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COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING

COMMITTEE ON LAW AND GOVERNMENT

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Room 696, City Hall
Philadelphia, Pennsylvania
Thursday, March 13, 2003
1:10 p.m.

- - -

RESOLUTION 020171 - authorizing the City Council
Committee on Law and Government to conduct a full
and comprehensive investigation of allegations that
biological and chemical research was forced upon
people incarcerated in the Philadelphia prisons
during the years 1949 to 1974.

- - -

PRESENT:

COUNCILMAN DAVID COHEN, Chair
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN ANGEL ORTIZ

- - -

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2 COUNCILMAN COHEN: The Committee on Law
3 Government is now in session. Let the Chair note
4 the presence at the outset here of Councilman Wilson
5 Goode to my far left; Councilman Ortiz immediately
6 to my left; myself, I'm David Cohen,
7 Council-at-Large and Chairman to the Law and
8 Government Committee; to my right is Tim Kearney,
9 the Secretary of the Committee or the Clerk. And
10 I'm going to ask him again to read a copy of the
11 resolution that City Council passed authorizing
12 these hearings and then we'll start. Please
13 proceed, Mr. Kearney.

14 THE CLERK: City Council Resolution
15 020171, authorizing the City Council Committee on
16 Law and Government to conduct a full and
17 comprehensive investigation of allegations that
18 biological and chemical research was forced upon
19 people incarcerated in the Philadelphia prisons
20 during the years 1949 to 1974.

21 COUNCILMAN COHEN: Thank you, Mr.
22 Kearney.

23 As some of you know who have been in
24 attendance at previous hearings, the fight for
25 justice where injustice has prevailed previously is

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2 a long and sometimes very difficult fight. We're
3 beginning to learn that firsthand. The fight is so
4 hard and the stakes apparently are so high that the
5 University of Pennsylvania, the largest private
6 employer in the State of Pennsylvania and in the
7 City of Philadelphia, has chosen a policy of
8 ignoring the City Council of Philadelphia, of its
9 ignoring the subpoena. We can't tolerate that if
10 City Council is to exist as a legislative body.
11 Therefore, the matter is in the courts.

12 The courts don't work with the same
13 speed that we do. They have all kinds of
14 technicalities. We're hoping that the courts will
15 understand the need. We're going to try to make it
16 more and more clear to them to understand the need
17 for quick action on human rights. They're pretty
18 good when they have to for quick action to solve
19 business problems. We expect at least that kind of
20 quickness when it comes to human problems. In fact,
21 we think the reverse ought to be true; it ought to
22 be quick response to human actions and much more
23 slow action maybe with respect to business problems.
24 But the reverse is true.

25 But this is a historic route. We're not

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2 going to ever again permit the kind of human
3 experimentation that took place here in the period
4 that was expressed in the resolution. But we've got
5 a long way to go because the seeds of injustice will
6 continue to flower until we pull them out by the
7 roots. And the purpose of this hearing is to pull
8 the injustice out by the roots to make certain that
9 no such conditions ever exist again.

10 And to the University of Pennsylvania
11 and to others like them, like the chemical companies
12 that have indicated that they are probably going to
13 follow the same policy of resistance, I want them to
14 know it's a good thing I have not yet reached my
15 38th birthday because I intend to be here long
16 enough, God willing, to see the day of celebration
17 when human rights are respected, when apologies are
18 made for the impossible treatment that occurred here
19 in Philadelphia in the prison system, when it's made
20 clear that government is going to see to it and
21 private industry accepts their responsibilities to
22 also see to it that never again are those days ever
23 coming around again, that reparations of the kind
24 necessary to take care of the evils that were
25 fomented by the inhuman behavior at the University

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2 of Pennsylvania and the chemical companies and the
3 professor at the university, Dr. Kligman, the
4 professor in charge will never be permitted to occur
5 again. Until that day, it's not going to rest.

6 Let me say one thing about length of
7 time and slowness. I don't think it's in their
8 interest, those who try to forget that it ever
9 occurred or want to deny the truth, it's really not
10 in your interest to stall and delay because one
11 thing is certain, this is going to be on the front
12 burner constantly and it's going to last as long as
13 necessary to get a correction. So if the folks out
14 there feel they can out-stall us, they cannot do
15 that because we're not going to permit that to
16 happen. And all that's going to happen is there's
17 going to be more and more publicity because until we
18 get action, we've got to keep on going, making clear
19 to people the nature and the extent of injustice
20 that occurred during this period. And that's the
21 reason for these hearings and there will be
22 sufficient hearings until the courts get rid of
23 their ways and begin to pay full attention, full
24 speed ahead to correct the abuse of human rights.

25 So I make that statement at the

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2 beginning, and you'll understand why it may be
3 necessary to continue to have hearings. We are
4 going to want all of the victims of these injustices
5 to have an opportunity to be heard. And then we're
6 going to give those who have been accused -- we're
7 going to give them the opportunity, which maybe they
8 don't even deserve, but we're going to give them the
9 opportunity to try to apologize for their treatment
10 and take the corrective action necessary.

11 So with that beginning, we're going to
12 begin calling the witnesses. We'll ask each witness
13 to be as brief as possible, but explain the story
14 fully. Repetition is not needed. Just tell us of
15 your experiences. The first person we're going to
16 be calling is Gloria Gilman, an attorney in the City
17 of Philadelphia.

18 Ms. Gilman, would you go to the witness
19 stand?

20 Now, I'm going to ask each witness to
21 give their name and to spell the last name so that
22 the court reporter taking the testimony can be very
23 accurate.

24 Ms. Gilman, proceed with your statement
25 and then there will be questions.

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2 MS. GILMAN: Thank you. My name is
3 Gloria Gilman; G-L-O-R-I-A; Gilman, G-I-L-M-A-N.

4 I would like to thank David Cohen and
5 City Council for your interest in investigating and
6 searching for a remedy for this travesty against
7 humanity done in the name of the citizens of
8 Philadelphia, allegedly for the benefit of science.

9 I would also like to thank you for the
10 opportunity to appear before you today. I am a
11 private attorney who, prior to the filing of the
12 recent lawsuit, represented the former inmates of
13 the Philadelphia Prison System who were used as
14 human research subjects from about 1949 through
15 1974.

16 COUNCILMAN COHEN: I've got to ask you
17 to continue to speak right into the microphone.

18 MS. GILMAN: Okay. As such, I
19 corresponded with and met on a number of occasions
20 with Council for the City of Philadelphia, Dr.
21 Kligman, the University of Pennsylvania, and Johnson
22 & Johnson in an effort to present and resolve my
23 clients' claims. I would like to add some facts to
24 the record in response to the prior testimony of
25 Deputy City Solicitor Leon King.

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2 I understand that Mr. King could not
3 verify to the Council that the experiments did in
4 fact take place. I find it perplexing that the City
5 cannot locate any records to reference these
6 experiments. They knew at least by the time that
7 they stopped these experiments due to a governor's
8 edict, by then Governor Shapp and after state and
9 federal hearings castigating the City for such
10 conduct, that the practice of using inmates for
11 medical experimentation was a controversial one. It
12 is hard to believe that the City then destroyed all
13 of its evidence of the practice which had apparently
14 been going on for decades. The City Solicitor could
15 have at least obtained copies of the transcripts or
16 findings of the federal and state hearings, where
17 Governor Shapp's decree which would have proven the
18 existence of the tests.

19 There's a great deal of documentary
20 evidence referencing that the experiments did in
21 fact take place over the course of many years. I
22 find it wondrous that the City could not retrieve
23 copies of budgets or audits during the time period
24 in question which would have revealed the receipt of
25 funds from the University of Pennsylvania, an Ivy

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2 Research Laboratory, which were deposited into the
3 City's General Funds and in part used to pay the
4 prison population minimal amounts.

5 The City must have archived annual
6 reports of Holmesburg Prison which should show
7 receipts taken in and references to the existence of
8 contracts with the researchers. The City should
9 have prison block logs indicating the number of
10 inmates participating in the experiments and minutes
11 of the Board of Trustees of the Philadelphia
12 Prisons, especially from 1973 or 1974 when they
13 presumably voted to halt the research.

14 I have evidence -- I have a packet of
15 attachments which are not before you yet. I
16 understand that they're being copied and will be
17 delivered to you shortly. I have evidence, a few
18 copies of which are appended hereto as Exhibit A
19 supplied by the United States Department of the Army
20 that Dr. Kligman made monthly reports about the
21 experiments that he conducted at Holmesburg Prison
22 pursuant to Army contracts. These reports show that
23 they were copied to a file in Holmesburg Prison.

24 I'm attaching a letter as Exhibit B from
25 Dr. Kligman's secretary, Adele F. Allen, dated March

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2 10, 1965, to the biochemical research laboratory at
3 Dow Chemical Company referencing the attached
4 document entitled "Permission to Perform Tests in
5 the Philadelphia Prison Holmesburg," which was
6 apparently the consent form used to sign up test
7 subjects for the dioxin study. Note that the
8 consent form gives no information to the test
9 subject as to the test to be performed or the
10 hazards of participating. It does, however, purport
11 to absolve all concerned, including Philadelphia's
12 prisons from liability.

13 Johnson & Johnson admitted to me that
14 they funded some of these experiments. This
15 information had been presented to the City. Dr.
16 Kligman authored articles that refer to the prison
17 experiments. In Archives of Dermatology, January
18 1975, Volume III, Pages 40 to 48, authored by A.
19 Kligman and I. Willis, they state that they "found
20 healthy young adult black male prison volunteers" to
21 test the causes and effects of skin depigmentation.
22 In an article entitled "Medical Aspects of Skin and
23 Its Appearance" in the Psychology Cosmetic
24 Treatments, 1985, Dr. Kligman notes that he "studied
25 acne among inmates of the Philadelphia Prison for 20

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2 years."

3 Please note that the vast majority of
4 these prisoners were alleged in the book Acres of
5 Skin to have been pretrial detainees, poor and
6 primarily black who remained incarcerated often for
7 many most solely because they could not afford to
8 post bail. It is these people who in some instances
9 may have given their lives or their well-being for
10 this research.

11 Attached as Exhibit C are pages from a
12 1982 study by a Pesticide Incident Response Officer
13 of the United States Environmental Protection
14 Agency, Health Effects Branch, and a letter from the
15 officer to a former Holmesburg test subject dated
16 July 22, 1982, showing that an effort was made some
17 15 years after the dioxin study to identify the
18 inmates who had been subjected to this exceptionally
19 carcinogenic substance. The EPA gave up looking for
20 the human research subjects because the officer
21 concluded that he "seriously doubts that the inmates
22 were ever informed that the material applied was
23 dioxin."

24 The inmates clearly had been denied
25 knowledge as to what substances they were being

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2 exposed to and as to the dosages or potential
3 consequences.

4 The case was also closed because records
5 were missing even by then 1981 and because some
6 prisoners had been in multiple studies.

7 The patch test containing dioxin were
8 found to have closely resembled the patch test for
9 other substances without distinction to the inmates.

10 Dow hired Dr. Kligman to test 0.2
11 micrograms of the substance, to be gradually
12 increased to a maximum dosage of 16 micrograms. See
13 Exhibit D at Page 5, an article from the
14 Philadelphia Inquirer entitled, "Human Guinea Pigs,
15 dioxin Tested at Holmesburg," by Aaron Epstein,
16 dated January 11, 1981. Dow was concerned that
17 exposure to the highly-toxic substance should be
18 limited. When Dr. Kligman could not get results he
19 found useful when testing at that dosage, on his own
20 initiative he increased the dosage to 7500
21 micrograms, 468 times the maximum dosage recommended
22 by Dow, apparently, without even the permission of
23 Dow. Surely, he did not get the permission of the
24 test subjects or of the City. This whim of Dr.
25 Kligman to increase the dioxin dosage so

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2 astronomically reflects a callous disregard for the
3 lives of his research subjects.

4 There are likely no records in the City
5 of the actual tests performed, the names of the
6 research subjects, the injuries suffered, the
7 exposure levels of particular substances, et cetera,
8 because the City did not care enough about the
9 welfare of those entrusted to it to review the
10 protocols or to keep records.

11 A few savvy ex-inmates did file a
12 lawsuit against the City and other relevant
13 defendants in 1984, captioned Roach v Kligman, 412F
14 Sup. 521, 1976. It is clear from Federal District
15 Court Judge Luango's opinion that there was no doubt
16 that the testing did take place. It does not appear
17 that the City denied the fact at that time that the
18 tests had in fact been conducted at Philadelphia
19 prisons. The City was a defendant in that lawsuit,
20 so there should be some extant documents evidencing
21 the existence of the medical research. The judge
22 made a finding contained in his opinion that the
23 medical research records were not merged with the
24 inmates' medical files, so that the prison doctors
25 were uninformed as to which inmates were involved in

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2 which medical experiments. This means that there
3 were no records maintained by the City as to which
4 inmates were exposed to which substances or which
5 dosages.

6 The attached Army documents show that
7 inmates were exposed to certain varying dosages of
8 nuclear substances and psychotropic drugs.

9 "Kligman's experiments for the Army were aimed at
10 determining the dosage needed to mentally disable 50
11 percent of a given population." See Exhibit D
12 Inquirer article referenced above.

13 Exhibit E is a review of an Army study
14 that indicates that the subjects had varying
15 reactions and suffered side effects from the
16 studies; one, for a period of 19 days. The side
17 effects reported included visual and auditory
18 hallucinations, drowsiness, dry or sore throat,
19 nausea, loss of taste, blurred vision, heaviness in
20 the legs, lack of coordination and high pulse rate.
21 The memo indicates that one subject suffered serious
22 side effects due to an accidental overdose. It also
23 concludes that the study was somewhat unprofessional
24 and a trifle slipshod with inconclusive results.
25 Some of the survivors report that some participants

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2 walked around the prison with notes pinned to them
3 warning the other inmates and guards to ignore them
4 if they were hallucinating or acting oddly.

5 According to Acres of Skin, the agents
6 tested for the Army included LSD, Demerol, morphine,
7 belladonna, Haldol, Librium, Valium, Ativan, Lerix,
8 various sleeping pills, and 16 chemical agents. The
9 experiments were conducted to test interference with
10 muscle activation and secretory glands to inhibit
11 the nervous system to cause physical uncordination,
12 to cause rapid heart rates, stupors, comas,
13 vomiting, prostration, et cetera.

14 It boggles the mind why a dermatologist
15 would be the proper researcher for such
16 psychopharmacological substances. There were no
17 follow-up studies of the participants in any of
18 these studies to prove or disprove any long-term
19 effects.

20 Council has already heard testimony from
21 a former inmate that the tests were administered by
22 him and other inmates, not really by trained and
23 licensed doctors and other medical professionals.
24 Dr. Kligman was berated according to a report of the
25 Inspector General Department of the Army, 1975, Page

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2 166, for lack of guidance training and supervision
3 of nursing personnel and for lack of standard
4 operating procedures. It is well settled that many
5 of the inmates of today, let alone in the 1950s
6 through the 1970s, were illiterate or poorly
7 educated. Yet it is these people, not the City who
8 the City Solicitor Office claims have the burden of
9 producing evidence as to which medical test they
10 participated in, under which dosages, on which
11 dates. The City Solicitor and other defendants, I
12 might add, want these ex-inmates to prove
13 conclusively to a reasonable medical certainty what
14 consequences they suffered from which experiment.

15 My clients have consistently claimed
16 that they each participated in numbers of
17 experiments. Many of my clients claim that they
18 developed odd medical problems in the years after
19 their release from prison that were difficult to
20 diagnose and treat. I gave the City copies of five
21 affidavits from survivors who testified before the
22 Pennsylvania House Judiciary Committee's
23 Subcommittee on Crime in Corrections on February 22,
24 1999, to give the attorneys a sense of what my
25 clients had to say about their prison research

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2 experiences. The research subjects were not aware
3 that the government was using them to test chemical
4 and biological warfare agents. It is highly
5 unlikely that any doctor, let alone any
6 experimentation survivor, even if given all the
7 appropriate data, could prove the consequences of
8 any particular experiment.

9 My contact with the Solicitor's Office
10 and with counsel for the other defendants was not to
11 parse out exact elements to prove a lawsuit. I was
12 trying to get them to see the whole picture, to
13 understand that the very existence of testing and
14 particular testing of dangerous substances to assess
15 their level of harm not good on such a vulnerable
16 and ill-informed population was unconscionable,
17 contrary to the Hippocratic Oath which bars doing
18 harm by medical procedure and contrary to the
19 Nuremberg Code, a pact among civilized nations
20 recognizing the unconscionability of using inmates
21 for purposes of medical experimentation.

22 We, citizens of the United States and
23 more specifically of Philadelphia, cannot think that
24 we are above any moral code because we convince
25 ourselves that our intentions are just and good.

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2 Contrary to the assertions of Mr. King,
3 I did in fact present the City with a list of the
4 approximately 240 individuals whom I represented by
5 attachment to a letter to him dated July 7, 2000. I
6 would have liked to have had attached a copy of that
7 letter here, too, but I obtained an ethics opinion
8 from Philadelphia Bar Association that prevents me
9 from releasing a copy of that letter even absent the
10 attached client list without the written approval of
11 my individual clients, which was impractical. While
12 I did present the list, I made clear as I did above
13 that I did not believe it necessary or even possible
14 to prove individual medical damages for each person.
15 I explained that I did not understand the City's
16 need for individual facts and medical documentation
17 to contemplate a settlement structure, an idea for
18 which I had proposed. I asserted that it was a
19 violation of these individuals' rights to have had
20 them participate in the research no matter how
21 serious the consequences. I had explained in a
22 letter to Mr. King dated May 12, 2000, that the
23 group of clients had contemplated splitting equally
24 any monetary recovery as they recognized that any
25 recovery would be in token recognition of the unjust

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2 and unconscionable treatment. We did not see any
3 recovery as in a typical personal injury action
4 tailored to the individual harm proven.

5 I had numbers of telephone discussions
6 with Mr. King through September of 2000, during
7 which he repeatedly stated that the matter was being
8 considered at high levels and that a settlement
9 offer was being put together. I was not told after
10 my submission of that letter that a settlement offer
11 would not be made until further information was
12 submitted. My last discussion with Mr. King was on
13 September 8, 2000, at which time he stated that his
14 colleague Donna Musaic (ph) was, quote, working on
15 it.

16 At the end of September when the City
17 still had not tendered an offer, another attorney
18 filed suit. I never received a response from the
19 City.

20 Research done by universities was
21 sacrosanct prior to the institution of these tests
22 by Dr. Kligman and the University of Pennsylvania.
23 Universities were loath to accept corporate funding
24 for fear of tainted results. Great effort was made
25 to adhere to the scientific method and to follow the

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2 ethical precepts of the day.

3 The research that was conducted by Dr.
4 Kligman and Penn in the Philadelphia prisons set the
5 tone that still exists today, particularly with
6 genetic research such as that that led to the recent
7 death of Jessie Gelsinger at Penn while
8 participating in a genetic research experiment. The
9 use of corporate money to fund academic research
10 began to be perceived as legitimate as Dr. Kligman
11 attracted enormous funding to the University of
12 Pennsylvania.

13 Dr. Kligman, according to Acres of Skin,
14 contracted with some 30 corporations for research
15 experiments on Philadelphia County prisoners. It
16 appears that there was inadequate oversight by each
17 of the institutional review boards responsible for
18 assuring the safety of human subjects. Professor
19 Hornblum who wrote Acres of Skin, quoted IRB members
20 from Dr. Kligman's research protocols who claimed
21 that no meetings had been held in three or four
22 years. The Food and Drug Administration has cited
23 the University of Pennsylvania and its researchers
24 in the Gelsinger case for at least 18 violations of
25 the required protections for human subjects. In

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each instance, medical institution had a financial interest in the outcome of the research.

The attached documents suggest that Dr. Kligman developed a product, Retin-A from his research with our ex-prisoners which later led to his development of the product Renova. See Exhibit F, an article from Money.Com in the April 1989 issue entitled, "The selling of Retin-A." These products were patented and resulted in millions of dollars of profit to Dr. Kligman, the University of Pennsylvania, and Johnson & Johnson. See Page 2 of the above cited article, estimating that sales to date and that's as of April 1989 of Retin-A exceeded \$250 million. In fact, Penn had to sue Dr. Kligman and Johnson & Johnson to recoup its claim share of the profits. See Exhibit G referring to Philadelphia article published May 11, 1989, entitled "Retin-A Treatment is Focus of Patent Right Suit." An article published March 6, 1992, entitled, "Penn Settles Patent Suits of Retin-A." It was alleged that Jessie Gelsinger was not an appropriate subject for the experiment that lead to his death. Likewise, there was inadequate attention to the recruiting of human subjects in the prison

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2 research, many of whom, according to my clients,
3 participated in numbers of experiments at the same
4 time without the concern of the researchers. There
5 is no question that there was inadequate
6 recordkeeping then which has also been alleged in
7 the Gelsinger's case. Both cases involved,
8 according to reported accounts, inadequate attention
9 to the reporting of adverse events to the Food and
10 Drug Administration. In both situations, according
11 to what I've read in Acres of Skin and in the
12 newspapers, political influence was used to reduce
13 the consequences of the wrongdoing and both
14 situations involved the use of medical technique to
15 make people ill in violation of the Hippocratic
16 Oath.

17 The ethics that allowed such inhumane
18 research to be done on prisoners has been passed
19 from one generation to another. The more stringent
20 regulations for the use of human subjects today did
21 not prevent Jessie Gelsinger's death. Our
22 institutions need to acknowledge the wrongdoing in
23 the past in order to successfully teach a different
24 ethic in the future.

25 Please do all you can to motivate the

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2 City of Philadelphia, Dr. Kligman, the University of
3 Pennsylvania, and Johnson & Johnson to protect
4 future human research subjects by publicly
5 apologizing and properly compensating the prison
6 experimentation survivors who suffered from their
7 past wrongdoing.

8 The University of Pennsylvania Medical
9 School should be teaching its students of its past
10 regrettable ethical behavior in protecting human
11 research subjects in order to foster a commitment to
12 higher standards. It is interesting to note that
13 Johnson & Johnson's disingenuous published credo
14 states, "Research must be carried on, innovative
15 programs developed, and mistakes paid for."

16 While the prison experimentation
17 survivors may not be able to recover damages in a
18 court of law, they should be able to do so in the
19 interest of ethical justice.

20 In recent years, reparations have been
21 paid by corporations to Holocaust victims by whom
22 they profited, by the state legislator in Oklahoma
23 to the victims of a race riot in the 1920s, by the
24 federal government to the Tuskegee experimentation
25 survivors as well as to individuals who were exposed

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2 to nuclear fallout from testing without informed
3 consent. Your efforts are greatly appreciated and
4 bring honor to the people of the City. Thank you.

5 COUNCILMAN COHEN: Thank you. That's a
6 tremendous statement and compilation of facts that
7 make it clear that we cannot accept the answers
8 given to us at a previous hearing by the
9 representatives of the City of Philadelphia. I can
10 understand easily why representatives of the City
11 would prefer to not be held responsible and that
12 they might have to resort to statements such as the
13 ones they gave, saying they couldn't find records
14 because they might not be prepared to face up to the
15 facts. But we've learned that the first step in
16 reparations and the apology route at the beginning
17 is to face up to the facts, and this Committee is
18 determined to get to that point. But we're going to
19 need everybody's cooperation and we'd like to be
20 assured, Ms. Gilman, I'm sure we'll have, of your
21 support all the way. It's going to be a tremendous
22 task because the violation of human rights was so
23 tremendously bad and covered so many people and so
24 much time and so much space that it's difficult for
25 government agencies that are supposed to work in the

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2 interest of the people to admit that they worked
3 just in the opposite direction. So we're going to
4 be counting on your assurance.

5 Now, I have no specific questions except
6 to say, do you have any particular proposal as to
7 what you would regard as a satisfactory beginning of
8 corrective action by the different parties you
9 mentioned, the government, the City of Philadelphia,
10 the University of Pennsylvania, Johnson & Johnson,
11 and by Dr. Kligman?

12 MS. GILMAN: Because I had been involved
13 in settlement negotiations before, I'm a little
14 loath to discuss that publically. But clearly, an
15 apology is in order. I believe that reparations are
16 in order. I believe that it would be useful if the
17 University of Pennsylvania would come forward and
18 make some public record of its history and make some
19 commitment that they will train residents and their
20 doctors into more appropriate ethical behavior in
21 terms of research to prevent these kind of wrongs in
22 the future. And the other corporations should
23 participate in the commitment to increased ethical
24 behavior as well. Thank you. And I will cooperate
25 in any way that you see fit.

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2 COUNCILMAN COHEN: Well, we thank you
3 very much for that fine statement and your extension
4 of cooperation to the committee. We're going to be
5 using that. Thank you very much for appearing
6 today.

7 MS. GILMAN: You're welcome.

8 COUNCILMAN COHEN: The next speaker is
9 going to be Robert Helms. Is he here?

10 Mr. Helms identify yourself for the
11 record and then proceed.

12 MR. HELMS: My name is Robert Helms,
13 H-E-L-M-S. I have edited a journal called Guinea
14 Pig Zero. It pertains to my experience as a human
15 research subject, and I live in Philadelphia.

16 COUNCILMAN COHEN: Proceed with your
17 statement.

18 MR. HELMS: Thank you. Good afternoon,
19 ladies and gentleman. I'm pleased to be invited to
20 address this committee and I'm honored to speak in
21 solidarity with these former Holmesburg prisoners
22 whose bodies we used long ago as though they were
23 store bought scientific merchandise.

24 I'll say a few things about the high
25 social status of medical researchers.

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2 I have volunteered my own healthy body
3 for medical experiments in exchange for payment on
4 scores of occasions. When I choose this way to earn
5 a living, I'm not being exploited anymore than I
6 would be in some other legal occupation. I feel
7 this is true because I have enough information about
8 the experiments to judge their safety. I have the
9 freedom to stop volunteering this way and get by
10 with other employment, and I know how to publicly
11 criticize or bring legal action against any
12 scientist who abuses my trust by harming me or by
13 lying to me. In my own case, I have the added
14 comfort of knowing that when I volunteer for a
15 clinical trial, the doctors I speak to know that I
16 have written about a human lab rat and that I've
17 been interviewed on the subject many times. If they
18 welcome me as a volunteer, then they're comfortable
19 under scrutiny, and this helps me to trust them.

20 My point is that my social experience as
21 a volunteer subject for human research is like
22 having some loosely structured job working for some
23 company in some legal industry. My situation has
24 safeguards in place that prevent major and
25 unrestricted abuses by the doctors I see. However,

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2 I hold no illusions about being the social equal of
3 the physicians who stare into me with their
4 instruments. They not only make more money than I
5 do and can afford the treatments which they invent,
6 which I cannot, but they are also immune to certain
7 laws that the rest of us are subjected to. This, of
8 course, is an addition to the legal protection that
9 money can buy.

10 Here's how it works: Any wealthy man
11 can hire a good team of lawyers. And when he's
12 accused of a crime, the lawyers work hard, a hole is
13 found in the case, and he either gets off lightly or
14 he walks free. But then we find some very telling
15 cases, such as that of O.J. Simpson. The sports
16 hero was found not guilty of a murder in a criminal
17 trial and then guilty of the very same act in a
18 civil lawsuit. The short version in plain English
19 is that the defendant was guilty but rich. That's
20 the situation a rich doctor would have if he had
21 shot somebody over a game of poker. But there's a
22 special twist when he harms or kills someone in a
23 medical experiment.

24 This brings us to the Hospital of the
25 University of Pennsylvania. Only four years ago

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2 there was a gene therapy experiment going on there
3 and an 18-year-old volunteer subject lost his life
4 as a result. After government regulators made a
5 thorough investigation, they reported that there
6 were glaring financial conflicts of interest,
7 failures to inform the subject of serious dangers,
8 sloppy mistakes being made in the lab, and they even
9 admitted the subject, Jessie Gelsinger, when their
10 guidelines for the experiment made the young fellow
11 ineligible to participate. It was the biggest
12 research scandal in decades. Every little detail
13 was in the national press for months, but there was
14 something missing. The District Attorney of this
15 City did not charge the chief investigator, Dr.
16 James Wilson, with manslaughter.

17 Now, how did this happen when his
18 culpability was so clear? The doctor recklessly
19 endangered his human subject for selfish reasons.
20 There was an ample paper trail. There were other
21 doctors going on record on the precise scientific
22 details of his mistakes, but the doctor never had to
23 wear the handcuffs, never sweated about going to
24 jail, not even for a little while.

25 It might take me years of law school to

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2 understand why this isn't a double standard under
3 the law. It wasn't just that the DA didn't indict
4 the doctor, it was rather that nobody even asked her
5 about it. That tells the real tale.

6 In cases like this where medical
7 researchers simply blunder people to death, they
8 defend themselves with the idea that it's all a
9 scientific matter and it should be left for
10 scientists to sort out. Their hired philosophers,
11 we call them bioethicists, they'll give us a
12 complicated wheeze full of murky issues and weird
13 historical examples so as to discourage ordinary
14 people from challenging their position. They feel
15 that they own the science and they presume to own
16 the difference between right and wrong as well. The
17 tactic doesn't work for regular people. Now let's
18 imagine a drunk driver in court for running down and
19 killing a pedestrian. He says to the judge, "Your
20 honor, please stay out of it. This is a matter only
21 alcoholics can understand." It doesn't work.

22 In the case of these former inmates of
23 Holmesburg Prison, the rogue experiments took place
24 long ago, but the facts of the matter are as plain
25 as day. The minds and bodies of these men and women

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2 were weirdly tormented by the City, by the
3 University of Pennsylvania and Dr. Albert Kligman.
4 There was a clear abuse of power by all three.

5 You, Members of the City Council, acting
6 on your consciences are acknowledging the guilt of
7 the City. I sincerely respect you for doing this.
8 You have subpoenaed Dr. Kligman and the University's
9 president. They are not present today and they have
10 rejected your subpoena. They've already gotten away
11 with what they did. From the earliest chapter of
12 the Holmesburg scandal 30 years after the news
13 broke, that is, Kligman has never worried about
14 criminal charges. He knows that in the entire
15 history of medicine, only seven doctors have been
16 severely punished for harming their human subjects.
17 And his case is nowhere near being taken so
18 seriously. His embarrassment of the scandal has
19 been remedied by the great fortune he made on the
20 backs of these former prisoners.

21 This Committee of the Council isn't even
22 trying to get physical with these rich and
23 influential people. All you want is to ask them
24 questions and perhaps to tell them what bums they'll
25 be if they don't at least give their victims some

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2 money. You want to put the truth on the table, in
3 other words. But they aren't here. And after we
4 throw out all the legal bologna, what they're
5 telling you that you are peasants and that they are
6 aristocrats and that you should remember your place.
7 If the City Council of Philadelphia subpoenaed me, I
8 would either get down here and reply to your
9 questions or I would leave town.

10 This is a City which was in some
11 instances gone to wild extremes of violence against
12 people it considered to be in contempt of its
13 authority. I will openly defy you only if I'm
14 willing to risk everything for a cause. This is
15 because I am, like the guys of Holmesburg, a tiny
16 figure down in the street always having to deal with
17 the rest of society. Dr. Kligman, on the other
18 hand, lives behind a veil of privacy, somewhere
19 inside an impressive building, and people like
20 myself can only guess about his life and his
21 thoughts. What I resent about him is that elected
22 officials simply never get tough with him as they
23 will with me in a heartbeat if they so desire.

24 I wish you Councilmembers success in
25 your efforts to defend the dignity of these former

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2 inmate guinea pigs. If you succeed, everyone who is
3 used for medical research in coming years, including
4 myself, will be a little safer. I urge you to make
5 an experiment with your opponents and act as though
6 Kligman were some arrogant janitor who can't afford
7 healthcare and who is really supposed to answer you
8 when you ask him questions. The experiment will
9 show that there is weakness in the political system,
10 where there is weakness, and it will show the
11 expression on those smug faces when common people
12 dare to speak to power. Thank you for listening.

13 COUNCILMAN COHEN: Thank you very much
14 for your statement, Mr. Helms.

15 The next witness will be Catherine Wise
16 who will be representing and speaking for Executive
17 Director of the Philadelphia Prison Society, William
18 DiMasio.

19 Ms. Wise, we're pleased to have you here
20 today.

21 MS. WISE: Thank you.

22 COUNCILMAN COHEN: You share the feeling
23 of the last speaker, Ms Wise?

24 MS. WISE: Yes. My name is Catherine
25 Wise.

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2 COUNCILMAN COHEN: I think he in plain
3 language presented the point of view of, I would
4 judge, about 99.9 percent of the people who know of
5 this incident.

6 (Pause.)

7 COUNCILMAN COHEN: Ms. Wise, are you
8 prepared to proceed?

9 MS. WISE: Yes, I am. Thank you.

10 My name is Catherine Wise and I'm the
11 Communications Director for the Pennsylvania Prison
12 Society. I'm speaking today on behalf of the Prison
13 Society's Executive Director, William DiMasio, who
14 is in Harrisburg today testifying about parole and
15 community corrections for the House Judiciary
16 Committee, and he sends his regrets.

17 The Pennsylvania Prison Society is a
18 non-profit organization which promotes a humane,
19 just, and restorative correctional system and a
20 rational approach to criminal justice. Founded in
21 1787, it is one of the oldest prison reform
22 organizations in the world. Inherent in the
23 principles upon which this organization was built,
24 is the belief that no prisoner should be treated in
25 a way that compromises or violates his or her basic

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2 human rights. The utilization of prisoners for
3 dangerous medical clearly compromises their basic
4 human right to exercise true free will. We,
5 therefore, have strongly opposed such medical
6 testing from our earliest awareness of its prospect
7 and will continue to do so.

8 In her insightful book, A Sin Against
9 the Future, Imprisonment in the World, Vivian Stern
10 explores the idea of human rights as they relate to
11 prisoners worldwide. She points out the fact that
12 there's a mass of covenants, declarations, and
13 commentaries on the rights of detained people that
14 have been established as international law primarily
15 in response to the actions carried out by Nazi
16 Germany during World War II.

17 The Universal Declaration of Human
18 Rights adopted by the United Nations General
19 Assembly in 1948 very clearly states in Article 5
20 that, and I quote, "No one shall be subjected to
21 torture or to cruel, inhuman or degrading treatment
22 or punishment."

23 Furthermore, the United Nations
24 International Covenant on Civil and Political rights
25 declares, "All persons deprived of their liberty

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2 shall be treated with humanity and with respect for
3 the inherent dignity of the human person."

4 Thus, the United Nations affirms as the
5 basic tenet of international human rights law that
6 nothing can put a human being beyond the reach of
7 certain human rights protections.

8 When we speak of basic humans rights, we
9 speak not only to what a prisoner should have, but
10 also to what should not be done to a prisoner under
11 any circumstances. The possibility and potential
12 abuse of power and human rights violations exists
13 anytime people are confined against their will,
14 whether that confinement is in nursing homes, mental
15 hospitals, or in prisons. And this is especially
16 true in prisons where the inhabitants have few
17 advocates and receive little compassion from the
18 general public. Such was the case with the medical
19 experimentation that was conducted at Holmesburg
20 Prison from the late 1940s through the early 1970s,
21 the subject of this hearing, of course.

22 The majority of the research subjects
23 were low income, poorly educated men who were paid a
24 dollar or two a day to participate in physically
25 devastating medical experiments. Although the

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2 prisoners may have consented to participate in the
3 experiments, the medical staff and the
4 pharmaceutical companies who performed the
5 experiments were abusing their positions of power.

6 There's a parallel here between what
7 went on with these experiments and law that was
8 passed in Pennsylvania which makes it a criminal act
9 of rape for prison guards to engage in any sexual
10 activity with prisoners. The law holds that by
11 virtue of their subservient position, prisoner's
12 free will is negated. In other words, people who
13 are confined against their will do not have true and
14 unfettered free will. Therefore, we believe these
15 men did not freely participate in the medical
16 experiments. The basic human rights as defined by
17 the Universal Declaration of Human Rights, mentioned
18 earlier, were clearly violated.

19 One of the driving forces for the United
20 Nations' adoption of the Universal Declaration of
21 Human Rights was in response to the monovalence that
22 took place within the Nazi Germany concentration
23 camps during World War II. Moreover, at the
24 conclusion of World War II, the Nuremberg Trials
25 were held, out of which the Nuremberg Code was born.

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2 One component of that code is dedicated to defining
3 what is considered a permissible medical experiment.
4 This primary principle asserts that, and quote from
5 the code, "The voluntary consent of the human
6 subject is absolutely essential. This means that
7 the person involved should have legal capacity to
8 give consent, should be so situated as to be able to
9 exercise free power of choice without the
10 intervention of any element of force, fraud, deceit,
11 duress, or other ulterior of constraint or coercion
12 and should have sufficient knowledge and
13 comprehension of the elements of the subject matter
14 involved as to enable him to make an understanding
15 and enlightened decision, that before acceptance of
16 an affirmative decision by the experimental subject,
17 there should be made known to him the nature,
18 duration, and purpose of the experiment, the method
19 and means by which it is to be conducted, all
20 inconveniences and hazards reasonably to be
21 expected, and the effects upon his health or person
22 which may possibly come from his participation in
23 the experiment."

24 During this trial, the United States
25 encouraged prosecution of Dr. Sigmund Rasher, one of

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2 the many German doctors involved in medical
3 experimentation. The tribunal found that the
4 following correspondence between Dr. Rasher and
5 Heinrich Himmler blatantly violated the Nuremberg
6 Code. And again I quote from the trial proceedings.
7 "Considerable regret was expressed at the fact that
8 no tests with human material had yet been possible
9 for us, as such experiments are very dangerous and
10 nobody volunteers for them. I put, therefore, the
11 serious question: Can you make available two or
12 three professional criminals for these experiments?
13 ...The experiments, by which the subjects may, of
14 course, die, would take place with my cooperation...
15 Feeble-minded could also be used as test material."

16 By the end of the Nuremberg trials in
17 1949, Nazi war criminals had been prosecuted to the
18 full extent of international law. Yet that very
19 same year, medical experimentation of prisoners in
20 the Philadelphia Prison System had begun. Thank
21 you.

22 COUNCILMAN COHEN: Thank you very much
23 for your statement.

24 COUNCILMAN COHEN: It's easy to condemn
25 because I don't see how any human being could do

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2 anything other than condemn the actions of the
3 University of Pennsylvania, Dr. Kligman, Johnson &
4 Johnson and the City of Philadelphia. The problem
5 we have before us is to make institutions which are
6 known for their ignoring of human rights respond to
7 human right issues. And that's going to be a
8 challenging thought.

9 We hope in City Council to continue to
10 hammer at this issue because it seems to me clear
11 that if I were in private business in Philadelphia,
12 I would say if the University of Pennsylvania
13 doesn't have to respond to a subpoena, why should
14 we? And therefore, City Council might as well go
15 out of business if it cannot conduct its hearing
16 because we depend on good faith of people, their
17 willingness to cooperate, and in rare cases, our
18 ability to compel people to cooperate to give us the
19 information. I think it is setting up a real
20 challenge between itself and the City of
21 Philadelphia. And I think there is no room for a
22 diversity of opinion on this subject. I think we've
23 got to find a way to compel the University of
24 Pennsylvania, despite its power, despite the fact
25 that it's the largest employer of the City, to come

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2 to terms. And I think we've got to make the city
3 government of the City of Philadelphia come to terms
4 with this issue. It's not enough for Mayor Street,
5 for example, to visit the prisons together with many
6 of the black clergy and to admit the fact that there
7 is insufficient rehabilitation work ongoing to
8 permit easy entry back into society for prisoners
9 who are going to come back into society. What's
10 required is by the City Administration -- I mean no
11 personal accusation against Mayor Street because
12 he's done what traditionally mayors have done. But
13 what we need is the kind of leadership which, to use
14 a vernacular, grabs the bull by the horn and says,
15 "We're going to change. This is going to be a
16 sensitive government, sensitive to the rights of
17 people and we're going to start first by clearing up
18 this outrageous situation."

19 And I think the City Administration has
20 the power to do it. And as a result of these
21 hearings, I think we're going to begin to find a
22 changed response by the City Administration. And
23 if not, I think the City Administration will find
24 life very different because it's very important that
25 City Council and City Administration work together.

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2 And if we can't work together in support of human
3 rights, I don't know what we can work together on.

4 So I want you to know that these
5 statements of condemnation by various groups are
6 being given today for the purpose of making it clear
7 that this City Council feels its duty strongly and
8 we cannot accept failure in this mission. This
9 mission has to continue until we reach success. And
10 if that means that the University of Pennsylvania
11 has to forget that it's an Ivy college and that it
12 owes lots of duties to the citizens of
13 Philadelphia -- the University of Pennsylvania is
14 going to have to forget that because we cannot
15 tolerate any employer, no matter how big, no matter
16 how powerful, to be free of responsibility for
17 behaving illegally. And it seems clear to me that
18 the action done by the University of Pennsylvania
19 was illegal.

20 I don't know whether -- you know,
21 there's certain things such as statutes of
22 limitation with respect to the existence of crimes.
23 I don't know how they apply, and we'll leave that to
24 lawyers involved in the case. But until the City
25 and the University and the other institutions take

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2 the first step of admitting guilt and saying how can
3 we help, how can we correct it, we'll have the
4 answer for them. And that day is going to come, I
5 think, much sooner than the City and the University
6 of Pennsylvania expects to come.

7 Excuse me for making these interruptive
8 statements from time to time because it's really
9 very disturbing to hear witness after witness
10 condemn the actions -- it's so easy to condemn
11 because they were so dead wrong. How can anybody
12 who hears and do anything except condemn the actions
13 of these institutions acting like multi-billionaire
14 companies usually act with no consideration for
15 their responsibilities of the public. And that's
16 got to end. And I urge everybody, one thing you can
17 do as a result of these hearings is to convey to
18 your neighbors a sense of what's going on in these
19 hearings. Go to your next door neighbor and ask,
20 "Do you know what testimony we heard given in City
21 Council? Do you know that the University of
22 Pennsylvania and the city government itself are
23 getting by with hiding and saying they don't have
24 any records?" You know that's not true. You know
25 if the records were helpful to them, they'd find

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2 them immediately. So that when they tell us they
3 can't find the records, what they're saying is "We
4 can't stand to have publicity and light exposed on
5 this issue because then everybody will know how dead
6 wrong we are, so we've got to hide it."

7 You know, we may sound a bit naive
8 sitting behind the barrier here that separates you
9 from the Committee, hearing the evidence, but
10 really, we don't believe these nonsensical stories.
11 We don't believe that the people are telling us that
12 they really believe it themselves even though maybe
13 they've been ordered to say that there are no
14 records. How could the City of Philadelphia lose
15 the records of a case that may cost them, before
16 it's done -- because, you know, this may wind out
17 being very costly to the City of Philadelphia and
18 the University of Pennsylvania. They could, if they
19 took the right steps, begin doing corrective things
20 that would reduce the amount of money they're going
21 to be responsible for paying. And I don't mean
22 money based upon legal rights. It's clear to me --
23 and I'm a lawyer of more than 60 years standing.
24 It's clear to me that the laws may be willfully weak
25 in the protection of the rights of the prisoners.

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2 But laws should not govern the reparation outcome
3 here. What should govern is morality and
4 righteousness. And whether or not the law compels
5 payment, public will is going to determine that
6 reparations be made in this case and the
7 institutions are going to have to come up -- every
8 day delay probably will add many millions of dollars
9 to the claims against them. And this City Council
10 is going to continue to work until there is full
11 reparations.

12 Is Tanya McClary or a representative of
13 the American Friends Service Committee here? Is
14 there anyone from the American Friends Service
15 Committee here?

16 (No response.)

17 COUNCILMAN COHEN: I see no response.

18 Is Rev. Betty Hill here? Come forward.
19 Would you like to be heard?

20 Rev. Betty Hill is a young lady that I
21 I've known for maybe 50 or 60 years. She always
22 speaks the truth. She always speaks on behalf of
23 human spirit and human life.

24 Rev. Hill, we welcome you here. Just
25 briefly tell us what you think we ought to do.

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2 Identify yourself in the microphone. We all know
3 you, but we have to get it recorded and it has to be
4 your voice that gives your name.

5 REV. HILL: My name is the Reverend
6 Betty R. Hill.

7 COUNCILMAN COHEN: And spell your last
8 name for the record.

9 REV. HILL: H-I-L-L.

10 COUNCILMAN COHEN: You've been here.
11 You've been here at the last hearings. You've been
12 here today. Tell us what your feelings are about
13 this matter.

14 REV. HILL: First of all, before I say
15 anything about the case, I would like to say I'm
16 very disappointed that there are no more
17 Councilpeople down here than you all are.

18 (Applause.)

19 COUNCILMAN COHEN: Rev. Hill, I have to
20 tell you that Councilpeople are ordinary human
21 beings. They're in a campaign condition. We had a
22 lengthy hearing this morning. I was very anxious to
23 get this reported. I knew we would have some
24 Councilmembers here, but the choice was waiting
25 until after the election on May 20th to get the full

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2 attention of Council or to bring attention now. It
3 was my decision, knowing that we would not get many
4 Councilmembers present today to go ahead today,
5 rather than hold us for two more months. So forgive
6 me. It was my judgment that I didn't want to see
7 this matter just be quiet. We'll see to it that
8 everybody knows. I can tell you there's a lot of
9 talk going on in City Council about this issue.
10 Councilmembers came to this morning who are members
11 of this committee and expressed their regret at not
12 being able to be here today and assured me of their
13 continuing support. So we will see to it they will
14 get a transcript of this hearing. And they've been
15 very, very supportive.

16 REV. HILL: Councilman Cohen, I've known
17 you throughout the many, many years. And I accept
18 it, and you've been with us every time. But when
19 those same Councilpeople go around and want to get
20 elected, they come to us. And we want them to set
21 aside a time to come to us. And I thank you for
22 your letter that you did send me and saying that you
23 were going to stay on the case. And I have passed
24 the word to most of them. I thank these
25 Councilpeople who are down here, whom I have known,

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2 most of them, from young kids. And I thank you all
3 for coming down here.

4 But I want to say one thing. My son was
5 one among the number. My son, whatever he did --
6 some of the things I never seen it, but I could
7 believe some of the things that he did do. But when
8 he went to prison, and I was at work with many of
9 you all, and they were afraid to tell their parents
10 who was out struggling working hard for them what
11 those prison people was doing to them, because we
12 could have brought this up earlier. But some of
13 them couldn't tell it because they didn't know how
14 their parents would feel. And those prison people,
15 guards or whatnot in court, they used them to try to
16 advance their record, their history to be doctors.
17 My son is sleeping in his grave with holes in is
18 legs. You could see the bones up and down his leg.
19 He thought he was getting help. He thought somebody
20 would help him. So did I. I thought the City of
21 Philadelphia would help him as much as I've done and
22 worked in this City of Philadelphia.

23 I have tried with all my heart to help
24 every one of these people that are sitting in this
25 courtroom. I got off and had to take a chair and

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2 push down here until they come and got me and lead
3 me in here because I'm not able to walk now. But
4 I'm determined, as long God gives me health and
5 strength, to stay with this case. And pretty soon
6 we want to take it to the street or somewhere else.
7 It's a slow process. It's been since 1975. My son
8 didn't live to see the results. Some of these
9 people's mother and father's didn't live to see this
10 result. We didn't raise our children to go to jail.
11 But nowadays around here, you can go if you are
12 innocent. And we know what we're talking about.

13 And I come to City Council to ask them
14 for something. They'll tell me, "I'm not your
15 Councilman. Don't ask me for nothing." I got a
16 letter in my briefcase right there I got from
17 Councilman Nutter, told me don't ask him for nothing
18 because he was not my Councilman, go to Councilman
19 Clarke.

20 Well, now, I want these people to know
21 when he goes to get elected, he's not your
22 Councilman. I got a letter; I'll leave it with you.

23 COUNCILMAN COHEN: I'd like to see it.
24 You know there are two different sets of
25 Councilmembers. One are District Councilmembers.

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2 We have 10 District Councilmembers. Each has
3 jurisdiction in one-tenth of the City. They're
4 elected only by people who live in their district.
5 In addition, there are seven of us who are
6 Councilmembers-at-Large. And I'm a
7 Councilman-at-Large, I represent everybody in the
8 City. So Councilman Nutter and Councilman Clarke
9 are district members. I don't know whether they
10 cover your district or not. I think Councilman
11 Nutter basically covers West Philadelphia and
12 Roxborough, and Councilman Clarke represents North
13 Philadelphia. And where you live, I don't know
14 whether it fits in there. It would be technically
15 right as District Councilmembers if you don't live
16 in their district. But you will always have -- each
17 person in the City of Philadelphia has eight
18 Councilmembers representing them. They have the
19 absolute right to expect service from their personal
20 District Councilmember for the district that they
21 live in and then they have the services of seven
22 Councilmembers-at-Large whom they also have a chance
23 to elect. I run the same area as every
24 Councilman-at-Large does, same area as the Mayor of
25 Philadelphia. I don't feel I'd be boastful or I

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2 would tell you I got more votes than the Mayor got
3 when ran last time. I don't know what will happen
4 this time when I run again.

5 But Councilmembers-at-Large will
6 represent everyone. And if anybody ever gets a
7 letter from any Councilmember saying they're not in
8 the district, please contact our office. We want to
9 find out if it's a District Councilperson in your
10 district. They have no right to send such a letter.
11 If they're in a different district, they may have
12 that right because they have no responsibility for a
13 local program. They still have a responsibility for
14 citywide problems but not for local problems.

15 So Rev. Hill, I know you're a tough
16 fighter because I know how you fight on behalf of
17 all your constituents. And everybody in
18 Philadelphia has a right to service from at least 8
19 of the 17 Councilmembers, the 7 Council-at-Large and
20 their own District Councilmember. And if there's
21 any question, I will volunteer my office at all
22 times to be of service to every person in the City
23 of Philadelphia. I do that anyway so there's
24 nothing additional that I have to promise to do
25 other than what I'm doing.

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2 Rev. Hill, you have fought for everybody
3 I know. Rev. Hill cannot be confined to a district
4 because her interests are everywhere and any human
5 being is a real concern to her. And I'm pleased to
6 acknowledge a friendship with you. I came back to
7 Philadelphia. I'm a native. I came back in 1952
8 after several years overseas in World War II where I
9 may look it, but I was staff sergeant for two years
10 in the South Pacific in World War II. I know about
11 war and I now how difficult it is for families and I
12 also know about government's responsibility to
13 service people. And we're here trying to get the
14 government to do the right thing. And the
15 government means the government at three levels, the
16 City, the State, and the Federal government.

17 Today we're concerned with the City
18 government because it was the City that gave
19 approval to the University of Pennsylvania. We
20 don't want to give forgiveness to the City because
21 we cannot believe the testimony, even though the
22 individuals that gave it may have been honest, but
23 they were given a bad steer when they were told the
24 City has no records. If the City has no records,
25 somebody dumped them. Or in the language of the

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2 streets, deep-sixed them for good reasons because
3 the records will show the extent of the crime
4 committed by the City of Philadelphia permitting
5 this experimentation to take place.

6 REV. HILL: Councilman, I would just
7 like to make two more points.

8 COUNCILMAN COHEN: Yes, go ahead, Rev.
9 Hill. And we're delighted that you're active.
10 You're the only person here older than I am, and
11 that makes me feel like a young man. She's about a
12 day older than I am.

13 REV. HILL: Councilman Ortiz and I have
14 walked the streets together and ducked bullets like
15 this. And willing to go out there and do it again.
16 I opened up a drug abuse program. Most of ya'll in
17 here know it. So the people could come. All by
18 myself. They put it in the papers and whatnot.
19 You've been wonders ever since we been here.

20 One other thing. We have such a Mayor
21 or whoever, people like me should have a wheelchair
22 at that door so we can -- I took a chair to push
23 around that corner until the young lady saw me and
24 says -- first of all, she come from the payroll
25 office, says "I'll help you." She had to go back to

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2 work. This young lady come and got two of our
3 fellow brothers to help bring me in here. You know,
4 when you get 89 years old and you still trying to
5 go, you're still trying to creep, you're trying to
6 help human beings do whatever they can. And was
7 ordained at 80 years, old I'm ready to go on. And
8 would like to see, if the good Lord let's me live,
9 to see these people here, regardless of race, creed,
10 or color, see some results of what our children have
11 suffered from. We're not so much concerned about
12 give us money, but the future generation and the
13 other generation has comes is got to go out to the
14 same place and got to go through what our children
15 went through. There's nobody at City Hall, there's
16 nobody in the police station to stand up for them.
17 I don't think so. We want some results left right
18 here that we can see it, that you can see it.

19 You got my vote. You always did. I
20 used to feed his baby chicken livers.

21 (Laughter.)

22 REV. HILL: And I want to let you all
23 know that anytime that I can get down here, if you
24 have to bring me on a bed, anyway you get me down
25 here, I'm ready to speak a word to help out, if I

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2 can help the Councilpeople, if I can anybody in
3 here, regardless rich or poor, call on me. The work
4 I have done in North Philly, I think everybody
5 mostly in here knows it. I treated most of the
6 young men's in here like I treated my son. I don't
7 care who they are. You come to me, I help because
8 God helps me.

9 And I'd like to see more Councilpeople.
10 Now, when they're out there running for votes and
11 you say, why nobody didn't come to vote; why you all
12 didn't come see about us? You needed us before
13 election time, before May 20th. Come see about us;
14 we'll come see about you.

15 COUNCILMAN COHEN: Good advice.

16 REV. HILL: If you don't come see about
17 us, we're not coming to see about you.

18 I have laid down in the middle of Market
19 Street to try to get justice when Goldie Watson was
20 living for our people. Everybody is my people,
21 because when you cut your arm, we all bleed the
22 same. When you go away from here, God's got a plan
23 for us all. We can't go and pay half the bill now
24 and half the bill later. When he gets ready to call
25 us, we all are going. So why not me treat you like

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2 you treat me. You treat these people like they
3 treat you. You want to see every one of them
4 standing to the poll and so do I. That's your legal
5 right. Go for something that's going go for you.
6 And I'm for it for anybody else, regardless who they
7 are or what they are.

8 I'm sorry if I spoke out of turn.

9 COUNCILMAN COHEN: Everything was on --

10 REV. HILL: But I believe in God. And I
11 think everybody else should. Thank you so much.

12 COUNCILMAN COHEN: Thank you.

13 (Applause.)

14 COUNCILMAN COHEN: Larry Frankel.

15 Mr. Frankel, welcome to the hearing.

16 MR. FRANKEL: Thank you, Councilman
17 Cohen.

18 COUNCILMAN COHEN: Identify yourself for
19 the record.

20 MR. FRANKEL: My name is Larry Frankel,
21 F-R-A-N-K-E-L, and I am the Legislative Director for
22 the American Civil Liberties Union of Pennsylvania.
23 And I want to express my sincere appreciation for
24 you inviting me to testify here today. I apologize
25 for not having written testimony. I've spent most

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2 of this week in Harrisburg. I must say it's nice to
3 be in front of a government official who actually
4 wants public input into the matters of the day,
5 which doesn't seem to be what's going on in
6 Harrisburg at the moment.

7 I also want to thank you for continuing
8 to keep a focus on the issue of what we owe these
9 former prisoners who were really treated like guinea
10 pigs, who were the subject of medical
11 experimentation without their full, informed
12 consent. I think it's tremendously important that
13 we continue in as many ways as possible to keep the
14 light shining on this so that those who have an
15 obligation -- it may not be a legal obligation
16 because the law sometimes gets complicated. It may
17 be a legal obligation, I'm not going to get into
18 those legal niceties today. But I think we have a
19 moral and an ethical obligation to those who were
20 injured as a result of those experiments, to make
21 them whole, to make them whole the same way we make
22 any other injured victim in the society whole. Just
23 because they were prisoners when this happened
24 doesn't mean they're not deserving of relief and
25 remedy.

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2 Interestingly enough -- and I don't know
3 if you saw the news stories, but just yesterday the
4 Governor of California, he apologized for forced
5 sterilizations that were done in that state. But he
6 only apologized. And I submit on behalf of all the
7 members of my organization, apologies don't take you
8 very far when you have ongoing pain and suffering,
9 when you have ongoing medical expenses, when you
10 have been used by the society and not compensated
11 for that use or abuse that has been given to you.
12 So while it may be nice and the Governor of
13 California got some headlines for apologizing, I
14 sincerely hope, all of my members hope, that City
15 Council, through your leadership, will find a way
16 through the City, through the University of
17 Pennsylvania, through whoever, to make sure that
18 these individuals do get compensated; compensated
19 for their medical bills, compensated for their lost
20 wages, compensated for their pain and suffering. It
21 is in our minds incredible to believe in this day
22 and age when we see people getting remedies, when we
23 see them being compensated for all sorts of things,
24 that we as a society have not found a way to make
25 these individuals whole.

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2 I commend you for your work. We will
3 continue to support you in your efforts in whatever
4 ways we can. And we certainly stand here with all
5 of those who suffered and were injured.

6 COUNCILMAN COHEN: Thank you very much
7 for that statement.

8 (Applause.)

9 COUNCILMAN COHEN: Can you tell me on
10 the California situation whether the forced
11 sterilization occurred in the prisons or was it
12 another area? Do you have that information?

13 It would seem to have to be either state
14 hospitals or state prisons.

15 MR. FRANKEL: It was individuals who
16 were mentally ill, so I presume that they were
17 people who were in some kind of hospital or
18 institution.

19 COUNCILMAN COHEN: They were also very
20 vulnerable.

21 MR. FRANKEL: I would be happy to
22 provide you with the copies of the stories we were
23 able to pull off the Internet today.

24 COUNCILMAN COHEN: We appreciate that.

25 MR. FRANKEL: And if you want us to find

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2 out further information -- this just came out
3 yesterday -- I'll be more than happy to get in touch
4 with my colleagues in California to see what other
5 information they can provide.

6 COUNCILMAN COHEN: We'd like to have
7 that. Because as Rev. Hill stated before, we want
8 to protect generations to make sure this never
9 happens again. And this will be very helpful.
10 Thank you very much for coming here and giving your
11 support.

12 MR. FRANKEL: No problem. Keep up the
13 good work.

14 COUNCILMAN COHEN: We have one more
15 witness on the schedule and then I'm going to ask if
16 anybody else who is not scheduled has anything they
17 feel important to say, it be heard. I see two hands
18 in the back.

19 First let me call Lester Ross. Is he
20 here?

21 (No response.)

22 COUNCILMAN COHEN: If not, the gentleman
23 in the back. Would you come forward to the table?
24 Identify yourself. You have to give your name and
25 spell your last name.

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2 MR. CHECK: My name is William Check,
3 C-H-E-C-K. I'd like to know if the City of
4 Philadelphia has pursued going to NIH for records of
5 these experiments? Have they contacted NIH to get
6 records from these experiments? And as far it goes
7 for the doctor who did the experiments, he's a Board
8 Certified physician. Those records are kept in the
9 Commonwealth of Pennsylvania. Those are kept in
10 Harrisburg basically. His records of what he did in
11 those years are kept with the state government. He
12 has Board Certification, he is a Certified Board
13 medical doctor, so his conduct is dictated by the
14 Board. If you have any disputes about disbaring
15 this doctor, then you take it directly to the State
16 of Pennsylvania to get those records from that
17 doctor basically and then pursue an action against
18 that doctor if you believe that he has been
19 negligent.

20 COUNCILMAN COHEN: Thank you for that
21 insight. I will refer it to the staff and they will
22 follow your advice.

23 Is there anybody else who has anything
24 they would like to add?

25 Are there any former inmates here who

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2 did not have an opportunity at the previous hearing
3 to be heard about what happened to them who would
4 like to step forward and tell us? Do I see a hand
5 in the back?

6 Would you come forward? The only way to
7 have your testimony heard by others and recorded is
8 when you come forward to the desk. Please come
9 forward, give your name, spell your last name and
10 then proceed. Just be a bit brief.

11 MR. JONES: My name is Leotis Jones.
12 And I'm Director of the Community Assistance for
13 Prisoners, Chairman of the Experimentation
14 Survivors.

15 COUNCILMAN COHEN: You've done a great
16 job.

17 MR. JONES: Thank you, sir. And so have
18 you and your staff, and we appreciate it.

19 For the record, the Experimentation
20 Survivors is being represented by Attorney Thomas
21 Lucella (ph). Until we hear differently, that's who
22 is representing us. Thank you.

23 COUNCILMAN COHEN: Thank you. Anybody
24 else today? Because if not, we're going to recess
25 until the call of the Chair. It is very likely --

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2 we are pressing hard to get action from the Court.

3 Two months ago -- well, not quite two months ago.

4 On January 28th, we wrote to the Court on behalf of

5 City Council because that's whom I represent. You

6 know, I sue a number of government agencies for

7 failing to do what I think is their responsibility.

8 Sometimes I sue on my own behalf as a City

9 Councilmember, but in this instance I'm suing on

10 behalf of the whole City Council who unanimously

11 adopted the resolution read at the outset calling

12 for action against the University of Pennsylvania,

13 Johnson & Johnson, and the City of Philadelphia and

14 Dr. Kligman. I wrote to the judge, clearly at issue

15 in this matter is the fundamental power of a

16 legislative body to address and remedy a public

17 problem. Petitioners, meaning Councilman David

18 Cohen and the City Council of the City of

19 Philadelphia, respectfully urged the Honorable Court

20 to reach a timely adjudication of this matter so

21 that hearings may proceed before City Council.

22 We're going to notify the judge of the

23 action that occurred here today and state that the

24 feeling was unanimous -- and tell me if I'm not

25 accurate. The feeling was unanimous that the court

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2 order proceed at once to call the University of
3 Pennsylvania to account and require them to testify
4 at this hearing. As soon as we get that word, we
5 will set a date for the University of Pennsylvania
6 to testify and call another recessed hearing. And
7 we hope at that time you're going to make a special
8 effort to see that all of the folks involved and all
9 the well-wishers know about it because we'd like to
10 have a good audience to get the information as to
11 why the University of Pennsylvania and Dr. Kligman
12 have been stalling these many years. When we finish
13 with the University of Pennsylvania, it's our
14 intention to go after the City of Philadelphia. And
15 when we take care of that and get truth and facts
16 from the City of Philadelphia and support from them,
17 we're then going to go after Johnson & Johnson.

18 (Applause.)

19 COUNCILMAN COHEN: And I'm going to tell
20 them that Rev. Betty Hill made a special plea to the
21 Lord for action because we never know when the Lord
22 will act with respect to any of us and we want to
23 make sure we're here to enjoy the fruits of victory
24 and know that our children and our grandchildren are
25 going to be spared from this kind conduct ever

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2 again.

3 So we thank you all for coming today.

4 The hearing stands in recess until the call of the

5 Chair. Thank you all very much for coming.

6 (Applause.)

7 (Council adjourned at 2:30 p.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of March 13, 2003, were reported fully
and accurately by me, and that this is a correct
transcript of the same.

RE: COMMITTEE ON LAW AND GOVERNMENT

Lisa C. Bradley, RPR
and Notary Public