAN NUTTER: So, we've got a
17 \$2 million investment, and we got about \$2
18 million in wage tax. So, it's pretty much a
19 wash.

20 MR. LONGSTRETH: And that doesn't --
21 Excuse me for interrupting, but just to
22 expand, that doesn't take into account, of
23 course, the incremental use and occupancy tax
24 and the business privilege tax which were
25 also incremental.

1 Budget - 4/12/05

2 COUNCILMAN NUTTER: Right. I
3 understand. Use and occupancy goes to the
4 School District, right.

5 MR. LONGSTRETH: (Indicating.)

6 COUNCILMAN NUTTER: But you made
7 mention of a twenty percent reduction per
8 year if they stayed for ten years or five?

9 MR. LONGSTRETH: For five.

10 COUNCILMAN NUTTER: For five. Yeah.

11 COUNCILMAN NUTTER: And then over
12 ten it was just completely forgiven as a
13 grant.

14 MR. LONGSTRETH: I'll -- I'll --
15 I'll -- I'll --

16 COUNCILMAN NUTTER: What happens to
17 the part that was not forgiven, since they
18 didn't...

19 MR. LONGSTRETH: Basically, the part
20 that was not forgiven becomes a debt that
21 they owe us. And we will enter -- get in
22 line with the rest of the creditors and do
23 our best to recover as much of it as we can.
24 And we're not particularly optimistic.

25 COUNCILMAN NUTTER: That would

1 Budget - 4/12/05

2 probably be the correct posture.

3 All right. So, as we've gone
4 further into this, I mean, you're not
5 necessarily taking the position that \$2
6 million in, pretty much \$2 million out, it's
7 kind of a wash, not a bad thing.

8 MR. LONGSTRETH: Not at all. It's a
9 terrible thing.

10 COUNCILMAN NUTTER: Okay.

11 MR. LONGSTRETH: This was the
12 biggest attraction deal in 25 years and they
13 went bankrupt. How could it get any worse?

14 COUNCILMAN NUTTER: And what's the
15 impact or have you made any estimate of what
16 is the impact now of this having happened,
17 with regard to all of the personnel who are
18 now unemployed?

19 MR. LONGSTRETH: I'm not sure
20 there's an easy answer there. They're
21 unemployed. They're looking for jobs. I
22 know that the Philadelphia Workforce
23 Development Corporation, for example, is very
24 engaged, in terms of trying to assist in that
25 placement process.

1 Budget - 4/12/05

2 I believe there's some out
3 placement -- private out placement ongoing as
4 well. But it's a difficult situation and one
5 that, obviously, we hope the economy,
6 generally speaking, will be able to absorb
7 these employees.

8 COUNCILMAN NUTTER: Two last
9 questions. What do we know now that we
10 didn't know then?

11 MR. LONGSTRETH: Well, I would
12 certainly say what we know now relates to
13 what Councilwoman Tasco was referring to
14 earlier, that this was an operation that may
15 not have been what it appeared to be.

16 And obviously, not to sound at all
17 glib, that's the risk we always take. And
18 most of the time we're happy to say we're
19 correct, and maybe this time we were not.

20 COUNCILMAN NUTTER: And is there
21 anything to be taken out of this situation,
22 as we might approach the next business that
23 we either want to attract here or retain
24 here? I mean, what's the lesson? I mean,
25 from a pure business standpoint, what's the

1 Budget - 4/12/05

2 lesson learned here?

3 MR. LONGSTRETH: Yeah. I mean, I
4 think from a pure business standpoint -- and
5 once again, I don't mean to sound at all
6 self-satisfied or congratulatory -- but I
7 think being aggressive and being professional
8 in underwriting these loans and looking to
9 the kind of collateral that gives you --
10 gives one some kind of support in a
11 worst-case scenario is what was done here,
12 and what definitely has to be done and not
13 compromised in the future.

14 This is a worst-case scenario.
15 Rarely do you live through one of these. We
16 are in the process of doing that.

17 COUNCILMAN NUTTER: Right. Okay.
18 Thank you.

19 Thank you, Madam Chair.

20 COUNCIL PRESIDENT VERNA: You're
21 welcome.

22 The Chair recognizes Councilwoman
23 Tasco.

24 COUNCILWOMAN TASCO: Let me just
25 follow up on that for a moment. You said

1 Budget - 4/12/05

2 that their loan was collateralized by the
3 building. Did they own the Wanamaker
4 Building?

5 MR. LONGSTRETH: No. There was \$30
6 million worth of investments were made by the
7 company in their tenant improvements at the
8 Wanamaker Building. Approximately \$18
9 million was funded through the City and \$1.6
10 million from the state.

11 Of that \$18 million, \$16 million of
12 it went to the landlord. The landlord of the
13 Wanamaker Building was the borrower, and the
14 landlord provided the building that they
15 owned as collateral.

16 So, only \$2 million of the \$18
17 million was provided directly to American
18 Business Financial Services.

19 COUNCILWOMAN TASC0: But we still --
20 The building owner still owes us \$16 million?

21 MR. LONGSTRETH: Still owes us \$16
22 million and is current on their debt, and
23 indicates that they will continue to pay it.
24 And once again, if they don't, we always have
25 the recourse of essentially foreclosing on

1 Budget - 4/12/05

2 the building.

3 COUNCILWOMAN TASC0: Let me ask this
4 question. And it may sound strange. What
5 motivated them to leave Bala Cynwyd, where
6 the employees did not pay City Wage Tax, did
7 not -- they did not pay Business Privilege
8 Tax, to move to Philadelphia?

9 MR. LONGSTRETH: Well, I mean, I
10 think in any competitive situation there's
11 obviously a number of elements. I think here
12 probably the -- a primary one was the fact
13 that the chairman and his wife, who also
14 worked at the company, lived in the City.
15 They live, I believe, in Center City.

16 And we always understood that was a
17 primary driver in the equation. And then,
18 obviously, we were as aggressive as we could
19 be because at the time it was a very
20 desirable target. And I'm sure that was part
21 of their decision as well. Certainly that's
22 what they told us.

23 COUNCILWOMAN TASC0: Okay. Thank
24 you.

25 I want to go back to the Commerce

1 Budget - 4/12/05

2 Director. Ms. Naidoff, I want to go back to
3 this Economic Stimulus Fund. Could those
4 funds be used for neighborhood projects if
5 one so desired, those who make the decision?

6 MS. NAIDOFF: Yes. It's possible.

7 COUNCILWOMAN TASC0: It's possible
8 that they could be used for neighborhood
9 activity?

10 MS. NAIDOFF: Mm-hmm.

11 COUNCILWOMAN TASC0: On your...
12 I'll come back to that.

13 I have some questions that
14 Councilwoman Miller asked me to ask you
15 because she had to leave for a meeting.

16 And... But she wanted to ask me to
17 get in writing: What are the services does
18 MBEC provide? What services does P.C.D.C.
19 provide? And what do they do together in
20 commercial corridors?

21 I think she wants to know: Is there
22 a collaboration between the two or do they
23 work together or what is the responsibility
24 of one group and what is the responsibility
25 of the other group? And she would like that

1 Budget - 4/12/05

2 in writing.

3 MS. NAIDOFF: Fine. Be happy to
4 provide that.

5 COUNCILWOMAN TASC0: Also, what new
6 businesses have come to Philadelphia? And
7 where are they located as a result of the
8 activities of P.C.D.C.?

9 What new jobs have they -- or
10 businesses have they generated for the
11 neighborhoods?

12 MS. NAIDOFF: We will provide that
13 in writing as well.

14 COUNCILWOMAN TASC0: I guess that's
15 all I have.

16 Thank you, Madam President.

17 COUNCIL PRESIDENT VERNA: Thank you.

18 Are there any other questions or
19 comments from members of the committee?

20 Seeing none, I thank you very much.
21 Thank you.

22 This committee will stand in recess
23 until tomorrow, Wednesday, April the 13th, at
24 2:30.

25 (Hearing concluded at 5:30 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the public hearing of The Philadelphia City Council, taken on April 12, 2005, and that this is a true and correct transcript of same.

DAVID A. DEIK, RPR and
Commissioner of Deeds

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)