

Committee on Public Safety
October 20, 2020

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Remote location using Microsoft® Teams
Tuesday, October 20, 2020
9:30 a.m

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILMAN KENYATTA JOHNSON, VICE-CHAIR
COUNCILWOMAN KENDRA BROOKS
COUNCILWOMAN JAMIE GAUTHIER
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN ISAIAH THOMAS

BILL 200538
RESOLUTION 200397

1 - - -

2 COUNCILMAN JONES: Good
3 morning, everyone. This is a public
4 hearing of the Committee of Public
5 Safety regarding Resolution No. 200397
6 and Bill No. 200538. Before we get
7 started, I'd like to recognize
8 Ms. Samantha Williams, Esquire, who will
9 read the required statement for the
10 record.

11 THE CLERK: Thank you,
12 Mr. Chairman.

13 I understand that state law
14 currently requires that the following
15 announcement be made at the beginning of
16 every remote public hearing as follows:
17 Due to the current public health
18 emergency, City Council Committees are
19 currently meeting remotely. We are
20 using Microsoft Teams to make these
21 remote hearings possible.

22 Instructions for how the public
23 may view and offer public testimony at
24 public hearings of City Council are
25 included in the public hearing notices

1 that are published in the Daily News,
2 Inquirer and Legal Intelligencer prior
3 to the hearing and can also be found on
4 phlcouncil.com.

5 Everyone who has been invited
6 to participate in this meeting or to
7 testify should be aware that the public
8 hearing is being recorded. Because this
9 hearing is being recorded, participants
10 and viewers have no reasonable
11 expectation of privacy. By continuing
12 to being in the meeting, you are
13 consenting to being recorded.

14 Additionally, prior to
15 Councilman Jones recognizing Members for
16 questions or comments they have for
17 witnesses, I will note for the record at
18 this time that we will use the chat
19 feature available in Microsoft Teams to
20 allow Members to signify that they wish
21 to be recognized. In order to comply
22 with the Sunshine Act, the chat feature
23 must only be used for this purpose.

24 Thank you.

25 COUNCILMAN JONES: Thank you,

1 Ms. Williams. And at this time, can we
2 take the roll to establish a quorum.

3 And will Members upon being
4 recognized say a few words so that we
5 can capture your image for Channel 64.

6 THE CLERK: Councilmember
7 Thomas. Councilmember Thomas.

8 COUNCILMAN THOMAS: Oh, I'm
9 sorry. I was on mute. Good morning,
10 Chairman. Good morning, colleagues.
11 Good morning to the Administration and
12 I'm present. I apologize for that.

13 COUNCILMAN JONES: Good
14 morning.

15 THE CLERK: Councilmember
16 Green.

17 COUNCILMAN GREEN: Present.

18 THE CLERK: Councilmember
19 Gauthier.

20 COUNCILWOMAN GAUTHIER:
21 Present. Good morning, everyone.

22 THE CLERK: Councilmember Gym.

23 COUNCILWOMAN GYM: Good
24 morning, everybody. Present.

25 THE CLERK: Councilmember

1 Brooks.

2 COUNCILWOMAN BROOKS: Good
3 morning, everyone. I'm present.

4 THE CLERK: Vice-Chairman
5 Johnson.

6 And, Chairman Jones.

7 COUNCILMAN JONES: Present and
8 accounted for. Thank you, Ms. Williams.
9 A quorum has been established and is
10 present and this hearing is now called
11 to order.

12 Will you now please read the
13 titles of the resolution and the bill.

14 THE CLERK: Resolution No.
15 200397, a Resolution authorizing City
16 Council Committee on Public Safety to
17 hold hearings to review the City's
18 response to protest in support of ending
19 systematic racism in policing and of the
20 Black Lives Matter movement, and to
21 provide residents with a forum to share
22 their experiences and make
23 recommendations for safer and
24 nondiscriminatory policing.

25 And Bill No. 200538, an

1 Ordinance amending Title 10 of the
2 Philadelphia Code to create a new
3 chapter, Chapter 10-2500, entitled "Less
4 Lethal Devices," to regulate the use of
5 less lethal devices in specific
6 situations, all under certain terms and
7 conditions.

8 COUNCILMAN JONES: Thank you,
9 Ms. Williams.

10 I just want to say before I
11 recognize the sponsor of the resolution
12 and bills that we've had a listening
13 session prior to this and it was
14 designed to hear from those people both
15 at 52nd and Market and Walnut and also
16 those who experienced police
17 interactions on I-76. I think that
18 might have been a four-hour listening
19 session where there was riveting
20 testimony about the impact of how police
21 community interactions occurred.

22 This part of this hearing will
23 be designed to listen to the
24 Administration and lessons learned about
25 those two interactions and how we can go

1 forward in the future to have better
2 reaction to both protests and
3 unfortunately interactions with riots.

4 So with that, I want to
5 recognize Member Gym for comments about
6 the resolution and the bill.

7 COUNCILWOMAN GYM: Thank you so
8 much, Mr. Chairman, and thank you for
9 being just a critically important
10 partner in all of the work as we partner
11 with the Administration, with our
12 Commissioner, to rethink public safety
13 and work towards transforming our
14 institutions.

15 So two weeks ago as the
16 Chairman said, this Committee heard
17 powerful testimony from dozens of
18 witnesses who described the chaos,
19 terror and pain of the events of late
20 May and early June when tens of
21 thousands of people marched through our
22 City to demand a better tomorrow and
23 were met with a show of force that had
24 not been deployed in our City in
25 decades.

1 Some of the comments that were
2 said, Every day I wake up in the morning
3 and I'm there again, said public
4 schoolteacher Max Hibbard. I'm
5 surrounded by police officers shooting
6 pepper spray at innocent people and
7 launching tear gas into our lungs.

8 Monica Allison, a long-time resident of
9 Cobbs Creek said, Tanks and tear gas do
10 not belong in residential areas and it
11 is an offensive outrage that I even need
12 to come here to tell you.

13 Our young people are watching.
14 16-year-old Qawwyah Powers, a high
15 school junior said, Police are supposed
16 to protect us. I can feel the man's
17 pain when the police hit him. It felt
18 like we were the ones getting hit. And
19 Bedjy Jeanty who said that he was shot
20 with rubber bullets, pepper spray,
21 beaten and had racial slurs hurled at
22 him, said at the end of the day, I'm a
23 Black man in America and I fear for my
24 children.

25 These are just a few of the

1 excerpts from the nearly three-hour
2 public listening session that centered
3 the voices of residents and
4 Philadelphians. The telling of these
5 experiences was extremely hard. It took
6 a lot of time to work with folks to come
7 forward. Every single person who
8 stepped forward to speak, to have been
9 interviewed by us, submitted written
10 testimony or engaged with City Council
11 throughout the last few months has done
12 so with great personal difficulty and
13 with a lot of pain. The trauma stays
14 with many of them today. But their
15 telling was also a profound public
16 service and a challenge to us as a
17 Council body to remember what is at
18 stake when residents who have been
19 subjected to force come to their elected
20 officials to demand better.

21 We have to understand how
22 powerful these moments are. They're not
23 isolated moments in time. They're a
24 narrative of people's lived experiences
25 with systemic racism, with policing

1 other communities and with the sense
2 that people's safety and confidence in
3 our institutions is not improving.

4 So today it's our turn to
5 listen to the Administration, to help
6 make the record clearer and fuller, to
7 reflect on lessons learned as the
8 Council Chairman said and to come
9 together to ensure that the voices of
10 Max Hibbard, Monica Allison, Qawwyah
11 Powers, Bedjy Jeanty and some many
12 others have been truly heard. Our City
13 must heal, and this healing requires us
14 to look deeply into our actions,
15 practices, expectations as much as we
16 review our policies.

17 A clarification to the viewing
18 public: While there are a number of
19 ongoing investigations, this isn't one
20 of them. City Council has the
21 responsibility to hold a public forum,
22 to hold City agencies and officials
23 accountable, to consider public policy
24 and to elevate the voices of residents.
25 That is what this process is. We chose

1 a public process of listening, of
2 truth-telling, of accountability driven
3 by the voices and experiences of the
4 people we serve.

5 This is a moment where
6 repairing trust between our residents,
7 public officials and our police officers
8 is essential. That begins with Council
9 opening up its now virtual doors and
10 beginning the starting point for tough
11 conversations that talk accountability
12 and truth-telling.

13 I want to thank the Public
14 Safety Committee members, my colleagues
15 for their incredible partnership over
16 these past few weeks. I want to thank
17 the Administration and especially,
18 Commissioner Outlaw, for your
19 willingness in answering some of today's
20 tough questions and for being a partner
21 with us as we try to figure out a path
22 forward.

23 Most of all, I want to thank
24 the hundreds of Philadelphians who have
25 been willing to share their stories

1 during this process. Your voices do not
2 fall on deaf ears. They are the key for
3 us as we strive to do better, to be
4 fairer, to heal and to rebuild.

5 Thank you very much,
6 Mr. Chairman.

7 COUNCILMAN JONES: Thank you,
8 Member Gym. Only when you're ready to
9 listen, can you be ready to lead. And I
10 thank you for putting forth this
11 important resolution and important
12 legislation.

13 Are there any other members of
14 the Committee who would like to give
15 opening remarks?

16 (No response.)

17 COUNCILMAN JONES:
18 Ms. Williams, anyone in the chat
19 feature?

20 THE CLERK: No.

21 COUNCILMAN JONES: Without any
22 other remarks, let's move to hear from
23 the first panel to testify. Can you
24 bring them up.

25 THE CLERK: Yes. The first

1 panel to testify will be Police
2 Commissioner Danielle Outlaw,
3 accompanied by Managing Director Tumar
4 Alexander for questions.

5 COUNCILMAN JONES: Good
6 morning, Commissioner. Good morning,
7 Managing Director. Can you make sure we
8 have a good mic? Say good morning or --

9 COMMISSIONER OUTLAW: Good
10 morning.

11 MR. ALEXANDER: Good morning,
12 sir.

13 COUNCILMAN JONES: Got it. All
14 right. State your name and please begin
15 your testimony.

16 COMMISSIONER OUTLAW: Good
17 morning, Chairperson Jones and other
18 members of the Committee on Public
19 Safety. My name is Danielle Outlaw and
20 I am the Philadelphia Police
21 Commissioner. I'm here today with the
22 usual crew, our executive team here.
23 Thank you very much for allowing me to
24 provide testimony today for Resolution
25 No. 200397.

1 Please let me state at the
2 outset that racism, discrimination and
3 hate have absolutely no place in the
4 Philadelphia Police Department. When it
5 has been identified and proven, the
6 Philadelphia Police Department has taken
7 unprecedented action to permanently
8 remove those officers from the ranks of
9 the Philadelphia Police Department.

10 With that said, I understand
11 that this Committee has questions
12 regarding the actions of the Department
13 during the George Floyd protests and
14 riots. I will be as open and as
15 transparent with any questions
16 presented, but I must state upfront
17 based upon open litigation and after
18 consulting with the Law Department, I am
19 not at liberty to discuss the specifics
20 of any individuals or any events that
21 occurred during the Floyd protests and
22 riots. Nonetheless, I will submit any
23 specific requests you may have directly
24 to the Law Department so that they can
25 follow up directly with you in writing.

1 So before we begin, for those
2 who may not be aware, please allow me
3 the opportunity to explain in detail the
4 monumental efforts that have been
5 completed or are pending in the Police
6 Department since the Floyd protests and
7 riots. We have taken a very deep dive
8 and we have found deficiencies that
9 needed to be addressed to restore the
10 faith and trust in the Department, along
11 with proactive measures to help foster a
12 sense of reconciliation within the
13 communities that we serve.

14 First, let me discuss the
15 policy changes that have already been
16 implemented since May. All use-of-force
17 notifications must now be provided over
18 police radio, in addition to the
19 existing reporting requirements laid out
20 in the directive. Additionally,
21 no-knock entry of all warrants are now
22 prohibited in the Police Department.
23 All exculpatory information or
24 information that would contradict a
25 person's involvement in a crime is now

1 required to be included in affidavits
2 submitted to magistrates for approval.

3 The intentional pointing of a
4 firearm at an individual is also now
5 considered a use of force and must be
6 recorded using the Department's Use of
7 Force form. The Department's Use of
8 Force policy was updated to clearly
9 articulate that kneeling on someone's
10 head or neck is prohibited. This is
11 consistent with recent City Council
12 amendments.

13 Now, please allow me to
14 identify the projects that are currently
15 under way. First, the PPD is working
16 collaboratively with the Police Advisory
17 Commission to evaluate the Police Board
18 of Inquiry, or PBI as you might hear us
19 refer it to, to review its disciplinary
20 processes. The PAC-PPD-PBI Action Plan
21 was signed in August of 2020 and is
22 expected to be completed in February of
23 2021.

24 Additionally, all SWAT
25 less-than-lethal Standard Operating

1 Procedures, SOPs, are in the process of
2 being amended to include references to
3 the sanctity of life and rights of
4 peaceful protesters consistent with
5 overall departmental policy. The Law
6 Department has also been included in
7 reviewing these amendments. All of the
8 Department's Use of Force policies were
9 reviewed against the Police Executive
10 Research Forum Report, which is the 30
11 guiding principles on use of force. And
12 the policy and PPD's mission have been
13 drafted by the executive team and are
14 being staffed to all commanders for
15 additional comments or edits before
16 final consideration.

17 As you may have recently heard
18 in the media, the Department has begun
19 the process of implementing a
20 co-responder, alternate response model
21 with the Department of Behavioral Health
22 and Intellectual Disabilities by
23 embedding a mental health clinician into
24 police radio. That first step began on
25 September 28, 2020. With respect to

1 recruitment, the PPD has started the
2 process, the hiring process in actively
3 recruiting for a diversity and inclusion
4 officer focused on equity and
5 organizational excellence. The hiring
6 process is expected to be completed in
7 November. And continuing on with
8 organizational excellence, the PPD will
9 train its personnel, both officers and
10 non-sworn, in implicit bias with
11 Dr. Marks starting the training on
12 October 28th and we hope to conclude the
13 entire training in the fall of 2021.

14 I am also very proud that the
15 PPD will be an early adopter of the
16 Active Bystander for Law Enforcement
17 program, ABLE, and will train all sworn
18 personnel how to actively and
19 effectively intervene when other
20 officers are acting inappropriately.
21 Phase 1 of this project implementation
22 has PPD training four Academy
23 instructors through the national ABLE
24 Train-the-trainer session which began
25 last month in September, and additional

1 personnel will be trained in November
2 2020, to support the additional phases
3 of the larger project implementation and
4 kick off in early January 2021.

5 With respect to technical
6 assistance requests, we have initiated
7 the following: The PPD has requested
8 and actually been approved for no-cost
9 technical assistance from the Bureau of
10 Justice Assistance National Training and
11 Technical Assistance Center to conduct a
12 comprehensive review of the current
13 officer safety and wellness efforts
14 focused on identifying current assets
15 within PPD as well as gaps to support
16 sworn personnel and to extend the
17 program to non-sworn personnel. This
18 work is expected to begin in November of
19 this year.

20 As it relates to recruitment
21 and retention efforts, the PPD has
22 requested and received approval for
23 no-cost technical assistance from the
24 International Association of Chief of
25 Police, Collaborative Reform Technical

1 Assistance Center or CRI-TAC to conduct
2 a comprehensive review of our
3 recruitment and retention efforts
4 focused on creating a roadmap for
5 increased success in attracting diverse
6 individuals amongst our rank and file.
7 This work will begin in November of
8 2020.

9 As it relates to our
10 technology, we have partnered with the
11 NYU Policing Project, who has begun a
12 review of all of our electronic
13 surveillance policy as it relates to all
14 of the technology and software that we
15 have. They've begun a review of PPD
16 surveillance and information-gathering
17 technology policies and they're looking
18 at it from a civil rights, civil
19 liberties perspective. This review will
20 complement any current policy work as
21 well as be incorporated into our future
22 efforts and we hope for that review to
23 be completed by the end of this fall or
24 by fall 2020.

25 In addition to what the

1 Policing Project is doing, we've asked
2 PAC, the Quattrone Center for the Fair
3 Administration of Justice and a
4 prominent civil rights attorney to
5 review our policy as it relates to our
6 facial recognition policy. This is
7 important because again, when it comes
8 to electronic surveillance we know that
9 the technology that we use, whether
10 intended or unintended, can have more
11 harmful consequences than we initially
12 set out in staff or in utilizing these
13 technologies, and we want to make sure
14 that we're not ruling out technology in
15 front of policy, but that it's done
16 through an equity lens as well. This
17 work is ongoing. And once concluded,
18 agreed-upon recommendations will be
19 incorporated into our policy.

20 In addition to our work with
21 PAC, we're also making sure that we work
22 very closely with the GVI initiative and
23 the recommendations that they put forth
24 in making sure that we utilize our seat
25 at the table on the Advisory Commission

1 or the Advisory Committee to make sure
2 again that all of our strategies are
3 looked at through an equity lens.

4 So all of that to say, I know
5 I'm leaving out a lot of things as well
6 in addition to a civilianization study
7 that we're looking at, and then we're
8 also working with the City to do a
9 process study to really take a deep dive
10 into types of calls that we're
11 responding to, to determine whether or
12 not the Police Department is being
13 called or 911 is being called over being
14 tasked for responsibilities that should
15 be dealt out elsewhere.

16 There's a lot of things going
17 on and they've been going on well before
18 the end of May, early June, so a lot of
19 great changes that already occurred in
20 the PD and also will be occurring in the
21 very near future. It's been a team
22 effort with an extraordinary amount of
23 time and effort to accomplish these
24 goals in such a short period of time.

25 And I know I spoke of a lot of

1 things, but I would be happy and my team
2 would be happy to answer any additional
3 questions that the Committee may have in
4 regard to these things or our additional
5 plans in the future. But again, thank
6 you for the opportunity to be heard and
7 I look forward to being able to assist
8 in a collaborative way moving forward.

9 COUNCILMAN JONES: Thank you,
10 Commissioner.

11 Before I go to Member Gym and
12 before that Member Gauthier, just one
13 question. Take us back to those days.
14 And my question would be, we dealt with
15 protesters before in the history of this
16 City, whether we're talking about most
17 recently occupied and other protesters.
18 How was the death of George Floyd and
19 the protests that occurred after that,
20 how did that kind of contribute to the
21 way we responded on those two occasions
22 at 52nd Street and on I-76? Was there
23 anything that kind of made us operate
24 and respond differently?

25 COMMISSIONER OUTLAW: Yes. So

1 I would say that the protests and
2 demonstrations and subsequently some of
3 the looting and the rioting that we've
4 seen and the level of violence was a lot
5 different than any of us have seen
6 before, whether here in Philadelphia or
7 in my previous assignments and my
8 previous roles in other parts of the
9 country.

10 I would say because of that
11 even though we saw even up to the night,
12 I think it was Atlanta that was
13 experiencing what they were
14 experiencing, the tone and tenor wasn't
15 set early on, the level of planning that
16 went into it. Meaning, the number of
17 resources and personnel that we had
18 available at the onset wasn't bolstered
19 until later on, until subsequent days.
20 And it was because I don't believe that
21 we were expecting, and I say we in the
22 royal sense, we were expecting in the
23 City the level of I would say
24 demonstrations that we experienced,
25 whether it was the frequency, whether it

1 was the variance in locations, they were
2 occurring simultaneously throughout the
3 City and then also the level of violence
4 that we were seeing later on in
5 subsequent days.

6 So I would say on the front end
7 the level of planning that we know now
8 should have taken place prior to this
9 did not happen, because historically
10 these types of demonstrations just have
11 not occurred, one, again with the level
12 of violence that we were seeing later,
13 with the resources being depleted and
14 diluted throughout the City because
15 there wasn't one centralized, focused
16 location in the City. And then I will
17 also say folks just have adapted over
18 time and police are now having to adapt
19 with the tactics that we're seeing.

20 And again, we're not seeing
21 places centralized, demonstrations
22 centralized in one place. Downtown, for
23 example, there isn't one hotspot. This
24 stuff can pop up all over the City. And
25 now moving forward, we know that

1 planning-wise we have to ensure that we
2 have resources not only available to
3 address what we think might be happening
4 as far as a planned event, but we also
5 have to have resources available
6 throughout the City in order to address
7 anything that might happen as it relates
8 to that. I can give you more insight on
9 that, but the long and the short of it,
10 I think that's the answer to that
11 question.

12 COUNCILMAN JONES: So if I read
13 through what you just said, there was no
14 playbook that you could draw from that
15 could adequately deal with the level of
16 sequence, not necessarily what happened
17 on I-76 or at 52nd Street, but there was
18 no general playbook that you could draw
19 from? And we in these hearings thanks
20 to Member Gym are going to kind of edit
21 our existing playbook going forward.

22 COMMISSIONER OUTLAW: Yes. And
23 I would say to be very clear, we work
24 off of intelligence. When we plan, we
25 work from intelligence. We work off of

1 what's happened in the past and there
2 was no specific intelligence, specific
3 to Philadelphia I should say. We all
4 knew what was happening in other parts
5 of the country. But even the level of
6 unrest that we saw here in Philadelphia
7 from the folks, you know, I only had
8 been here a few months at the time. But
9 still no one that I had spoken to
10 historically had dealt with the level or
11 the types of and the variances of civil
12 unrest that were occurring that began on
13 the 31st and the subsequent days.

14 So again, no, there is no
15 playbook. There's no reference.
16 However, I will say generally speaking
17 when you -- we can plan for large
18 numbers. We can plan to set tone in
19 advance. We can plan to have adequate
20 resources or what we deem adequate
21 resources. We cancel days off. We can
22 extend shifts. We can lean forward with
23 mutual aid requests to give us sheer
24 numbers. But again, there was no
25 intelligence at that time to let us know

1 basically what we would experience the
2 31st on.

3 COUNCILMAN JONES: Thank you.
4 Member Gauthier.

5 COUNCILWOMAN GAUTHIER: (Muted).

6 COUNCILMAN JONES: You're on
7 mute.

8 COUNCILWOMAN GAUTHIER: Thank
9 you, Mr. Chair.

10 Good morning, Commissioner
11 Outlaw.

12 COMMISSIONER OUTLAW: Good
13 morning.

14 COUNCILWOMAN GAUTHIER: I would
15 like to follow up on Councilman Jones'
16 line of questioning. Approximately, 93
17 percent of both Cobbs Creek and
18 Haddington residents are Black and 52nd
19 Street has historically served as a
20 vibrant community full of Black
21 political leaders and community
22 organizers and presently remains a
23 critical historic center of Black
24 heritage.

25 What will the Administration do

1 to ensure that such disproportionate
2 force does not continue to be deployed
3 on overwhelmingly Black neighborhoods in
4 the future?

5 COMMISSIONER OUTLAW: Thank you
6 for your question. I want to be clear
7 in that disproportional uses of force is
8 not appropriate under any circumstance
9 regardless of the neighborhood or any
10 community. All force has to be
11 necessary and reasonable and
12 proportionate.

13 With that said, I just want to
14 quote directly from the Directive 10.2,
15 which is our Use of Modified or Limited
16 Force. Our directive very clearly
17 states that the primary duty of all
18 police officers is to preserve human
19 life. Only the amount of force
20 necessary to protect life or to effect
21 an arrest should be used by an officer.
22 Excessive force will not be tolerated.
23 Officers should exercise all safe and
24 reasonable means of control and
25 containment, using only the minimal

1 amount of force necessary to overcome
2 resistance. The application of force by
3 a police officer should be guided by
4 principles found in the following, that
5 we have a use of force decision chart
6 and the provisions of Chapter 5 of the
7 Pennsylvania Crimes Code, state and
8 federal court decisions and other
9 statutory provisions.

10 I share that because it is my
11 expectation regardless of community that
12 we follow our directives. Again,
13 understanding that there are --
14 specifically in these incidences, there
15 were neighborhoods that were impacted
16 more than others. But I want to be very
17 clear in that disproportionate use of
18 force is not to be tolerated anywhere.
19 So moving forward, very clear
20 expectations and communications of our
21 directives and guidelines which has been
22 done and will continue to be done in
23 ensuring that proper oversight in
24 systems of accountability are being
25 used.

1 COUNCILWOMAN GAUTHIER: I would
2 like to hear the Managing Director weigh
3 in on that as well.

4 MR. ALEXANDER: Good morning,
5 Councilwoman. As the Commissioner said,
6 we agree. From the Managing Director's
7 Office and from the Administration's
8 point of view, we wholeheartedly agree
9 with the Commissioner on that particular
10 issue as it relates to use of force.

11 COUNCILWOMAN GAUTHIER: Thank
12 you for that response.

13 I think what -- and I know you
14 all have After Action Reviews going on
15 and that that will inform a lot of what
16 happens in the future. I think what I'm
17 also asking for beyond hearing a sort of
18 policy stated that it's supposed to be
19 one-size-fits-all for the City, I think
20 I'm looking for an acknowledgment, a
21 place, you know, West Philly has a
22 history with the Philadelphia Police
23 Department. It is a terrible and harsh
24 history.

25 It is a history rooted in

1 racism. And so, beyond sort of hearing
2 your policy stated, I would love to see
3 the Police Department interact as if
4 they understand the history of these
5 neighborhoods. And I think we need that
6 more than we need a blanket policy that
7 hasn't even been applied in a routine
8 way. And so, that's what I'm looking
9 for as we come out of this.

10 COMMISSIONER OUTLAW: And I
11 think that's fair. I think that's a
12 very fair statement that you make. I
13 give you and I recite the policy because
14 I want to be very clear on what
15 expectations are. So while it may be
16 blanket, it applies city-wide. With
17 that said, the reason why I took the
18 time to kind of list out some of the
19 other things that are under way, there
20 are a lot of efforts under way that
21 contribute to what you're talking about,
22 that lead to this acknowledgement.

23 And I think there are a lot of
24 assumptions made, but training is a huge
25 piece of this. So when we talk about

1 rolling out implicit bias, when we talk
2 about looking at our processes for who
3 we hire, who we recruit, who we train,
4 who we market to, how we retain folks,
5 hiring a diversity and inclusion officer
6 ensuring that we do everything through
7 an equity lens strategically, right,
8 before we roll out any plan, that's what
9 we're talking about here, is ensuring
10 that those folks that we hire when
11 they're in the Academy, right, they know
12 the neighborhoods, they know the history
13 of the neighborhoods.

14 It's ensuring that who we
15 promote, who we put in positions of
16 influence, our field training officers,
17 that as they're out in these
18 neighborhoods, they are also reinforcing
19 and teaching the history of these
20 neighborhoods because a lot of the, you
21 know, some stuff you just can't put in a
22 policy, right. And so, that's why a lot
23 of these efforts are lending towards the
24 things that you're talking about. So
25 policy is very important because it's

1 about our guiding documents, but all of
2 our other efforts are going to lend
3 towards I think not only the empathy and
4 understanding, but allowing folks to
5 step back and say, if I do this in this
6 particular neighborhood, here are some
7 of the potential implications or impacts
8 that it may have in the long-term.

9 COUNCILWOMAN GAUTHIER: Thank
10 you. My second question: Why was the
11 response to vigilantes in Fishtown and
12 surrounding Marconi Plaza in South
13 Philadelphia handled in the way that it
14 was? According to Philadelphia Police
15 Department directives and policy, what
16 is an appropriate response to
17 individuals wielding baseball bats and
18 other weaponry in residential
19 neighborhoods?

20 COMMISSIONER OUTLAW: Well,
21 thank you for your question around
22 Fishtown, and I think that also goes
23 back to the question that you just
24 asked, right, understanding that there's
25 been a history in these particular

1 neighborhoods between residents and some
2 of the actions in the past. I do want
3 to acknowledge that again our impacts --
4 the impact felt from our response
5 whether some people agree or disagree,
6 it had an impact, right. And I want to
7 acknowledge that. But I also know that
8 there was a lot of misinformation that
9 was put out there regarding our
10 response.

11 And I want to be clear before I
12 turn it over to Deputy Commissioner Nash
13 to give an update on the arrests that
14 were made and the cases that were open,
15 I want to be clear in that merely
16 carrying a bat is not a crime. There
17 has to be an action or threats or
18 something along with that in order for
19 that to be a crime.

20 There has to be brandishing or
21 threatening behavior, and it's the same
22 thing, and we've had a lot of
23 conversations -- Councilmember Brooks, I
24 see your facial expression. We've had a
25 lot of conversations with the DA around

1 this as well. It's important to
2 remember that we focus on behaviors and
3 not people or ideologies. I want to be
4 clear on that.

5 I think we needed to do better
6 around education, around warrantless
7 arrests. In going into the elections, I
8 think we need to do the same thing.

9 What happens when crimes occur and it's
10 not in our presence, what the process is
11 around that.

12 But, Commissioner Nash, do you
13 want to chime in and just let folks know
14 what did happen around that. And I will
15 say specifically and they're not on this
16 call so I don't want to put words into
17 their mouths, the leadership at that
18 district and in a community meeting made
19 very clear that in hindsight they wish
20 they would have handled that situation
21 differently in how they utilized the
22 officers deployed there and the
23 interactions, understanding the impact
24 it had on the community.

25 Commissioner Nash, you want to

1 jump in on this?

2 DEPUTY COMMISSIONER NASH: Yes.

3 Good morning, Council. Good morning,
4 Commissioner. As noted by the
5 Commissioner, we are responding to a
6 situation where there are actions that
7 we can take based on events occurring in
8 our presence and there are actions that
9 we have to do an investigation and
10 conduct an investigation and obtain a
11 warrant for an arrest.

12 And relating to the incident in
13 Fishtown, the incidents in Fishtown, we
14 were alerted to an assault that occurred
15 and it involved an individual who
16 identified themselves as a reporter.
17 And when that incident was investigated,
18 we did receive a tip. We made an arrest
19 of an individual. The incident occurred
20 on the 1st of June. The warrant was
21 obtained on the 24th of June and the
22 individual was arrested for the assault
23 on the individual plus threats and
24 simple assault against his girlfriend.

25 As relative to the events that

1 occurred on that day as well, there was
2 another claim of an assault that
3 occurred. That individual was -- it was
4 investigated. The report was
5 investigated and we were unable to --
6 that individual was unable to make an
7 identification. In fact, he identified
8 somebody that was put into a photo
9 array, so we were not able to identify
10 somebody for that assault.

11 And all of the information that
12 came forward to the Police Department
13 that was reported was thoroughly
14 investigated by the Detective divisions.
15 To this day, one individual that was
16 arrested, he is pending a preliminary
17 hearing so that is a case that is in
18 progress and really not much more we can
19 talk about that. There were other
20 allegations that were made in the media
21 about individuals that were responsible
22 for crimes. We investigated everything
23 thoroughly as we could and we're not
24 able to make any additional arrests.

25 So as the Commissioner noted,

1 just the fact that somebody is wielding
2 a bat does not mean that they are
3 subject to an arrest at the time and we
4 investigated everything that we could,
5 so that's where we stand. And while the
6 response may not have made everybody
7 happy, I think it's important to take
8 the whole incident in perspective as to
9 what was going on.

10 It was early in the protest
11 days and the police objective was really
12 to maintain peace as best as possible.
13 We tried to maintain and I believe we
14 did maintain an impartiality as best as
15 possible. We were trying to de-escalate
16 everything possibly. And so, we weren't
17 out there creating more problems by
18 arresting people left and right. We
19 were also outnumbered and I think that's
20 important to keep in mind.

21 So I think the actions as we
22 look back on them, maybe they weren't
23 all the best actions that could have
24 been taken. There are mistakes that
25 were made throughout this process, but

1 we did everything with the idea of
2 fairness and impartiality and I think
3 we'll always continue to try and do
4 better. Thank you.

5 COUNCILWOMAN GAUTHIER: But
6 with all due respect, I saw videos from
7 both of those incidents. The people
8 wielding the bats were plenty
9 aggressive. They were plenty
10 aggressive. They were plenty
11 threatening. And not only that, the
12 police response was more, there was a
13 sense -- they were slapping high fives,
14 right. There was a sense that these
15 people were friends.

16 And so, I would argue going
17 back to sort of our previous line of
18 discussion, that the response in
19 Fishtown and South Philly is as based on
20 the history of the Police Department
21 with the people in those neighborhoods
22 as the response on 52nd was based on the
23 history of the Police Department and the
24 relationship of the Police Department to
25 the people who live in West Philly. And

1 this is why I say that I understand that
2 we have policies, but it's not enough to
3 have policies.

4 We need to have real sort of
5 restoration of relationships and a real
6 understanding of the history of these
7 neighborhoods' relationships to the
8 police. If the police had felt as
9 familiar with the people in my District
10 as they do to the people in Fishtown and
11 South Philly, if they had felt like
12 these were their pals, I argue that the
13 response would have been different.
14 Thank you.

15 COUNCILMAN JONES: Thank you,
16 Member Gauthier --

17 COMMISSIONER OUTLAW: You're
18 right. I just want to say you're right.
19 I don't have anything else to say on
20 that. You're right. You're absolutely
21 right.

22 COUNCILMAN GREEN:
23 Councilmember Jones, I have a point of
24 information.

25 COUNCILMAN JONES: Point of

1 information recognized.

2 COUNCILMAN GREEN: Officer
3 Nash, if you can restate what was the
4 charges that the person was arrested for
5 and when that occurred again.

6 DEPUTY COMMISSIONER NASH:
7 Sure. The original incident that was
8 reported by the media, it was for an
9 incident that occurred on June 1st at
10 9 o'clock. A 35-year-old White male
11 made a report that he was assaulted in
12 the 400 block of East Thompson Street by
13 a group of males. The second
14 complainant that came forward was his
15 girlfriend. The complainants were
16 interviewed early in June and we did
17 receive a tip that identified an
18 individual who was arrested. The
19 individual was identified through a
20 photo array that both of the victims,
21 the complainants, were able to identify
22 him.

23 The warrant was obtained on
24 June 24th and he was arrested on June
25 25th from his address. The bail was

1 initially set at \$75,000. He did post
2 the bail. And the preliminary hearing,
3 there have been a number of delays
4 because of delays with the COVID -- with
5 the court process, so he is still
6 subject to a preliminary hearing that's
7 scheduled for later this month.

8 COUNCILMAN GREEN: And what was
9 the charge?

10 DEPUTY COMMISSIONER NASH: The
11 charge for the male that was beaten
12 included aggravated assault, simple
13 assault, recklessly endangering related
14 offenses. The charge on the female
15 included simple assault and threats.
16 I'll pull up the -- in fact, it involved
17 simple assault, recklessly endangering
18 another person and criminal conspiracy.
19 That was the charge that was lodged for
20 the girlfriend. The individual that was
21 assaulted, the charges included
22 aggravate assault, criminal conspiracy,
23 simple assault and recklessly
24 endangering another person.

25 COUNCILMAN GREEN: And there

1 were no other charges or any other
2 individuals charges with any offenses
3 from that incident?

4 DEPUTY COMMISSIONER NASH: No.
5 There was supposed to have been a second
6 individual that was involved. We have
7 not been able to identify that
8 individual. So far that investigation
9 remains active and open. We'll continue
10 to investigate and if we have any
11 information to lead to the identity of
12 the second individual, we would pursue
13 that with the charges with the District
14 Attorney's Office by a warrant.

15 COUNCILMAN GREEN: Thank you,
16 Mr. Chair.

17 COUNCILMAN JONES: Thank you,
18 Member Green.

19 I believe Member Brooks is
20 next; is that right, Ms. Williams?

21 THE CLERK: I believe
22 Councilwoman Gym is next.

23 COUNCILMAN JONES: I yield to
24 your eyesight.

25 Member Gym.

1 COUNCILWOMAN GYM: Thank you
2 very much, Mr. Chairman.

3 And I do just want to thank
4 Councilmember Gauthier for her very
5 clear call about how different things
6 felt.

7 And if I could, we spent a lot
8 of the summer walking through streets
9 meeting with people, talking to them
10 about experiences. I think part of the
11 concern that we had around the way that
12 things were happening, whether they were
13 official or not, was more than the
14 feeling that there was just a high
15 fiving or a friendliness and a
16 chumminess that went out to it, but some
17 kind of strange conveyance about a sense
18 of being deputized to some extent, that
19 they were carrying out what was indeed
20 like a public service effort by
21 surrounding statues or walking through
22 streets as a kind of almost like a
23 force -- I don't know how to describe it
24 other than I saw it certainly as a
25 vigilante group. And so, I think that

1 there's something about that.

2 And then in the meantime, I
3 recall so clearly walking in West
4 Philadelphia as we were talking to folks
5 and on 51st Street where -- on 51st and
6 Chestnut nearby where a number of tear
7 gas canisters had went off, and a
8 gentleman who actually felt very
9 strongly about police presence, he had
10 been there for over 40 years. The thing
11 that he said was that he called out as
12 police officers were walking by. It
13 wasn't hyped up at that time. But he
14 was angry that nobody acknowledged him,
15 greeted him, asked him if he was okay.

16 And he told us that he yelled
17 out and said, You're not even going to
18 say hello, you're not going to say my
19 name, I've been here for 40 years. And
20 he said he doesn't normally react in
21 that way because he's used to living in
22 West Philadelphia. But I hope that
23 elements like that really come out in
24 the differences and experiences. And I
25 think as Councilmember Gauthier said,

1 challenges us to think beyond just
2 blanket policies.

3 You said it very clearly,
4 Commissioner Outlaw, in fact practice is
5 policy. The way we practice something
6 is the policy itself, because otherwise
7 there is no other way to create a
8 policy. It can just exist on the books
9 but if no one practices it or if they
10 practice it in opposition to the policy,
11 the practice actually becomes the policy
12 itself. My questions are a couple of
13 them: One, one of the areas that I
14 think it got gray around, and this is in
15 part due to the buildup that we're going
16 to be hearing later, is this question of
17 when does something become a First
18 Amendment freedom and when does it
19 either not qualify or maybe a First
20 Amendment freedom initially exercised
21 evolves to something different?

22 So I guess I would ask whether
23 there's been training by the Police
24 Department to strengthen its
25 understanding in identifying First

1 Amendment activities and its
2 distinctions?

3 COMMISSIONER OUTLAW: Yes. So
4 thank you for that question. And I will
5 say this right off the bat, the moment
6 something becomes violent or an incident
7 becomes violent, it's no longer First
8 Amendment-protected activity. I want to
9 be clear there.

10 COUNCILWOMAN GYM: I'm sorry.
11 I don't want to interrupt, but how would
12 you qualify language, threats or
13 anything like that? How does that play
14 in?

15 COMMISSIONER OUTLAW: I just
16 want to go back. So overall when we
17 talk about these incidences, we had 12
18 police vehicles that were set on fire or
19 otherwise completely destroyed. 72
20 police vehicles that were vandalized and
21 had to be taken off the street. We had
22 a total of 104 officers that were
23 assaulted and injured. And we know that
24 officers and commanders were subjected
25 to acid, urine, bottles, bricks, rocks,

1 bricks, large scale commercial-grade
2 fireworks. They were either punched,
3 kicked, struck with sticks. We had an
4 officer run over by a vehicle and nearly
5 died, while we had another commander
6 that was hit with a brick in the leg and
7 required emergency surgery, also another
8 commander experienced a broken nose
9 while out there. And then we had
10 hundreds of stores that were looted and
11 destroyed throughout the City. That is
12 not peaceful First Amendment activity to
13 be very clear.

14 But we also know there are gray
15 areas. And training -- again, moving
16 forward we have to be very clear. And
17 when a scene like that or the results
18 that I just described go from chaotic
19 and transitions to something where it's
20 no longer chaotic, we can slow things
21 down, I think that's a training area
22 that's been identified there.

23 Again, our processes -- and I
24 hope to say, you know, and I think since
25 these events have occurred we've all

1 seen, we've been dealing with a very
2 high frequency of protesting
3 demonstrations or civil unrest even as
4 recently as Breonna Taylor. And then
5 the following week, we saw thousands and
6 thousands of people out there and we had
7 intelligence where people had intentions
8 to try to repeat what had been done
9 before but it didn't happen.

10 So I think it's safe to say
11 that we've implemented a lot of lessons
12 learned around what happened with those
13 two incidents, whether it was the
14 incident in West Philly or up on the
15 freeway to ensure that our response
16 adapts with the changing times, but
17 making sure that we can readily identify
18 when those situations transition from
19 chaotic and violent to that First
20 Amendment peaceful or passive-resistant.

21 Make very clear, again that
22 uses of force had to be reported over
23 the air so we can go back and audit and
24 make sure that use of force reports were
25 done, but there are also radio clips

1 that were being pushed out. And this
2 wasn't just during these incidences.
3 This is something that the Philadelphia
4 Police Department had been doing long
5 before. And I think the Department has
6 had a reputation of handling large-scale
7 events very well and then use the
8 subject-matter experts.

9 But again, training is key.
10 Constant radio clips reminding folks of
11 the Constitution and/or what First
12 Amendment activity is and then ensuring
13 that there is very clear communication.
14 I will also say something that we
15 reincorporated moving forward, making
16 sure that there was clear communication
17 internally, to have a briefing before
18 these events to go over commanders'
19 intent and what's expected and reminders
20 of First Amendment activity looks like
21 before they roll out and deploy in the
22 streets and then also realtime debriefs
23 once everything concludes. So
24 reinforcing training and law was a huge
25 component of that.

1 COUNCILWOMAN GYM: One of the
2 things I think that stood out from the
3 testimony a couple weeks ago, you
4 certainly heard when people were
5 describing things, kind of the noise and
6 chaos of the events that were
7 surrounding them. But I think what was
8 notable in a large part was that many of
9 the witnesses said that they never heard
10 from police officers before use of force
11 was deployed.

12 And so, has there been
13 discussion or changes in policy that
14 allow police officers to be able to
15 communicate to the public when something
16 has clearly shifted or when this is no
17 longer considered a demonstration, any
18 individual who continues to pursue, you
19 know, here are ways for people to depart
20 or voluntarily leave a situation or
21 recognize that not everybody who is in a
22 large crowd is necessarily an enemy here
23 and many of them are actually looking
24 for the police to create a sense of
25 order in the area and not to add to the

1 chaos?

2 COMMISSIONER OUTLAW: I think
3 that's a very good point to mention. So
4 when we give dispersement orders,
5 there's a few factors that are required.
6 One, they have to be heard. And in
7 looking back and speaking with some of
8 our folks, we need to ensure that we
9 have the equipment so that folks can
10 actually hear the dispersement orders or
11 the warnings that's been given.

12 Generally that's what happens
13 when we declare a situation in unlawful
14 assembly. The warning is given. It's
15 very standard language and it's repeated
16 a minimum of three times and it's given
17 time in between each warning so that
18 people have not only the opportunity to
19 leave, but they know where to go, how to
20 leave and what happens if they don't.
21 So we recognized as my expectations,
22 again as my expected warnings were
23 given, it's possible that everyone
24 didn't hear it.

25 Also, looking back when we talk

1 about lessons learned, moving forward
2 through the City, through OEM, we
3 utilized a function to push out messages
4 to remind folks or, one, to let folks
5 know that, hey, there's a curfew in
6 place, one, there's a curfew, it's in
7 place and here's the time, and if you're
8 not inside by this time, here's what
9 could happen.

10 Moving forward, I would like to
11 use the same technology to let folks
12 know in realtime because a lot of the
13 stuff you don't know it's going to
14 happen or when it's going to happen.
15 But if we're in a specific neighborhood,
16 I'd like to use that same technology to
17 push out messaging to potential
18 communities or residents that can be
19 impacted by any police action so they
20 have some type of heads-up, you know,
21 knowing what's going on, one, because
22 everybody's not on social media and
23 everybody's not watching the news, but
24 we do know that most folks are carrying
25 cell phones. So again, that's a lesson

1 learned.

2 COUNCILWOMAN GYM: I definitely
3 understand that. I'll just say I think
4 what we saw around the country was that
5 curfews were tough, like they were not
6 abided by in a large part. They amped
7 up kind of aggressive response in some
8 places, made it confusing about whether
9 people wanted to stay and, for example,
10 if somebody wanted to be present and
11 protect a business that they
12 particularly owned, they became
13 complicated areas. But I'm sure we'll
14 continue to have this discussion.

15 My last question is we've
16 discussed this before and appreciate the
17 fact that the Department will make a
18 statement later when we go through the
19 bill, but due to the dangers and
20 sometimes lethal nature of tear gas,
21 rubber bullets and pepper spray and that
22 the PPD's own directive says that
23 there's no justification for the use of
24 pepper spray against nonviolent
25 protesters, can you clarify again for

1 the record what the Department's current
2 policy is with regard to use of force,
3 and specifically the use of pepper spray
4 and tear gas on nonviolent protesters?

5 COMMISSIONER OUTLAW: Yeah.

6 Our directive is that those munitions
7 that you mentioned shall not be used
8 against those who are peacefully
9 demonstrating or passively resisting.

10 And passive resistance would be someone
11 who chooses not to follow an order, but
12 they're not doing -- it's verbal, right.
13 They're not physically confronting, they
14 might be sitting there and saying, no, I
15 won't leave. But again, there's no
16 violence used. So the directive is that
17 a munition shall not be used against
18 those folks.

19 COUNCILWOMAN GYM: Thank you
20 very much, Mr. Chairman, and I'll wait
21 for the next round.

22 COUNCILMAN JONES: Thank you,
23 Member Gym.

24 Chair recognizes Member Brooks.

25 COUNCILWOMAN BROOKS: My

1 question is, can you specifically talk
2 about the current disciplinary actions
3 that have occurred as a result of the
4 May and June incidents across the police
5 force and also within the City
6 Administration around the actions on
7 52nd Street and on 76?

8 COMMISSIONER OUTLAW: So I
9 can't go into specifics about
10 disciplinary actions yet because a lot
11 of investigations are still ongoing. I
12 know that they there are approximately
13 50 use-of-force investigations that are
14 under way between the West Philly
15 incidences and the incidences up on the
16 freeway. Those use-of-force
17 investigations which are also
18 administrative investigations can lead
19 to further IA investigations if it's
20 been deemed that force was out of
21 compliance or not in alignment with our
22 policy or our procedures.

23 There were seven that we know
24 of, separate direct complaints made
25 against police that were made directly

1 with IA. So there's a lot of ongoing
2 investigations right now. Again,
3 they're all fluid. We could get more,
4 depending on if more people come
5 forward. Obviously, there could be
6 additional investigations as a result of
7 the After Action Reviews as well and
8 there were two highly publicized
9 disciplinary actions that we know that
10 took place, and we don't know if there
11 will be more.

12 COUNCILWOMAN BROOKS: Thank
13 you. I have one other question. I'm
14 pivoting now to the budget. How does
15 the PPD acquire munitions and who
16 approves that spending and how much does
17 the PPD spend per year on less-lethal
18 munitions?

19 COMMISSIONER OUTLAW: Thank
20 you. I'll turn your question over to
21 Deputy Commissioner Coulter to give you
22 an answer.

23 DEPUTY COMMISSIONER COULTER:
24 Good morning -- I got to check the
25 clock. It's still morning. Good

1 morning, Councilwoman. With nonlethal
2 munitions, in 2020 we spent about \$3500.
3 In the last five years, we spent \$65,000
4 in nonlethal. Most of that was a
5 one-time purchase in 2017 because most
6 of our nonlethal was expired so it had
7 to be replaced because they have
8 expiration dates on it. So out of all
9 of our munitions, in five years we spent
10 \$65,000 on nonlethal.

11 The process for acquiring it is
12 the commanding officer of the unit
13 submits a memo through their chain of
14 command. If there's anything that is
15 questionable or something that needs to
16 be discussed, the executive team, our
17 members will discuss it and then make a
18 determination regarding approval, so it
19 goes through the chain. Normally in
20 these instances, it's the commanding
21 officer of SWAT who is making the
22 request because they house the inventory
23 on the nonlethal. And it goes through
24 their bosses. They check to make sure
25 it's stuff that comports with our policy

1 and our memos.

2 Just to clear it up, I'm sure
3 Deputy Commissioner Singleton can
4 elaborate, nonlethal munitions are used
5 in a lot more instances other than the
6 types of situations that we discussed
7 here today. Some of them are used on
8 barricades and different instances where
9 there's a necessary part of SWAT
10 operations. In addition, some of them
11 are used in our training components to
12 make sure people are prepared and have
13 the ability to use them so they're not
14 all used in actual situations. Some of
15 them are used in training scenarios.

16 COUNCILWOMAN BROOKS: Thank
17 you.

18 DEPUTY COMMISSIONER COULTER:
19 You're welcome.

20 COUNCILMAN JONES: Is that it,
21 Member Brooks?

22 COUNCILWOMAN BROOKS: Yes. For
23 my line of questioning, yes.

24 COUNCILMAN JONES: Thank you so
25 very much.

1 Member Green, I believe you had
2 some questions.

3 COUNCILMAN GREEN: Thank you,
4 Mr. Chair.

5 Commissioner Outlaw, thank you
6 for being here for this hearing. I have
7 just a few questions I want to ask. My
8 first question deals with the impact of
9 the pandemic. From your perspective,
10 what impact did the pandemic have on
11 place operations that led to these two
12 incidents?

13 COMMISSIONER OUTLAW: Well, I
14 would say again once the incidences
15 occurred we really had to say, all
16 right, pandemic aside, we have to do
17 what we would usually do and then try to
18 implement whatever safety guidelines we
19 could considering the pandemic. With
20 that said, the pandemic has really
21 forced us to think how we respond to
22 things differently from day 1, whether
23 it's responses to calls for service or
24 how we make arrests or how we interact
25 with large crowds of people. Early on

1 we didn't have a lot of PPE to allow us
2 to get out and engage so we had to be
3 very careful about how we chose to
4 engage, who we engaged and when.

5 And then also, again we weren't
6 seeing the numbers of people on the
7 streets that we had been seeing in
8 previous times. So even though we know
9 our shootings in homicides were up, our
10 (inaudible) crimes and burglaries and
11 other things have gone down so our need
12 to staff at higher levels for certain
13 things, again it just really wasn't a
14 requirement at the time because there
15 weren't a lot of people on the street.
16 And of course, I think that lent to a
17 lot of the inside or what they thought
18 would happen with the upcoming
19 demonstrations.

20 COUNCILMAN GREEN: Also, you
21 talked about social media and PPD using
22 social media intel just in general.
23 What type of perspective did you gather
24 from your surveillance of social media
25 leading up to both 676 and 52d Street?

1 COMMISSIONER OUTLAW: There
2 wasn't a lot of anything. We knew that
3 that day or that Saturday we would be
4 planning for a demonstration in response
5 to the tragedy around Mr. Floyd. We
6 knew it would be centralized, downtown
7 by City Hall and that was it. There was
8 no intelligence indicating that there
9 would be looting or rioting or any level
10 of violence associated with that. And
11 furthermore, there was nothing
12 indicating even a peaceful demonstration
13 or a planned demonstration in other
14 parts of the City that we were aware of.

15 So again, our efforts were
16 focused downtown. But when I say again
17 going back to lessons learned, my belief
18 is that we could have had more officers
19 and more resources available based on
20 the numbers that we were expecting to
21 show up, whether it was peaceful or not.
22 Because again, we know initially that
23 that demonstration was peaceful and then
24 once it got dark and it disbanded,
25 that's when everything happened. So

1 again, there was hardly any
2 intelligence, if any at all, as it
3 related specifically to Philadelphia and
4 what we could plan for in subsequent
5 days.

6 COUNCILMAN GREEN: Earlier in
7 your testimony, you talked about use of
8 force reports and you talked about those
9 being completed. Can you give us some
10 perspective on the oversight in making
11 sure those use of force reports are
12 being done on a regular basis?

13 COMMISSIONER OUTLAW: Sure. So
14 Directive 10.2 lays out very clearly
15 what our use of force notification
16 procedure is. It's pretty lengthy. But
17 our IA or our Internal Affairs Unit
18 remains the unit responsible to ensure
19 that our use of force reports are being
20 completed as necessary and per the
21 directive that I just mentioned.

22 Use of force in any situation,
23 large or small, we know has to be
24 necessary, reasonable and proportional.
25 And these are the things that IA are

1 reviewing in these reports. But we're
2 not just looking at the officers. We're
3 also looking at the action of both
4 supervisors and officers that use force.
5 So again, the directive lays out very
6 clear what the process is.

7 One thing though again early on
8 that I mentioned was lacking and was
9 implemented through executive order was
10 again requiring folks who used force or
11 officers who use force to come up on the
12 air and state that they used force, so
13 IA could go back and audit those audio
14 tapes and make sure there was an
15 accompanying use of force report so we
16 can initiate an investigation.

17 And I will say this, in normal
18 times when you have one incident, it's
19 far easier to say, okay, at the end of
20 the shift did everybody get their use of
21 force report done so we can get these
22 investigations initiated. These were
23 ongoing incidences. So we might look at
24 it as an incident on the 31st, an
25 incident on the 1st, we were utilizing a

1 lot of the same resources. And it was
2 pretty much go to work, do what you can,
3 sleep, jot down what you remember, go
4 home, eat, get up, do it all over again
5 because it was continuous. So given
6 that several days had elapsed, it was
7 important to make sure that in the short
8 term we implemented some mechanisms to
9 ensure that when it was all said and
10 done, we had a way to go back and audit
11 what had occurred over the several days.

12 COUNCILMAN GREEN: During both
13 the situation at 676 and 52nd Street,
14 and I'll say more so of 676, various
15 journalists were arrested. And what is
16 the process of interaction if I identify
17 myself as a journalist, how does that
18 interaction occur because there seems to
19 be some disconnect in that area?

20 COMMISSIONER OUTLAW: Yeah. So
21 the process -- and this is what most
22 journalists have done in recent past and
23 even during these incidents as well.
24 When they identify themselves as a
25 journalist or a member of the media, we

1 recognize them and we allow them to
2 either if they want to leave, they can
3 leave, but we also make sure that
4 there's a space for them where they can
5 be safely. They're close enough to be
6 able to report on whatever they need to
7 report on, but they're out of the way of
8 the police response and any ongoing
9 activity or interaction between what's
10 going on with demonstrators or whomever
11 that group is and the police at that
12 time. So if they identify themselves,
13 they've been given that accommodation.
14 Many reporters and journalists have been
15 given that accommodation.

16 We also know and we've
17 experienced here in Philadelphia and in
18 speaking with my colleagues in other
19 cities throughout the country as
20 recently as Saturday, we also know that
21 there are members of the media, whether
22 it's mainstream media, bloggers or
23 whomever that intentionally do not
24 identify themselves. They take part in
25 the activity and they don't identify

1 themselves as media until police action
2 is taken, whether they're either being
3 detained, questioned or even arrested.

4 So what we're saying is we
5 don't have the ability to discern. We
6 need you to identify yourself early on
7 so we can make the proper
8 accommodations. But you can't have it
9 both ways. You can't participate in
10 what's been deemed illegal activity and
11 then say, oh, wait, I'm the media.
12 Recognizing there's a lot of gray area
13 there, we've been in communication with
14 some media outlets to identify ways to
15 enhance our training and ensure that we
16 come up with a strong policy around that
17 and then also maybe even co-teaching
18 these trainings, so we can also share
19 with their employees and their staff
20 what we're looking at from our lens and
21 ability or our inability to discern
22 who's who if they are not willing to
23 identify themselves in a very visible
24 way.

25 COUNCILMAN GREEN: Coming out

1 both of the situations there's been --
2 I've participated as well as other
3 members of Council have participated in
4 various town hall meetings and other
5 conversations. More recently one of the
6 issues that has come up is the concern
7 in reference to actions that may occur
8 after the November 3rd election. Some
9 issues have been raised and some people
10 are concerned about additional activity
11 and unrest that may occur. Earlier you
12 talked about lessons learned. What are
13 some of the things that I can go back to
14 some of the constituents regarding their
15 concerns regarding the lessons learned
16 and how the Police Department is
17 preparing for a potential unrest so we
18 don't repeat what happened with these
19 two situations?

20 COMMISSIONER OUTLAW: Yes. So
21 we're actually looking at pre, now,
22 during the elections and post as opposed
23 to just what may happen after the fact.
24 And what's important is we're working
25 with the City and other stakeholders to

1 ensure all lines of communication are
2 open. But what's most important for us,
3 the Police Department, is ensuring that
4 we maintain open lines of communication.

5 Intelligence is really, really,
6 really key. So that means not only
7 ensuring that the DVIC is pushing out
8 any information that they have, but
9 keeping in constant contact with the FBI
10 or any other bodies that are gathering
11 security data so we can be well-versed
12 in advance of what we may see. The
13 problem with all of that right now is
14 that it's clear as mud.

15 There isn't any intelligence
16 that's specific to Philadelphia on what
17 could occur or what may occur. So we're
18 all planning for a party that may or may
19 not happen, right. It may be Y2K all
20 over again. We don't know. But with
21 that said, we have to be prepared.
22 Being prepared, meaning that we have
23 ample resources deployment -- so we can
24 deploy resources in the same way.

25 So we kind of learned using our

1 blueprint from what happened May 31st
2 and June 1st when we deploy, we're not
3 just deploying in one part of the area
4 or one part of the City, downtown and
5 protecting purple infrastructure there.
6 When we deploy, we're making sure that
7 we have enough bodies that's available
8 downtown, that can be available to rove,
9 that can be available to answer calls
10 for service because those don't stop
11 just because there's civil unrest, and
12 then also those locations throughout the
13 City that we saw that experienced
14 disruption, looting, rioting and other
15 acts of violence as well, so making sure
16 that we have enough bodies to be
17 available all throughout the City.

18 We also have roving details
19 around polling centers. We've asked for
20 information historically for which
21 polling sites might have had the most
22 activity or calls for police in the
23 past, so we're paying attention to that.
24 We know by law we can only deal with
25 them in so many feet of a polling place,

1 but we have security measures. We will
2 be having some security measures in
3 place so that we can respond quickly if
4 need be.

5 The DA's Office will have a
6 task force available that can answer any
7 legal questions if we have any as it
8 relates to the election, and the cans
9 and sures and so on and so forth. I
10 personally asked the DA to allow his
11 ADAs to be embedded with us so they can
12 be available with us. Same thing, I
13 have a call later on this week to get an
14 update and briefing from the FBI and the
15 U.S. Attorney. The U.S. Attorney will
16 have AUSAs on ground as well. FBI will
17 have a command center here as well. So
18 communication around intelligence is
19 key.

20 I will also tell you what is
21 extremely important. I asked the DA's
22 Office for a list of applicable statutes
23 so when we all know when we see
24 something what are we dealing with,
25 right. So we talk about Fishtown and

1 other areas, sort of protecting of
2 statues. The law has to be very clear
3 to all of us because again, it's assumed
4 that everyone knows.

5 And I will say the statutes
6 around election law, they're not as
7 clear as a lot of people will think.
8 But we do know unless the Governor says
9 you, Danielle Outlaw, I want you to come
10 here and protect whatever this is,
11 unless that happens, if I come and do
12 that on my own, that's not legal. It
13 has to be a request from the Governor.
14 So now that we know it's not legal,
15 what's the applicable statute if we see
16 this, how are we enforcing it, what laws
17 do we use, right.

18 So we're putting together fact
19 sheets, cheat sheets for our rank and
20 file so we can push that out in roll-
21 call training. So again, everybody's on
22 the same page. Education and awareness
23 is important. I think communication
24 strategy is also important when working.
25 We're working the City around that so we

1 can also educate residents on what the
2 law is. Because again, we find
3 ourselves being asked after the fact,
4 well, such-and-such did this to me, why
5 didn't you do anything about it. And we
6 have to be on the defense and explain
7 why we did or did not do anything or if
8 a misdemeanor occurred and it wasn't in
9 our presence, what that private
10 complaint process is later on down the
11 road.

12 So an education campaign is
13 also under way with that. Ensuring that
14 we have proper deployment and resources
15 available is under way. And then again,
16 working very closely with the DA's
17 Office and U.S. Attorney's Office is
18 important. I'll also put out there and
19 be very clear that folks don't just put
20 on social media, hey, we're going to do
21 whatever it is a few weeks from now or
22 two days from now. It's often a few
23 minutes before.

24 So the reason why we have to
25 make sure that we have ample resources

1 so we can at least respond in a timely
2 manner is because we don't know what we
3 don't know and we probably will not know
4 until it's occurring or as it's
5 occurring, so I want to make that very
6 clear. But again, there's a lot of
7 things under way.

8 And Tumar -- Managing Director
9 Alexander might want to step in to speak
10 to what the City is doing. But again,
11 we're only one portion of the --

12 MR. ALEXANDER: Yeah. I just
13 want to -- thank you, Commissioner. I
14 just wanted to add, Councilmember --

15 COUNCILMAN JONES: Chair
16 recognizes Managing Director Tumar
17 Alexander.

18 COMMISSIONER OUTLAW: Sorry,
19 Mr. Chair.

20 COUNCILMAN JONES: That's all
21 right.

22 MR. ALEXANDER: Thank you.
23 Councilmember, I just wanted to add that
24 we're also coordinating and
25 communicating with a host of external

1 partners, including the City
2 Commissioners who are embedded on these
3 conversations with us and police and
4 other departments, certainly around
5 security issues but also around issues
6 of election operations.

7 We do probably three calls or
8 three meetings a week with those parties
9 talking through issues and trying to
10 solve issues and solve problems that
11 come up in realtime. We've also
12 benefited through the work of both the
13 Police Department and national
14 organizations, getting some training and
15 intel on just what other cities are
16 seeing as it relates to election
17 violence or election unrest.

18 We've had about two or three of
19 those trainings. That's been helpful
20 and that's been sort of organized and
21 managed through OEM and through the
22 Police Department, a couple of
23 intelligence agencies to sort of give us
24 and the City Commissioners that insight
25 and that look on that, but it's a lot of

1 coordination going on certainly right
2 now like the Commissioner said, and
3 we'll continue post-election on ensuring
4 that we are able to support citizens who
5 are voting with the ability to vote
6 safely and we're able to support the
7 operations and the results in the
8 collections of our election information
9 and details.

10 COUNCILMAN GREEN: Thank you
11 both for that information. That's good
12 information for members of this
13 Committee which focuses on public safety
14 we can bring back to our constituents.
15 I'll close with something more of a
16 comment as opposed to a question.

17 Both you, Mr. Alexander as our
18 Managing Director and, you, Commissioner
19 Outlaw, have very challenging positions
20 and roles, also based on the fact that
21 you are both African-American, and
22 myself not only being a member of this
23 body but considering I also spent time
24 in a law enforcement capacity as both an
25 Assistant District Attorney as well as

1 Assistant Deputy Attorney General in
2 Delaware, I know the challenge of being
3 an African-American in those roles can
4 be.

5 And so, we give our placed
6 discretion to provide safety and also to
7 act in ways to promote the public safety
8 in our neighborhoods and communities.

9 And as I was listening to -- and I did
10 not get his full title -- Officer Nash
11 talk about we did everything that was
12 done in our power and we did the best we
13 could do, my concern is that that was a
14 couple of days after the unrest occurred
15 at 676 and 52nd Street and we are in a
16 digital age. And when you see the
17 videos and perspectives of people
18 carrying bats, and I understand from a
19 pure policy perspective you can't just
20 arrest someone just because they have an
21 item in their hand, but when officers
22 are using their background and
23 information as well as individuals as
24 humans and when you see the actions that
25 were taken and the language that was

1 being used and the dynamic that was
2 occurring at that point in that
3 neighborhood in Fishtown, I and I think
4 many others believe if that same type of
5 dynamic occurred in another community
6 with people of a different ethnic
7 persuasion, there may have been a
8 different perspective.

9 I think that is the part of the
10 challenge that we have regarding
11 policing and communities of color.
12 Because we give our officers discretion
13 to act -- there are times when someone
14 may go through a stop sign and they
15 don't get arrested and it's times that
16 they do get arrested. And the issue
17 that pains me is the fact of how at
18 times we're doing all that we can do and
19 take one perspective in how we use
20 discretion and other times we do
21 discretion to be much more aggressive in
22 how we enforce the law, and I think that
23 is the challenge and the perspective I
24 got coming out of watching the images
25 that occurred in Fishtown in response to

1 the unrest as well as some of the other
2 areas.

3 So I know you're in a very
4 challenging position. And when you
5 leave the Roundhouse or when you leave
6 the Municipal Service Building and you
7 don't have on a uniform or a suit, you
8 are an African-American woman or a Black
9 man, and I know that and you are always
10 living with the skin you're in. But at
11 the same point, it's these challenges
12 that cause and continue the inability
13 for us to get some things done because
14 people have the perspective based on
15 their own eyes and background that the
16 discretion is not being used the same
17 way equally.

18 And that's why on November 3rd
19 we'll have a ballot question on a number
20 of issues, one including a Police
21 Advisory Commission which the Chair of
22 this Committee has pushed because people
23 don't believe that there's true
24 oversight even though both of you are
25 doing what you can, but there's still

1 the historical issues. So I just wanted
2 to make that comment. I have some
3 additional thoughts that I was going to
4 say, but I'm going to leave it with that
5 because I think this is part of the
6 challenge we have at this day and at
7 this time in our City.

8 Thank you, Mr. Chair.

9 COUNCILMAN JONES: Thank you,
10 Member Green.

11 One ethnic group with bats is a
12 group of people going to a gang fight.
13 Another group of ethnics with bats are
14 coming from a softball game to
15 celebrate. That's implicit bias that's
16 seen through different lenses depending
17 on what your experiences are. So all I
18 would say to that is as we write the
19 manual that was not in existence before
20 the uprisings, we will have between
21 these hearings and these legislations
22 that will be reviewed and God willing
23 passed, a ruling guide that we will know
24 what the norms should be, and that's a
25 part of communicating. That's a part of

1 trial and error. That's a part of
2 lessons learned.

3 Ms. Williams, is there anyone
4 there to question these witnesses?

5 THE CLERK: Councilmember
6 Thomas.

7 COUNCILMAN JONES: Member
8 Thomas.

9 COUNCILMAN THOMAS: Good
10 morning, Mr. Chairman.

11 Good morning, Commissioner
12 Outlaw as well as Managing Director
13 Alexander. Good morning, colleagues.

14 Just very quickly a couple of
15 questions: First and foremost, how many
16 police were deployed onto 52nd Street
17 and to 676 and do you have an estimate
18 of the cost of that overtime?

19 COMMISSIONER OUTLAW: Good
20 morning, Councilmember Thomas. I can
21 give you a rough estimate of our
22 numbers, but I think we'll probably have
23 more precise numbers once all of the
24 investigations are included. Speaking
25 to PPD solely, we know for the 52nd and

1 Market area because it grew beyond just
2 52nd and Market, we had approximately
3 200 officers, PPD officers there. And
4 then for 676, there were a little over
5 100 PPD officers. As it relates to
6 overtime, I'll go ahead and let
7 Commissioner Coulter jump in on that
8 one.

9 DEPUTY COMMISSIONER COULTER:

10 Good morning again, Council. The only
11 information I can give you -- not
12 specific to 52nd or 676 -- was the cost
13 of those individual days of police
14 overtime, because officers as you know
15 were juggled from one location to the
16 next and moved to various spots. But
17 for the five days that the request was
18 made from the 31st to the 5th, the
19 Police Department spent a little over \$7
20 million in overtime to police both
21 protests as well as the civil unrest in
22 areas all over the City. It's not
23 germane or specific to 676 or 52nd and
24 Market. It was encompassing all police
25 activities that was related to what

1 started out as protests and then evolved
2 in different areas as different things.

3 COUNCILMAN THOMAS: Thank you,
4 Commissioner. Just for clarity, you
5 said 7 million, right?

6 DEPUTY COMMISSIONER COULTER:
7 Yes, sir.

8 COUNCILMAN THOMAS: Thank you.
9 Last question and then I'll be done,
10 Mr. Chair.

11 What is the process for a
12 request when you're utilizing some of
13 the weapons that we've seen such as tear
14 gas, rubber bullets? When someone wants
15 to use any of those types of I guess you
16 could say devices, what documentation is
17 required and how does that reporting
18 take place?

19 And also, just for us and our
20 general public keeping it in the same
21 spirit that Councilmember Green talked
22 about, how has this process changed
23 since June so that we'll be more
24 prepared if another incident might
25 present itself?

1 COMMISSIONER OUTLAW: So I want
2 to say aside from pepper spray and the
3 electronic control weapons that's
4 carried by all officers, all of our
5 less-lethal munitions are only used by
6 the SWAT unit, and they have the
7 training and they're the ones that are
8 responsible solely for deploying the
9 tactics as it relates to those. Unless
10 there are circumstances, the incident
11 commander has been responsible for
12 authorizing the use of this equipment.

13 But I will say I made very
14 clear that during these times if these
15 munitions were to be used, specifically
16 tear gas or any direct fire munitions --
17 meaning, these are munitions to mark an
18 individual for example, that might be
19 responsible for agitating larger crowds
20 but we use this to mark someone and then
21 a group would then go in and extract
22 that individual from the crowd -- I
23 explicitly stated that authorization had
24 to be received from me, from the
25 incident commander and that was made

1 very clear. That hasn't changed since.

2 We haven't used them since, but that was
3 the protocol that was put in place.

4 Again, OC or pepper spray or an
5 electronic controlled weapon like a
6 taser, all officers carry those and they
7 are all guided under the policy as it
8 relates to use of force and they have
9 the individual discretion to yield that
10 if they feel the need to do so within
11 policy.

12 You asked about changes. I
13 think I kind of went through changes
14 specifically. Was there something
15 specific that you wanted to know, sir,
16 around that?

17 COUNCILMAN THOMAS:
18 Commissioner, no. Just changes that
19 might have happened as it relates to the
20 use of these types of weapons since
21 June?

22 COMMISSIONER OUTLAW: I mean,
23 again there was a moratorium that was
24 placed to allow us to take a deeper dive
25 and a look at our policy to see if there

1 was something lacking. We did find that
2 our SOPs, the SWAT SOPs, needed to
3 better reflect the overall policy. But
4 the policy is what the policy is as it
5 relates to the use of force and the use
6 of munitions. But again, I think the
7 one thing that would change not since
8 these incidences but since my arrival
9 here was me requiring them to ask me --
10 the incident commander to ask me for
11 authorization of use of those.

12 COUNCILMAN THOMAS: Thank you,
13 Commissioner Outlaw. I appreciate it.
14 And I look forward to continuing to work
15 with you as you've been somebody who's
16 been very accessible to us as it relates
17 to what we're trying to do to continue
18 to improve the way we service our City.

19 Thank you, Mr. Chairman. I
20 appreciate you.

21 And thank you to all my
22 colleagues for this important
23 conversation.

24 COUNCILMAN JONES: Thank you,
25 Member Thomas.

1 Ms. Williams, is there anyone
2 left to question the Commissioner and
3 Managing Director Alexander?

4 THE CLERK: Yes. Councilmember
5 Gym had additional questions.

6 COUNCILMAN JONES: Member Gym.

7 COUNCILWOMAN GYM: Thank you
8 very much, Mr. Chairman.

9 Just a few pieces of
10 clarification I think, because I think
11 many of -- one, I want to say again,
12 Commissioner Outlaw, I do appreciate
13 your collaboration and coming here today
14 to discuss things to reflect. And I
15 think we heard a significant amount of
16 grace around recognizing where there
17 were clear problems and a desire to fix
18 them.

19 One of the questions that I did
20 continue to have relates back to my
21 earlier question about how we evaluate
22 situations as they evolve and
23 recognizing that there are blanket kinds
24 of things, like there's a curfew that
25 exists. There's a location, 676, where

1 you may have some theory about is
2 this -- do you forfeit your First
3 Amendment freedoms automatically by
4 being in this space or not, and I think
5 that that's one area.

6 I think one of the things that
7 I'm trying to understand is that as you
8 have taken a look, and this is something
9 that Councilmember Green spoke to really
10 powerfully, but as you've taken a look
11 at past videos and other types of
12 things, was it your feeling or are you
13 able to state now that 676 was a
14 nonpeaceful -- was it a nonpeaceful
15 protest? Or let me say that a little
16 better. Was it a First Amendment
17 demonstration or do you still believe
18 that it was not peaceful?

19 COMMISSIONER OUTLAW: So I
20 can't go into specifics, because again
21 the specifics about what happened on
22 that day are still under investigation.
23 But I will say this and I said this
24 publicly before, something happened.
25 And so, what these investigations are

1 going to glean for us is a timeline.

2 We're talking about whether or
3 not police response was proportionate to
4 what they were experiencing at that
5 time. We saw video of a vandalized
6 police car, a state trooper car. There
7 are testimonies from officers saying
8 that they were taking rocks and bottles
9 of things, so something happened there.
10 And again, the evidence left on the
11 ground shows that.

12 But again, the question and
13 what the investigation will reveal is at
14 what time did our response reply to what
15 was being experienced, right, and
16 therefore was it proportionate. So I
17 can't say either way. And I know you're
18 looking for a clear-cut answer, but I
19 don't think we're going to have one
20 because at some point it might have been
21 peaceful or passive resistant, because
22 we've seen some instances where that was
23 the case. But we also know that there
24 are some other cases where it shifted
25 and it transitioned from that. And the

1 question that we all want answered is
2 when.

3 COUNCILWOMAN GYM: Yes. One of
4 the issues, and I think part of the
5 reason why we're talking about tear gas
6 and the rubber bullet issue that is on
7 the table right now is that in part it's
8 pretty indiscriminate in terms of its
9 deployment. It's not a targeted type
10 of device or practice. And what we saw
11 was that indeed there was deployment of
12 those devices towards individuals who
13 were not on 676. They were on top of,
14 above the embankment, behind gates,
15 clearly not participating.

16 I think we felt the same thing
17 on 52nd Street where you heard that
18 there were people who were pretty far
19 removed from what they felt was any kind
20 of activity that they were consciously
21 engaged in or they did not feel that
22 they were in a situation that would have
23 warranted it, and then yet still having
24 large-sized canisters deployed at them
25 without warning. Because of that, I

1 think it's one of the reasons why we've
2 been looking more closely at why we want
3 to ask the Police Department to engage
4 in a policy that makes a moratorium
5 permanent, that it's not a First
6 Amendment device, that there are other
7 crowd-control management techniques that
8 have been highly effective and indeed
9 have been used for more than two decades
10 around this. So I don't know if you
11 have any perspective or anything
12 additional to add to that.

13 COMMISSIONER OUTLAW: No. I
14 mean, I want to be very clear in that
15 our policy is what it is and I expect
16 the policy to be followed. The law
17 allows for a totality of circumstances
18 to be considered and the law also allows
19 for officers to protect themselves and
20 identify threats and to neutralize them
21 in the safest way possible.

22 And I think what we're talking
23 about here when we're talking about
24 crowd management is what's the best
25 tactics for us to be able to identify a

1 threat or a potential threat and to
2 target that threat as best possible
3 without indiscriminantly or having the
4 unintended consequence of involving
5 others or impacting others who might not
6 be involved or a part of that threat.
7 So again, that's what we're constantly
8 thriving to perfect.

9 I don't think anyone has
10 figured it out. I am grateful that the
11 extent of injuries weren't beyond what
12 they were from everyone. And again, I'm
13 glad we have the ability to speak from a
14 space where, you know, and I'm not
15 saying this to be facetious, but I'm
16 glad we can say no one died here because
17 in other cities, they experienced
18 casualties and not necessarily as a
19 result of police action, but by actions
20 of those involved in these crowds. So
21 we do know that the threats do exist.
22 If we were not present, it could have
23 been worse than what it was. But we
24 have to make sure that we work on our
25 responses moving forward to ensure that

1 again we don't have the unintended
2 consequences that we're talking about
3 today.

4 COUNCILWOMAN GYM: And the only
5 thing that I would add -- and again, I
6 want to thank my Council colleagues for
7 having just invested a lot in this
8 process and also to you, Commissioner
9 Outlaw, as well. But last night the
10 Police Advisory Commission released some
11 of its findings around the Plain View
12 Project and report. And we are now 13
13 months since the release of the Plain
14 View Project, which exposed a lot of
15 social media postings that I would say
16 have a lot of relevance still today.

17 A number of the comments, I
18 think as was highlighted by the
19 investigator at the time, talked about
20 police resentment and anger, not
21 everybody but certainly the ones who
22 were exposed in the Plain View Project
23 report about protests and protesters in
24 general. And I think again it
25 underscores the need to -- as rigorous

1 as we are with what are the laws and
2 everything, but to really train people
3 around First Amendment rights, what they
4 look like, what they are and then when
5 they don't exist.

6 I know this has been alluded to
7 before, but I did ask whether if the
8 kinds of vigilante groups that we saw
9 feeling empowered down in South Philly
10 or Fishtown or other places, if they
11 were surrounding a polling place with
12 the same kind of language and verbiage
13 and same type of thing, could we
14 actually see that as being different.
15 And it is something that we are going to
16 be confronting potentially within the
17 next couple of weeks, especially as
18 people have demanded to become poll
19 watchers illegally, that they think they
20 can walk into places and confront
21 individuals, so it's another reminder of
22 how important this is. Thank you.

23 My last question is for our
24 Managing Director Tumar Alexander. Just
25 for clarity, I wanted to ask a little

1 bit more about the Unified Command
2 Group. This is the group that kind of
3 pulled together during May and June. I
4 wanted to ask if you could share a
5 little bit about the background of the
6 Unified Command Group, how does it make
7 decisions and does it still exist right
8 now around it or does it only exist in
9 emergency situations?

10 MR. ALEXANDER: Yes. Thank
11 you, Councilwoman. Certainly, a Unified
12 Command Group, we've utilized that
13 structure as it relates to emergency
14 incidents and our responses to emergency
15 incidents, so it wasn't only utilized in
16 the George Floyd situation. We've also
17 utilized -- I've talked a little bit
18 with Councilmember Green about our work
19 with the City Commissioners, so we have
20 a UCG or Unified Command Group set up
21 for election operations. We have a
22 Unified Command Group also set up for
23 COVID, and that's probably been our
24 longest running and ongoing Unified
25 Command Group.

1 The membership or the makeup of
2 that particular group were varied by
3 types of emergencies. The formation of
4 a UCG is consistent. It's just the core
5 principles of National Incident Command
6 System, and that principle is published
7 by both the U.S. Department of Homeland
8 Security and FEMA, just on how cities,
9 counties, states and others sort of
10 respond to emergencies. The intent is
11 while we're here in an emergency
12 situation, the ability for departments
13 and agencies to be enabled to talk to
14 with each other in realtime, being able
15 to solve issues in realtime, being able
16 to address problems, whether that's
17 resource problems, whether that's
18 coordination problems in realtime. So
19 certainly that structure has helped us
20 respond to different emergencies.

21 And then just like I said
22 again, the makeup of that group was
23 varied by sort of situation. In
24 particular, one of the probably --
25 Managing Director's Office, Office of

1 Emergency Management are on most of
2 them. They're organized and sort of
3 staffed by Office of Emergency
4 Management in terms of helping us send
5 out meeting invites, certainly working
6 with the Managing Director and Managing
7 Director's Office on putting together
8 agendas for various UCG calls, so that
9 particular makeup will vary sort of by
10 incident.

11 COUNCILWOMAN GYM: Okay. Thank
12 you very much. That concludes all of my
13 questions.

14 The only last thing I just
15 wanted to say again to Commissioner
16 Outlaw and to the Administration, again
17 thank you for coming about this. We are
18 going to create new policies. They're
19 going to be After Action Reports. There
20 will be the conclusion of the
21 investigations. But at the end of the
22 day, I don't honestly believe that
23 things can change unless people can hear
24 a little bit about what Councilmember
25 Green talked about, the stark difference

1 in treatment and it's why we started
2 with the 30-plus members of our
3 communities to be able to ask people to
4 be seen and heard and it's the resident
5 on 51st Street who asked, why can't you
6 see me and say hello and acknowledge
7 that I'm here, I'm part of this
8 community in the City. And I think it's
9 a thing that people can't quite see yet.
10 So as much as we'll do on policy, the
11 only thing that will really change
12 things is a seismic change in the
13 public's understanding and in our
14 willpower, and I just want to thank both
15 of you for being engaged in that
16 process.

17 Thank you, Council Chairman.

18 COUNCILMAN JONES: Thank you,
19 Member Gym.

20 Ms. Williams, is there anyone
21 who wishes to question this panel?

22 THE CLERK: There are no
23 additional questions.

24 Councilmember Johnson wanted to
25 note that he was present for the record.

1 COUNCILMAN JONES: Thank you,
2 Member Johnson.

3 THE CLERK: We can move on to
4 Panel 2, Councilman, if you're ready.

5 COUNCILMAN JONES: Yes, we're
6 ready.

7 THE CLERK: Okay. I'll call up
8 Panel No. 2. Thank you to Panel No. 1.

9 Panel No. 2 is Linda Garcia,
10 City Controller Rebecca Rhynhart and
11 Nicole Phillips.

12 COUNCILMAN JONES: Welcome.
13 It's still morning, so good morning.

14 CONTROLLER RHYNHART: Good
15 morning.

16 COUNCILMAN JONES: Thank you
17 for your patience. And please state
18 your name for the record and begin your
19 testimony.

20 CONTROLLER RHYNHART: Do you
21 want me to start or --

22 COUNCILMAN JONES: You're the
23 highest ranking --

24 CONTROLLER RHYNHART: Okay.
25 Well, thank you. Thank you for having

1 me here this morning. Good morning,
2 Councilman Jones Chairman, Councilman
3 Johnson and the members of the Committee
4 on Public Safety. I'm Rebecca Rhynhart,
5 Philadelphia's City Controller.

6 I do want to take a brief
7 moment to recognize Councilmember Gym
8 for sponsoring this bill and also
9 Councilmember Jones, Gauthier, Brooks,
10 Green, Thomas, Gilmore Richardson and
11 Parker for signing onto this resolution
12 and allowing us to have this much-needed
13 conversation about the City's response
14 to the protests in May and June and
15 about recommendations for improving
16 police relations with the public, so
17 thank you.

18 COUNCILMAN JONES: Thank you.

19 CONTROLLER RHYNHART: After
20 George Floyd's murder by police in
21 Minneapolis in late May, people across
22 the country took to the streets to defy
23 the violence, lift up the Black Lives
24 Matter movement and demand change and
25 end systemic racism and oppression.

1 Most of the protests were peaceful
2 expressions of righteous anger and
3 frustration, although some people
4 capitalized on the moment leading to
5 looting and vigilantism. More than
6 anything, the weeks of unrest raised
7 questions about the City's preparedness
8 and response to protest and unrest.

9 As City Controller, my office
10 is tasked with ensuring that taxpayer
11 money is used in the most efficient and
12 effective way for the benefit of all
13 Philadelphians. As such, I announced on
14 June 4th that my office would undertake
15 an independent review of the City of
16 Philadelphia's operational and resource
17 deployment and tactics during this time.
18 This independent review is being
19 conducted at Ballard Spahr and AT-RISK
20 International. These firms were
21 selected in their complementary
22 experience in investigations and
23 emergency management operations and
24 resource deployment.

25 Ballard and AT-RISK have been

1 conducting interviews with City
2 employees and witnesses, reviewing
3 policies, procedures, media recordings,
4 news reports, communications and
5 evaluating best practices from across
6 the country. Their work will also
7 reflect feedback from community leaders
8 and members, business owners and
9 activists through our Community Advisory
10 and Accountability Council.

11 I can't discuss particular
12 details of this ongoing investigation
13 right now. I can tell you that we
14 intend to release the results publicly
15 before the end of the year. It is my
16 goal that through this review, we as a
17 City can learn from these events and in
18 a time when City resources are stretched
19 thin, we must ensure that the dollars
20 are being used in the best use of every
21 taxpayer and every resident every day,
22 and especially in crisis situations. We
23 need to know what went right and what
24 went wrong so that we can do better in
25 the future. It is my hope that this

1 independent review will serve as a guide
2 for City actions going forward. Thank
3 you and I'm happy to take any questions
4 at this time.

5 COUNCILMAN JONES: Thank you so
6 much.

7 If it's the pleasure of the
8 Committee, I'd like to allow this panel
9 to testify and then we'll begin
10 questions.

11 (No response.)

12 COUNCILMAN JONES: Seeing no
13 objection, thank you.

14 State your name for the record
15 and begin your testimony. Linda.

16 MS. GARCIA: Thank you. Good
17 morning. Thank you, Chairman Jones,
18 Vice-Chair Johnson and members of the
19 Committee. I am Linda Garcia. I serve
20 as the Policing Program Director at The
21 Leadership Conference on Civil and Human
22 Rights, the nation's oldest and largest
23 civil rights coalition that played a key
24 role in planning the original march on
25 Washington in 1963. Thank you for this

1 opportunity to provide this testimony
2 today. And I'd like to commend the City
3 and Commissioner Outlaw for taking the
4 first steps towards meaningful policing
5 reform.

6 The police responses to the
7 protests in the wake of George Floyd's
8 murder this past summer raised serious
9 concerns about law enforcement's
10 willingness to fulfill its obligation to
11 respect the Constitutional rights of all
12 people. In some cities, police
13 departments were able to maintain mostly
14 orderly demonstrations that allowed
15 protesters to safely exercise their
16 First Amendment rights.

17 In hundreds of others,
18 including Philadelphia, officials
19 employed militarized responses that were
20 disproportionate to the threat posed by
21 protesters, intimidated and attacked
22 people and endangered entire
23 communities. I do acknowledge that
24 sometimes these protests were also
25 volatile. Such responses, however, only

1 inflamed tensions between communities
2 and police, as they represent the very
3 police violence that people are
4 demonstrating against.

5 While jurisdictions that The
6 Leadership Conference works with vary by
7 size and region, the challenge of police
8 violence and the distrust it fosters are
9 similar, but we're encouraged by the
10 collective desire state, local and law
11 enforcement leaders to take on the task
12 of working with communities to develop
13 policies and approaches that better
14 address public safety. Such policies
15 must also provide the framework for
16 protecting and supporting communities's
17 right to peacefully assemble, exercise a
18 free speech and petition their
19 government to re-address grievances.

20 Among the best practices, I
21 have three recommendations I'd like to
22 share with the Committee today: First,
23 Department leadership should engage in
24 cooperative and strategic advanced
25 planning for protest and engage

1 community leaders during this process.
2 Taking a no-surprises approach with
3 group leaders can minimize the stress
4 and build cooperative relationships. I
5 want to note that it should have been
6 anticipated given that the protests were
7 going to happen given what was happening
8 across the nation. The protesters
9 tactics may have changed, but in part,
10 this is because police brutality has
11 not.

12 Second, military-grade
13 equipment designed for combat zones does
14 not belong in the hands of domestic law
15 enforcement agencies and should not be
16 deployed in response to protest.
17 Experience has shown that militarized
18 police responses escalate tensions, fuel
19 anger and exacerbate distrust with
20 police, which leads us to the fact that
21 officers should use force only when
22 necessary and should be required to use
23 de-escalation tactics, policies that the
24 police department does have in place.
25 However, you must take care not to use

1 in one community differently than in
2 another.

3 Nothing here is more critical
4 than setting a culture of anti-racism
5 and heeding the calls of communities.
6 Even the best policies on paper mean
7 nothing without the accountability
8 measures necessary to ensure that
9 officers are not violating them. As the
10 saying goes, culture eats policy for
11 lunch.

12 I would also love to underscore
13 what Councilperson Green addressed in
14 the use of discretion. And this is
15 historically while Black communities and
16 other communities of color have led to
17 the -- it has led to the hyperpolicing
18 and criminalization of those very
19 communities. This is what people are
20 protesting against, and the protest
21 cannot be viewed as isolated incidents
22 without acknowledging the systemic
23 racism that people are crying out
24 against.

25 By implementing policies to

1 ensure that all people's Constitutional
2 rights are respected, we can begin to
3 create a new era of public safety that
4 respects the dignity of all people.

5 Thank you.

6 COUNCILMAN JONES: Always got
7 to check the mute button. Thank you for
8 your testimony.

9 Samantha, who's next? Is
10 there --

11 THE CLERK: Nicole Phillips.

12 COUNCILMAN JONES:
13 Ms. Phillips.

14 MS. PHILLIPS: Good morning.

15 COUNCILMAN JONES: Good
16 morning.

17 MS. PHILLIPS: Good morning,
18 Chairperson Jones and Vice-Chairperson
19 Johnson and members of the Public Safety
20 Committee. I am Nicole Phillips from
21 Montgomery McCracken Walker & Rhoads.
22 With me on the line today is Tammy Felix
23 from CNA.

24 Together we are leading the
25 independent After Action Review of the

1 City and Police Department's response to
2 the protests and demonstrations that
3 occurred in the City following the
4 killing of George Floyd. We're here
5 today to update the Committee on who we
6 are and the scope of our review. We
7 thank Councilmember Helen Gym for
8 inviting us to speak to you today.

9 Montgomery McCracken is a
10 full-service law firm based here in
11 Center City. I'm a partner in the White
12 Collar and Government Investigations
13 Group, in which we have extensive
14 experience in conducting internal
15 investigations for corporate entities as
16 well as municipalities and government
17 agencies. Our partner in this review is
18 CNA, a nonprofit research and analysis
19 firm based in Arlington, Virginia with a
20 strong history of delivering objective
21 reviews of real-world incidents to local
22 jurisdictions and federal agencies.

23 The team has led and supported
24 After Action Reviews of the planning and
25 response to special events that have

1 drawn mass protests and demonstrations
2 across the nation. CNA is currently
3 conducting similar After Action Reviews
4 in Richmond, Virginia; Antioch,
5 California; and North Charleston, South
6 Carolina. The CNA team is comprised of
7 research analysts and subject matter
8 experts in the field of law enforcement
9 and emergency preparedness and response.

10 The timeline of our review
11 spans from around May 30th to June 15th.
12 Through data collection and analysis and
13 interviews with those involved,
14 including law enforcement and members of
15 the community, the review is taking a
16 critical look at the City and Police
17 Department's policies, procedures and
18 practices to identify whether it was
19 compliant with current policies and
20 whether its policies align with national
21 standards and best practices.

22 The Police Department and City
23 leadership have been cooperative with
24 our requests. We are continuing to
25 analyze data and conduct interviews of

1 law enforcement and City leadership. In
2 order to ensure that the report that we
3 produce is comprehensive and thorough,
4 we must hear from the community, those
5 involved in the protests, residents of
6 affected neighborhoods, impacted
7 businesses and community organizations.
8 We have been able to conduct those
9 interviews and view the public hearings
10 by City Council two weeks ago and we
11 appreciate that opportunity to hear from
12 members of the Community in that way.
13 But we are continuing to reach out to
14 community members individually so that
15 we can hear in more depth about their
16 experiences. We appreciate being able
17 to hear from the communities via those
18 public hearings as well.

19 We expect that the report
20 produced at the end of the review will
21 provide recommendations that the
22 Philadelphia Police Department is
23 encouraged to implement to further
24 improve public safety, transparency and
25 restore the trust of the community.

1 While today we're not in the position to
2 discuss the substance of our research
3 and findings at this time, we will be
4 prepared to do so when we produce a
5 report, which we do anticipate being
6 around the end of the year as well.

7 This concludes my testimony and Tammy
8 Felix is on the line with me and we are
9 happy to respond to questions at this
10 time.

11 Thank you, Council Chairperson.

12 COUNCILMAN JONES: Thank you.

13 Appreciate your testimony.

14 Is this the entire panel,
15 Ms. Williams?

16 THE CLERK: Yes, it is.

17 COUNCILMAN JONES: Are there
18 any members that wish to ask questions?

19 THE CLERK: Councilmember Gym
20 had a question.

21 COUNCILMAN JONES: Member Gym.

22 COUNCILWOMAN GYM: Yes. Thank
23 you very much, Council Chairman.

24 And I want to thank the
25 panelists today for taking time to share

1 some of the work. Many of you have been
2 doing this for a very long time. And
3 so, your insights as they develop will
4 be very important.

5 A couple of very quick
6 questions for Ms. Phillips: What is the
7 timeline for the completion of your
8 report?

9 MS. PHILLIPS: Yes,
10 Councilwoman Gym. Around the end of the
11 year as well. We are in the midst of
12 writing and researching now, so we are
13 preparing to produce the report.

14 COUNCILWOMAN GYM: I know that
15 you covered a lot of different areas,
16 standard operating procedures, best
17 practices, policies, et cetera. But I
18 think one of the things that we heard
19 both from two weeks ago and from today
20 is that we can have all of those things
21 in place, but they still don't get
22 followed. In what way are you
23 incorporating culture and practice into
24 your report and investigations?

25 MS. PHILLIPS: Yes. So those

1 are certainly things that we are
2 reviewing. Our intention and our
3 expectation is that our report will not
4 be something that is just a document,
5 but it will be a living guide for going
6 forward. We appreciate hearing from
7 Police Commissioner Outlaw today and all
8 of the efforts that have already been
9 made by the Department under her
10 leadership, and we hope that this
11 document and these recommendations will
12 be able to be used by Commissioner
13 Outlaw and other City leaders as a guide
14 to continue forward in the
15 implementation of those new practices
16 and creation of culture and restoration
17 of public trust, et cetera, that this
18 document will assist in that process
19 going forward.

20 COUNCILWOMAN GYM: And do you
21 plan to take a look at the Plain View
22 Project findings? I apologize. I
23 wasn't sure if your team was on the call
24 last night with the Police Advisory
25 Commission. Have you been reviewing

1 those at all or do you see any role for
2 the Plain View Project reporting?

3 MS. PHILLIPS: Yes. So we were
4 not on the call last night, but I am
5 well aware of the past report that they
6 have recently produced. And certainly,
7 that is something that we will review
8 and for any relevant information, we
9 will definitely incorporate that into
10 our work, absolutely.

11 COUNCILWOMAN GYM: Thank you so
12 much.

13 My other question is for
14 Ms. Garcia. And again, thank you so
15 much for Leadership Conference on Civil
16 and Human Rights, for all the work that
17 you've been doing nationally.

18 Certainly, right now I know you're
19 deeply engaged in the protection of
20 voting rights all across the country so
21 it's been a great partnership and really
22 appreciate your being so supportive over
23 a number of months as we try to figure
24 out this process.

25 I think you spoke to it very

1 clearly, culture eats policy for lunch,
2 and we heard it. We have been here
3 before. Last night the Police Advisory
4 Commission re-laid out their findings
5 after more than 300 social media
6 postings by police officers that talked
7 about violence directed towards
8 protesters, women, Islamophobia, LGBTQ
9 communities were certainly the targets,
10 members of our own body, Committee
11 Chairman, you know, of City Council was
12 one of the people who were targeted.

13 And so, you also have seen this
14 before. You've been in the Obama
15 Administration. You've looked at
16 consent decrees with police departments
17 around this. What have you seen as
18 being more effective in terms of
19 improving culture, especially when you
20 know that policies exist but may not be
21 followed or there's a lack of trust and
22 confidence in the police? Do you have
23 some other thoughts or some additional
24 thoughts or developments around there?

25 MS. GARCIA: Sure. Thank you.

1 Yeah, the saying goes, culture eats
2 policy for lunch. And policy is black
3 and white on paper and without
4 meaningful enforcement and ensuring that
5 officers and departmentally that this is
6 followed, it means nothing, because we
7 see very good policies in a lot of
8 police departments across the nation,
9 but you still see these problems arise.

10 So they must be accompanied by
11 the accountability measures, right. And
12 this can -- I'll run through a few of
13 them. But this means thorough chain of
14 command reviews, random audits and this
15 can be police reports, body-worn
16 cameras, just any law enforcement
17 activities that officers engage in, data
18 analyses to identify potential patterns
19 of misconduct, or even more systemically
20 how law enforcement agencies are playing
21 out, right, and if they're playing out
22 where they are having a disparate impact
23 on certain communities, specifically
24 communities of color and low-income
25 communities, robust investigations of

1 external complaints, mechanisms for
2 making internal complaints by police
3 officers safe so that they are not
4 worried about retaliation, and then very
5 importantly, community oversight,
6 because that is such an important piece
7 to have, that transparency and the say
8 of community in how police operate and
9 how policing is happening in their
10 communities is critical.

11 And so, I just want to finish
12 this off by saying any police
13 department, the policies, the City
14 really has to prioritize a community's
15 well-being, fairness and anti-racism,
16 right, as you had addressed with the
17 social media posts, there just has to be
18 a zero tolerance for that, because no
19 police officer that believes that can go
20 and serve those communities.

21 Lastly, there should be the
22 investments in communities and
23 thinking -- rethinking the role of
24 police. Perhaps sometimes it hasn't
25 worked because police are not the folks

1 best-equipped to address every public
2 health issue or social ill that arises.

3 COUNCILWOMAN GYM: You know --

4 COUNCILMAN JONES: Member Gym,
5 if I could --

6 COUNCILWOMAN GYM: Yes.

7 COUNCILMAN JONES: I want to --
8 I'm very pleased with this hearing thus
9 far as Chair, and I'm supposed to take a
10 neutral, almost orchestra-conductor
11 policy. But I would be remiss if I
12 didn't say that as we look to the
13 passage of the Citizens Police Advisory
14 Committee, that would be a hollow
15 structure if we don't establish what
16 they're talking about. Norms, policies,
17 procedures, laws, training all of those
18 things go into a measurer, a baseline
19 that we can then say was this action
20 correct or not. And so, all of this is
21 a continuum of what good policing should
22 be. So I'm thankful for all of the
23 lenses that we have seen thus far.

24 And what is amazing to me is
25 that no one testified thus far, and

1 maybe I should knock on wood somewhere,
2 in a defensive mechanism, in a CYA,
3 cover my anatomy. People were open,
4 forthright about where they stood and
5 why and what to look at. And when you
6 can do that in communications, you can
7 come to understanding. So I felt
8 compelled to interject and take the
9 prerogative of the Chair and say that.
10 Please continue.

11 COUNCILWOMAN GYM: Thank you so
12 much, Mr. Chairman.

13 And I think one of the things
14 you highlighted is that this is a
15 dynamic process. This isn't a series of
16 hearings that exist and then After
17 Action Reports that exist, and actions
18 by police officers that occur and then
19 they're all isolated from one another.
20 We are in an active process of
21 transformation.

22 And I want to thank our
23 Committee Chairman for leading the
24 charge on the Oversight Commission. It
25 has a lot of engagement by our

1 communities, which I think again is the
2 key to change and transformation.

3 I think, Ms. Garcia, it is
4 helpful to hear you say a lot of these,
5 you know, make sure that these things
6 are clearly in place. I think one of
7 the areas that is certainly going to be
8 a question is whether we do have a
9 process for internal complaints to be
10 raised without fear of retaliation. I
11 don't know that that -- and I would be
12 interested to hear if that exists in any
13 police department right now, but
14 certainly, it feels like that's been a
15 difficult area certainly for really
16 highly conscious officers here in
17 Philadelphia, along with other people
18 who are interested in making change.

19 Similar to what my Committee
20 Chairman asked, there are a number of
21 After Action investigations that are
22 occurring. There will be at least three
23 different reports that will be issued.
24 We didn't get a chance to hear from our
25 Police Advisory Commission, but they're

1 also engaged in an After Action Review.

2 What are you looking for in
3 some of the After Action Reports and how
4 should they be utilized in order for
5 them to actually make a difference? You
6 heard also the timeline, right. We're
7 not going to see this until likely the
8 end of the year. And part of this
9 process is to build out a recognition
10 that there are things that we must do,
11 there are things that we can talk about
12 even if it's a little bit early, that we
13 need to do.

14 But I'm interested in hearing
15 from you. What are you looking for in
16 the After Action investigations and how
17 might they be better used to make
18 change?

19 MS. GARCIA: Sure. So a couple
20 of points on that. I think with every
21 After Action process that is happening,
22 I cannot overstate the importance of
23 having community right there at the
24 table, right, and being an equal power
25 broker in this, because none of the

1 recommendations that come out of it are
2 going to be meaningful if they are not
3 developed hand-in-hand, the solutions
4 are not developed hand-in-hand with the
5 communities that are mostly affected by
6 policing.

7 Secondly, I was at the
8 Department of Justice where I did
9 conduct a pattern of practice
10 investigations and enforce consent
11 decrees. And systemic reform does not
12 happen overnight. And I can tell you
13 that Philadelphia is taking the first
14 step on what is going to be a long
15 process, right. And there has to be the
16 commitment and the long-term investment
17 to making sure that this happens. And
18 so, I think it is good to take on all of
19 these processes.

20 I do want to note that I know
21 Philadelphia, the Police Department and
22 the City there has signed the Mayor's
23 Pledge, the Obama Foundation's Mayor's
24 Pledge, which we have partnered with
25 Cities United to help with and provide

1 technical assistance to that process.
2 And I think many of the changes that
3 Commissioner Outlaw detailed are
4 recommendations that we make. But
5 again, take the recommendations, work
6 with the community and invest. And I
7 think there has to be an openness right
8 now. I do hear it and I think it is
9 encouraging, an openness not being
10 defensive to talking about rethinking,
11 redefining policing, rethinking public
12 safety and thinking more broadly beyond
13 just the policing systems into the
14 systems that can actually help
15 communities thrive.

16 COUNCILWOMAN GYM: Thank you so
17 much. It feels like we take a lot of
18 first steps. But thank you so much,
19 Ms. Garcia, for all your help in this
20 system.

21 Thank you, Mr. Chairman.

22 COUNCILMAN JONES: Thank you,
23 Member Gym.

24 Ms. Williams, who's next?

25 THE CLERK: Councilwoman

1 Gauthier.

2 COUNCILMAN JONES: Member

3 Gauthier.

4 COUNCILWOMAN GAUTHIER: Good
5 morning. Thank you, Mr. Chair.

6 My question is also for
7 Ms. Garcia. You talked in your
8 testimony about some of the
9 military-style tactics that were used
10 and how that furthered the distrust
11 between police and communities, and I
12 think this is such an important point
13 for many of the things that we're
14 experiencing right now as a City.

15 For example, we're seeing
16 record shootings in homicides and I
17 don't believe that we're going to be
18 able to solve that problem if community
19 members don't trust the police and feel
20 like the police are a body that is
21 against them, right, so I think this
22 will impact us even beyond the protests.
23 It is important for us to figure out.

24 And I hear everything that
25 you're saying about accountability and

1 transparency and having community
2 involvement in how policing happens.
3 But I'm wondering what can we do -- even
4 before we get to those points and to
5 those policies, what can we do to
6 encourage healing? What we've
7 experienced as a City has been very
8 traumatic. Not only did we have trauma
9 on May 31st and on June 1st, but this is
10 trauma that goes back for decades and
11 decades and decades, right, to things
12 like MOVE, which also happened in West
13 Philadelphia.

14 So I think before people can
15 even be open to the policies and talk of
16 what will change down the line, we have
17 to also embark on a process of healing.
18 What does that look like, and has any
19 locality that you know of been
20 successful at going about a process of
21 healing after these traumatic events?

22 MS. GARCIA: Thank you for
23 that. I couldn't agree with you more
24 that there is a trauma that is
25 experienced, not only with these events

1 but it is historic. Studies have shown
2 that even negative police interactions
3 create trauma, long-term trauma, right.
4 Students, their GPAs will drop. Folks
5 have medical issues associated with it,
6 and this is community large. So there
7 is no question that that exists when
8 something like this happens.

9 In terms of -- I mean, the
10 first step, everyone, all the elected
11 officials, police officials have to
12 really reckon with this. They have to
13 acknowledge the historical and systemic
14 origins of policing. If we look back,
15 policing stems from the early slave
16 patrols. Police were the ones who were
17 enforcing the Black codes and the Jim
18 Crow laws. And what we are seeing now
19 is just part and parcel of that
20 historical reality. So it is going to
21 be a restorative process. There has to
22 be reconciliation and acknowledgement of
23 those realities.

24 I can say that the Metropolitan
25 Police Department here in D.C. has

1 programs where police officers are
2 actually educated about this, and
3 putting community members and police
4 officers to actually have these
5 conversations and acknowledge these
6 realities are a first step. It is not
7 going to be the answer in and of itself,
8 but it is necessary.

9 And I do want to acknowledge
10 one last thing. As Councilperson Gym
11 acknowledged, there seems like you're
12 taking a lot of first steps. This is
13 exhausting for community members, right.
14 This is exhausting to go through these
15 processes, go through assessments and
16 feel like nothing is ever changing,
17 right. And to that, I can only say that
18 that is why it's critical that these
19 changes are at this point community-led,
20 community-involved, the solutions are
21 developed hand-in-hand with communities.

22 COUNCILWOMAN GAUTHIER: Thank
23 you so much. I just want to say that in
24 my opinion it doesn't matter, we can
25 develop as many policies as we want. If

1 we do not go through a process -- and
2 this is a part of that process. But if
3 we don't have a more exhaustive process
4 of listening and healing, I don't think
5 any of it will matter.

6 MS. GARCIA: And if I may
7 acknowledge that I think it's very
8 important to have services in place for
9 folks that are victims of police
10 brutality and even those that have been
11 affected by the protests and the
12 happenings, because to relive the
13 traumas also -- we ask folks to come to
14 these hearings and share those stories.
15 It is reliving police violence and that
16 has to be acknowledged and folks need to
17 be taken care of.

18 COUNCILWOMAN GAUTHIER: Thank
19 you, Mr. Chair.

20 COUNCILMAN JONES: Thank you.
21 Who is next, Ms. Williams?

22 THE CLERK: We don't have any
23 questions in the chat. And I think it's
24 okay to move on to the first panel of
25 witnesses for Bill No. 200538.

1 COUNCILMAN JONES: So I look
2 forward to the findings. I think they
3 will serve as a rule and guide for how
4 community policing should evolve. And
5 so, I'm thankful for your testimony and
6 your work.

7 And with that, would you
8 please -- so there are no other
9 questions for Resolution No. 200397,
10 correct?

11 THE CLERK: Correct.

12 COUNCILMAN JONES: So we can
13 move on to Bill No. 200538.

14 THE CLERK: Correct. The first
15 panel --

16 COUNCILMAN JONES: Can you
17 please read again the title of the bill.

18 THE CLERK: Sure. Bill No.
19 200538, an Ordinance amending Title 10
20 of the Philadelphia Code to create a new
21 Chapter 10-2500, entitled "Less Lethal
22 Devices," to regulate the use of
23 less-lethal devices in specific
24 situations, all under certain terms and
25 conditions.

1 COUNCILMAN JONES: Member Gym,
2 do you have opening remarks?

3 COUNCILWOMAN GYM: Yes. Thank
4 you so much, Mr. Chairman. I'm going to
5 be very brief because I know we have a
6 hard stop in 45 minutes and we want to
7 make sure that we are able to bring this
8 forth.

9 So today we're going to be
10 hearing testimony on the bill sponsored
11 by all members of the Public Safety
12 Committee as well as Councilmember
13 Katherine Gilmore Richardson, that would
14 require the Philadelphia Police
15 Department to authorize the policy that
16 bans the use of less-lethal munitions in
17 First Amendment situations.

18 This bill is supported by the
19 Administration, which has submitted
20 written testimony to the fact. But I do
21 want to just take a moment to clear up
22 some misconceptions about this bill.
23 This bill does not unilaterally remove
24 less-lethal devices such as tear gas,
25 rubber bullets, pepper spray or the like

1 from the Police Department's arsenal.
2 It clearly states that they must not be
3 used against any individual engaged in
4 First Amendment activities.

5 I've seen a number of
6 misleading quotes that somehow denying
7 the Police Department the use of these
8 dangerous less-lethal weapons will force
9 them to somehow escalate and then
10 suddenly start using lethal weapons.

11 This concept is not only ludicrous, it
12 is an insult to professionals within the
13 Police Department, including the Civil
14 Affairs Unit and others who understand
15 and utilize effectively crowd-control
16 management and de-escalation tactics.

17 I personally have been in
18 plenty of demonstrations over two
19 decades of organizing that did not
20 result in the kind of violence and chaos
21 that we witnessed in May and June of
22 2020. The bill calls upon the PPD to
23 set aside its weaponry when people march
24 in protest. It's recognizing that tear
25 gas, rubber bullets and the like are not

1 just about being less-lethal, they are
2 not studied.

3 I think that they have -- there
4 are lots of concerns about the dangerous
5 impact that they have had, including
6 death on some individuals. They can
7 cause lifelong health complications.
8 They have been deeply traumatic for many
9 of the people who experienced them as we
10 heard two weeks ago. They have also not
11 been deployed in this manner in our City
12 for decades, and we have weathered all
13 manner of protests over the last 20
14 years.

15 It will, however, as we heard
16 earlier challenge the Police Department
17 and our City leadership to engage in
18 rigorous exercise over what constitutes
19 First Amendment activity and the level
20 of discretion that goes into who is
21 deemed worthy as such. Before I was a
22 Councilmember, I was an organizer, and
23 the response to spring's Black Lives
24 Matter protest in many ways undid years
25 of collaboration and trust between our

1 activist communities and our
2 institutions.

3 This bill is a first step, yet
4 another one of many first steps in
5 reaffirming that public protest is not
6 at odds with public safety, and
7 responses to public protest should not
8 compromise public safety plain and
9 simple. Thank you very much.

10 COUNCILMAN JONES: Thank you,
11 Member Gym.

12 Ms. Williams, can you please
13 bring forth the first panel to testify
14 on this bill.

15 THE CLERK: Rachel Lopez,
16 Shakyra King and Dr. Joseph Nwadiuko.

17 COUNCILMAN JONES: Are you
18 there?

19 MS. LOPEZ: Yes.

20 COUNCILMAN JONES: Can you
21 state your name for the record and
22 please begin your testimony. And good
23 morning. It's still morning.

24 MS. LOPEZ: Good morning. It's
25 actually afternoon. I'm in the U.K.

1 right now so I'm talking to you guys
2 from across the continent. My name is
3 Rachel Lopez. I'm an Associate
4 Professor of Law at Drexel's Kline
5 School of Law and an expert in
6 International Human Rights Law. I also
7 direct the Andy and Gwen Stern Community
8 Lawyering Clinic, which provides free
9 legal services to Drexel's neighbors in
10 West Philadelphia.

11 Along with the ACLU, I
12 represent a group of residents and
13 protesters who were attacked by police
14 in their homes and on their streets on
15 May 31st and June 1st. At the end of
16 the month, we will be filing a complaint
17 with the United Nations urging them to
18 investigate the human rights violations
19 that my clients suffered at the hands of
20 police.

21 My clients' stories speak to
22 both the ruthlessness of police on those
23 days as well as the direct need for this
24 bill in particular. Police who were
25 meant to protect and serve them

1 brutalized them. As you've heard in
2 testimony and seen in video footage on
3 highway 676, police corralled protesters
4 from both sides of the highway,
5 essentially forcing them to scale a
6 steep hill instead of using safer means
7 of escape.

8 At the same time, officers
9 repeatedly pelted those individuals with
10 rubber bullets and tear gas causing a
11 stampede. Some protesters tried to
12 climb high walls on the side of the
13 highway but were essentially trapped.
14 My clients described being unable to
15 breathe, feeling like they would die on
16 that hill and seeing blood and hearing
17 screams everywhere.

18 At 52nd Street in West
19 Philadelphia, the PPD indiscriminantly
20 and without warning deployed tear gas,
21 pepper spray and rubber bullets on
22 protesters and residents alike,
23 including children and elderly. One
24 senior was hit twice by rubber bullets,
25 first on his hand and then on his legs.

1 His hand swelled to about twice its size
2 and his leg was so swollen that he could
3 not walk. Another elderly woman who was
4 visiting her niece in the neighborhood
5 was shot in the head by a rubber bullet.

6 According to numerous
7 eyewitnesses including some of my
8 clients, which we will detail in our
9 submission to the United Nations, the
10 police appeared to be targeting those
11 who were well-marked as medics in
12 providing medical assistance to those
13 residents that were injured by police as
14 well as reporters who were documenting
15 that violence.

16 Our clients also witnessed
17 police repeatedly fire canisters of tear
18 gas onto residential streets, people's
19 porches and sometimes through the open
20 windows of houses. One mother
21 barricaded herself and her 3-year-old
22 and 6-year-old son into a bathroom to
23 escape the noxious fumes that were
24 spreading through their house. The
25 police literally gassed them in their

1 own homes all during a pandemic.

2 These acts put Philadelphians
3 at grave risk of serious injury and
4 possibly death, violating their human
5 rights. Tear gas, pepper spray and
6 rubber bullets are classified
7 less-lethal weapons. But as the name
8 suggests, that does not mean that they
9 cannot kill. According to the CDC, tear
10 gas exposure can result in death either
11 from respiratory failure or from severe
12 chemical burns to the throat and lungs.

13 If a tear canister hits someone
14 directly, it can cause (inaudible), a
15 concussion and possibly lethal head
16 injuries. Also as Councilwoman Gym
17 mentioned, because of the nature of tear
18 gas, it often has indiscriminate effects
19 and it can easily travel through the air
20 when the wind direction change and hit
21 bystanders and others that are nearby
22 and cause stampedes. Tear gas is so
23 dangerous that it's considered a
24 chemical weapon under international
25 human rights law and banned in wartime.

1 In addition, according to U.N.
2 Guidance, rubber bullets should never be
3 shot at the torso or head for risk of
4 small fracture, brain injury or damage
5 to the eyes and vital organs. And this
6 is particularly true for individuals
7 like the ones I described above, who are
8 elderly and particularly susceptible to
9 injury as a result of the use of these
10 less-lethal weapons.

11 And the PPD policies as written
12 are woefully inadequate to address these
13 abuses. So as Commissioner Outlaw
14 specified, there is a directive that's
15 on point. It's called Police Directive
16 10.2, and this specifies that pepper
17 spray should not be employed in
18 situations where people are peacefully
19 protesting. However, this does not
20 include a similar prohibition for tear
21 gas or rubber bullets. And that's why
22 I'm here today urging you to support a
23 ban on less-lethal munitions against
24 protesters and others exercising their
25 First Amendment rights. Thank you for

1 the opportunity to share my clients'
2 stories and for your consideration of
3 the bill.

4 COUNCILMAN JONES: Thank you so
5 much for your testimony. And it is
6 always difficult to hear when people go
7 through traumatic events like that.

8 I'm going to ask the Committee
9 to hold their questions until after the
10 entire panel speaks because we are
11 running on a hard stop at 12:30.

12 Who's next?

13 THE CLERK: Shakyra King.

14 MS. KING: Good morning.

15 COUNCILMAN JONES: If you're in
16 Philadelphia, I can say good morning.

17 MS. KING: Yes, I am in
18 Philadelphia and good morning to
19 everyone. And thank you again,
20 Chairperson and Councilperson Gym, for
21 inviting me again to tell my story. I
22 have one brief comment to begin. I
23 cannot believe that our Police
24 Commissioner does not seem to understand
25 or have a full understanding of First

1 Amendment rights when Philadelphia is
2 "the founding of our nation," and First
3 Amendment rights were literally written
4 here. I'm just going to leave that at
5 that.

6 My name is Shakyra King and I
7 am here to testify in support of the
8 bill banning tear gas and other harmful
9 weapons when interrupting First
10 Amendment activity. I've lived in West
11 Philadelphia my entire life. I've
12 always been involved with a number of
13 local organizations here in the City of
14 Philadelphia and have been directly
15 impacted by police violence by the hands
16 of the Philadelphia Police Department,
17 one which resulted in the loss of a
18 beloved family member.

19 I remember the day of May 29th
20 clearly. It was a Sunday afternoon and
21 the night before the City had been in a
22 disarray. Many of my friends were in
23 the thick of it the day before, so I
24 spent the night on the phone ensuring
25 that a number of my friends were safe.

1 I woke up from my nap to hear
2 helicopters and my neighborhood citizens
3 app telling me that there was a cop car
4 on fire at 52nd and Market.

5 From the video provided by the
6 bystanders who were out there, nobody
7 had particularly set the fire. Folks
8 were standing in front of the Rainbow
9 clothing store just watching the car sit
10 there. I decided I would get up and go
11 to 52nd and Walnut, which was not far
12 from my house. When I got there, two of
13 my friends had told me that a police
14 officer had just assaulted a young man
15 so badly that his face was bleeding and
16 that his friend had to take him home.

17 I asked if there was a
18 particular reason this young had been
19 assaulted and they told me no, they just
20 started beating him and stopped when his
21 friends rushed to retrieve him. We
22 decided to stand in front of Hakim's
23 Bookstore, the oldest Black bookstore
24 owned in the City of Philadelphia. Once
25 we got there, there was just a bunch of

1 young people standing around. No one
2 was hurt. No one was in immediate
3 danger. Some young folks began looting.
4 But to be fair, they had been in a house
5 for months and the government, both
6 local and federal, weren't doing
7 anything to provide relief.

8 The City couldn't even get
9 Comcast, which pays no income tax in
10 this City and has built two large
11 buildings to give residents free Wi-Fi.
12 When I saw people coming out of these
13 stores on that strip were so diverse
14 formula, a number of the Black
15 businesses on that block had not been
16 touched. So when the helicopter began
17 to circle, we kept standing. Some
18 people began playing music. Most people
19 were just standing around just talking.

20 I'm not sure how the fire on
21 the corner in the pharmacy started. I'm
22 not sure who opened the pharmacy store.
23 But what I do remember is people rushing
24 into the store and then suddenly a fire
25 truck pulled up. Directly after the

1 fire truck pulled up, two SWAT trucks
2 sped down the street and stopped on the
3 corner.

4 I would like to pause here and
5 remind folks that we had no verbal
6 warning that tear gas or other
7 "nonlethal munitions" were going to be
8 deployed. We were standing there
9 waiting to see what would happen, making
10 sure no harm came to the bookstore. And
11 suddenly, a SWAT officer gets out and
12 aims the tear gas cannister, deployment
13 device, whatever, at us. Without
14 warning, he shot one into the air and
15 the other directly at those of us who
16 were standing up and against the wall.

17 I couldn't outrun the canister
18 and immediately felt the sting of tear
19 gas in my lungs and eyes. I sped down
20 an adjacent block where my friend lived
21 and went into their apartment and began
22 making sure all of us were okay and
23 unharmed, tended to them and then washed
24 my own eyes out to get my sight back
25 from the tear gas.

1 Once the initial sting went
2 away, we went back outside to check on
3 others who were outside the store with
4 us. As we made our way down the block,
5 we told the older folks who had been
6 sitting on their porches to go inside
7 and close their windows because we were
8 sure that more tear gas and SWAT cars
9 were going to be coming around. As I
10 continue to reflect on the weight of
11 that experience, I am reminded of how
12 some years ago folks on Osage Avenue
13 must have felt.

14 These kinds of super-violent
15 attacks help no one, especially when a
16 community is consistently underserved
17 and has to rely on itself to stay safe.
18 My hope is that not only does this never
19 happen again, but that Philadelphia's
20 government will no longer support
21 increasing a police budget that allows
22 things like SWAT cars and tear gas guns
23 to be purchased before its citizens have
24 schools that function properly,
25 affordable housing, affordable and

1 accessible health care and all of its
2 other immediate needs. By supporting
3 this bill, you take the first necessary
4 steps in making Philadelphia better for
5 all of its residents. Thank you.

6 COUNCILMAN JONES: Thank you so
7 much.

8 Who's the next witness,
9 Ms. Williams?

10 THE CLERK: Dr. Joseph
11 Nwadiuko.

12 COUNCILMAN JONES: Doctor.

13 DR. NWADIUKO: Good morning.
14 I'd like to begin by --

15 COUNCILMAN JONES: It's
16 afternoon now.

17 DR. NWADIUKO: It is afternoon.
18 That's true, colleague. Good afternoon.
19 I'd like to begin by thanking
20 Councilwoman for the invitation to speak
21 on the matter to this Committee. I'm an
22 internal medicine physician and health
23 policy researcher currently practicing
24 here in Philadelphia and bring several
25 years of experience working with Black

1 patients and immigrants in this City and
2 nationally.

3 The Council has heard numerous
4 testimonies from residents, particularly
5 those who have been affected by pepper
6 spray, tear gas and kinetic energy
7 munitions. And I wish to add a medical
8 perspective to contextualize what they
9 have experienced. Let's start with tear
10 gas. Tear gas comes in various forms,
11 ranging from CS, CS2 and OC, but they
12 work in a common mechanism, to irritate
13 bodily surfaces and most commonly,
14 create unpleasant side effects,
15 including tearing, skin irritation,
16 stress, nausea, headache and sore
17 throat. These effects can last from 30
18 minutes to 24 hours.

19 These are the better known side
20 effects. What is less known are the
21 severe longer-lasting and
22 life-threatening ones. Remember, these
23 are irritants and if you get deep enough
24 into human tissue or release in high
25 concentrations, it can cause deeper more

1 severe injury. Patients can sustain
2 substantial skin burns and dangerous
3 blood pressure elevations. These agents
4 can cause permanent eye damage leading
5 to glaucoma and blindness. Airways can
6 swell shut, causing patients to have
7 life-threatening respiratory distress.

8 Other patients have been known
9 to sustain liver damage, requiring acute
10 medical attention. Swelling of the lung
11 themselves is a known side effect, known
12 to lead to intensive care admissions.
13 Worse still are the effects if these
14 chemicals reach people that already have
15 comorbidities. If patients already have
16 asthma as 19 percent of Philadelphians
17 do, it can provoke a dangerous asthma
18 attack.

19 If patients already have high
20 blood pressure which nearly half of
21 Black Philadelphians do, they can
22 provoke serious cardiac and brain
23 injury. I'll note that there is no true
24 and medical antidote for exposure. An
25 only real treatment is to separate

1 patients from the exposure itself. As
2 we learned last week, these chemicals
3 stay in neighborhoods long after police
4 leave. They can penetrate the homes of
5 neighbors and bystanders, including
6 children who are physically closer to
7 the ground and are a great risk. These
8 chemicals can get caught on clothes and
9 stay for long periods of time, kicking
10 off cycle after cycle of repetitive
11 injury.

12 They can also be injurious to
13 first responders and healthcare
14 providers, in one case, a patient who
15 needed emergent surgery for a dog bite
16 wound after being exposed to CS tear gas
17 10 hours earlier. After the procedure
18 right when he was getting disconnected
19 from the ventilator, the patient's
20 throat began to suddenly close, raising
21 the stakes for quick and safe airway
22 protection. During the reintubation
23 procedure, the anesthesiologist
24 performing the procedure began to be so
25 affected by the tear gas himself, that

1 he struggled to put the tube back in the
2 patient's throat, and had to call for
3 help from another anesthesiologist who
4 also became affected. This was 10 hours
5 after exposure, mind you. While the
6 patient survived, his life was still at
7 sustained risk because his own
8 caretakers were overcome from secondhand
9 exposure.

10 Let's turn our attention to
11 kinetic energy munitions, otherwise
12 known as rubber bullets. I ask the
13 Committee to not let the term rubber
14 deceive you. They are not live
15 ammunition, but they contain metal or
16 plastic cords surrounded by rubber --

17 (Background noise.)

18 COUNCILMAN JONES: We need you
19 to please mute your mic. Monica, please
20 mute your mic.

21 DR. NWADIUKO: The muzzle
22 velocity is similar to live ammunition
23 and targets can sustain severe injuries
24 similar to those of live ammunition. If
25 shot at close enough range, they have a

1 possibility of breaking skin. If they
2 hit the wrong site, they do have the
3 possibility of causing severe injury.
4 As you heard last week, they might not
5 always hit extremities. They can hit
6 patients in the head, the neck, the
7 torso and the abdomen. 91 percent, 91
8 percent of the impacts away from
9 extremities cause severe injuries.

10 Dr. Rohini Haar of the
11 University of California of Berkeley
12 conducted the review of all studies done
13 on kinetic projectile injuries. Of the
14 1800 people captured in these studies,
15 at least 53 people have died from
16 injuries from rubber bullets, mostly at
17 the head or neck. 300 of them sustained
18 permanent injuries, largely by inducing
19 blindness. I will emphasize that, these
20 are not less-than lethal mechanisms.

21 Even despite the best of
22 efforts, kinetic injury munitions are
23 notoriously difficult to aim. Like tear
24 gas, there are multiple instances of
25 rubber bullets injuring bystanders

1 instead of protesters. This very spring
2 a journalist in Minneapolis, Linda
3 Tirado, was shot in the eye and had to
4 receive surgery and will likely be
5 blinded as a result of kinetic injury at
6 a protest. Eye injuries are
7 particularly concerning to the medical
8 community in a number of national
9 medical associations, including the
10 American Academy of Ophthalmology, the
11 American Academy of Family Physicians,
12 the American College of Surgeons have
13 called for kinetic injury munitions to
14 be banned because in their words,
15 protesters shouldn't have to choose
16 between their vision and their voice.

17 The horrors that we were told
18 by citizens already understates how
19 physical and mental health can be
20 endangered when protesters and
21 nonprotesters alike come into contact
22 with tear gas and rubber bullets. I
23 hope this testimony has brought context
24 to explain why that is so. The size and
25 the impact of this exposure literally

1 classify these as public health risks.

2 I want to also state that I
3 take this to be no small matter as our
4 respected officials who day after day
5 place their lives on the line to guard
6 our inhabitation around the clock.

7 However, I understand tools that are
8 employed in the pursuit of such safety
9 can have life-threatening effects of
10 their own, when combined with the
11 already present comorbidities prevalent
12 among citizens in our City can become
13 unbearable. With that said, I request
14 that the Committee pass Bill No. 200538.
15 Thank you.

16 COUNCILMAN JONES: Thank you
17 for your testimony.

18 Ms. Williams, anyone else on
19 this panel?

20 THE CLERK: That completes this
21 panel and I don't see any requests for
22 questions in the chat box.

23 COUNCILMAN JONES: Are there
24 any requests once again for questions of
25 this panel?

1 COUNCILWOMAN GYM: Council
2 Chairman, I just wanted to express my
3 gratitude to the panelists.

4 Dr. Nwadiuko, I think you laid
5 out very clearly some of the concerns
6 that we had. There's a lot of ongoing
7 questions about training and other types
8 of issues. Clearly even under trained
9 circumstances, there's questions about
10 the use and deployment of rubber
11 bullets, certainly the statistics and
12 what we actually saw occur and happen
13 with rubber bullets, including hitting
14 people in the head and other areas,
15 causing permanent scarring and other
16 damage is borne out by your research.
17 And I just want to express my gratitude,
18 and thank you very much to all of the
19 testifiers as well.

20 COUNCILMAN JONES: Thank you.
21 I echo your thanks to them. Whether
22 it's morning or afternoon, we're
23 appreciative of their patience.

24 Without any other questions of
25 these panels, I will ask is there anyone

1 that is not called upon that wishes to
2 testify on this resolution?

3 THE CLERK: There is a second
4 panel, Councilman, to testify on this
5 bill --

6 COUNCILMAN JONES: Oh, the
7 bill. I'm sorry, yes.

8 COUNCILMAN THOMAS:
9 Mr. Chairman, before we go to the second
10 panel, may I be recognized?

11 COUNCILMAN JONES: Yes, you
12 can. Member Thomas.

13 COUNCILMAN THOMAS: I'm sorry
14 about that. I apologize, Madam Clerk.

15 I just wanted to take a minute
16 to say thank you too to the witnesses
17 for testifying, specifically the
18 witnesses that talked about having to be
19 out there that day and to experience
20 some of the trauma and to continue the
21 level of distress that we already know
22 exists currently. I just wanted to say
23 thank you to them for sharing their
24 story. I know it's not easy. But to
25 also say on behalf of the City of

1 Philadelphia, I know they've heard it a
2 number of times. I know other
3 Councilmembers have said it, but I too
4 wanted to apologize and offer my
5 condolences because I was out there for
6 a little while. I know how scary it
7 was.

8 So thank you, Mr. Chairman. I
9 just wanted to say that.

10 And again, I apologize, Madam
11 Clerk, for interrupting you.

12 COUNCILMAN JONES: Thank you,
13 Member Thomas, for being on that front
14 line. I remember those hours that
15 turned into days and that uncertainty of
16 being out on those streets and we thank
17 you as well.

18 Ms. Williams, will you please
19 bring up the next panel to testify.

20 THE CLERK: Yes. We have
21 Monica Allison, Troy Wilson and
22 Dr. Elizabeth Bhoj.

23 Just a reminder, we only have
24 20 minutes left in this hearing and we
25 do need time to actually have a vote on

1 the bill. So if we can keep testimony
2 brief.

3 COUNCILMAN JONES:

4 Ms. Williams, I will ask you to be our
5 official timekeeper and gatekeeper.

6 All right. Please state your
7 name for the record and feel free to
8 abbreviate your testimony so that we can
9 take action on this bill.

10 MS. ALLISON: Good afternoon,
11 Councilmembers. My name is Monica
12 Allison. I'm a Committee person in the
13 3rd Ward, Cofounder of the Neighborhood
14 Association Cobbs Creek Neighbors and a
15 long-time resident of West Philadelphia.
16 And my testimony on October 7th were all
17 of these hats together.

18 So I am here today to support
19 Councilmember Gym's legislation to ban
20 the police use of so-called less-lethal
21 munitions as a response to our
22 demonstrations. Being involved in civic
23 life my entire adult life, I've taken
24 part in meetings, writing letters and,
25 yes, peaceful demonstrations. The

1 excessive events on 52nd Street was out
2 of control and harmful from a community
3 perspective.

4 While most of us understand
5 that the looting and rioting was an
6 undesired outcome of peaceful protest
7 and the police needed the flexibility to
8 respond, their over-the-top response was
9 very concerning for the neighborhoods.

10 The rights of citizens to peacefully
11 protest under the First Amendment is a
12 core portion of our democracy. And as
13 we saw in the events of late May and
14 early June, law enforcement sometimes
15 violate those rights through crackdowns,
16 mass arrests and illegal use of force,
17 in this case impeded the rights of the
18 residents who actually pay their taxes.

19 Tear gas does not belong in
20 residential neighborhoods, nor should it
21 be used in the City. It is reserved for
22 military and war zone use and
23 Philadelphia is not one. Protesters and
24 residents alike were unharmed, but they
25 were tear-gassed with no resolve and no

1 regard for the effects of the tear gas
2 on children, those with breathing issues
3 and in particular our senior citizens.

4 The police has an arsenal of
5 other options to contain or disperse the
6 crowd if that was the intent. Community
7 policing and de-escalation training
8 according to the captains in our
9 district has been a priority and should
10 continue to be so. As residents and
11 neighbors, which includes the officers
12 that serve our areas, should have
13 conversations within the Police Advisory
14 Council as to more appropriate responses
15 for citizens rights to peacefully
16 protest.

17 The response from the police
18 during this protest pushed a further
19 wedge between the police and the
20 citizens they serve. And let's be
21 clear, the job of the police is not just
22 law enforcement but it's also service to
23 the community. Philadelphia is the
24 cradle of democracy and as such, we
25 should be able to uphold the rights of

1 its citizenry as well as enforce the
2 law. It's my hope and the hope of the
3 residents of West Philadelphia that
4 police are held accountable for actions
5 that further damage the very fabric of
6 the City, and this legislation is one
7 step in the right direction.

8 So thank you, Councilmember
9 Gym, for shedding the light on this
10 important issue and crafting legislation
11 and language that protects the citizens
12 of Philadelphia. With the help of the
13 other City Councilmembers and the Mayor,
14 this legislation should become law and
15 our City can begin in the healing
16 process. Thank you for your time.

17 COUNCILMAN JONES: Thank you
18 for your testimony. I remember it from
19 the listening session two weeks ago.
20 Thank you so much for testifying again.

21 Ms. Williams, who's next?

22 THE CLERK: Troy Wilson.

23 COUNCILMAN JONES: Mr. Wilson,
24 good afternoon.

25 MR. WILSON: Good afternoon,

1 Councilman. Good afternoon,
2 Councilwoman Gym. I want to first thank
3 you both for allowing me to testify
4 today in my capacity as an Attorney, as
5 a Civil Rights Attorney, as a member of
6 this community, as a long-tenured
7 Defense Attorney and as a former
8 Chairperson of the Philadelphia Bar
9 Association's Criminal Justice Section
10 and as an occasional fellow protester
11 myself against injustice and police
12 brutality.

13 In my capacity as a civil
14 rights attorney and as a Black man, I
15 know all too well how important it is
16 the appropriate and proper legal and
17 Constitutional checks and balances to be
18 in place to both stem the tide of wanton
19 and unchecked police aggression while
20 simultaneously seeking to protect
21 citizens from said wanton and unchecked
22 police aggression, especially as it
23 relates to protesters who have conducted
24 themselves in a peaceful manner, as was
25 the case in say, for example, June of

1 2020 with the George Floyd protest.

2 I'm here to testify today to
3 demand that City Council immediately
4 pass Councilwoman Gym's City Ordinance
5 Chapter 10-2500, entitled Less Lethal
6 Devices. This ordinance became a
7 necessity because of the actions of
8 members of the Philadelphia Police
9 Department during the protest in the
10 summertime when multiple videos showed
11 police needlessly deploying tear gas,
12 white smoke and pepper spray on peaceful
13 protesters, all of whom were not posing
14 any sort of threat to the police
15 whatsoever.

16 Furthermore, many of these
17 innocent protesters were simply
18 attempting to seek refuge from tear gas,
19 white smoke and pepper spray but were
20 unable to do so, thereby further
21 engaging these protesters. Ironically,
22 these protesters were out in mass
23 peacefully protesting against the
24 continuing scourge of police brutality
25 that has been disproportionately

1 promulgated against Black people in
2 Philadelphia and throughout this
3 country.

4 And these protesters were met
5 with unprovoked police brutality,
6 thereby conferring both the legitimacy
7 and the necessity of these protests.

8 The needless acts of the police against
9 these protesters underscores the
10 necessity of a forthwith passage of this
11 ordinance, since passage of this
12 ordinance is just another tool to ensure
13 that the Philadelphia Police Department
14 is held accountable to all law-abiding
15 citizens.

16 Additionally, it must be
17 emphasized this ordinance will seek to
18 do what the Philadelphia Police
19 Department has failed to do, protect and
20 serve all that they come into contact
21 with. Equally as important is the fact
22 that the acts of the police were in
23 direct contravention to the Philadelphia
24 Police Department's own internal rules
25 and regulations as well as the state and

1 federal First Amendment Constitutional
2 rights relating to the freedom of
3 expression of the protesters.

4 Amnesty International USA
5 conducted a wide range report on these
6 types of George Floyd protests.

7 Chronically what it said was 125
8 instances of police violence against

9 protesters, journalists, medics and

10 legal observers in 40 states and

11 Washington, D.C. in both May and June.

12 The group accused police of mishandling

13 a litany of less-lethal devices,

14 including tear gas, sting ball grenades,

15 rubber pellets and the like.

16 Amnesty and other reform groups

17 have called for the immediate

18 development of national guidelines as it

19 relates to the specific use by police of

20 less-lethal projectiles. These

21 projectiles should be independently

22 tested for accuracy and safety and they

23 should be used only in situations of

24 violent disorder in which no less

25 extreme measures are sufficient to stop.

1 This report underscores the
2 importance of passing this ordinance
3 because while Philadelphia City Council
4 lacks the inherent power to pass an
5 ordinance compelling the implementation
6 of national guidelines relating to the
7 use of nonlethal projectiles, the
8 passage of this ordinance to attempt to
9 utilize City Council's power to limit or
10 discontinue the use of less-lethal
11 devices by the Philadelphia Police
12 Department because the Department has
13 itself mishandled its right to do so.

14 Finally, I would assume that
15 the decision on passage of this
16 important ordinance should be easier to
17 make in light of the fact that
18 Philadelphia's own Police Commissioner
19 has in the press publicly apologized for
20 illegal and unconstitutional use of
21 nonlethal projectiles on innocent
22 bystanders by members of her own police
23 force here in Philadelphia.

24 The forthwith support of this
25 ordinance will send a clear and

1 unequivocal message to the world, that
2 the City of Philadelphia will take any
3 and every measure to protect its citizen
4 who peacefully protest and will
5 concomitantly protect the First
6 Amendment Constitutional rights of
7 protests against any unnecessary police
8 aggression, especially when they attempt
9 to use nonlethal devices to quail legal
10 and peaceful protest.

11 And to sum up, hopefully this
12 passage of this ordinance will not only
13 protect citizens from needless and
14 unnecessary police aggressions against
15 peaceful protesters, but it will also
16 remind police they're supposed to be
17 trained to de-escalate situations when
18 they encounter the public or in this
19 specific case, peaceful protesters who
20 are cloaked in the protection of the
21 state and federal Constitution rights to
22 freely join together to exercise their
23 freedom of speech against an entity that
24 has for far too many years shown the
25 public that it still needs to work on

1 learning how to react in a nonaggressive
2 way towards peaceful protesters so as to
3 avoid unnecessary injuries to these very
4 same protesters.

5 Thank you very much for
6 allowing me the opportunity to testify
7 on such a very important matter. And I
8 want to thank Councilmember Gym for
9 putting together this ordinance. I
10 think it's very important. We need to
11 do everything we can in our power to
12 stem the tide of unwanted and wanton
13 police aggression.

14 COUNCILMAN JONES: Thank you so
15 much for your testimony.

16 Ms. Williams, are there any
17 other witnesses to testify on this bill?

18 THE CLERK: Yes. Dr. Elizabeth
19 Bhoj.

20 COUNCILMAN JONES: We have
21 exactly 10 minutes. Please feel free to
22 abbreviate your testimony.

23 DR. BHOJ: Thank you,
24 Councilman. I will make it as short as
25 possible and I really appreciate the

1 chance to speak. So I had also
2 testified at the meeting two weeks ago,
3 specifically about being a physician and
4 a pediatrician who was called in to help
5 with the medical treatment of those who
6 were affected by the tear gas and the
7 rubber bullets. You may remember me
8 specifically treating a family who had
9 been attacked in their own home with
10 small children that were suffering from
11 tear gas exposure.

12 As a pediatrician, I would like
13 to reflect on the larger implications of
14 that experience as a microcosm into the
15 negative impacts that these so-called
16 less-than-lethal weapons can have. So
17 as a pediatrician, I was especially
18 horrified at this indiscriminate use of
19 a chemical weapon on these children. As
20 we've heard, the use of tear gas as a
21 chemical weapon has been banned in
22 warfare situations under the Geneva
23 Protocol over 100 years ago. Then it
24 was specifically banned again by the
25 United Nations Chemical Weapons

1 Convention in 1997.

2 This really underscores the
3 danger of what is really a chemical
4 weapon, which can have permanent effects
5 even in adults. Tear gas works by
6 activating a pain receptor specifically,
7 that's how it is designed. It actually
8 activates the same pain receptor as
9 wasabi, but it is 100 times stronger.
10 So imagine being a small child and
11 having wasabi powder specifically and
12 intentionally blasted into your eyes,
13 multiplied 100,000 times over.

14 These chemicals were only ever
15 formally tested on healthy White male
16 adult volunteers. And even in this
17 population, it was found to leave them
18 with long-term higher risks for
19 infections such as influenza, pneumonia,
20 bronchitis and a whole range of other
21 respiratory illnesses. Of course, this
22 becomes especially relevant as our Black
23 communities in Philadelphia are still
24 disproportionately decimated by COVID-
25 19.

1 Our own Center for Disease
2 Control and Prevention has warned that
3 tear gas can blind and kill people
4 through chemical burns and respiratory
5 failure. Just this year prisoners in
6 the U.S. with respiratory conditions
7 have died after inhaling tear gas in
8 poorly ventilated areas. In addition,
9 we have no data about the effects of
10 tear gas on women and children, but
11 there have been studies already linking
12 it to increased rates of miscarriage.

13 There was a formal study
14 performed in 2017 on over 5,000 patients
15 who were exposed to tear gas. These
16 physicians reported many permanent
17 effects, respiratory problems, mental
18 health effects, blindness, brain injury,
19 loss of the use of limbs, limb
20 amputation and skin conditions. Adding
21 to the horror of this exposure, there is
22 no effective treatment to remove the
23 substance, other than to remove the
24 substance as quickly as possible.

25 For obvious reasons, the long-

1 term effects of tear gas on children
2 have never been studied. But reports
3 indicate there can be permanent damage
4 to the developing lungs. It is even
5 harder to quantify the psychological
6 trauma for a child to be trapped in
7 their own room surrounded by this
8 noxious chemical weapon.

9 Rubber bullets are similarly
10 dangerous. In a 2009 study, researchers
11 found that rubber bullets can hit with
12 more than twice the force of a
13 professional boxer, which is hard enough
14 to fracture the cadaver skulls they were
15 studying. Remember, these were adult
16 skulls, not to mention what would happen
17 in a pediatric population.

18 There was a study in the
19 British Medical Journal in 2017 that
20 showed that 3 percent of all rubber
21 bullet victims died and 15 percent or 1
22 in 7 were permanently injured. As
23 mentioned, so many Americans have been
24 blinded already that formal statements
25 have been made asking by medical

1 professionals to ban these weapons. In
2 addition, sociology studies have shown
3 that the use of these less-than-lethal
4 munitions are more likely to escalate
5 violence and lead to truly lethal force.
6 And it is clear to anyone who has either
7 personal experience or even a glancing
8 familiarity with this data that the
9 physical and psychological effects of
10 these less-than-lethal weapons are
11 clearly significant, all the more for
12 the sensitive developing brains and
13 lungs of children and babies and on the
14 minority populations which they're
15 disproportionately deployed. Thank you
16 so much for your time.

17 COUNCILMAN JONES: (Muted).

18 THE CLERK: Councilman, you're
19 on mute.

20 COUNCILMAN JONES: And for the
21 record, Ms. Williams, you muted me.

22 THE CLERK: I did. My bad.
23 I'm sorry.

24 COUNCILMAN JONES: Are there
25 any other witnesses to testify on Bill

1 No. 200538?

2 THE CLERK: There are no other
3 witnesses to testify, Mr. Chairman.

4 COUNCILMAN JONES: Are there
5 any others of the Committee that wish to
6 comment on said bill?

7 COUNCILWOMAN GYM:
8 Mr. Chairman, I just want to express my
9 gratitude to Monica, Shakyra and
10 Dr. Bhoj who were out there. I know how
11 difficult your testimony was. We will
12 be thinking of you as we move this bill
13 forward as well as many of our
14 Philadelphians.

15 Dr. Nwadiuko, Ms. Lopez and
16 Mr. Wilson, thank you so much also for
17 your powerful testimony as well as for
18 bringing clarity and accountability and
19 justice to this policy conversation, so
20 thank you. Thank you very much.

21 COUNCILMAN JONES: Thank you,
22 Member Gym.

23 Hearing no others to testify,
24 this concludes our public hearing. We
25 will now go into our public meeting. We

1 will take a minute to allow the
2 witnesses to disconnect so that we can
3 conduct our business on the bill.

4 (Brief recess.)

5 COUNCILMAN JONES: We will now
6 go into our public meeting of the
7 Committee of Public Safety on Bill No.
8 200538.

9 And the Chair recognizes
10 Councilman Johnson for a motion on the
11 bill.

12 THE CLERK: Councilman, if I
13 can just call roll again. I need to
14 make sure we still have a quorum before
15 we can vote.

16 COUNCILMAN JONES: Could you
17 please call the roll.

18 THE CLERK: Thank you. Is
19 Councilmember Thomas still with us --
20 okay. Councilwoman Brooks turned her
21 camera on --

22 COUNCILMAN THOMAS: I'm sorry.
23 Present.

24 THE CLERK: Okay. Great. I
25 think we have a quorum now. You can

1 proceed.

2 COUNCILMAN GREEN: I'm here.

3 COUNCILMAN JONES: Okay. The
4 Chair now recognizes Councilman Johnson
5 for a motion on the bill. Councilman
6 Johnson.

7 If he is not there, can I ask
8 the author of the bill for the motion.

9 COUNCILWOMAN GYM: Yes. Thank
10 you very much, Mr. Chairman.

11 I move that Bill No. 200538 be
12 reported from this Committee with a
13 favorable recommendation and further
14 move that the rules of Council be
15 suspended to permit first reading of
16 this bill at the next session of
17 Council.

18 COUNCILMAN THOMAS: Second.

19 COUNCILMAN JONES: It has been
20 moved and properly seconded that Bill
21 No. 200538 be moved from this Committee
22 with a favorable recommendation and
23 further move that the rules of Council
24 be suspended to allow first reading of
25 this bill at our next session of

1 Council.

2 All those in favor will signify
3 by saying aye.

4 (Aye.)

5 COUNCILMAN JONES: All those
6 opposed?

7 (No response.)

8 COUNCILMAN JONES: The ayes
9 have it. Bill No. 2007 -- come on,
10 what's the number -- 200538 has been
11 moved from this Committee.

12 And with that, this concludes
13 the business of the Public Safety
14 Committee. Thank you very much.

15 COUNCILWOMAN GYM: Thank you
16 very much, Mr. Chairman, for your
17 stewardship and thank you to all of my
18 colleagues.

19 COUNCILMAN JONES: You still
20 have another minute. You can give
21 closing comments.

22 COUNCILWOMAN GYM: No, I just
23 wanted to express my gratitude to the
24 Public Safety Committee. I felt like
25 this has been a Committee that's taken

1 on issues that far exceeds sometimes
2 our, you know, sometimes has had us
3 confront issues that are overwhelming at
4 times, whether it's violence within our
5 own communities, reforming of
6 institutions. But I just want to
7 express gratitude for this Committee for
8 its stalwart work in making sure that we
9 both can hear the voices of our
10 residents, that we work with our
11 Department agencies, that we see a
12 chance for healing as has been said
13 before, but just expressing gratitude to
14 the whole Committee and to my
15 colleagues. Thank you.

16 COUNCILMAN JONES: I read the
17 article on the Freshman Four, and you're
18 the older adviser -- more senior, not
19 older, senior adviser to them. So we
20 appreciate you guys and your
21 contribution to the City of
22 Philadelphia's public policy. Thank you
23 all.

24 COUNCILMAN THOMAS: Thank you,
25 Mr. Chairman. Thank you, colleagues.

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1 COUNCILWOMAN BROOKS: Thank
2 you, Mr. Chair. Thank you, everyone.

3 COUNCILWOMAN GAUTHIER: Thank
4 you, Mr. Chair.

5 (Committee on Public Safety
6 concluded at 12:28 p.m.)

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

I, hereby certify that the
proceedings and evidence noted are contained
fully and accurately in the stenographic
notes taken by me in the foregoing matter,
and this is a correct transcript of the
same.

TANEHA C. CARROLL
Court Reporter - Notary Public

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