

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 PUBLIC HEARING BEFORE THE COMMITTEE OF THE WHOLE
4 RE: FY '02 CITY OPERATING BUDGET

5 - - -
6 Room 400, City Hall
7 Philadelphia, Pennsylvania
8 Friday, 2/23/01
9 10:15 a.m.
10 - - -

11 BILL 010005 - Re FY '02 City Operating Budget
12
13

14 PRESENT: COUNCIL PRESIDENT ANNA C. VERNA, Chair
15 COUNCILWOMAN JANNIE BLACKWELL, Vice Chair
16 COUNCILWOMAN BLONDELL REYNOLDS BROWN
17 COUNCILMAN DARRELL L. CLARKE
18 COUNCILMAN DAVID COHEN
19 COUNCILMAN FRANK J. DICICCO
20 COUNCILMAN W. WILSON GOODE, JR.
21 COUNCILMAN JAMES F. KENNEY
22 COUNCILWOMAN DONNA REED MILLER
23 COUNCILMAN MICHAEL A. NUTTER
24 COUNCILMAN ANGEL L. ORTIZ
25 COUNCILMAN FRANK RIZZO

26 - - -

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1	2/23/01 - FY '02 OPERATING BUDGET	
2	I N D E X	
3		Page
4	First Judicial District	
5	Honorable Frederica Massiah-Jackson,	
6	President Judge	
7	Joseph DiPrimio, Esq., Court Administrator. .	
8	Kevin Cross, Deputy Court Administrator for	
9	Financial Services.	
10	Carl Primavera, Esq., Chancellor.	
11	Philadelphia Bar Association	
12	Stanley Krakower, Chair, Criminal Law Section	
13	Philadelphia Bar Association	
14	Robert Dubow, Director of Finance	
15	J. Green, Sheriff of County and City of Phila.	
16	Ronald R. Donatucci, Register of Wills. . . .	
17	Law Department	
18	Kenneth Trujillo, City Solicitor.	
19	Stella Tsai, Chair, Administrative Law. . . .	
20	Bill Grab, Office of Labor Relations	
21	District Attorney's Office	
22	Lynne Abraham, DA	
23	Leonard Deutchman, Economic and Cyber Crimes	
24		
25		

1	2/23/01 - FY '02 OPERATING BUDGET	
2	OPERATING BUDGET	PAGE
3	LEONARD DEUTCHMAN, Asst. District Attorney ..	1923
	LYNNE ABRAHAM, District Attorney	1926
4	GEORGE MOSEY, Deputy, DA'S Office	1942
	ELLEN GREENLEE, Chief Defender	1956
5	BYRON CARTER, Director, Defender Assoc.	1971
	MARGARET TARTAGLIONE, City Commissioner	1983
6	ROBERT DUBOW, Budget Director	1987
	BOB LEE, Administrator, Voters Registration .	1987
7	JACK LEARY, General Manager, SEPTA	2003
	RICHARD EVANS, Chief, SEPTA Transit Police ..	2013
8	BERNARD COHEN, Transit Operations	2027
	FRANCES JONES, Govermental Affairs	2030
9	PAT NAWALKOWSKY, Infrastructure	2051
	JETTIE NEWKIRK	2075
10	FAY MOORE, Treasurer, SEPTA	2077
	RONDA COHEN, Community College	2080
11	STEPHEN CURTIS, President, Community College.	2082
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 2/23/01 - FY '02 OPERATING BUDGET

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

4 COUNCIL PRESIDENT Verna: Good morning,
5 everyone. This is the continued public hearing of
6 the Committee of the Whole regarding Bill No.
7 010005.

8 The first department to testify this
9 morning will be the First Judicial District.

10 (Witness comes forward.)

11 COUNCIL PRESIDENT Verna: Thank you so
12 much for your patience. I appreciate it.

13 Please identify yourself for the record
14 for the record and proceed with your testimony.

15 JUDGE MASSIAH-JACKSON: Good morning,
16 Madam President. I am here today, Frederica
17 Massiah-Jackson, President Judge, Court of Common
18 Pleas and Chair of our Administrative Governing
19 Board. And I want to thank you for the
20 opportunity to present our budget on behalf of the
21 First Judicial District to you and to the entire
22 City Council.

23 I would like to introduce our court
24 administrator -- reintroduce, actually, our Court
25 Administrator, Joe DiPrimio; and our Deputy for

1 2/23/01 - FY '02 OPERATING BUDGET

2 Financial Services in Fiscal Matters, Kevin
3 Cross.

4 Mr. DiPrimio is going to make the
5 presentation on behalf of the First Judicial
6 District, but I am here and join with him and
7 welcome his comments.

8 COUNCIL PRESIDENT Verna: Thank you.

9 Mr. DiPrimio?

10 MR. DIPRIMIO: Good morning, Council
11 President Verna.

12 May it please Council, we are here
13 today to present testimony on behalf of the First
14 Judicial District's Fiscal '02 Operating Budget.
15 You have already met our new president Judge
16 Frederica Massiah-Jackson, who was elected by her
17 peers in December of 2000, and she has also been
18 appointed the by the Supreme Court of Pennsylvania
19 to serve as of the president of -- or as the Chair
20 of the Administrative Governing Board, which is
21 the management body for all Philadelphia courts.

22 I might also point out to Council that
23 the Administrative Governing Board has now
24 included the appointment of the Honorable Esther
25 R. Sylvester as Administrative Judge of Family

1 2/23/01 - FY '02 OPERATING BUDGET

2 Division; the Honorable Joseph D. O'Keefe, as
3 Administrative Judge of the Orphans Division; and
4 also the Honorable Fortunato N. Perri as the
5 Administrative Judge of the Traffic Court.

6 The FY '02 General Fund Budget for the
7 First Judicial District and Grants Revenue Budget
8 maintains a continuation of the zero-growth,
9 zero-reduction agreement entered into by the
10 Supreme Court of Pennsylvania and City of
11 Philadelphia. The First Judicial District is not
12 seeking any additional funds for counsel for court
13 operations.

14 As our testimony depicts in Table 1,
15 the total Operating Budget from the General Fund
16 which we are seeking is \$110,268,396. That is in
17 addition to the Grants Revenue Funds, which have a
18 zero other impact on the Operating Budget. Those
19 Grant Revenue Funds total \$35,487,410 and are set
20 forth in detail in Table 2 of our testimony.

21 The General Fund appropriation we are
22 seeking does reflect a City-initiated reduction of
23 1.5 percent from our Class 100 Operating Budget,
24 and it was in the spirit of cooperating with the
25 Administration that we sought the concurrence of

1 2/23/01 - FY '02 OPERATING BUDGET

2 the Supreme Court of Pennsylvania and of our
3 Administrative Governing Board to support this
4 one-time reduction; and in fact, we have.

5 However, it does seek an additional
6 \$3 million in Class 200, not for the First
7 Judicial District's Operating Budget, but to
8 increase the amount of funds available to pay
9 appointed counsel on behalf of dependent children,
10 families at risk, and those persons charged with a
11 crime who are indigent but cannot be represented
12 by the Defender Association of Philadelphia due to
13 a conflict.

14 The City's administration has made a
15 priority of taking back the neighborhoods,
16 reducing quality-of-life crimes, and I might point
17 to Council the fact that they are being
18 successful. In fact, we have seen an increase in
19 Municipal Court cases alone of 40 percent from
20 1996 to the year 2000. Just from 1997 to the year
21 2000, the number of misdemeanors entering the
22 Municipal Court have increased by 83 percent,
23 while on the Family Court side, the number of
24 dependent children have steadily increased. On
25 average, we receive 37 to 3800 new dependency

2/23/01 - FY '02 OPERATING BUDGET

petition filings per year. This represents a significantly large number of cases coming into the court where appointed counsel are needed. We have also noted a serious growth in the number of appointments that are made on behalf of dependent children to the extent that 166 percent growth in the number of court appointments have been experienced by our court.

We have determined that an additional \$3 million would assist the First Judicial District in cooperation with the Philadelphia Bar Association, which provides the quality and high-level caliber representation on behalf of our children and families at risk, and also our indigent defendants because of the projections based on the rate of crime. Our statistics show an average steady rate of 6 percent per year for all case types, from 1996 through to the year 2000.

The objective of providing appropriate fee increase to see lawyers who deliver quality legal services and representing stressed families and children at risk is clearly justified. In fact, the Legal Intelligencer and the Philadelphia

1 2/23/01 - FY '02 OPERATING BUDGET

2 Inquirer provided a report by the Public Interest
3 Bar and Advocacy Committee on dependent court
4 resources, and I commend that to Council, but
5 essentially, one of the cornerstones of that
6 report is the fact that the Commission determined
7 that there must be fee increases in order to
8 ensure that dependent children and families at
9 risk receive quality representation.

10 This past December, the First Judicial
11 District reached an agreement with the City's
12 Budget Bureau which allows the District to carry
13 forward into future fiscal years any unspent funds
14 from the line item for counsel fee payments, which
15 would be earmarked exclusively for counsel fee
16 payable, accounts payable, or other increases.

17 The additional \$3 million for this line
18 item, if approved by Council, will permit the
19 creation of a long-term funding apparatus whereby
20 the court, with the cooperation of the Bar, will
21 be able to meet the City's obligation to provide
22 legal representation to dependent children,
23 families at risk, and indigent persons accused of
24 crimes.

25 This strategy also provides the ability

1 2/23/01 - FY '02 OPERATING BUDGET

2 to establish a reasonable modest fee increase for
3 all case types commencing in Fiscal Year 2002. In
4 fact, we have met with the Chancellor, Carl
5 Primavera, of the Philadelphia Bar Association and
6 with the section leaders from the Criminal family
7 Law Section and from the Family Law section and
8 have begun constructive dialogues geared towards
9 establishing appropriate fee increases for
10 dependency and criminal appointments. Success
11 with this strategy is contingent on Council's
12 approval of the \$3 million increase.

13 Accordingly, on behalf of the First
14 Judicial District, the Pennsylvania Judiciary, the
15 Administrative Governing Board, the employees and
16 citizens of Philadelphia for whom with we
17 appreciatively work, we respectfully seek City
18 Council's consideration and approval of our budget
19 request with the supplemental fundings for the
20 counsel fee appropriation.

21 COUNCIL PRESIDENT VERA: Thank you.

22 What was the agreement that the First
23 Judicial District reached with the Administration
24 concerning counsel fees this past December?

25 MR. DIPRIMIO: This past December, we

1 2/23/01 - FY '02 OPERATING BUDGET

2 met with Rob Dubow of the Budget Bureau and with
3 Appropriations Chair Krajewski, and we went to
4 them with the request that we be allowed to roll
5 forward into future fiscal years any unexpensed
6 counsel fee payments -- or revenue that is
7 available in the line item for counsel fees.

8 What we determined is that in the last
9 two fiscal years, we had outstanding bills, and
10 this is a gap between the number of appointments
11 made and the number of fee petitions received.
12 And on average, this gap is anywhere from 20 to
13 30 percent. So what we've learned that as the gap
14 grows, these accounts payable continue to exist.
15 And, ultimately, if the debt were called today,
16 for example, there would not be sufficient funds
17 in that line item to cover the debt.

18 So with the support of the City's
19 administration, we look forward to the ability to
20 roll forward any unexpensed appropriation that
21 would be in that line item. That then gives us
22 the ability to pay future accounts payable and
23 also gives the ability to create a pool or a
24 reserve whereby we're able to go back and perhaps
25 make adjustments for fee increases in future

1 2/23/01 - FY '02 OPERATING BUDGET

2 years.

3 COUNCIL PRESIDENT Verna: Now, do I
4 understand you to say that the Administration
5 agreed to that?

6 MR. DiPrimio: That's correct. In
7 fact, yesterday, at a meeting with Mr. Dubow, it's
8 my understanding that we re-ratified that.

9 COUNCIL PRESIDENT Verna: Mr. Dubow, do
10 you mind coming forward, please.

11 (Rob Dubow comes forward.)

12 COUNCIL PRESIDENT Verna: Mr. DiPrimio
13 while he's coming forward, if the First Judicial
14 District is running surpluses that, by your own
15 testimony, totaled over \$28 million between FY '93
16 and FY 2000, why do you need additional funding
17 for court-appointed attorneys?

18 MR. DiPrimio: Thank you, Council
19 President.

20 With respect to the First Judicial
21 District zero-growth, zero-reduction budget, which
22 was negotiated by the City and the Supreme Court,
23 the District has steadfastly abided by this
24 agreement. As noted in the spending plan of the
25 City for PICA for 2000 to 2006, the budget

1 2/23/01 - FY '02 OPERATING BUDGET

2 surpluses are set to provide a appropriation for
3 the First Judicial District, which will enable us
4 to pay for all technology, capital improvements,
5 education, and things of that nature.

6 In fact, Madam President, the First
7 Judicial District has not violated that. We have
8 not sought one penny of additional funding for any
9 of our technology. Perhaps your experience with
10 other City agencies has been different, but we
11 have not come to Council for anything.

12 The surpluses that we do have been
13 managed in a correct way and in a responsible way,
14 and I can tell you that we are now at the cross
15 roads of our planning, where we're about to begin
16 certain expenditures. For example, we are putting
17 in a new telephone system in City Hall in the
18 child support operations, which will cost the
19 First Judicial District \$1.5 million, without any
20 additional contribution from the City. In
21 addition, we're going to start renovations of our
22 6th floor space. That gives us the ability to
23 close the Wanamaker Building, which the City is
24 paying about \$28-a-square-foot rental; it's almost
25 \$2 million a year. But by closing that space and

1 2/23/01 - FY '02 OPERATING BUDGET

2 moving court operations back into City Hall, the
3 savings would then go back to the City of
4 Philadelphia, and not to the District.

5 COUNCIL PRESIDENT VERNA: So it goes
6 back to the General Fund and not the court
7 system?

8 MR. DIPRIMIO: It goes back to the
9 General Fund, right. What we have done in the
10 past, we've closed down operations in One East
11 Penn Square, for example, and all of the funds
12 that were saved in that framework reverted back to
13 the General Fund. But in order for District to be
14 able to make that move, and which we're in the
15 process of doing, we have to do renovations to the
16 6th floor.

17 Through negotiations with Joseph Martz
18 and our court, we were able to realign spaces
19 whereby the City received FJD space on the 7th
20 floor, which is now dedicated for communications,
21 City communications, and the FJD would be getting,
22 or is getting, the 6th-floor east corridor of City
23 Hall, but that space must be renovated and put into
24 usable court space. Our estimates total several
25 million dollars to accomplish that, and we have

1 2/23/01 - FY '02 OPERATING BUDGET

2 already received four or five proposals in
3 response to our request for proposal for our
4 potential services.

5 We are meeting to determine what our
6 construction costs would be, and we can tell you,
7 based on experiences with other jobs, that we're
8 anticipating it to cost anywhere from 3 to
9 \$4 million to do those renovation.

10 With respect to technology, after our
11 competitive bid process, Deloitte Touche was
12 retained to do a complete analysis of the First
13 Judicial District's technology architecture, and
14 we are now in the process of implementing those
15 recommendations.

16 For example, the wide-area network,
17 which the court uses, goes back to the early '90s;
18 it's a (indiscernible) system. As Council may no
19 (indiscernible) is out of business and is no
20 longer being supported. I think their support
21 ends this March. So we have received estimates
22 through the consultant, and we know, for example,
23 that to replace that system, it can cost up to \$5
24 million.

25 All of the PC's which the City bought

1 2/23/01 - FY '02 OPERATING BUDGET

2 on a bond at the Criminal Justice Center, 700
3 items, are about 5 years old, and they have --
4 they have exceeded their useful life expectation.
5 We are now in the process of getting competitive
6 bids to replace all of that equipment.

7 So this is just an example of how those
8 dollars are being used.

9 The court could have spent money
10 perhaps more quickly, but we believe that it would
11 be irresponsible to just spend money for the sake
12 of doing so, without a studied, concerted plan of
13 how we would be spending the money. And we've
14 presented the encumbrance, if you will, spending
15 plan to Mr. Dubow, he has it.

16 I'm prepared to answer any questions
17 with respect that the Council may have about that,
18 but it's only because of our ability to retain
19 year-end savings that we've been able to
20 responsibly move forward in making automation and
21 technology a reality in Philadelphia's courts.

22 JUDGE MASSIAH-JACKSON: Madam
23 President, I'd like to take this opportunity to
24 introduce to you Stanley Krakower, who is here as
25 Chair of the Criminal Law Section of the

1 2/23/01 - FY '02 OPERATING BUDGET

2 Philadelphia Bar Association and is here on behalf
3 of the Philadelphia Bar. He has asked if he could
4 make a few comments in support of our requests for
5 increased counsel fees, at your discretion.

6 COUNCIL PRESIDENT VERNA: Thank you.

7 Mr. Dubow, why did the Administration
8 not include the \$3 million that is being
9 requested?

10 MR. DUBOW: A couple of reasons. The
11 reason -- one reason is we didn't get the request
12 till after the budget process was through; but
13 even if we had, we would look at this increase as
14 something that should have been covered under the
15 zero-growth agreement. And, for example, in prior
16 years, as Mr. DiPrimio mentioned, when they were
17 savings against budget, the First Judicial
18 District got to keep that.

19 On the other hand, I think that when
20 there are costs that they're incurring from one of
21 their initiatives, that they should bear those
22 costs. And another part of it, too, is in the
23 past, there have been years when the fees have
24 been higher. I think in '97, they were
25 9.2 million, and they were only allocated 7.6 in

1 2/23/01 - FY '02 OPERATING BUDGET

2 the budget this year.

3 So I think in the past, they've shown
4 that they can actually incur higher counsel fee
5 costs and still have savings that go back to the
6 OPC.

7 MR. DIPRIMIO: May I -- is a response
8 appropriate?

9 COUNCIL PRESIDENT VERNA: Yes.

10 MR. DIPRIMIO: Okay. Mr. Dubow and I
11 have discuss, and not to suggest a debate, Madam
12 President, but I might point out that in the past,
13 whenever the City had a project that they wished
14 to be initiated -- for example, electronic
15 monitoring for pre-release to maintain the prison
16 cap -- the City had supplemented the First
17 Judicial District's budget for those types of
18 projects.

19 We respectfully submit that the need to
20 expand counsel fee appropriation is tantamount to
21 that type of a program because, quite honestly, no
22 one envisioned the rate of increase in the number
23 of arrests, which have resulted by our very fine
24 Police Commissioner. And we, the First Judicial
25 District, is just like, for example, the District

1 2/23/01 - FY '02 OPERATING BUDGET

2 Attorney, the Police Department, the prisons,
3 Community Legal Services, the Law Department, all
4 of which have experienced supplements to their
5 budgets, while, at the same time, have had to come
6 back to Council for technological needs as well.

7 The courts, on the other hand, have not
8 come back to Council for any court-related
9 expenditure or for any technological needs.
10 That's the first thing.

11 With respect to the increases, the
12 First Judicial District established, and I will
13 round it out, \$7.6 million as a line item
14 appropriation for counsel fees, and I'm going to
15 suggest that that occurred back in 1995. Kevin;
16 is that correct? '96. And that item had been
17 established and has been consistently put into our
18 appropriation.

19 However, there have been shortfalls
20 steadily, and the courts had been required by the
21 prior administration, not without any willingness
22 on the courts' part but just by de facto, what
23 would happen is that the courts would have to go
24 into its year-end savings, for example, and make
25 up whatever the shortfall was. And we have

1 2/23/01 - FY '02 OPERATING BUDGET

2 calculated those numbers, and it is included in
3 your testimony as an attachment, but to the tune
4 of in excess of \$10 million have come out of the
5 courts' operating budgets and out of year-end
6 savings since 1996 to supplement that shortfall in
7 the counsel fee appropriation.

8 I would respectfully submit that that
9 was not the spirit or the intent of the
10 zero-growth budget, nor was it the intent of the
11 agreement with respect to the courts' ability to
12 retain savings. Those savings clearly were
13 intended for technology and for capital
14 improvements, and we are using those funds for
15 that purpose, albeit we have been forced and
16 compelled to use those savings to the tune of
17 \$10 million to supplement counsel fees.

18 We were we believe that the
19 presentation and proposal to Council to be a
20 responsible one. We believe that it is one with
21 the spirit of cooperation with the Philadelphia
22 Bar and under the leadership brought by President
23 Judge Massiah-Jackson and the support of our
24 Pennsylvania Supreme Court.

25 I might add that we think this is a

1 2/23/01 - FY '02 OPERATING BUDGET

2 long-term funding strategy which will enable the
3 courts and the Bar to cooperatively manage the
4 pool of funds that Council would appropriate, and
5 that we would be able to adjust rates of payments
6 accordingly, and so that when times allow us, we
7 can make reasonable increases, particularly in the
8 area of dependent children and families at risk.
9 That is the area that is crying out for justice.
10 While at the same time, it will enable us to
11 accommodate rates of growth of court appointments,
12 which really trickle down because of the increase
13 in arrests that the Administration is requiring.

14 May I -- Madam President, I'd like to
15 bring to Council's attention the fact that the
16 Chancellor of the Philadelphia Bar Association,
17 Carl Primavera, has joined us, and I believe
18 Mr. Primavera might be willing to offer testimony
19 in support of us today.

20 COUNCIL PRESIDENT VERA: For the
21 record, can you tell us what the current counsel
22 fees are, for the record?

23 MR. DIPRIMIO: Yes, yes. May I defer
24 to Kevin Cross for the specific on this, Madam
25 President?

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT Verna: I beg your
3 pardon?

4 MR. DiPrimio: Would it be okay if Mr.
5 Cross provides that testimony?

6 COUNCIL PRESIDENT Verna: Please.
7 Anyone.

8 MR. Cross: I am Kevin Cross, Deputy
9 Court Administrator for Financial Services for the
10 First Judicial District.

11 In the current fiscal year -- that
12 would be Fiscal Year '01 -- our projected counsel
13 fee expense is about \$7.4 million. That's about
14 \$400,000 higher than our actual expense in the
15 previous fiscal year. We anticipate growth in two
16 public growth: in the dependency area and also in
17 the misdemeanor cases, where Mr. DiPrimio has
18 testified that there have been increases in the
19 number of appointments that have been made.

20 COUNCIL PRESIDENT Verna: I realize
21 that. However, I think my question is, can you
22 tell us what the counsel fees are for the
23 homicides cases or --

24 MR. DiPrimio: Oh, sure, yes.

25 COUNCIL PRESIDENT Verna: I just want

1 2/23/01 - FY '02 OPERATING BUDGET

2 the record to reflect that, please.

3 MR. DIPRIMIO: Yes.

4 MR. CROSS: Just one second, please.

5 MR. DIPRIMIO: Madam President, for
6 example:

7 In domestic violence cases, the flat
8 fee is \$350.

9 Dependency cases -- and the law
10 requires the appointment of counsel for the adult
11 parents or custodians of children at risk. It's a
12 \$300 flat fee in the first year, and \$150 total in
13 subsequent years. For children, it's \$300, the
14 first year; \$150 capped for all subsequent years.

15 So the combined total is \$450 for a
16 family for one, two, or three years, and these
17 cases typically require several hearings and run
18 in excess of 18 months on average.

19 Juvenile delinquent cases are capped at
20 \$300.

21 COUNCIL PRESIDENT Verna: How much?

22 MR. DIPRIMIO: \$300.

23 COUNCIL PRESIDENT Verna: Thank you.

24 MR. DIPRIMIO: Delinquent investigators
25 and experts: \$100.

1 2/23/01 - FY '02 OPERATING BUDGET

2 Non-homicide cases: \$300 for
3 preparation, plus the -- \$600, excuse me,
4 preparation, plus the first day, and then \$300 a
5 day thereafter for non-homicides.

6 Homicides: \$1700 in preparation, plus
7 \$400 a day thereafter.

8 Homicides appeal: \$60 an hour in
9 court; \$50 an hour out of court.

10 Non-homicide appeals: \$50 an hour in
11 court; \$40 an hour out of court.

12 Homicide post-conviction relief cases:
13 \$60 an hour in court; \$50 an hour out of court.

14 Non-homicide PCRA's: \$50 an hour in
15 court; \$40 an hour out of court.

16 Professional services for homicide
17 cases: \$300 flat fee, plus \$35 an hour.

18 Professional service for non-homicide
19 cases: \$100 flat fee, plus \$35 an hour.

20 Municipal Court misdemeanors (obviously
21 non-homicide): flat fee of \$350.

22 COUNCIL PRESIDENT VERA: Thank you.

23 I have some other questions, but I
24 notice that there are other Councilmembers that
25 want to be recognized.

1 2/23/01 - FY '02 OPERATING BUDGET

2 So at this time, the Chair recognizes
3 Councilman Cohen.

4 COUNCILMAN COHEN: Thank you, Madam
5 President.

6 First, could you explain what you mean
7 by "capped" and what you mean by "flat fee."

8 MR. DIPRIMIO: Yes.

9 CHAIRMAN COATES: Because those who are
10 not members of the Bar, they may not understand
11 what that means.

12 MR. DIPRIMIO: Yes. Because of the
13 rate with which the counsel-fee expenditure was
14 growing, the former leadership of the
15 Administrative Governing Board appointed a
16 committee which looked into the rate of cost,
17 where they were currently, the cost centers, and
18 come back with recommendations about how these
19 costs might be brought under control. And, in
20 fact, the committee consisted of members of the
21 former Administrative Governing Board as well as
22 three lawyers by then-Chancellor Frank Devine,
23 George Newman being one of the lawyers. They also
24 had a lawyer, Bill Love, who represented --

25 COUNCILMAN COHEN: Well, my question

1 2/23/01 - FY '02 OPERATING BUDGET

2 specifically is, what does it mean "capped"? Why
3 do you mention that?

4 MR. DIPRIMIO: I was trying to lay the
5 groundwork for the answer.

6 The idea of cap -- there were certain
7 case types, like dependent children, where \$300
8 was paid in the first year, but then \$150 was paid
9 in the second year, and it was capped at that
10 \$150, even if the case required more than the
11 second year's worth of representation. So it's a
12 bifurcated payment process -- 300 plus 150 -- but
13 it could be that that case lasted in excess of the
14 18 months or two years, which was envisioned.

15 COUNCILMAN COHEN: But wouldn't that
16 mean that no matter how many days in court and no
17 matter how many hours spent --

18 MR. DIPRIMIO: Yes.

19 COUNCILMAN COHEN: -- the total fee
20 received by the attorney would be, if capped at
21 \$350 --

22 MR. DIPRIMIO: That's correct.

23 COUNCILMAN COHEN: -- meant that he
24 only received, or she only received, she only
25 received, \$350, no matter how many hours in court

1 2/23/01 - FY '02 OPERATING BUDGET

2 or out of court.

3 MR. DIPRIMIO: You are absolutely
4 correct, Councilman.

5 JUDGE MASSIAH-JACKSON: And also,
6 Councilman, no matter how many years that case
7 might last.

8 COUNCILMAN COHEN: Yes.

9 JUDGE MASSIAH-JACKSON: So that if a
10 case lasted three or four years for various
11 reasons of review of the circumstances of that
12 child, the attorney is still limited and capped at
13 that second-year amount of the second --

14 COUNCILMAN COHEN: Which means the
15 attorney has one of two choices: to limit totally
16 the amount of time and energy spent on the case;
17 or, in effect, to accept the case as a pro bono
18 case.

19 MR. DIPRIMIO: That's right.

20 JUDGE MASSIAH-JACKSON: That's correct.

21 COUNCILMAN COHEN: Isn't that a fact?
22 I mean, we want to get the real facts here because
23 what we're trying to do is to find a way to permit
24 the courts and the whole criminal justice system
25 and the justice system involving indigent children

1 2/23/01 - FY '02 OPERATING BUDGET

2 with family problems to get justice in the courts.

3 MR. DIPRIMIO: That's right.

4 COUNCILMAN COHEN: And what has
5 happened over the year, as I understand it, is
6 that it's almost impossible to get experienced
7 attorneys to sacrifice the time and energy needed
8 to give proper representation, and that's one of
9 the areas both in the family cases and in the
10 criminal cases that the \$3 million is intended to
11 deal with.

12 JUDGE MASSIAH-JACKSON: That's correct.

13 COUNCILMAN COHEN: Is that accurate?

14 JUDGE MASSIAH-JACKSON: That's
15 accurate, Councilman, yes.

16 COUNCILMAN COHEN: Well, I -- Madam
17 President, I have been involved for a number of
18 years with the Criminal Justice Section and with
19 the Bar Association generally in an effort to
20 right this situation with respect to both areas.
21 And it seems to me that it's absolutely essential
22 to have this additional funding.

23 The only question I have is, I'm not
24 sure that it's enough because I thought that
25 \$3 million figure was what was needed probably

1 2/23/01 - FY '02 OPERATING BUDGET

2 just to deal with the criminal defense area, but
3 at least it's a beginning, and we can test it and
4 see, you know, what the facts really turn out to
5 be.

6 But it's a kind of a crime in itself,
7 the way in which the people that appear in the
8 courts are not being adequately represented and
9 the burden that the private bar is forced to carry
10 in cases where the Public Defender's Office is not
11 available, oftentimes because they can't represent
12 two different defendants in a case, that kind of
13 thing.

14 MR. DIPRIMIO: That's correct.

15 COUNCILMAN COHEN: So I would strongly
16 urge to Mr. Dubow that this is a matter of great
17 urgency that has to be settled. I don't know
18 about the details of that original flat zero, flat
19 growth operation, but there are many other ways.
20 Since my son became a member of the bench and I've
21 learned some facts about it, the whole structure
22 of pay seems to be back in the medieval ages.
23 They cap their salaries of employees who work for
24 the courts at salaries so low that they're far
25 below what we pay in government in the City

1 2/23/01 - FY '02 OPERATING BUDGET

2 Council and I'm sure throughout the administrative
3 departments of City government.

4 And so I think that your efforts to
5 bring the courts up to date is a very fine step,
6 and I welcome that. And I think we've got to find
7 a way in City Council to give them support.

8 And I think the Mayor, who is a lawyer,
9 understands this. He's always, in Council, been a
10 strong supporter of the Public Defender, of
11 Community Legal Service, of proper defense of
12 criminals. You have those who are charged with
13 criminal offenses and with the indigent. So I
14 just think this is a matter in which City Council
15 ought to hold the Mayor's Office, you know, their
16 feet to the fire until we get this properly
17 resolved.

18 And I'm delighted -- it's the first
19 time it's been brought out this clearly, Madam
20 President Judge and the administrative officer, in
21 the fashion that it has been today.

22 Thank you.

23 JUDGE MASSIAH-JACKSON: Thank you.

24 MR. DIPRIMIO: Thank you.

25 COUNCIL PRESIDENT VERNA: You're

1 2/23/01 - FY '02 OPERATING BUDGET

2 welcome.

3 COUNCILMAN COHEN: And are we going to
4 be able to hear from Mr. Krakower and
5 Mr. Primavera? I think their insights on this are
6 part of the --

7 COUNCIL PRESIDENT Verna: We will
8 recognize them, Councilman, at the appropriate
9 time. Thank you.

10 COUNCILMAN COHEN: Very good.

11 COUNCIL PRESIDENT Verna: Mr. DiPrimio,
12 I want this record to be crystal-clear. How did
13 you arrive at the \$3 million figure? And tell us,
14 what are the projected costs for counsel fees for
15 FY 2002?

16 MR. DiPrimio: I'm glad you asked.

17 COUNCIL PRESIDENT Verna: I just want
18 this to be very clear.

19 MR. DiPrimio: We anticipated the
20 question, Madam President. And with Mr. Cross's
21 assistance, we will put onto the record -- may
22 Mr. Cross put it on the record?

23 COUNCIL PRESIDENT Verna: By all means.

24 MR. DiPrimio: Thank you.

25 MR. Cross: Thank you.

1 2/23/01 - FY '02 OPERATING BUDGET

2 We looked at our current fee structure
3 and looked at the cases that needed the attention
4 the most and we decided that was in the Family
5 Court area. The highest fee increases are in the
6 Family Court area. They are projected out to be
7 -- the proposal itself is a three-year proposal.
8 We have projected to front-load the increases in
9 the first year as much as possible but also keep
10 some money available for projected increases in
11 caseloads.

12 So there's two properties to the plan.
13 One is to increase the fees, and then also to
14 provide some funds for additional caseloads, which
15 we are experiencing.

16 We expect that -- we have -- over the
17 past six years, we've had a 6 percent rate of
18 growth in our counsel fee payments and in the
19 number of petitions that we pay also. These
20 increases -- in each specific line item, one may
21 be up and one may be down, but consistently across
22 the board, it's about 6 percent. So we have
23 factored a 5 percent increase in our caseloads for
24 appointments over the next 3 years. So we have
25 provided about 1.5 million for the increase in the

1 2/23/01 - FY '02 OPERATING BUDGET

2 caseload and about

3 1.5 million also for the increase in the fees.

4 Now, with that increase in the fees, I
5 would say about 50 percent of that is in the
6 Family Court -- or maybe about 40 percent is in
7 the Family Court area, 30 percent is in the Common
8 Pleas criminal area, and about 20 percent is in
9 the Municipal Court area. So we've tried to
10 distribute the increases in each court.

11 COUNCIL PRESIDENT VERNA: What do you
12 think your expenditures will be for the FY '02?

13 MR. CROSS: '02? With the fee
14 increase, Council President?

15 COUNCIL PRESIDENT VERNA: Mm-hmm.

16 MR. CROSS: With the fee increase, it
17 would be about -- just one second, please.

18 It would be \$8 million. That would be
19 just strictly with the fee increase. With the
20 projected increases in caseloads, it could be as
21 high as \$9.4 million.

22 COUNCIL PRESIDENT VERNA: I'm sorry,
23 how much?

24 MR. CROSS: \$9.4 million. And that's
25 with a. . .

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: Madam President,
3 I'm sorry.

4 COUNCIL PRESIDENT Verna: The question
5 was expenditures.

6 COUNCILMAN NUTTER: I thought the
7 question was, what was the increase? I'm getting
8 the impression that this is in answer to what the
9 total is?

10 MR. CROSS: Yeah, okay. The increase
11 would be about \$1.7 million over our
12 appropriations of \$7.7 million.

13 MR. DIPRIMIO: Would it be helpful to
14 Council if we provided the rate of increase on
15 case type? In other words, the actual rate that
16 lawyers be getting based on the different models?

17 COUNCILMAN NUTTER: Yes.

18 MR. DIPRIMIO: Okay.

19 COUNCIL PRESIDENT Verna: Is that in
20 the information that you've submitted to us?

21 MR. CROSS: Yes, it is. It's
22 Attachment 3, I think, in our budget testimony --
23 Attachment C.

24 COUNCIL PRESIDENT Verna: Thank you.

25 And while you're searching for the

1 2/23/01 - FY '02 OPERATING BUDGET

2 page --

3 MR. CROSS: Yes.

4 COUNCIL PRESIDENT VERNA: -- can you
5 tell us why you're asking for 3 million and not
6 the 1.7?

7 MR. CROSS: We are trying to set up a
8 long-term funding apparatus that will allow us to
9 look at the fee increase and then also look at the
10 case increase and to phase in these increases over
11 a three-year period. We want to be conservative
12 in our projection, and we don't know exactly how
13 much the increase in our caseload is going to be
14 and then also what the net impact of the fee
15 increase is going to be. So we want to try and
16 phase this in over a three-year period.

17 JUDGE MASSIAH-JACKSON: Madam
18 President, I'd like to add to that comment, I've
19 been elected as President Judge for a five-year
20 term. I've already spoken to Mr. Krakower and to
21 others about planning at least, if you will, a
22 five-year plan at the very minimum, but we don't
23 want to have to come before you each year to
24 discuss counsel fees. One of the objectives of
25 this administration is to put this issue behind

1 2/23/01 - FY '02 OPERATING BUDGET

2 us.

3 We've extended proposals to the
4 Philadelphia Bar Association. We're very pleased
5 with the support of the Bar Association. We have
6 every indication that the Bar Association is
7 working with us. And, as you see, we have two
8 representatives here who are going to be speaking
9 shortly. And we feel that this counsel fee issue
10 has come to a crisis situation. We're looking
11 forward to a very positive and long-term plan for
12 justice for the families of Philadelphia, for the
13 children of Philadelphia, for the indigent
14 defendants of Philadelphia.

15 So rather than coming to you today for
16 \$1 million or 1.5 or some smaller amount, we're
17 looking for a long-term plan in conjunction with
18 the Philadelphia Bar Association, because we still
19 have to work with the Bar to establish new caps
20 and new parameters so that just -- if we are able
21 to achieve any success with our proposal, we don't
22 want to spend all of the money up, you know, in
23 the first year. We have to work out a strategy
24 for change.

25 COUNCIL PRESIDENT VERNA: Thank you.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. DIPRIMIO: And may I supplement
3 that, Madam President?

4 COUNCIL PRESIDENT VERNA: Please.

5 MR. DIPRIMIO: For example, the numbers
6 that Mr. Cross testified to, with the increase of
7 a little over \$8 million, it was based on a very,
8 very conservative rate of increase; to wit, \$50
9 per case and dependency. I would respectfully
10 submit that we have begun the discussions with the
11 Bar, but I don't know whether a \$50 modest raise
12 in a dependency appointment is going to get the
13 job done.

14 But, you know, we come to Council in a
15 responsible way, because we say, is it 10 million,
16 is it 15 million? We wanted to start somewhere,
17 and what we have done is modeled. For example, if
18 the first-year increase, instead of for dependent
19 children, instead of being 300, is now projected
20 at \$500, then the rate of increase would be such
21 that we would use the entire \$10 million up in the
22 first fiscal year. And so we could justify the
23 \$10 million, depending on what rate of increase we
24 plug into the beginning.

25 But I would respectfully submit to

1 2/23/01 - FY '02 OPERATING BUDGET

2 Council --

3 COUNCIL PRESIDENT VERNA: I would
4 assume that you're really having a very difficult
5 time getting competent attorneys to represent many
6 of the clients at these fees.

7 MR. DIPRIMIO: I'm sorry to say you're
8 correct. What we've experienced lawyers is that
9 those stalwart lawyers, who, day in and day out,
10 provided representation, be it on the criminal and
11 side sadly on the dependency side, are now telling
12 us that they cannot afford to make this type of
13 case a substantial part of their practice because
14 they can't pay their bills. And I'm a lawyer 23
15 years, Madam President, and I can tell that you
16 pro bono is an important part of what we do we do,
17 but the bottom line is that, you know, we do have
18 administrative overhead, and I know that my
19 colleagues at the Bar have administrative
20 overhead. And if they want to dedicate
21 themselves, even if it's 10 percent of their
22 practice to these types of cases, I respectfully
23 submit that it's cost-prohibitive.

24 COUNCIL PRESIDENT VERNA: And I would
25 assume it takes more than just one court

1 2/23/01 - FY '02 OPERATING BUDGET

2 appearance to really address the case?

3 MR. DIPRIMIO: We have experts here
4 that I think can testify to that.

5 COUNCIL PRESIDENT VERNA: The Chair
6 recognizes Councilman Nutter.

7 COUNCILMAN NUTTER: Thank you, Madam
8 Chair.

9 I have done a little bit of work or
10 expressed a fair amount of concern about this
11 particular area. Councilman Cohen, as he pointed
12 out earlier, has been working on this for some
13 time, but as one of the non-Bar members, but still
14 actively practicing until I'm caught, I do have a
15 great concern about what goes on in the legal
16 community.

17 And as I was listening to some of these
18 fees that are paid, whether it's the current fees
19 or even subsequent, I was struck, and I guess I
20 wondered, in the -- I guess in the other part of
21 the world, or in the other part of the system,
22 where people just hire their own attorneys because
23 they have the means to do so, I do wonder from
24 time to time what those fees kind of generally are
25 or what -- I assume the person is more on an

1 2/23/01 - FY '02 OPERATING BUDGET

2 hourly kind of rate, and depending on the case and
3 the complexity, it can run up tremendous figures.

4 And so what strikes me first is that
5 there's probably no one in this room who would
6 ever want to be in the kind of situation where
7 they're forced under these circumstances to end up
8 in a court-appointed situation, with very good
9 attorneys trying to do what they do, the best for
10 their clients. But, I mean, one, they have a
11 practice, they have lives. And unless they're
12 just prepared to totally devote themselves to
13 charity, which, you know, might work for about a
14 year or so and then you're going to be out of
15 business.

16 And so, I mean, we do have a system
17 here that fundamentally says, you know, you will
18 get at the end of the day as much justice as you
19 can afford. And that is, I think, not one of the
20 tenets of what this country is all about. And
21 then we have real financial situations that we
22 have to come to grips with. And somewhere in
23 between, there has to be some relatively happy
24 medium that says, you know, we want good
25 representation for people; no, you cannot on a

1 2/23/01 - FY '02 OPERATING BUDGET

2 regular basis maybe hire, you know, maybe F. Lee
3 Bailey or Johnny Cochran, but, you know, you are
4 going to be able to pay something that allows the
5 person to put a decent amount of time and effort
6 into these very complex cases that, I'm sure, in
7 many instances, go way beyond whatever our
8 estimates are in terms of days and times and other
9 complexities.

10 And, lastly, I also wondered what the
11 other side is doing. If you're in a criminal
12 situation, for instance, I wonder, you know, if we
13 could ever calculate between the time and the
14 resources and the experts and the like what are
15 you faced with if you're in court as an indigent
16 person and the full array of the government
17 prosecuting you, guilty or innocent -- I mean,
18 we'll figure that out when we get to court. And I
19 think, for the most part, the government spends
20 what the government needs to spend to put on its
21 case. And so, you know, you're sitting there with
22 a pocket knife and the other person has a
23 bazooka. And then you say, Well, you know, but
24 I'm trying to get my day in court here. And, I
25 mean, we know, obviously, that that's not a fair

1 2/23/01 - FY '02 OPERATING BUDGET

2 fight.

3 Now, we've talked about a \$3 million
4 figure, we've talked about 1.7. I think, first
5 and foremost, President Judge Massiah-Jackson and
6 Mr. DiPrimio, you're to be commended for wanting
7 to put forward something that is reasonable and
8 responsible and also that lays out a game plan.

9 My concern is that -- and this often
10 happens during this time of year -- for the one
11 day we have the intersection of all three
12 independent branches of government trying to
13 figure out a particular problem: you've got the
14 legislative body; the administrative, represented
15 by Mr. Dubow; and, obviously, the courts.

16 I would like to strongly encourage, and
17 I know that there ever been some meetings and
18 discussions, and we'll be at this for a little
19 while. I would like to think that there is still
20 some opportunity to come to a meeting of the minds
21 between and among all three branches of government
22 about this.

23 And whether it's the 3 million figure
24 or 1.7 or some other number, it seems to me that
25 if some reasonable agreement can be made, at least

1 2/23/01 - FY '02 OPERATING BUDGET

2 for this year, in looking at your game plan and
3 making other evaluations about what happens going
4 forward.

5 I think Judge Jackson said it very well
6 in that, no, you don't want to be at the table
7 under these circumstances every year, making this
8 kind of request. And that in an optimal
9 situation, you go through the budget process like
10 everyone else, and then it's just already in the
11 budget. But I think people need to, you know,
12 better understand what the operation is all about,
13 where you're trying to go, where we find
14 ourselves, what the Administration wants to do.

15 I mean, we're not -- I'd like to think
16 that we're not at odds, but we are trying to
17 figure out how to slice up scarce resources that
18 are growing more scarce day to day.

19 I think it also -- lastly, Madam
20 President -- needs to at least be recognized that
21 this is a situation that's also somewhat
22 reminiscent of the situation with the School
23 District, because lurking in the background of all
24 of this is certainly the general feeling that,
25 well, you know, the courts are supposed to be

1 2/23/01 - FY '02 OPERATING BUDGET

2 taken care of by the Commonwealth or by the State
3 legislature some long time ago, and why are we
4 still doing this and how did we end up in this
5 situation.

6 And during the number of years in the
7 Rendell Administration, you know, every year, we'd
8 only put half of the courts' money in the budget
9 and the other half got stuck somewhere else, and
10 we then acted like we were not going to give it to
11 the courts 'cause we were playing this
12 brinkmanship with the State and then we always
13 came back with a transfer ordinance and gave you
14 the money because we weren't going to shut down
15 the courts. I mean, it just would be a complete
16 and utter mess.

17 So, I mean, that -- I think it just
18 needs to be put on the record that all of these
19 other things are lurking in the background that
20 don't necessarily get discussed but that do affect
21 what we do and how we do it. And if someone
22 thinks that, you know, you've got another pot of
23 money somewhere that you can tap into, then, you
24 know, why are we being asked for something else.
25 I think it just all needs to be brought out.

1 2/23/01 - FY '02 OPERATING BUDGET

2 I support some increase in this fee
3 structure. Again, as I said earlier, I would not
4 want to be in this situation. I'm not sure who I
5 would end up with. I mean, I don't know if I
6 could afford Mr. Primavera but, you know, he might
7 knock the fee down a little bit just to be a nice
8 guy.

9 I think if we can get some agreement,
10 at least at the moment, that you will continue to
11 work on this during this budget process, and if
12 there is some opportunity to come to agreement
13 before these bills come out of committee, I'd like
14 to strongly encourage that, but I do think that
15 the fees should be increased. I respect the
16 budgeting process that you're trying to go
17 through. If we can match that up with the
18 situation that we're in you -- you may not get
19 everything that you want, but, I mean, we still
20 all generally operate in an environment that
21 something is always better than nothing. And if
22 we can then plan for the future in a responsible
23 fashion, we might be able to accomplish all of our
24 respective goals. So I want to encourage that.

25 And I know Mr. Dubow is looking forward

1 2/23/01 - FY '02 OPERATING BUDGET

2 to another meeting with you and will probably want
3 to set that up right after you go through the
4 guardrail there. I think he's checking his
5 calendar right now, as we speak.

6 (Laughter.)

7 COUNCILMAN NUTTER: So, Madam
8 President, I would ask if we could keep your eye
9 on this and make sure that whatever's going to
10 happen does get some resolution while we're still
11 in the hearing process, I would deeply appreciate
12 it.

13 COUNCIL PRESIDENT Verna: Thank you.

14 The Chair recognizes Councilman Rizzo.

15 COUNCILMAN RIZZO: Thank you, Madam
16 Chair.

17 Good morning.

18 MR. DIPRIMIO: Good morning.

19 COUNCILMAN RIZZO: In your testimony,
20 you talk about new technologies and some of the
21 things that you plan to do to make things more
22 efficient. Could you describe how the First
23 Judicial District's -- do you work with our
24 technology people, the communications people? Are
25 we coordinating some of these efforts to try and

1 2/23/01 - FY '02 OPERATING BUDGET

2 bring costs down and not to try to reinvent the
3 wheel?

4 MR. DIPRIMIO: In an answer, yes. We
5 work very closely with MOIS. I can tell you,
6 going back to the original days when we were
7 concerned about Y2K, for example, and I might add
8 to Council that the First Judicial District's all
9 Y2K expenses were paid for exclusively by the
10 First Judicial District via the court
11 (indiscernible), and not one penny came from the
12 City's Administration, unlike other departments.
13 And we're proud of that. We had no glitches
14 through the Y2K nightmare.

15 But I can tell you, we work closely
16 with them. We partnered with them, for example,
17 for the Internet, including the CityNet. We
18 partnered with them on the daisy chain for video
19 conferencing, and we do that in an effort to be
20 compatible and to keep the costs down.

21 So in a succinct answer, yes, we work
22 very closely with them.

23 COUNCILMAN RIZZO: The new telephone
24 system that you're going to buy.

25 MR. DIPRIMIO: The new telephone system

1 2/23/01 - FY '02 OPERATING BUDGET
2 is a perfect example of intergovernmental
3 cooperation. When my judges would say to me,
4 Mr. DiPrimio, we need a phone system, and you
5 can't get the switches, believe it or not, the
6 switches that the City Hall courts were using were
7 last built in the 1930s, and that they're not
8 available. And through Commissioner Joe James,
9 and his people, we've worked with them and they've
10 been terrific about sending maintenance men down
11 -- or mechanics down, I should say -- and they
12 cobble together new switches out of old switches.
13 Well, that's ridiculous. Every time we need a
14 phone line or a phone line change, we have to go
15 to Lois Schmidt, and it costs the City untold
16 dollars every time a change has to be -- occurs.

17 I went to the Board and I said voice
18 communication is technology, they approved the
19 expenditure, we did do it by the RFP process. In
20 fact, we hired a consultant, Compass Consulting,
21 'cause we didn't know how to do this, but we
22 worked with Joe James and we worked with Vince
23 Costello and his staff. And we're very proud to
24 tell that you we've selected a vendor, and the
25 backbone is being run. We cooperated with the

1 2/23/01 - FY '02 OPERATING BUDGET

2 Communications Department to make certain that as
3 we ran our backbone and our wires through the
4 corridors, that it would allow growth for the City
5 to the extent that the City wanted to piggyback
6 onto that which we have run.

7 So we're working very, very
8 cooperatively with all of the people in
9 communications in that area.

10 COUNCILMAN RIZZO: Do you pay your
11 phone bill?

12 MR. DIPRIMIO: Pardon me?

13 COUNCILMAN RIZZO: Does the First
14 Judicial District pay their phone bill?

15 MR. DIPRIMIO: Yes.

16 COUNCILMAN RIZZO: Or is that something
17 that the City provides you?

18 MR. DIPRIMIO: The City of
19 Philadelphia, on a monthly basis, sends us the
20 bills, and when we receive the bills, they're
21 departmentalized. And then if there are any, for
22 example, nonbusiness-related calls that are made,
23 then that department has to reimburse the City. I
24 do it myself.

25 COUNCILMAN RIZZO: Let's not talk about

1 2/23/01 - FY '02 OPERATING BUDGET

2 nonbusiness-related calls; let's just talk about
3 your day-to-day operation. Does that money come
4 out of your budget?

5 MR. DIPRIMIO: The answer is no. At
6 this time, the answer is no.

7 COUNCILMAN RIZZO: How many City
8 vehicles does the First Judicial District have and
9 how do you pay for those?

10 MR. DIPRIMIO: I -- it's my
11 recollection that we may have as many as 80
12 vehicles.

13 COUNCILMAN RIZZO: How many?

14 MR. DIPRIMIO: I'm going to -- I'd
15 rather not guess, but if I'm going to guess, I
16 would say approximately 80 vehicles.

17 COUNCILMAN RIZZO: Who pays for those?

18 MR. DIPRIMIO: Some are paid for by the
19 FJD by way of grants, others have been paid for by
20 the City, to the extent that the City had
21 requested the FJD to do new initiatives. For
22 example, in the last budget, the City
23 administration asked to us expand our electronic
24 monitoring and fund it for that purpose so that
25 they would stay in compliance with the prison cap.

1 2/23/01 - FY '02 OPERATING BUDGET

2 A part of that, the City bought vehicles.

3 COUNCILMAN RIZZO: So you have vehicles
4 that are assigned to the First Judicial District
5 that are not in your budget, that Fleet Management
6 just provides you a vehicle, and that's City money
7 that you get that is not budgeted?

8 MR. DIPRIMIO: That's correct. And I
9 saw that in the report to PICA. Mr. Cross --
10 there is a -- and it predates my tenure in this
11 position, but I believe Mr. Cross can speak to the
12 vehicle plan that was worked out with the City.

13 MR. CROSS: No, I can't.

14 MR. DIPRIMIO: There is some
15 information that an agreement was reached in prior
16 administrative years, going back before President
17 Judge Massiah-Jackson and myself, but there was an
18 agreement reached, and I'm and only privy to it by
19 way of hearsay, that there was some funding
20 accommodation, that a trade-off was made in order
21 to provide those vehicles.

22 MR. CROSS: Excuse me. When Fleet
23 Management was put together as a separate City
24 agency, there were funds that were taken from
25 every City department, and there was funds taken

1 2/23/01 - FY '02 OPERATING BUDGET

2 from the First Judicial District, and I think it
3 may have been about \$400,000 at the time that was
4 put into Fleet Management to fund its operations.

5 So we -- the First Judicial District
6 did contribute to the formation of Fleet
7 Management.

8 COUNCILMAN RIZZO: Thanks, that's good
9 background.

10 And also the parking of those vehicles,
11 I believe the Department of Public Property pays
12 for those. What I'm just getting at here is that
13 there are a lot of things that aren't in your
14 budget that the City of Philadelphia provides,
15 like telephone lines, the monthly charges for the
16 telephone bill, the vehicles that are provided by
17 the City.

18 The judges, the parking -- who pays for
19 the -- does the State pay for the parking, or does
20 the --

21 MR. DIPRIMIO: The First Judicial
22 District does.

23 COUNCILMAN RIZZO: All of the judges?

24 MR. DIPRIMIO: All parking for the
25 First Judicial District vehicles is either on

1 2/23/01 - FY '02 OPERATING BUDGET

2 street, and that's minimal, or is paid for by the
3 court itself out of our Operating Budget.

4 COUNCILMAN RIZZO: Okay.

5 MR. DIPRIMIO: It is not paid for by
6 the City.

7 COUNCILMAN RIZZO: Okay. Where I'm
8 heading here is, there's a lot of money that
9 supports all operations, not just yours, that
10 aren't really in the budget, we can't see it.
11 Because, again, 80 vehicles are provided by Fleet
12 Management, telephones are provided, parking's
13 provided. So in many cases, there's a lot of
14 money that support particular departments that we
15 can't really identify, and I hope someday we can
16 get there to see the real numbers.

17 Because, again, I would assume the
18 support that is unbilled for the First Judicial
19 District is a significant amount of money. And,
20 again, you're not the only game in town that --
21 you're not the only organization that that's
22 occurring to; there's a lack of detail when it
23 comes to those support issues.

24 And I appreciate that background about
25 that money moving out of there to Fleet

1 2/23/01 - FY '02 OPERATING BUDGET

2 Management. Thank you very much.

3 Thank you, Madam Chair.

4 MR. DIPRIMIO: Thank you.

5 COUNCIL PRESIDENT VERNA: Thank you.

6 The Chair recognizes Councilman Kenney.

7 COUNCILMAN KENNEY: Thank you, Madam
8 Chair.

9 Good morning.

10 JUDGE MASSIAH-JACKSON: Good morning.

11 COUNCILMAN KENNEY: Good morning, and
12 good morning, Mr. DiPrimio.

13 The area of questions that I have for
14 you guys is relative to indigency. It relates
15 directly to the Public Defender's Office more than
16 to you; however, from my reading of the 1997 audit
17 by Jonathon Saidel relative to the Defender's
18 Office, there is a role that pretrial services
19 plays in determining indigency and the appointment
20 of a public defender for someone accused of a
21 criminal matter.

22 There seemed to be, in the course of
23 the -- now, pretrial services is an area that the
24 First District is responsible for administering?

25 MR. DIPRIMIO: That's correct.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN KENNEY: Okay. There seems
3 to be some concern in the '97 audit that pretrial
4 services, the Public Defender's Office, the Bail
5 Commissioner, the Municipal Court all have varying
6 role in determining or investigating the true need
7 of a defendant. And the reason I raise this, and
8 I'm going to raise it with the Public Defender's
9 Office, is that I've been getting anecdotes about
10 individual specifically more so involved with
11 drug-related crimes who are posting cash bail in
12 the amounts of 1,000, 2,000, \$3,000 in an effort
13 to get out of -- you know, to get out of jail but
14 wind up back in front of a Municipal Court judge
15 with a public defender.

16 And I guess the question is, are we
17 doing a thorough enough job in the investigation
18 of people, especially in drug-related, high-cash
19 kind of crimes as to their true need, their true
20 financial need? And I'm not suggesting that we
21 should reduce the amount of money for the
22 defender; what I'm concerned about is whether or
23 not we're maximizing the dollars given to the
24 Defender's Office and spread enough through to
25 people who are truly in need, as opposed to people

1 2/23/01 - FY '02 OPERATING BUDGET

2 who, on paper, appear to be poor, but perhaps have
3 some cash stashed somewhere as a result of their
4 activities.

5 If someone, you know, provides a \$3,000
6 cash bail to get out, would that not indicate that
7 there may be the wherewithal to hire a lawyer,
8 with that kind of money?

9 MR. DIPRIMIO: Can I respond?

10 COUNCILMAN KENNEY: If you could maybe
11 go through a little bit about the process that is
12 employed in regards to determining whether or not
13 a defendant is, in fact, indigent.

14 JUDGE MASSIAH-JACKSON: Councilman, if
15 you don't mind, Mr. Krakower is an actively
16 practicing, criminal-defense counsel, and perhaps
17 he might be able to answer that question.

18 COUNCILMAN KENNEY: Thank you.

19 MR. KRAKOWER: If I may. Thank you,
20 Councilman Kenney.

21 COUNCILMAN KENNEY: I'm sorry.

22 Mr. Krakower, are you here representing --

23 MR. KRAKOWER: I am the Chair of the
24 Criminal Justice Section of the Philadelphia Bar
25 Association.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN KENNEY: Thank you.

3 MR. KRAKOWER: And I'm here on behalf
4 of that section.

5 First, I want to thank Council for an
6 opportunity to even speak to you. And with regard
7 to that particular question, what I frequently
8 see, in fact I'd say, the majority of the time is,
9 bail is not posted by the defendant but by members
10 of the defendant's family. And I would say in
11 maybe three-quarters of the cases, when a
12 defendant needs 1,000, 2,000 or \$3,000 in order to
13 get out, it is a parent, it is an uncle, it is a
14 sibling, it's someone else who puts up the bail
15 for the defendant.

16 In drug cases what happens is that the
17 District Attorney's Office and the Police
18 Department have become very effective with
19 forfeiture laws that were passed within the last
20 five to ten years by the legislature, so that the
21 funds that might be the product of drug profits
22 are most frequently forfeited, and the forfeiture
23 section of the Public -- rather, the District
24 Attorney's Office is now taking over not only cash
25 but automobiles, homes, real estate, and just

1 2/23/01 - FY '02 OPERATING BUDGET

2 everything else, and they're doing a very
3 effective job of it.

4 So that the image of the drug dealer
5 with a load of assets available generally really
6 isn't true anymore.

7 And the other problem is that the drug
8 dealers that most frequently get court-appointed
9 counsel or defenders are the lower-level,
10 bottom-of-the-barrel, street guys. The people who
11 are doing imports from Columbia kilos at a time,
12 they're hiring big-name lawyers, but the fellow
13 with the \$20 cap, you know, the --

14 COUNCILMAN KENNEY: The guy on the
15 corner of my street, that guy?

16 MR. KRAKOWER: Yeah, that --

17 COUNCILMAN KENNEY: I'm having trouble
18 feeling sorry for him at this point.

19 (Laughter.)

20 MR. KRAKOWER: Well --

21 COUNCILMAN KENNEY: You're conjuring up
22 this image of this poor, unsuspecting dude who's
23 in trouble with the law. He's probably one of the
24 main problems I have in keeping people in the
25 City.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. KRAKOWER: Well, maybe, Councilman,
3 but let me point out one other thing that happens
4 in the courts, and the judges know this and I deal
5 with it every day. You have three or four fellows
6 standing on the street corner, the police pull a
7 raid, they're very effective, and they arrest all
8 four fellows. It frequently -- I don't know how
9 frequently, I don't want to take a guess at
10 whether it's 30 percent or 80 percent, but it
11 happens that all of the fellows on the street
12 corner are not involved in the drug transactions
13 that go on.

14 We do have --

15 COUNCILMAN KENNEY: What are they then
16 charged with upon arrest?

17 MR. KRAKOWER: Conspiracy, all of them
18 are charged. And the job of the court system and
19 the lawyer is to sort out who did what. And of
20 course, we have in this country, and I think we
21 still try to adhere to it, a presumption of
22 innocence.

23 So you bring in these four fellows, and
24 quite possibly, two of them are bystanders and two
25 of them are really dealers, but all of them get

1 2/23/01 - FY '02 OPERATING BUDGET

2 charged and all of them need defense, and they
3 have court-appointed lawyers to find what they're
4 doing.

5 COUNCILMAN KENNEY: They're -- all of
6 them are not charged with the same thing. If the
7 four individuals arrested, two are in possession
8 of narcotics and two or not, they're not charged
9 with -- they're charged with possession?

10 MR. KRAKOWER: Oh, yes, and they're all
11 charged with -- they'll be all charged with
12 dealing under the conspiracy theory. All four of
13 them will be charged with the same thing,
14 including drug-dealing. And the courts then -- we
15 go to court and sort out who did what. And that's
16 what goes on in the Criminal Justice Center.

17 COUNCILMAN KENNEY: Well, let me read
18 you from Jonathon Saidel's '97 audit, and maybe
19 you can enlighten me. He says:

20 "The recommendations of the Controller
21 is the process of interviewing defendants,
22 verifying information, and assessing the financial
23 ability of the defendants needs to be revised.
24 The procedures utilized to assess the financial
25 capability of the defendants to obtain their own

1 2/23/01 - FY '02 OPERATING BUDGET

2 legal counsel has not been amended in several
3 years. The criteria for evaluating indigents
4 should be revised to be consistent with the
5 definition of indigence.

6 "For example, the federal government
7 issued guidelines for determination of eligibility
8 for financial assistance. As for the City of
9 Philadelphia, the income threshold, the primary
10 procedure performed to assess financial
11 capability, has not been amended in 12 to 15
12 years. Currently, the effectiveness of the
13 process to only provide City-funded legal
14 representation to indigent individuals is not
15 evaluated. Perhaps a party independent of the
16 persons or agencies who make the determination
17 should evaluate the effectiveness of the
18 determination process on a periodic basis.

19 "In order to achieve the objective of
20 providing representation to those who are unable
21 to afford obtaining their own legal counsel, a
22 methodology has to be designed, implemented, and
23 performed which is effective, rather than
24 performing a procedural process in which minimal
25 judgment is used.

1 2/23/01 - FY '02 OPERATING BUDGET

2 "As part of the assessment, estimates
3 for the cost of legal representation by
4 private-practice attorneys must be incorporated
5 into the assessment of the defendants' ability to
6 obtain their own money. The defendant will have a
7 greater financial need to obtain an attorney for
8 representation in a homicide case than in a
9 driving-under-the-influence case. The cost of
10 legal representation must be a part of the
11 assessment. Information from procedures performed
12 need to be a part of the assessment process, not
13 the sole support for a conclusion. To ensure if
14 proper determination of eligibility is made, the
15 system should attempt to appoint legal counsel
16 after verification procedures have been performed
17 and the assessment supports appointment of legal
18 counsel.

19 "Currently, the pretrial services has
20 more verification and controls in place to ensure
21 the proper determination of eligibility than the
22 verbal process used by bail commissioners; thus,
23 more determination should be funneled through this
24 entity, with stronger controls. At PTS,
25 additional controls need to be implemented to

1 2/23/01 - FY '02 OPERATING BUDGET

2 ensure accuracy of the determinations. There
3 needs to be an enhanced supervisory function over
4 the approval of eligibility determinations. At
5 this level, the effectiveness of procedures,
6 personal interview techniques, and documentation
7 of determinations need to be implemented or
8 further developed.

9 "Conclusions, especially in those cases
10 which contradict the information must be
11 documented in the file. Conclusion on eligibility
12 determinations is the primary means of feedback to
13 measure effectiveness, trained personnel, and to
14 improve the process.

15 "In addition, we noted that
16 nonresidents of Philadelphia, arrested in
17 Philadelphia, if applicable, are provided
18 City-funded legal representation. Statistics
19 should be developed to track the number of
20 nonresidents arrested in Philadelphia with the
21 associated costs of providing legal representation
22 to those nonresidents. If beneficial, the
23 possibility of reimbursement of legal
24 representation costs should be considered."

25 I know it was a long -- and I only read

1 2/23/01 - FY '02 OPERATING BUDGET

2 parts of it. Can you tell me what's been done
3 since '97 to kind of improve that situation at
4 PTS.

5 JUDGE MASSIAH-JACKSON: Councilman, I
6 can tell you this: that since January 10th, when
7 I was sworn in as President Judge, I've had the
8 opportunity to meet with many of deputies in our
9 courts. And among those deputies is Dave Preski,
10 who's the Director of Pretrial Services. I will
11 talk to him and find out more detail from him
12 about the revision of the guidelines.

13 I cannot specifically give you
14 information about what's been done in the last
15 three years, but I can say this: that the number
16 of employees in pretrial services has dramatically
17 increased in the last three to four years. It
18 used to be just a small unit of maybe 20, 25 men
19 and women; today, there are over 100 men and women
20 with the bench warrant services and the pretrial
21 services investigating units. Those pretrial
22 service employees have more of a supervisory role
23 of these defendants before trial than ever
24 before.

25 And while I cannot specifically answer

1 2/23/01 - FY '02 OPERATING BUDGET

2 your concerns or address your questions about the
3 indigency standards, I can assure you that I will
4 talk to Mr. Preski to find out that information.

5 COUNCILMAN KENNEY: I appreciate that,
6 Judge, and let me just say for the record that I
7 am in no way suggesting that we should not provide
8 legal counsel, or funding for legal counsel, for
9 those indigent people who are accused -- again,
10 accused -- of a crime, and the presumption of
11 innocence is there.

12 But I guess I'm somewhat concerned as
13 to the lack of ability to track and to determine
14 statistically whether or not we are effectively
15 getting to the people who are actually in fact in
16 need. I mean, there's nothing more ironic or more
17 aggravating, I guess, than the City taxpayer
18 paying for the legal defense of people who are
19 terrorizing their neighborhoods and could afford
20 to pay for that legal defense themselves.

21 JUDGE MASSIAH-JACKSON: We agree with
22 you, Councilman. We certainly do.

23 COUNCILMAN KENNEY: And any information
24 you could provide I would appreciate.

25 JUDGE MASSIAH-JACKSON: Sure.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT Verna: Councilman,
3 are you finished?

4 COUNCILMAN KENNEY: Thank you, Madam
5 Chair.

6 COUNCIL PRESIDENT Verna: The Chair
7 recognizes Councilman Nutter.

8 COUNCILMAN NUTTER: Madam President, I
9 actually -- I only had a question for either
10 Mr. Krakower or Mr. Primavera, so my light may
11 still be on from earlier, but I only have one
12 question for either Mr. Krakower or Mr. Primavera,
13 and my light was on from earlier, I think.

14 COUNCIL PRESIDENT Verna: All right,
15 fine.

16 COUNCILMAN NUTTER: But I don't know
17 that they've said anything.

18 COUNCIL PRESIDENT Verna: Please
19 proceed.

20 COUNCILMAN NUTTER: I should have asked
21 this earlier, in my first long-winded comments,
22 but I was -- I am reminded that the two of you are
23 here, and I wondered aloud earlier about the
24 expenditures, I guess, made by either, in a
25 criminal case, the prosecution, the DA's Office or

1 2/23/01 - FY '02 OPERATING BUDGET

2 some of the fees that people in the legal
3 community legitimately do generate if they're not
4 in a court-appointed-counsel situation.

5 Could either of you shed any glimmer of
6 light on that particular topic?

7 MR. PRIMAVERA: I'd be glad to,
8 Councilman Nutter. Again --

9 COUNCIL PRESIDENT VERNA: Excuse me.
10 Identify yourself for the record, please.

11 MR. PRIMAVERA: Yes, Carl Primavera,
12 and I'm here as Chancellor of the Philadelphia Bar
13 Association. And thank you for giving me the
14 opportunity to speak.

15 The Philadelphia Bar Association, which
16 has over 12,000 members, is composed of attorneys
17 in solo practice -- large firms, small firms,
18 mid-size firms, government, public-interest firms
19 and agencies. And the only thing that probably
20 unites us is our desire to make sure that our
21 tradition of public service is maintained;
22 otherwise, we're across the table or on opposite
23 sides of the cases. But we are united in that one
24 item.

25 It's my experience that in a commercial

1 2/23/01 - FY '02 OPERATING BUDGET

2 setting, lawyers are charging between \$100 and
3 \$300 an hour, depending upon the case, the
4 experience. And so what it really means is that
5 from the time it took for me to go from my office
6 to be here and to speak probably, I probably, if
7 I'm charging a commercial client, will have been
8 paid more than someone who's spent five years
9 representing a parent who's going to have their
10 rights terminated vis-a-vis their child or
11 something like.

12 So the effort here is not to compensate
13 the attorneys who take these cases commensurate
14 with a commercial rate or fairly on in any way
15 with regard to the effort that they put into these
16 cases, because there's just not enough money in
17 the world to do that. But the effort really is to
18 establish some effort and some signal to the
19 attorneys who are willing to take these cases,
20 that they're being appreciated, that their costs
21 and overhead are somehow being helped out with
22 regard to these cases.

23 And really, it's just a signal to whose
24 who are represented, whether on the criminal side
25 or the family law side, that the attorney that's

1 2/23/01 - FY '02 OPERATING BUDGET

2 sitting next to them for prolonged periods of time
3 is hopefully motivated not only out of the
4 kindness of their heart and the tradition we have
5 as lawyers to represent the indigent, but also
6 that they're able to pay an investigator to go to
7 the crime scene, to pay a psychologist to see if
8 there's some mitigating factor in a homicide case,
9 and basically to do the minimum job necessary so
10 that due process of law is real and the commitment
11 to equal justice is real.

12 COUNCILMAN NUTTER: Let me just make
13 sure that I understand. And first let me say that
14 I deeply appreciate your straightforwardness and
15 open and honest statements about this.

16 Now, in the chart that I have that's a
17 part of the package, it's entitled "Proposed Fee
18 Increase for Counsel Fee Payments," and I guess
19 it's telling us what the current fee. It's fairly
20 far back in the packet. Let me just make sure
21 again I understand this. It says, "In the Family
22 Division, for instance, an abuse case, the current
23 fee per case type is \$350."

24 Now, does that mean if you are
25 court-appointed and you get this case, that your

1 2/23/01 - FY '02 OPERATING BUDGET

2 entire fee for the case is \$350?

3 MR. PRIMAVERA: That's correct.

4 JUDGE MASSIAH-JACKSON: Yes. Not 350
5 an hour.

6 COUNCILMAN NUTTER: Let me cut across
7 that. Now, if you're not in a court-appointed
8 situation. Let's say, unfortunately, you know, it
9 was me, I'm sure I don't qualify for anything, and
10 I'm just out in the open market, and whether it's
11 someone I know or someone that's recommended, what
12 would the person more than likely charge?

13 MR. PRIMAVERA: On a domestic violence
14 case?

15 COUNCILMAN NUTTER: The same -- it's a
16 -- "abuse" here, I'm assuming, is maybe child
17 abuse as opposed to domestic violence?

18 MR. DIPRIMIO: That -- the abuse in
19 this context means domestic violence.

20 COUNCILMAN NUTTER: Oh, well, I don't
21 want to use that as an example if I'm going to be
22 involved.

23 (Laughter.)

24 MR. DIPRIMIO: Okay.

25 COUNCILMAN NUTTER: Go ahead.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. DIPRIMIO: Well, I can't answer
3 your question.

4 COUNCILMAN NUTTER: Okay.

5 MR. DIPRIMIO: When I was in active
6 practice, I was a family law attorney. In fact, I
7 chaired the Family Law Section in 1989 and 1990,
8 and my practice was exclusively divorce and
9 support and domestic violence.

10 Some lawyers will, and I did as well,
11 would take a case for a \$500 retainer, and that's
12 all you can get, because the client can't afford
13 more.

14 COUNCILMAN NUTTER: Okay.

15 MR. DIPRIMIO: But I will tell you that
16 the amount of investigation that goes into those
17 cases, domestic violence, and the seriousness of
18 that particular offense is such that it warrants a
19 \$3,000 minimum retainer. I can tell you that
20 because that's what I charged.

21 COUNCILMAN NUTTER: Right.

22 MR. DIPRIMIO: And all too often, your
23 clients cannot afford to pay. My billing rate at
24 the time was 165 an hour, and I'm going back to
25 1992.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: Right.

3 MR. DIPRIMIO: So I hope to answer your
4 question in that sense.

5 COUNCILMAN NUTTER: Right. Well, I
6 mean it sounds like -- I mean, what I'm getting
7 out of this is literally, the full case expense in
8 the court-appointed is outstripped an hour and a
9 half into the case by the non- -- in the
10 non-court-appointed situation. By lunch, that
11 person's done with what the court-appointed person
12 is going to get for however long it takes.

13 MR. DIPRIMIO: That's correct.

14 COUNCILMAN NUTTER: In essence.

15 JUDGE MASSIAH-JACKSON: Right.

16 COUNCILMAN NUTTER: And when they
17 break, the one has, you know, gotten 350, 400, and
18 the other guy or lady is working for the next 6
19 months.

20 MR. DIPRIMIO: Right.

21 JUDGE MASSIAH-JACKSON: That's exactly
22 right.

23 MR. PRIMAVERA: If you compare what you
24 pay a plumber compared to what the attorneys make
25 on these cases make, it's incredible, because you

1 2/23/01 - FY '02 OPERATING BUDGET

2 have to interview cases, you have to review the
3 law, you have to travel, and there are multiple
4 hearings because there's typically either the need
5 for a continuance for one of the parties, or the
6 case hasn't been heard because of the lack of
7 witnesses.

8 COUNCILMAN NUTTER: Right, okay.

9 MR. PRIMAVERA: So these clearly are
10 not meant, as I said before, to approach anything
11 in the commercial context. And our association
12 has concerns about even the 3 million being
13 adequate.

14 COUNCILMAN NUTTER: I understand.

15 MR. DIPRIMIO: But, as has been said,
16 this is really a first step.

17 COUNCILMAN NUTTER: Right.

18 MR. DIPRIMIO: And hopefully, we'll
19 find some other internal things to save money.
20 And also, the Bar is committed to maintaining the
21 high level of pro bono services and maybe even
22 expanding on that so we can all, you know, see
23 this work a little bit better.

24 COUNCILMAN NUTTER: Right. I just
25 wanted to make sure that I, you know, very clearly

1 2/23/01 - FY '02 OPERATING BUDGET

2 understood the context and the contrast, quite
3 honestly, between, you know, what, again, many of
4 us would experience in our own lives versus, you
5 know, other people who are just in the worst
6 possible situation. With every respect to
7 everyone at the table, in the worst possible
8 system that you ever want to find yourself in, you
9 get in -- it seems like you can virtually never
10 get out, and it's just an ongoing thing, and it's
11 people, it's passion, it's money. And we are
12 then, you know, trying to figure out, how do we
13 help folks and do it in a reasonable fashion.

14 But I thought that the comparison
15 between the court-appointed and the rest of the
16 system was important.

17 Thank you.

18 Thank you, Madam Chair.

19 COUNCIL PRESIDENT VERNA: Thank you.

20 The Chair recognizes Councilman Cohen.

21 COUNCILMAN COHEN: Public service, I
22 think, is a form of compensation, but as public
23 servants, we nonetheless get a salary, because
24 unless we can feed ourselves and our families,
25 we're not going to be able to perform.

1 2/23/01 - FY '02 OPERATING BUDGET

2 As the Chancellor said, what we're
3 seeking is not equality with private services, but
4 we're seeking at least some compensation to enable
5 people who have a feeling toward public service to
6 engage in public service. And that's what's being
7 asked. And my concern is that it may well not be
8 enough because of all of the burgeoning demands
9 put upon the court system.

10 With respect to the issue raised by
11 Councilman Kenney, it's been my experience from
12 the days when I practiced actively as a criminal
13 defense lawyer that many of the appointments at
14 the Municipal Court level would occur in the
15 courtroom, in the police station, where the
16 hearings were held generally in my case, up in the
17 35th Division, at Broad and Champlost, where there
18 would there would be one public defender. And
19 defendants would come in often, seeking a
20 continuance on the ground that they don't have a
21 lawyer. And in order to move cases forward, the
22 judge would instantly appoint a public defender to
23 permit the calendar to be considered and to avoid
24 constant interminable delays.

25 So that I think a bare statistical

1 2/23/01 - FY '02 OPERATING BUDGET

2 survey of appointments of public defenders and in
3 a study made of the finances of the defendants
4 really is no comparison that has any meaning at
5 all. In many cases, judges use their decision and
6 their authority to appoint a public defender in
7 order to permit the flow of cases to go on and to
8 avoid unnecessary delays.

9 So I think it's really a complex
10 system, and I just wanted to make clear that a
11 mere statistical survey is not going to add much
12 light.

13 Thank you, Madam President.

14 COUNCIL PRESIDENT Verna: Thank you.

15 The Chair recognizes Councilman Kenney.

16 COUNCILMAN KENNEY: Thank you, Madam
17 Chair.

18 I appreciate Councilmember Cohen's
19 comments and I want to -- as he has the ability to
20 do, confuse my questions sometimes.

21 (Laughter.)

22 COUNCILMAN KENNEY: I'm not looking for
23 mere statistics. What I'm looking for is the
24 process followed to determine indigency -- the
25 questions that are asked, the documents that are

1 2/23/01 - FY '02 OPERATING BUDGET

2 required, the process that we employ.

3 I recognize Councilmember Cohen's
4 example of keeping the list going in a preliminary
5 hearing and arraignment, those kinds of issues.
6 I'm talking about when an individual actually
7 comes back with a court-appointed public defender,
8 or a court-appointed attorney, after the process
9 has been investigated, and what we do to
10 investigate that process.

11 Again, I think it's very important that
12 we provide appropriate counsel for people.
13 However, I always marvel at the fact that this is
14 a constitutional right provided by federal law and
15 the Federal Constitution, and the City winds up
16 paying the bill. It's just one of those things
17 the federal government does all the time: it
18 tells us what we should do and then doesn't
19 provide any money for it.

20 But that's what I'm interested in
21 trying to determine: what process there is, how
22 we track it.

23 And the other thing I think Councilman
24 Cohen gave an example of was that when he was
25 practicing criminal law -- and I don't want to

1 2/23/01 - FY '02 OPERATING BUDGET

2 determine what year that was, but I would imagine
3 the number of drug cases that were coming through
4 the court system at that point in time were
5 probably not as many as are coming through today.

6 And the concern that I have is with the
7 amount of cash that is available relative to drug
8 cases. I'm wondering whether or not some of these
9 guys and ladies aren't hiding some of this money
10 because it's not shown on paper. You can easily
11 show that you're not employed, you can easily show
12 that you have no direct source of income.

13 However, you could be sitting on some cash that
14 could be used to pay one of the members of our Bar
15 Association directly.

16 Thank you.

17 COUNCIL PRESIDENT VERNA: Thank you.

18 The Chair recognizes Councilwoman
19 Blackwell.

20 COUNCILWOMAN BLACKWELL: Thank you,
21 Madam Chair.

22 Your Honor, I'm sure I speak for all of
23 the Councilmembers when we say we're very, very
24 glad to have you there, and we appreciate all of
25 your efforts and your commitment to our City.

1 2/23/01 - FY '02 OPERATING BUDGET

2 JUDGE MASSIAH-JACKSON: Thank you,
3 Councilwoman. I'm very honored to be here.

4 COUNCILWOMAN BLACKWELL: Thank you.

5 COUNCIL PRESIDENT VERNA: Mr.
6 Primavera, is there any statement that you would
7 like to make at this time?

8 MR. PRIMAVERA: Yes, very briefly. And
9 thank you, Council President Verna, for the
10 opportunity.

11 As I said before, the Philadelphia
12 legal community has many diverse interests, and
13 the one thing that they are truly united behind is
14 making sure that the court-appointed counsel
15 system is improved and made fair. It's been a
16 point of tension between the Bar and the courts in
17 the past because the Bar has been impatient. And
18 really, I think, Councilman Kenney mentioned it,
19 we keep having all of these unfunded mandates, and
20 that doesn't make it easy for court administration
21 or the legislature to deal with it.

22 But the reality is that when the law
23 mandates the right to counsel, and we as a society
24 want to make sure that those accused of a crime
25 are adequately defended, and also want to make

1 2/23/01 - FY '02 OPERATING BUDGET

2 sure that they don't end up getting appeals and
3 being released or given new trials because their
4 first counsel wasn't effective or they weren't
5 properly represented.

6 So we feel that at this point, with
7 President Judge Massiah-Jackson now reaching out
8 to us, and our commitment to work together and try
9 to find additional ways to make the system work
10 better for the people of Philadelphia, that this
11 is a step in the right direction, and anything
12 that Council can do to help us along with that
13 would be greatly appreciated by the entire Bar
14 Association.

15 COUNCIL PRESIDENT VERNA: Thank you.

16 Mr. Krakower, did you want to make a
17 statement?

18 MR. KRAKOWER: Yes, if I may.

19 Madam President and members of Council,
20 I also appreciate the opportunity to be here and
21 just to make a few comments, that one of the
22 things that we're doing here today, that I think
23 has to be mentioned, is that you see
24 representatives of the Bar Association, our
25 chancellor, myself as Chair of the Criminal

1 2/23/01 - FY '02 OPERATING BUDGET

2 Justice Section, and the representatives of the
3 First Judicial District, President Judge
4 Massiah-Jackson and Mr. DiPrimio, all sitting
5 together as a unified group of allies, seeking to
6 work hand in hand to, among other things and
7 primarily, to improve the quality of justice for
8 the people of the City of Philadelphia, which I
9 think is something that we all share.

10 And I think that it is something that
11 should be recognized, that if there ever was any
12 concern about an adversarial or a
13 quasi-adversarial relationship between the Bar
14 Association and the First Judicial District, that
15 that is now over. We are absolutely determined,
16 all of us, to work together.

17 We had a very productive meeting about
18 a week or so ago. And at that meeting, we laid
19 the groundwork for future meetings and future
20 programs where we will work together to do two
21 things. One is to improve and to sustain the
22 basic quality of that wonderful thing called
23 "justice" that goes on in the criminal justice
24 system; and also to do it in a way that bears
25 responsibility for the finances that are provided

1 2/23/01 - FY '02 OPERATING BUDGET

2 by the people of Philadelphia through their City
3 Council. We are aware of the responsibility for
4 doing that, and we intend to work together in that
5 regard, so that the dollars that you do give to
6 the First Judicial District will be used and spent
7 in a way that the lawyers will also have
8 opportunity to have input.

9 That doesn't mean we'll always get what
10 we want, but we know that the door is open to the
11 administration of the First Judicial District and
12 to the Office of the President Judge. And we're
13 looking forward to working together harmoniously
14 in the next five years.

15 And I want to thank Council for
16 everything that we've done in the past, by the way
17 that Council has done, to help bring us to the
18 point where we are now.

19 COUNCIL PRESIDENT VERNA: And I
20 certainly want to thank you and Mr. Primavera for
21 taking the time to come in to testify today.

22 At this point, the Chair recognizes
23 Councilman DiCicco.

24 COUNCILMAN DICICCO: Thank you, Madam
25 Chair. And good morning.

1 2/23/01 - FY '02 OPERATING BUDGET

2 JUDGE MASSIAH-JACKSON: Good morning.

3 COUNCILMAN DICICCO: Just listening to
4 some of the testimony this morning and questions
5 being asked by Council, kind of on the same line
6 as Councilman Kenney. When, I think, Judge
7 Massiah-Jackson, you spoke about the DA's Office
8 with the forfeiture money, or maybe that was --

9 JUDGE MASSIAH-JACKSON: Mr. Krakower.

10 COUNCILMAN DICICCO: Mr. Krakower.

11 JUDGE MASSIAH-JACKSON: Yes.

12 COUNCILMAN DICICCO: About the
13 forfeiture money and things like that.

14 JUDGE MASSIAH-JACKSON: Yes.

15 COUNCILMAN DICICCO: When a defendant
16 is found guilty, I think that the DA's Office
17 generally auctions off the property, private
18 property, as it relates to the case.

19 JUDGE MASSIAH-JACKSON: Yes.

20 COUNCILMAN DICICCO: Is any of that
21 money given back to the court for reimbursement?

22 JUDGE MASSIAH-JACKSON: It goes to the
23 DA's Office, I think.

24 MR. DIPRIMIO: The DA's Office.

25 JUDGE MASSIAH-JACKSON: The DA's Office

1 2/23/01 - FY '02 OPERATING BUDGET

2 gets it.

3 COUNCILMAN DICICCO: They get it all?

4 Is there any -- is there a reason why that isn't
5 done? Is it not permitted? I'm just thinking, if
6 you're trying a case, why shouldn't some of that
7 money go back to the entity that basically brought
8 that person to justice in the first place and
9 reimburse the courts? Which is really reimbursing
10 the taxpayers for the costs related to the public
11 defender. I mean, it goes somewhere, obviously.
12 I'm sure a lot of the -- and the DA probably
13 wouldn't want to give up that money because the DA
14 has expenses as well.

15 But maybe there's a way in which some
16 of that money, a portion of that money, could go
17 back maybe at least to pay for the legal expense
18 that was incurred for the court-appointed
19 attorney.

20 Just a thought.

21 COUNCIL PRESIDENT VERNA: Your Honor,
22 the forfeiture money goes, to the best of my
23 knowledge, to the DA and the Police Department,
24 does it not?

25 JUDGE MASSIAH-JACKSON: It does.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT VERNA: And was that
3 a State act that enabled them to (indiscernible)
4 the Forfeiture Act?

5 JUDGE MASSIAH-JACKSON: It's
6 statutory. Yes, it is. I think it's a very
7 appropriate concern.

8 COUNCILMAN DICICCO: Well, maybe the
9 pie should be cut up three ways. I mean, I
10 understand and I fully believe and support that
11 the Police Department should be reimbursed for its
12 expenses, and the DA's Office. Why not the
13 court?

14 JUDGE MASSIAH-JACKSON: Well,
15 Mr. DiPrimio has an anecdotal comment that he'd
16 like to present to your attention, which is very
17 important, because I think it's important to keep
18 in mind that we're not talking only about the
19 indigent defendants on the criminal side, but a
20 large chunk of this relates to the families.

21 MR. DIPRIMIO: Councilman DiCicco and
22 Madam President, several years ago, and it was
23 prior to the current district attorney, an effort
24 was made, spearheaded to try and get some of that
25 drug forfeiture money back in the system to pay

1 2/23/01 - FY '02 OPERATING BUDGET

2 the child support owed by some of these guys that
3 were being locked up with drug money, and we were
4 unsuccessful in that area.

5 The -- because, clearly, the statute
6 does -- the drug forfeiture statute, as I recall,
7 does not provide for disbursement of that outside
8 law enforcement and the district attorney, but
9 it's been so sacrosanct that we haven't even been
10 able to get back child support out of it.

11 COUNCILMAN DICICCO: But I guess the
12 answer, then, lies with the State legislature.

13 MR. DIPRIMIO: I think you're correct,
14 Councilman.

15 JUDGE MASSIAH-JACKSON: Yes.

16 COUNCILMAN DICICCO: So we need to
17 visit the State legislature, and I'd be willing to
18 work with the court, and I'm sure the other
19 Councilpeople here would be willing to work along
20 with you.

21 MR. DIPRIMIO: Thank you.

22 COUNCILMAN DICICCO: I don't have any
23 other questions. It's just an observation from
24 listening to this testimony that some --

25 COUNCIL PRESIDENT VERNA: I think we

1 2/23/01 - FY '02 OPERATING BUDGET

2 would all join you, Councilman.

3 COUNCILMAN DICICCO: I mean, I have the
4 same opinion about the Traffic Court. You know, I
5 came from the Traffic Court for about 16 years, is
6 that the Traffic Court generally struggles for
7 additional resources for personnel. Why shouldn't
8 some of money that is collected by way of the
9 traffic violation fines go back into the court for
10 computerization or personnel.

11 I mean, you take it from one -- it goes
12 into the General Fund, and then where it goes,
13 it's anybody's guess. But I think the departments
14 who are out there generating the revenue -- not to
15 be disrespectful to the criminal element, that may
16 be a part of what we're doing -- should get some
17 reimbursement so they can at least keep up with
18 the technology.

19 I mean, I know I was always fighting
20 for money at Traffic Court just for technology
21 purposes. So why shouldn't we put some of that
22 money back -- reinvest it back into the system
23 that we're asking to go out and do the best that
24 they can do with -- as you said, Joe, you have
25 telephone systems that have parts that are back in

1 2/23/01 - FY '02 OPERATING BUDGET

2 the 1930s. So I think we maybe we have to look at
3 this on a more holistic view as it relates to the
4 First Judicial District in total about how we get
5 some of this money back into the system that we're
6 always asking you to do better at. And you do a
7 great job with the limited resources that you
8 have, so I think we have to figure out a way of
9 funding, without really disturbing or taking out
10 of the General Fund per se.

11 Thank you, Madam Chair.

12 COUNCIL PRESIDENT VERNA: Thank you,
13 Councilman.

14 The Chair recognizes Councilman
15 Kenney.

16 COUNCILMAN KENNEY: I think I mentioned
17 in the second part of my request is the number of
18 nonresident individuals arrested. I just wanted
19 to make sure that that was a part of the analysis.

20 JUDGE MASSIAH-JACKSON: I understood
21 that.

22 COUNCILMAN KENNEY: Thank you, Your
23 Honor.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 The Chair recognizes Councilman Cohen.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN COHEN: Madam President, I
3 just wanted to mention when I first started the
4 questioning of counsel fees more than five years
5 ago, I never envisioned the day when the
6 Chancellor of the Bar and the Chairman of the
7 Criminal Justice Section and the President Judge
8 and the Administrator Officer would all be sitting
9 together, as they are now, cooperating. I really
10 think it's a great day for the court system and --

11 (Laughter.)

12 COUNCILMAN COHEN: And for the Bar and
13 for Philadelphia.

14 (Unintelligible, parties talking over
15 each other.)

16 JUDGE MASSIAH-JACKSON: Thank you,
17 Councilman.

18 MR. PRIMAVERA: Thank you.

19 MR. DIPRIMIO: Thank you.

20 COUNCILMAN COHEN: I think it's
21 wonderful. They're all to be congratulated.

22 COUNCIL PRESIDENT VERNA: Thank you.

23 Mr. Dubow, I would like to suggest that
24 you meet with the judge and Mr. DiPrimio as soon
25 as possible to talk this over, and we would like

1 2/23/01 - FY '02 OPERATING BUDGET

2 to have a report by midweek next week as to how we
3 can address this problem.

4 MR. DIPRIMIO: Madam President, there
5 is one remaining item that I want to put on the
6 record, if I may.

7 With respect to either -- you may
8 recall that some months ago, there was some
9 discussion or publicity associated with a
10 so-called request for proposal which the court
11 indicated it may let out. I want to report on the
12 record that there is no RFP, and none is being let
13 out.

14 Thank you.

15 COUNCILMAN COHEN: (Inaudible,
16 off-mic.) . . . dealing with the court
17 appointment of what are now court-appointed --
18 (Unintelligible, parties talking over
19 each other.)

20 JUDGE MASSIAH-JACKSON: Yes.

21 MR. DIPRIMIO: I must say --

22 COUNCILMAN COHEN: It was a great
23 source of friction between the Bar and the courts.

24 MR. DIPRIMIO: Well, I must point out
25 that one of the first things that our Madam

1 2/23/01 - FY '02 OPERATING BUDGET

2 President Judge said to me when we met was, there
3 will be no RFP.

4 COUNCIL PRESIDENT Verna: Fine. Thank
5 you all so very much for coming in. And, Your
6 Honor, thank you for your patience. I'm sorry we
7 started late.

8 JUDGE MASSIAH-JACKSON: Thank you.

9 COUNCIL PRESIDENT Verna: Thank you.
10 The next department is the Sheriff's
11 Office.

12 (Witness comes forward.)

13 COUNCIL PRESIDENT Verna: We are
14 running behind time. Sheriff Green, I appreciate
15 your being here. I understand you had an incident
16 this morning.

17 SHERIFF GREEN: That's correct.

18 COUNCIL PRESIDENT Verna: And I thought
19 perhaps you would not be able to make it, so I'm
20 very happy that you're here.

21 Kindly identify yourself for the record
22 and just summarize your testimony since we do have
23 a copy of it, which will be submitted to the
24 stenographer.

25 (Sheriff's Green written testimony

1 2/23/01 - FY '02 OPERATING BUDGET

2 attached hereto.)

3 SHERIFF GREEN: Okay, I shall do that.

4 My name is John Green, and I'm Sheriff
5 for the City and County of the Philadelphia. I'd
6 like to respectfully thank you for understanding,
7 first, my tardiness and, second, my attire. I
8 apologize for being dressed like this, but I had
9 an emergency at home.

10 The Sheriff's Office appropriation, as
11 requested by the Administration, is \$11,499,748
12 for Fiscal Year 2002. The Sheriff's Office is
13 requesting an additional \$653,632 in order to
14 cover the security requirements at 34 South
15 Eleventh Street, which is Family Domestic Court
16 and Philadelphia Traffic Court. These are two
17 relatively new assignments for the Sheriff's
18 Office, but they are needed assignments, and there
19 are serious concerns at Philadelphia Traffic Court
20 and there are serious concerns at Domestic Court.
21 The mere nature of the type of work that they do
22 in those two buildings dictates a need for
23 security.

24 COUNCIL PRESIDENT VERNA: I do recall
25 last year that the then-President Judge of Traffic

1 2/23/01 - FY '02 OPERATING BUDGET

2 Court had called us and spoke about the need for
3 additional security.

4 SHERIFF GREEN: That's correct.

5 COUNCIL PRESIDENT Verna: We at that
6 time were in touch with the Finance Department,
7 but apparently, no affirmative action was taken.

8 Did you request this additional funding
9 from the Administration?

10 SHERIFF GREEN: Yes. We made the
11 Administration aware of the need. Quite frankly,
12 there was a change in the administration at
13 Traffic Court around the same time that we had to
14 -- in which we were required to turn in our
15 numbers for the next fiscal year, which meant that
16 we were unable to coordinate a complete picture of
17 what we would need over at the Traffic Court
18 building during the time of submission of our
19 request for Fiscal Year 2002.

20 COUNCIL PRESIDENT Verna: How many
21 people do you have at Traffic Court at the present
22 time?

23 SHERIFF GREEN: We have don't have any
24 deputies in Traffic Court.

25 COUNCIL PRESIDENT Verna: You don't

1 2/23/01 - FY '02 OPERATING BUDGET

2 have any?

3 SHERIFF GREEN: That's correct.

4 COUNCIL PRESIDENT Verna: Who does the
5 security work there?

6 SHERIFF GREEN: Well, it's my
7 understanding is that they have a combination of
8 Traffic Court officers.

9 COUNCILMAN DiCicco: May I make a
10 comment?

11 COUNCIL PRESIDENT Verna: Councilman
12 DiCicco?

13 COUNCILMAN DiCicco: Thank you, Madam
14 Chair.

15 To the best of my knowledge, at least
16 five years ago, when I left the court as a court
17 administrator, security was basically done by
18 enforcement officers who basically had a dual
19 role. Part of their job was spent out on the
20 street, serving scofflaw warrants or making
21 arrests, and the other part was basically standing
22 at the entrance of the courts and the entrance to
23 the courtroom or the court building.

24 There is a police contingent there that
25 basically handles the citations as they're

1 2/23/01 - FY '02 OPERATING BUDGET

2 delivered from the various police districts. They
3 would help out from time to time in the role of
4 security, but there was a limited police force --
5 I'm not sure what the number of police officers
6 there today is, I'm sure it's down from where it
7 was five or six years ago.

8 It really had no semblance of a
9 security of a security force there. Some of the
10 maintenance employees were actually given titles
11 of security officers.

12 COUNCIL PRESIDENT VERNA: That's
13 wonderful.

14 COUNCILMAN DICICCO: They would stand
15 at the entrances or stand next to the cashier
16 counter, where a lot of monetary transactions
17 would go on. So for all intents and purposes,
18 there really is no security at Traffic Court, and
19 there hasn't been for as long as I could remember.

20 COUNCIL PRESIDENT VERNA: Mr. Dubow,
21 could you come front and center, please.

22 (Mr. Dubow returns to witness table.)

23 COUNCILMAN NUTTER: Can I just ask
24 Councilman DiCicco one question what he said
25 earlier?

1 2/23/01 - FY '02 OPERATING BUDGET

2 Councilman, you said that there are
3 enforcement officers who have a dual role?
4 Sometimes they're in the -- at Traffic Court and
5 then -- are you talking about enforcement officers
6 like PEOs?

7 COUNCILMAN DICICCO: These are
8 enforcement officers -- that's the title given to
9 people who work for Philadelphia Traffic Court,
10 whose responsibility is to serve warrants and/or
11 make arrests of scofflaws.

12 COUNCILMAN NUTTER: Okay. And do
13 they --

14 COUNCILMAN DICICCO: And they, from
15 time to time, based the on the need, if it was a
16 busy court day and they were not out on the
17 street, they would be assigned to patrol the
18 hallway and basically try to make the courtrooms
19 as secure as possible.

20 COUNCILMAN NUTTER: But, I mean, it's a
21 situation where sometimes they're there and
22 sometimes they're not, not depending on if there's
23 something else they have to do?

24 COUNCILMAN DICICCO: That's correct,
25 depending on what the program that the court has

1 2/23/01 - FY '02 OPERATING BUDGET

2 established in terms of increased enforcement for
3 scofflaws.

4 And when defendants are arrested and
5 brought into the court either by way of the Police
6 Department or by way of the enforcement officer's
7 arrest, they are in charge of securing the holding
8 room where the defendants are kept until the
9 hearings are heard.

10 COUNCILMAN NUTTER: I would only have
11 two other comments, and I know this is probably
12 completely out of order.

13 But, one, there's, I mean, there's
14 hardly a soul at Traffic Court who's there 'cause
15 they want to be there, and even if they are, I
16 mean, except for maybe the employees --

17 COUNCILMAN DICICCO: They're generally
18 angry people.

19 COUNCILMAN NUTTER: Right, they're not
20 very happy, okay.

21 Second -- I mean, as between the
22 Sheriff's Office doing their security work as
23 opposed to the Philadelphia Police Department, I
24 mean, are these Philadelphia police officers there
25 because they have court time, or have they been

1 2/23/01 - FY '02 OPERATING BUDGET

2 assigned to Traffic Court? I mean, they're
3 supposed to be out on the street.

4 COUNCILMAN DICICCO: It's a combination
5 of two. There is a clerical unit, if you will,
6 that the police officers maintain. When the
7 tickets are brought in from the various police
8 districts, they're delivered to the police room
9 first. And the tickets -- the citations are then
10 broken down to the police copy and then the court
11 copy, et cetera, and that's -- by way of law, I
12 understand that it has to be done that way.

13 I always felt as though -- with no
14 disrespect to the police officer there -- it was
15 really a waste of manpower to keep them in there,
16 but that's the way it is written.

17 COUNCILMAN NUTTER: Right.

18 COUNCILMAN DICICCO: Additionally, in
19 each courtroom, there is generally one police
20 officer who stands before the court and basically
21 testifies to the testimony that is written on each
22 of the tickets.

23 COUNCILMAN NUTTER: Right, I got you,
24 okay. Thank you.

25 Thank you, Madam Chair.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT VERNA: Thank you.

3 And as I said, I will reiterate that
4 last year, Judge DeAngelis -- I don't know whether
5 they had an incident or two at the Traffic Court,
6 but she apparently was very concerned about the
7 safety in that building for everyone concerned.

8 COUNCILMAN DICICCO: If I could just
9 give you a brief history for those of you never
10 been down at Traffic Court at Eighth and Spring
11 Garden, when I was a court administrator, because
12 there was such a concern for safety, I literally
13 took the first courtroom, which was just off the
14 main entrance. To the left, as you come in, is
15 the cashier's department, and then you go to the
16 right, and that was the hallway where the
17 courtrooms were located. I literally turned
18 Courtroom A into the police liaison unit so that
19 it would have police at least a little bit closer
20 to the main activity of the court, the entrance to
21 the court and the cashier's department, and hoped
22 that that would add some level of security.
23 Because the police at one time were kept all the
24 way in the back of the building.

25 And I still believe that the

1 2/23/01 - FY '02 OPERATING BUDGET

2 enforcement officers not permitted to carry
3 firearms, so you do have a situation, as
4 Councilman Nutter was alluding to, that people are
5 there who are basically detainees, they're
6 arrested for maybe being scofflaws, but generally
7 a lot of these folks who are arrested have other
8 criminal warrants outstanding, and that's some of
9 the reasons why they're brought into the Traffic
10 Court in the first place, because they may have
11 other warrants outstanding for criminal matters,
12 and then through the system of the court, the
13 Traffic Court is notified, and then they're
14 brought down to Traffic Court.

15 So these are people who will attempt
16 from time to time to escape, not because they're
17 going to be standing in front of a Traffic Court
18 judge for a moving violation, but because they
19 have other criminal cases pending that they were
20 literally arrested for by chance, or because the
21 Police Department was able to apprehend them in
22 the process of another crime.

23 So it is a very dangerous situation
24 that goes on down there. And we are fortunate
25 that some major incident has not happened yet.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT VERNA: The Chair
3 recognizes Councilman Cohen.

4 COUNCILMAN COHEN: In addition, in a
5 very recent letter that I think the new
6 administrative judge, Judge Perri, send to
7 Councilmembers, he pointed out that the
8 enforcement officers now are out in the field
9 probably all day long, or all night long, because
10 of the enforce -- the increased activity that
11 enforcement officers are engaged in trying to
12 apprehend scofflaws. So that I think the
13 situation is really pretty desperate.

14 Thank you, Madam President.

15 COUNCIL PRESIDENT VERNA: Thank you.

16 The Chair recognizes Councilman Clarke.

17 COUNCILMAN CLARKE: Thank you, Madam
18 Chair.

19 I just want to get some clarity. On
20 the issue with respects to the Traffic Court
21 itself, aren't there dedicated security officers,
22 Traffic Court employees for that facility? 'Cause
23 I have, on occasion, had some interaction with one
24 or two of them when I went down with -- well, they
25 weren't constituents at the time because I was a

1 2/23/01 - FY '02 OPERATING BUDGET

2 staff person, but they were constituents of the
3 former Council President Street, and these people
4 are clearly employees of Traffic Court, and they
5 had concerns about where I parked my municipal
6 vehicle, and we got into a debate about that. And
7 they clearly indicated that they were security for
8 Traffic Court, and they were not police officers,
9 and they didn't appear to be warrant officers.

10 SHERIFF GREEN: But as stated before,
11 they are people who have a dual role. They are
12 people who are really technically enforcement
13 officers who assume the responsibility of security
14 for a particular day for a particular period of
15 time.

16 COUNCILMAN CLARKE: So you're saying
17 that these individuals, at some point, they
18 actually go out and serve warrants? They weren't
19 solely dedicated to that facility?

20 SHERIFF GREEN: That's correct, as is
21 my understanding. It is also my understanding
22 that these people do not receive adequate training
23 to provide security for the building. And
24 needless to say, they are not trained to provide
25 security for prisoners.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN CLARKE: Okay. Madam Chair,
3 would it be possible -- and I don't know if the
4 Sheriff or Councilman DiCicco, since you had spent
5 some time down there, to get something in writing
6 that speaks to the specific security arrangements
7 for that facility?

8 'Cause I have -- I mean, I've
9 experienced something somewhat different.

10 COUNCILMAN DICICCO: If I may, Madam
11 Chair.

12 I think the answer to Councilman Clarke
13 is, if you look at the payroll -- I mean, I
14 haven't seen it for five and a half years -- you
15 may see a line item that says "Security
16 Officers." But in reality, they're just ordinary
17 folks who are hired at the Traffic Court. Maybe
18 they were a clerk at one time, and there was a
19 need to have at least someone stationed outside of
20 the courtrooms or at the entrance to the building
21 to basically direct people to where they needed to
22 go. So a title was created for these folks as
23 security officers.

24 But it's not a security officer as I
25 think you or I would typically think of someone

1 2/23/01 - FY '02 OPERATING BUDGET

2 who's in security. A bank security guard or a
3 chain restaurant or a food market will have a
4 security officer stationed there. These are just
5 really folks who were hired basically as clerical
6 assistants, who, at some point in time -- and the
7 court said, Well, we need someone to monitor the
8 door at Eighth Street and the door on Spring
9 Garden Street, we need somebody to be the security
10 officer there, and they were given a new title,
11 and they're given a gray shirt --

12 COUNCILMAN CLARKE: And a uniform.

13 COUNCILMAN DICICCO: Yeah, a uniform,
14 with no guns and no -- as the Sheriff says, really
15 no formal training.

16 We did enter into some training program
17 back in the early '90s, but because of the fact
18 that they're not permitted to carry guns, it was
19 very difficult for us to get people who were
20 making probably in the area of 22 to \$25,000 a
21 year to take on the responsibility of being an
22 enforcement officer that would go out and
23 apprehend people.

24 And, again, if you would look at the
25 history of it, many of the people who are

1 2/23/01 - FY '02 OPERATING BUDGET

2 scofflaws, Traffic Court scofflaws, these are
3 people who have generally a major criminal history
4 criminal background. And it's a difficult job for
5 people to do without even having any means of
6 protecting themselves.

7 So I think you really need someone who
8 has the authority and the training and the ability
9 to deal with those types of individuals. It's a
10 court. Why should Traffic Court be treated any
11 differently than the other courts in the system?
12 You have security guards at the First Judicial
13 District, the CJC, you have them at 1801, and you
14 have them at a lot of other places. So there is a
15 need.

16 COUNCILMAN CLARKE: Councilman, I agree
17 with you that these individuals are not adequately
18 trained 'cause one of these individuals actually
19 physically grabbed my arm as it related to a
20 simple incident of where I parked my municipal
21 vehicle. So I agree with you 100 percent that
22 they have no training whatsoever.

23 And I guess my simple question is, who
24 pays for that particular enforcement or that
25 particular -- that particular safety or security

1 2/23/01 - FY '02 OPERATING BUDGET

2 officer? Should it be the State or should it be
3 the City of Philadelphia, be it either a Sheriff's
4 Deputy or a Philadelphia police officer? And I
5 guess that's kind of my concern, regardless of
6 whether or not that person is qualified or not.

7 SHERIFF GREEN: Well, our current
8 funding stream comes from the City of
9 Philadelphia. As you know, there's a pending
10 resolution concerning the unified judicial system
11 in the State of Pennsylvania that would allow for
12 the Commonwealth of Pennsylvania to assume the
13 cost of the courts, but that hasn't actually
14 occurred yet, and we're still waiting for that.

15 COUNCILMAN CLARKE: So those
16 individuals that have lobbied -- I guess both this
17 Council and your office from the State-
18 administered facility, with the Traffic Court, I
19 understand, is, have they lobbied the State for
20 financing for security, or are they simply looking
21 to the City of Philadelphia for security?

22 SHERIFF GREEN: I don't know what
23 Traffic Court has done in relationship to
24 requesting funds for their security. I can just
25 tell you that the responsibility of the Sheriff's

1 2/23/01 - FY '02 OPERATING BUDGET

2 Office is to provide security for county
3 courthouses, and the Traffic Court qualifies as
4 the county courthouse. And so it is the
5 obligation of the Sheriff's Office to provide the
6 needed security.

7 COUNCILMAN CLARKE: Okay.

8 COUNCILMAN DICICCO: (Inaudible,
9 off-mic.)

10 . . . Traffic Court, while the judges
11 are State employees, the personnel who run the
12 court are City employees, so I'm not certain if
13 Judge Perri, who's now the new AJ, has been
14 lobbying the State, but I don't think he would get
15 anywhere in the first place, because they're City
16 employees.

17 COUNCILMAN CLARKE: Okay, thank you.

18 COUNCIL PRESIDENT VERNA: I would just
19 like the record to reflect also that in the
20 detailed budget for the Traffic Court, it
21 indicates that there are 12 enforcement officers
22 who, Councilman DiCicco, would go out and serve
23 warrants.

24 COUNCILMAN DICICCO: Either out on the
25 street or in the office, doing the paperwork,

1 2/23/01 - FY '02 OPERATING BUDGET

2 prior to a team being put on the street, and doing
3 the follow-up paperwork if in fact the --

4 COUNCIL PRESIDENT VERNA: And the five
5 security guards, you say, do a lot of clerical
6 work?

7 COUNCILMAN DICICCO: They do a little
8 bit of each, yeah.

9 COUNCIL PRESIDENT VERNA: And they have
10 one assistant supervisor for security guards.

11 Mr. Dubow, having heard the testimony
12 and the request, can you tell us what the position
13 is of the Administration regarding this matter?

14 MR. DUBOW: Our initial reaction to the
15 request was that what would happen was that
16 Sheriff's employees would replace court employees,
17 and that's why we initially didn't fund it, 'cause
18 we thought they were replacing the court
19 enforcement officers. And I think now, given what
20 we've heard today, we need to meet with the
21 Sheriff's Office and revisit that and look at what
22 their needs are.

23 COUNCIL PRESIDENT VERNA: And you'll
24 let us know sometime next week?

25 MR. DUBOW: I'll add it to my agenda

1 2/23/01 - FY '02 OPERATING BUDGET
2 for next week.
3 COUNCIL PRESIDENT Verna: Thank you.
4 Are there any other questions for the
5 Sheriff?
6 (No further questions.)
7 COUNCIL PRESIDENT Verna: I do hope
8 everything's okay.
9 SHERIFF GREEN: Yes. We're working on
10 it.
11 COUNCIL PRESIDENT Verna: Great.
12 SHERIFF GREEN: Thank you.
13 COUNCIL PRESIDENT Verna: I know the
14 Law Department has been waiting, but the Register
15 of Wills is here, and I'm sure it will only take
16 about three minutes. So the Register of Wills
17 come forward.
18 (Witnesses come forward.)
19 COUNCIL PRESIDENT Verna: Mr.
20 Donatucci, we do have a copy of your testimony.
21 It will be provided to the stenographer and
22 transcribed in full. So if you would simply
23 summarize your testimony, we would really
24 appreciate it.
25 (Mr. Donatucci's testimony attached

1 2/23/01 - FY '02 OPERATING BUDGET

2 hereto.)

3 MR. DONATUCCI: Good morning, Mrs.
4 President and members of Council. You are
5 correct, we did submit a two-page letter
6 highlighting basically what our revenue has been
7 for the past year and what our projection is.

8 We are basically in agreement with the
9 Administration's numbers, except for two little
10 areas, and we discussed both of them with
11 Mr. Dubow. One was in the area of 400, Council
12 President, where we are aggressively trying to
13 finish our computerization of the office.

14 I notice Mr. Primavera was here. We
15 are officially now on the Internet for access to
16 our Orphans Court records since 1994. They are
17 Internet-accessible, and we would like to make the
18 rest of the office accessible through the Internet
19 and possibly also charge for some of these
20 services.

21 So we are basically asking in the Class
22 400 \$103,774 so we can get the rest of the
23 computers -- the hardware and the software, the
24 programs to finish our probating. And we had
25 asked for additional monies in our Class 100 for

1 2/23/01 - FY '02 OPERATING BUDGET

2 my deputies and attorneys who have not received a
3 raise in approximately three years. It's
4 basically a cost-of-living raise to be comparable
5 to our other employees.

6 One point -- I'm going to keep it very
7 short. If you look at our revenue, we're
8 basically a self-sustaining office, and we do
9 provide services citywide. We have traveling
10 probate clerks, we provide services to bedridden
11 veterans and free services where we don't charge
12 to go out for marriage licenses. We also have two
13 offices, satellite offices, to serve the Northeast
14 and North Philadelphia. This all things that
15 we've implemented and didn't ask for additional
16 employees.

17 We are in the process right now of
18 studying our fee structure with the five
19 surrounding counties to rate some of our fees to
20 be comparable which will bring us approximately
21 \$75,000 additional revenue.

22 We also feel once the computerization
23 is done, as I said, for computer access to our
24 office, I feel we could charge a slight nominal
25 fee with the initial probate of an estate. I want

1 2/23/01 - FY '02 OPERATING BUDGET

2 to emphasize that a lot of these fees that we will
3 be raising will be in the area of fees that will
4 reflect in more complicated estates and not the
5 smaller estates where there's a question of how
6 much money's in the estate. So basically, the
7 bottom line is, the more money in the estate and
8 the more ability to pay, they will in turn pay the
9 additional fees.

10 COUNCIL PRESIDENT VERNA: Mr. Dubow,
11 it's my understanding that you're working with
12 Mr. Donatucci to address his concerns?

13 MR. DUBOW: (Nods head.)

14 COUNCIL PRESIDENT VERNA: Thank you.

15 Are there any questions from members of
16 the committee?

17 (No questions.)

18 COUNCIL PRESIDENT VERNA:

19 Congratulations.

20 MR. DONATUCCI: Thank you.

21 COUNCIL PRESIDENT VERNA: The Law
22 Department is next.

23 (Witnesses come forward.)

24 MR. TRUJILLO: Good morning, Madam
25 Chair.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCIL PRESIDENT Verna: Good
3 morning. Thank you for your patience. We
4 appreciate your waiting.

5 MR. TRUJILLO: Not at all. I think I
6 have four minutes.

7 (Laughter.)

8 COUNCIL PRESIDENT Verna: Okay. Please
9 identify yourself for the record and proceed with
10 your testimony. And we do have a copy of your
11 testimony. I think you heard Mr. Donatucci say
12 that it will be given to the stenographer, who
13 will type it in full, so if you would merely
14 summarize, we'd appreciate it.

15 (Mr. Trujillo's written testimony
16 attached hereto.)

17 MR. TRUJILLO: Be happy to, Madam
18 Chair.

19 COUNCIL PRESIDENT Verna: Thank you.

20 MR. TRUJILLO: My name is Ken Trujillo.
21 I'm the City Solicitor. Seated to my left is
22 Donna Mouzayck, First Deputy City Solicitor. And
23 to my right is Chris Lane, Director of
24 Administration and Management for the Law
25 Department. Also seated behind me are Stella

1 2/23/01 - FY '02 OPERATING BUDGET

2 Tsai, who is the Chair of Administrative Law for
3 the Law Department; as well as Dan Cantu-Hertzler
4 Corporate and Tax Chair for the Law Department.

5 And as Madam Chair noted, we have
6 submitted written testimony on behalf of the Law
7 Department's budget request for Fiscal Year 2002.
8 I would like to highlight a couple of the issues
9 which the written testimony describes.

10 First, I'd like to note that a year
11 ago, my first day of work was noteworthy because I
12 came into testify on our budget request for last
13 year. And during that testimony, I told this body
14 that there were a couple of significant challenges
15 that the Law Department had, and that I had hoped
16 that we would have some support in order to meet
17 some of those challenges.

18 And when I testified on February 28th
19 of last year, I had told you that we had had at
20 that point an attrition rate that was reaching a
21 40 percent possibility for the year with our
22 lawyers if it had gone on the way it had gone.
23 For 1999, we had the highest attrition rate of a
24 decade. Last year -- and so I told this body that
25 we needed to adjust the salary schedule last year.

1 2/23/01 - FY '02 OPERATING BUDGET

2 Happily, with your support and the
3 support of the Mayor, we did make a significant
4 change to our salary structure. And so we ended
5 up for the year with approximately an 18 percent
6 attrition rate. I'm happy also to report that
7 this year, we've only had one lawyer leave the Law
8 Department since the beginning of this year. So I
9 am appreciative of your support, and I thank you
10 for that.

11 When I testified last year, I also
12 mentioned to you that one of our great challenges
13 would be meeting some of the needs that we would
14 have, both with respect to the organizational
15 staffing, and we have made a couple of fairly
16 significant changes, which, I believe, has allowed
17 us to serve our clients -- the City Council and
18 the Administration -- in a much, much better way.

19 First and foremost, I had mentioned
20 earlier Stella Tsai, who serves as Chair of
21 Administrative Law for the Law Department. Up
22 until her appointment, the way the Law Department
23 was organized was, we had two Chairs that reported
24 directly to me: one was Litigation, Bill
25 Thompson; and the other chair was Corporate/Tax.

1 2/23/01 - FY '02 OPERATING BUDGET

2 Labor -- all of the Labor work and the Employment
3 work was done through the Special Labor Unit and
4 through Special Litigation. They reported
5 directly to Bill Thompson on the litigation side.
6 The Health and Human Services area, which, as you
7 know, is approximately 30 lawyers in the Law
8 Department, reported to Corporate and Tax.

9 I did not think that that was the best
10 way to do it, and I felt that we needed to have
11 closer supervision, both in the Labor and
12 Employment area and also in the Health and Human
13 Services area. And in that regard, I hired Stella
14 Tsai to be my direct report on those two areas.
15 And so she is now supervising Health and Human
16 Services and the newly-created Labor and
17 Employment Unit. I took the Special Litigation
18 lawyers that were doing Employment work and put
19 them together with all the Labor Unit lawyers and
20 created one unit that is now being managed by Pete
21 Weinbreak (ph.) who's the Chief Deputy of Labor
22 and Employment.

23 That has given us, I believe, a very,
24 very significant ability to see exactly what's
25 going on when you have cases that are perhaps in

1 2/23/01 - FY '02 OPERATING BUDGET

2 two or three different areas at one time, and I'm
3 very pleased with the results that we've seen
4 there.

5 Miss Tsai has also worked very closely
6 with the new Commissioner of the Department of
7 Human Services, and I believe we're making
8 significant progress. And, in fact, we've
9 recently overseen the ending the Baby Neal case
10 just in the last three weeks.

11 The remaining -- my remaining comments
12 are simply with respect to an Affirmative
13 Litigation Unit, which we also formed. I believe
14 I testified to that last year. And the notion of
15 the Affirmative Litigation Unit was to have a
16 group of lawyers dedicated not only to defending
17 the City -- in this case, for them to be dedicated
18 solely at investigating cases in which the City
19 had been injured economically or otherwise. And
20 my experience has taught me that when you spend 80
21 percent of your day defending, it's kind of hard
22 to go out and investigate cases and to try to be
23 proactive and to try to be a plaintiff.

24 And so, again, with your support and
25 with the Administration, we've created an

1 2/23/01 - FY '02 OPERATING BUDGET

2 Affirmative Litigation Unit. We have filed some
3 cases already, and we expect at the very least in
4 this fiscal year, it should be pay for itself, and
5 in Fiscal Year 2002 and going forward, we would
6 expect it to more than pay for itself into the
7 future.

8 Those are the highlights. I know that
9 some of you may have questions, and so I'd be
10 happy to entertain them if you have any.

11 COUNCIL PRESIDENT Verna: Thank you.

12 My staff has informed me that the
13 refund payments for the personal property tax is
14 not budgeted in FY '02. In light of the Charter
15 requirement that all payments of the City are to
16 be made through appropriations, why has your
17 department taken the position that these refunds
18 do not -- do not need to be appropriated?

19 MR. TRUJILLO: I'm not certain that the
20 Department has taken that position. I will ask
21 Frank Piva (ph.) and Richie Feder, who have been
22 the two principal lawyers involved in this area
23 to --

24 COUNCIL PRESIDENT Verna: Are they
25 here?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. TRUJILLO: They're not here today,
3 no, they're not, ma'am. But we will prepare a
4 response for you by next Wednesday, if that's
5 appropriate.

6 COUNCIL PRESIDENT VERA: Well, I think
7 this is a very important issue. And when you talk
8 to your assistants, I think that I would ask you
9 that they consult with Mr. Erekson, Mr. Auerbach,
10 Mr. Shapiro, and Mr. McPherson of our staff before
11 the adoption of the proposed FY '02 budget.

12 MR. TRUJILLO: Absolutely, ma'am.

13 COUNCIL PRESIDENT VERA: You indicate
14 in your testimony that you will be adding six
15 staff for the Law Department for the Neighborhood
16 Transformation Initiative. What will this
17 additional staff be doing for the NTI Program?

18 MR. TRUJILLO: The Law Department has
19 already undertaken a number of steps, and we have
20 actually on a weekly basis have been meeting. We
21 have at this point about 12 lawyers that have been
22 actively involved in the NTI.

23 What we have done, starting at the
24 beginning of last year, was first to contact other
25 cities, from Baltimore to San Francisco, that have

1 2/23/01 - FY '02 OPERATING BUDGET

2 had significant code enforcement successes. We've
3 also been in contact with states and have been in
4 the process of drafting proposed legislation --
5 for instance, the kind of legislation that would
6 allow the City to have an enhanced and a more
7 rapid way of taking blighted property by eminent
8 domain.

9 So the Law Department will be analyzing
10 and developing legislation both locally and at the
11 State level in order to support those blight
12 initiatives.

13 We have also -- the current Code
14 Enforcement Unit, as I believe most members of
15 this body are aware, is significantly busy just
16 with the day-to-day enforcement activities and the
17 servicing particularly of Licenses and
18 Inspections. It was our expectation that
19 particularly if there's going to be designations
20 of blighted property, if there's going to be more
21 cease-and-desist orders, that that kind of
22 servicing would require significantly more legal
23 services.

24 We have contacted, in fact, the new
25 President Judge in order to look at the potential

1 2/23/01 - FY '02 OPERATING BUDGET

2 of creating a Nuisance Court, and in that case, we
3 would have our lawyers specifically there to work
4 with particularly Licenses and Inspections and the
5 Health Department.

6 We have also began the drafting of
7 community and public awareness documents which
8 really are focused at centralizing any kinds of
9 nuisance or neighborhood complaints that people
10 may have -- whether it be, you know, high grass,
11 whether it's music blaring, whether it's
12 skateboarders. Whatever kinds of different
13 nuisances that are impacting any particular
14 neighborhood, we've started the draft of a
15 handbook that allows people to have kind of a
16 one-stop shop for any City services aimed at that
17 area.

18 We have also begun a training program
19 for Licenses and Inspections between the Law
20 Department and L&I. The idea being that we want
21 to make sure that we don't create the potential
22 for any civil rights violations and that the L&I
23 staff have a very clear understanding of what
24 their obligations and responsibilities are when
25 they're going to enter a cease-and-desist order or

1 2/23/01 - FY '02 OPERATING BUDGET

2 to undertake some other kind of police or other
3 enforcement action.

4 We have -- I think -- we've worked very
5 hard with the -- with Pat Smith and the rest of
6 the Mayor's Office that are involved in this area
7 in order to assist them in either drafting plans
8 for any kind of legal challenges that we might
9 ultimately have as a result of this, and also
10 we're -- we've also had to work, obviously, on the
11 legislative side and also on the bond issuance.

12 That's the --

13 COUNCIL PRESIDENT Verna: Well, from
14 your testimony, I am assuming that new legislation
15 would require City Council action, would it not?

16 MR. TRUJILLO: Yes, ma'am.

17 COUNCIL PRESIDENT Verna: And when
18 would you plan to involve City Council's technical
19 staff to work through the legislation that you're
20 talking about?

21 MR. TRUJILLO: On those issues, I
22 typically would look for guidance from the
23 Administration since the Administration -- and
24 when I say "the Administration," I mean the
25 Mayor's Office and Pat Smith and Joyce Wilkerson,

1 2/23/01 - FY '02 OPERATING BUDGET

2 because they -- we are typically asked to draft
3 any particular piece of legislation, but in terms
4 of timing, we would really look to the Mayor's
5 Office for that.

6 COUNCIL PRESIDENT VERNA: Well, I will
7 tell you, City Council better get involved --
8 sooner than later. And you're talking about
9 legislation. We also have excellent attorneys on
10 our technical staff who may be able to help you in
11 some way, shape, or form in the preparation of
12 this very complicated issue. And so I am merely
13 suggesting to you that you take advantage of that.

14 And if you don't. . . I just am very
15 fearful to tell you that we're in the dark and we
16 don't appreciate it.

17 The Chair recognizes Councilman Clarke.

18 COUNCILMAN CLARKE: Thank you, Madam
19 Chair.

20 With respects to the question that the
21 Chair asked about the NTI initiatives and your
22 involvement, you referenced Baltimore as one of
23 the models that you were looking at. Can you tell
24 me what the Baltimore model calls for
25 specifically. I understand it's called "Quick

1 2/23/01 - FY '02 OPERATING BUDGET

2 Take"?

3 MR. TRUJILLO: Well, if you're talking
4 about the eminent domain proceedings, that's
5 correct.

6 COUNCILMAN CLARKE: Yes.

7 MR. TRUJILLO: We were looking at
8 Baltimore on a couple of different fronts and then
9 we looked at San Francisco on another front.

10 Baltimore had a couple of things that
11 we were interested in, and one of them is the
12 accelerated ability -- right now, for instance, it
13 can take us as much as two years to get a blight
14 designation to get everything from start to
15 finish. If we were to see a block or two or three
16 that needed to be -- to have a blight designation
17 and for us to be able to take it by eminent domain
18 or otherwise.

19 Baltimore has reduced that time to, as
20 I understand it, to less than six months on the
21 outside. Similarly, Illinois has a state statute
22 that allows a city or a municipality to take
23 property on that kind of expedited basis as well.

24 Baltimore also had started to do --
25 increase their ability to fine people, you know,

1 2/23/01 - FY '02 OPERATING BUDGET

2 nuisance. For instance, a landlord that continues
3 to engage in illegal conduct when they're -- and
4 when I say "illegal conduct," for instance, they
5 don't fix the water, things that affect a renter.
6 They ended up implementing an accelerated fine
7 system so that a frequent flyer that is a frequent
8 violinator of their regulations is fined more and
9 more money.

10 We have a limitation on the amount that
11 can fined here in Philadelphia, which is \$300, and
12 we felt that the use of a higher number which is
13 very similar to Baltimore's is something we could
14 use.

15 COUNCILMAN CLARKE: Does Baltimore have
16 a redevelopment authority similar to ours?

17 MR. TRUJILLO: I believe they do, but I
18 don't know their charter, and I don't know the
19 precise integration between them and their city
20 government.

21 COUNCILMAN CLARKE: All right. Who
22 specifically is working on that initiative in your
23 office? 'Cause I have some issues.

24 MR. TRUJILLO: Sure.

25 COUNCILMAN CLARKE: I've done some

1 2/23/01 - FY '02 OPERATING BUDGET

2 research on some of the acquisition ordinances
3 across the State, and we were actually thinking
4 about doing something here.

5 MR. TRUJILLO: The two people
6 principally responsible would be Louis Rossman and
7 Cheryl Gaston.

8 COUNCILMAN CLARKE: Yes.

9 COUNCIL PRESIDENT VERNA: And Cheryl --

10 MR. TRUJILLO: Cheryl Gaston.

11 COUNCILMAN CLARKE: Cheryl?

12 MR. TRUJILLO: She's the head of code
13 enforcement.

14 COUNCILMAN CLARKE: All right, one last
15 question. About a week and a half ago or two
16 weeks ago, I asked you to tabulate certain
17 out-source fees associated with a certain
18 election. Have you gotten --

19 MR. TRUJILLO: I believe we -- I
20 believe we did a response, and it's on my desk. I
21 can probably tell you the number off the top of my
22 head 'cause I think it's about 181.

23 COUNCILMAN CLARKE: 181?

24 MR. TRUJILLO: It's approximately 181.

25 COUNCILMAN CLARKE: And that's just the

1 2/23/01 - FY '02 OPERATING BUDGET

2 Law Department, when you were working for the City
3 Commissioner's Office?

4 MR. TRUJILLO: On behalf --
5 representing the City Commissioners, and that was
6 and outside counsel that was hired by the Law
7 Department.

8 COUNCILMAN CLARKE: And it was also --
9 and I understand it's not your jurisdiction, but
10 there was also outside attorneys' fees associated
11 with the Housing Authority's involvement in the
12 case?

13 MR. TRUJILLO: That we did not
14 tabulate. We only did the Law Department portion.

15 COUNCILMAN CLARKE: Okay.

16 MR. TRUJILLO: If you'd like, we can
17 also get the Housing Authority portion.

18 COUNCILMAN CLARKE: That would help, so
19 we might break the \$200,000 mark.

20 MR. TRUJILLO: I'm confident.

21 COUNCILMAN CLARKE: All right, thank
22 you.

23 Thank you, Madam Chair.

24 COUNCIL PRESIDENT VERNA: Thank you.

25 The Chair recognizes Councilman Nutter.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: Thank you, Madam

3 Chair.

4 Mr. Solicitor, I did want to comment on
5 Page 3 of the testimony about the Neighborhood
6 Transformation Initiative and the new legislative
7 efforts, which there is certainly a crying need
8 for some new legislation in this particular area.

9 I certainly agree with the Council
10 President's comments with regard to working with
11 our -- having, I guess, the Law Department and our
12 own legal staff on the Council side work together,
13 and I would certainly not compare myself and
14 probably could not even be in the same room
15 between the fine attorneys of the Law Department
16 and the fine attorneys on our technical staff.

17 But I would also like to encourage that
18 you may also get some additional information from
19 the people who actually have to deal with these
20 systems in trying to get or dispose of a
21 property. And to the extent that Councilmembers
22 who are fairly active in this area might have some
23 opportunity to either share some information or
24 shed some light on some of these situations, it
25 may also be helpful. We probably all have our own

1 2/23/01 - FY '02 OPERATING BUDGET

2 individual horror stories. And to the extent that
3 those issues can be addressed through this
4 legislative effort, it would be helpful.

5 MR. TRUJILLO: I appreciate that, sir,
6 and we will take you up on that.

7 COUNCILMAN NUTTER: I know I have a
8 number of requests that we can talk about later,
9 but there might be a couple piece under the new
10 piece for Councilman Clarke that's on your desk.
11 There might be a couple further down in the pile
12 that have my name on them, and I'd like to follow
13 up on those. I mean, we'd all like to
14 collectively contribute to taking stuff off of
15 your desk and getting it over to our shop.

16 (Laughter.)

17 COUNCILMAN NUTTER: Although, if you've
18 seen my desk, you know that I don't need any more
19 paper at all.

20 On Page 5, you talked about the makeup
21 of the Law Department. And I had raised this
22 issue some years ago in a comparison of the --
23 excuse me -- staff complement and diversity of
24 staff between the Law Department, the Public
25 Defender's Office and the District Attorney Office

1 2/23/01 - FY '02 OPERATING BUDGET

2 just kind of as the legal community but different
3 parts of the government.

4 How do you feel about these numbers?

5 And one, let me say that, at least from my reading
6 of them, you seem to have done a great job in
7 trying to make sure that there is a balanced
8 representation in the Law Department. I know that
9 it is always tough to keep people; there are so
10 many other exciting things and lucrative that
11 people could be doing, but I think with you having
12 provided leadership and direction and given up a
13 lucrative situation yourself, maybe others will be
14 inspired to come and spend a little time with us.

15 (Laughter.)

16 MR. TRUJILLO: Either that, or my
17 judgment will be questioned.

18 COUNCILMAN NUTTER: Well, you're a
19 solicitor.

20 MR. TRUJILLO: I'm kidding.

21 COUNCILMAN NUTTER: And your judgment's
22 always going to be questioned.

23 (Laughter.)

24 MR. TRUJILLO: Councilman, I actually
25 am disappointed with the job -- with the success

1 2/23/01 - FY '02 OPERATING BUDGET

2 at least that we have been able to do, not with
3 the effort, but rather, with the results.

4 I am -- we have -- I tried very hard,
5 for instance, and if Councilman Ortiz was here, I
6 know he would ask me how many Hispanic attorneys
7 are now on staff and how many were there a year
8 ago and how many were there two years before. And
9 the one thing I will tell you is that I am
10 disappointed on that front, and not because of the
11 lack of effort, but because of the lack of
12 results.

13 We have -- a year ago, literally a year
14 ago, there was zero; there are now three Hispanic
15 attorneys, and we've got offers out to two more,
16 so our hope is that we will have five. My --
17 that's way too few. I have tried -- we have tried
18 to hire others and, frankly, have found it --
19 we've been turned down.

20 I believe that we're -- I think I'm
21 very sensitive to the notion of having minority
22 representation. A year ago, we also had zero
23 Asians in the Law Department. I believe our
24 number is now up to three, including a Chair. So
25 we're having some success.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: Right.

3 MR. TRUJILLO: But the salaries were an
4 issue. Many of the people that we want, we're
5 asking them to take a 50 or a 60 percent pay cut.
6 And -- so I frankly wish that I was doing a better
7 job.

8 COUNCILMAN NUTTER: Well, if they are
9 within reason and within, you know, the bounds of
10 keeping Mr. Dubow happy, if there are things that
11 we can do to try to help in that regard, it's
12 something that I care a great deal about, and I'd
13 be glad to continue that discussion.

14 MR. TRUJILLO: Well, first you have to
15 stop hiring my staff, and then I'll --

16 (Laughter.)

17 MR. TRUJILLO: Just kidding, but if
18 anybody has recommendations for -- whether they're
19 attorneys, whether they're paralegals, whether
20 they're other kinds of staff, I'd greatly
21 appreciate it.

22 COUNCILMAN NUTTER: Well, let me say
23 two things in response. One, it just becomes
24 clearer by way of every conversation that I ever
25 have with anyone in the Law Department that they

1 2/23/01 - FY '02 OPERATING BUDGET

2 continue to complain about the good judgment that
3 I exercised with regard to a person on your staff,
4 and we'll be the beneficiary of it. She'll
5 continue to be nice to folks over at the Law
6 Department, and so I do appreciate that. We'll
7 continue to work together.

8 Thank you.

9 Thank you, Madam Chair.

10 COUNCILWOMAN BLACKWELL: Thank you,
11 Councilman.

12 Mr. Trujillo, on Page 3, you mention
13 that there was a negotiated settlement with the
14 Health Department and the EPA regarding the
15 drinking water in the School District. Can you
16 tell us a little bit about that agreement.

17 And I only have two questions. The
18 second one is -- I'll mention both now and then
19 you can respond. You mentioned the expansion on
20 Page 4 of a Model Court program and Family Court.
21 Can you tell us a little bit about?

22 That those are my two issues.

23 MR. TRUJILLO: On the School District
24 matter, that I will have to get back to you on. I
25 have Dan Cantu-Hertzler here, who worked on it,

1 2/23/01 - FY '02 OPERATING BUDGET

2 but I think we can -- I would prefer to have a
3 written response.

4 COUNCILWOMAN BLACKWELL: Okay.

5 MR. TRUJILLO: And I'm sorry, the
6 second question, ma'am? I did not --

7 COUNCILWOMAN BLACKWELL: The Model
8 Court program and Family Court. You mentioned
9 that on --

10 MR. TRUJILLO: Stella Tsai is here, and
11 she can respond to that.

12 COUNCILWOMAN BLACKWELL: Thank you.

13 (Witness comes forward.)

14 MS. TSAI: Hello, Councilwoman
15 Blackwell. My name is Stella Tsai, and I'm Chair
16 of Administrative Law, and I oversee the Health
17 and Human Services Unit, which works in Dependency
18 Court.

19 And as far as I know, this -- the Model
20 Court Initiative was one of the, I guess, happy
21 manifestations of the Baby Neal litigation in that
22 the courts and the agencies that work together in
23 Dependency Court collaborated an effort to improve
24 delivery of services from (indiscernible) services
25 to kids who come into our care. And what's

1 2/23/01 - FY '02 OPERATING BUDGET

2 happened is that the Baby Neal litigation, as far
3 as the City, has been terminated. As far as I
4 understand, the court has continued to keep it
5 open -- the court defense has kept it open for
6 another two years.

7 Judge Panepinto, who was the
8 Administrative Judge of Family Court had agreed to
9 install two additional model courts by Fiscal Year
10 2001, I believe. Now that we have a new
11 administration in Judge Sylvester, I think there's
12 some discussions going on as to what we will do.

13 Model Court is an attempt to make sure
14 that kids who are adjudicated dependent get
15 services early and that they get fair treatment in
16 terms of the amount of time that each -- the
17 parties get together and they collaborate on a
18 better solution. It's really the model, and
19 ideally, we would be able to have these services
20 offered to every child that comes into our care.
21 And I believe that Judge Sylvester is working very
22 hard to find a way to take the reform to Model
23 Court -- it was a laboratory, essentially -- and
24 implement them court-wide.

25 So that's going to be a very tough

1 2/23/01 - FY '02 OPERATING BUDGET

2 effort. It's going to require the cooperation of
3 a lot of parties, it's going to take a lot of
4 courage, and a lot of time to get it done.

5 COUNCILWOMAN BLACKWELL: Well, we
6 certainly applaud what Judge Panepinto has done.
7 And certainly, it's been great, and we have done a
8 -- you know, been involved a little bit with
9 community courts in the district that involve
10 youth. And it's just been great, and we certainly
11 look forward to supporting Judge Sylvester to make
12 these things a reality and to keep kids getting
13 serviced.

14 Thank you.

15 Are there any other questions members
16 for this group from members of Councilman?

17 COUNCILMAN ORTIZ: I have a question.

18 COUNCILWOMAN BLACKWELL: Okay, I'm
19 sorry. Councilman Ortiz?

20 COUNCILMAN ORTIZ: Thank you.

21 Mr. Trujillo --

22 COUNCILWOMAN BLACKWELL: Excuse me,
23 Councilman, we can't hear. Would you put his mic
24 on, please.

25 COUNCILMAN ORTIZ: City Solicitor?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. TRUJILLO: Yes, sir?

3 COUNCILMAN ORTIZ: We have been trying
4 over the years to increase numbers of staffing in
5 City government. The other day, Linda Seyda said
6 that out of 29,000 individuals that work for the
7 City, 3.5, 3.5 percent were Latino across the
8 government. That's a jump from 20 years ago of
9 1 percent.

10 Now, as a person who's worked in legal
11 services and -- do you believe that a 1 percentage
12 jump in 20 years in the increase of Latino
13 employment, does that demonstrate good-faith
14 effort, or what does that say?

15 MR. TRUJILLO: One, I think it's
16 unacceptable. I don't know and I don't want to
17 say that it's good faith, bad faith. I don't
18 think I'm the person to --

19 COUNCILMAN ORTIZ: But just give me
20 your impression for over 20 years.

21 MR. TRUJILLO: It's unacceptable,
22 Councilman, it's unacceptable.

23 Before you came in, I testified about
24 my own efforts and characterized my own efforts
25 as, I've worked very hard to try to increase the

1 2/23/01 - FY '02 OPERATING BUDGET

2 number of Latinos in the Law Department, and I've
3 had the whopping success of going from 0 lawyers a
4 year ago to 3. We have two offers outstanding, so
5 we may be at 5.

6 COUNCILMAN ORTIZ: But when you walked
7 in there, didn't it surprise you to find that
8 there were no attorneys in there?

9 MR. TRUJILLO: I know --

10 COUNCILMAN ORTIZ: In a city where such
11 a big population of Latinos exist?

12 MR. TRUJILLO: It's unacceptable.

13 COUNCILMAN ORTIZ: And the thing is
14 that you find that in department after department
15 -- and you said you have now, what, three
16 attorneys?

17 MR. TRUJILLO: We have three, with two
18 offers outstanding, so we -- maybe, if we're
19 fortunate enough -- we've made a number of other
20 offers, and I guess the difficulty has been, we've
21 sent people to -- I think Donna, for instance, and
22 our Latino lawyers have gone to job fairs. And we
23 have done and continue to try very hard to do it
24 and -- but we have gone from 0 to 3 in a year of
25 me trying very hard to hire folks.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN ORTIZ: And paralegals?

3 MR. TRUJILLO: Paralegals? I will tell
4 you, I have not concentrated on the nonlawyer
5 side. I will honestly tell you that my personal
6 involvement has been much more in trying to hire
7 lawyers than in either the paraprofessional side
8 or in the -- or anywhere else in the Law
9 Department. I will tell you, I have not
10 concentrated on --

11 COUNCILMAN ORTIZ: But paralegals stay
12 there for a longer time than usually attorneys do,
13 so it might be very good to look at that.

14 MR. TRUJILLO: I will do that.

15 COUNCILMAN ORTIZ: And the other
16 staffing that we have, because what we see from
17 the testimony from the Personnel Director and so
18 on is that there is really a total absence across
19 the board in middle management and so on.

20 And it's -- it's very frustrating to
21 sit here year after year and listen to people and
22 say, Well, we did -- we tried to do this and
23 that. I think if you want to do it, you really
24 are going to do it. And I know that next year, in
25 your office at least, we will have a greater

1 2/23/01 - FY '02 OPERATING BUDGET

2 increase than we have this year.

3 But I think I would like you to look at
4 the overall aspect of the City, and not just the
5 City Solicitor's Office, and see how we can begin
6 to increase that number and not wait 20 years to
7 advance 1 percent.

8 MR. TRUJILLO: I will commit to you
9 that I and my office will work with you and your
10 office to see what we can do.

11 COUNCILMAN ORTIZ: Okay.

12 MR. TRUJILLO: And I will tell you --
13 I'll say it again: It's unacceptable, I'm
14 disappointed in what I've been able to do in the
15 year that I've been there at a time -- and I've
16 spent a lot of time and effort on it. And I
17 really do consider it one of the failures that
18 I've had this last year.

19 COUNCILMAN ORTIZ: Thank you.

20 Thank you, Madam Chair.

21 COUNCIL PRESIDENT Verna: Thank you.

22 The Chair recognizes Councilwoman
23 Miller.

24 COUNCILWOMAN MILLER: Thank you, Madam
25 President.

1 2/23/01 - FY '02 OPERATING BUDGET

2 Good morning, City Solicitor.

3 MR. TRUJILLO: Good morning,
4 Councilwoman.

5 COUNCILWOMAN MILLER: When you talk
6 about the Law Department being involved in
7 creating new legislation, or additional
8 legislation, along the Neighborhood Transformation
9 Initiative, have you at all thought about any new
10 legislation as it relates to troubled buildings,
11 troubled apartment buildings, and whatnot that are
12 out there?

13 MR. TRUJILLO: Are you talking about
14 from the renter's side or from the construction
15 side or --

16 COUNCILWOMAN MILLER: Well, just from
17 code enforcement, lack of code enforcement. A lot
18 of these buildings are falling down, and to me it
19 just seems like they just continue to just fall
20 down and nothing really happens.

21 I know that the State was looking at
22 some legislation that didn't get past the Senate
23 as it related to putting these buildings into
24 receivership.

25 MR. TRUJILLO: What we have looked at

1 2/23/01 - FY '02 OPERATING BUDGET

2 is primarily legislation at repeat offenders; in
3 essence, an bad landlords.

4 COUNCILWOMAN MILLER: Right.

5 MR. TRUJILLO: If a landlord, whether
6 it's an apartment house or whether somebody has
7 20 or 30 houses and has a series of code
8 violations, ways that we can package that as part
9 of our both affirmative litigation and code
10 enforcement side, and then also, I testified
11 earlier to increase the fine amounts that the
12 City's able to impose on a frequent violator, and
13 you step it up the more that they violate.

14 So that we are looking at, yes.

15 COUNCILWOMAN MILLER: What is the
16 history of these types of landlords actually
17 paying their fines?

18 MR. TRUJILLO: Again, I don't have an
19 analysis on that side, and I can't really respond
20 to that at this time.

21 COUNCILWOMAN MILLER: I'd be interested
22 in knowing, 'cause just from an appearance, it
23 just seems as if people get fined, don't pay the
24 fines, and just continue to go on and practice as
25 usual.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. TRUJILLO: I will be happy to get a
3 report back to you on that issue. I'd have to
4 probably narrow it down a little bit, but I think
5 if you're asking what kind of success do we have
6 in collecting the fines on the code enforcement,
7 L&I fines, I'll be happy to get that to you.

8 COUNCILWOMAN MILLER: Okay. And I,
9 too, am also interested in whatever it is that
10 you're going to put together as it relates to the
11 Neighborhood Blight Initiative. And I think I
12 heard you mention that there was going to be some
13 type of new court, nuisance court, or some type of
14 neighborhood court?

15 MR. TRUJILLO: No, that is not done.
16 What I testified was that we had begun to have
17 those discussions with the Court of Common Pleas
18 in order to decide whether it makes sense,
19 particularly if there's going to be an increased
20 code enforcement presence by the Law to have one
21 or two or three, a specified number of judges
22 designated to do, in essence, nuisance court. But
23 no such policy has been made.

24 COUNCILWOMAN MILLER: Okay. 'Cause I
25 think it's important that we're addressing the

1 2/23/01 - FY '02 OPERATING BUDGET

2 issue of neighborhood blight, but unless we really
3 address this as a long-term issue, and ten years
4 from now, homes, houses will continue to fall down
5 and cause additional blight into the
6 neighborhoods. So I think we have to do education
7 and prevention out in the neighborhoods so that
8 we're not constantly faced with the same cycle of
9 blight. We address it in the year 2001, 2002,
10 whatever, and then in the year 2008, we're still
11 right back out there addressing the same type of
12 issues, only in different locations.

13 So I'd also be interested in the
14 information that the Council President talked
15 about earlier today.

16 MR. TRUJILLO: I appreciate that. And
17 I don't know if you were here when I testified,
18 but one of the other things that our lawyers are
19 going to be doing as part of the initiative is
20 going to be going out literally to -- and one of
21 the things we learned from San Francisco is that
22 our lawyers will actually be going out into
23 communities and -- to view the community, not just
24 L&I, ultimately as the client on -- particularly
25 on repeat offenders.

1 2/23/01 - FY '02 OPERATING BUDGET

2 And we've commenced -- we already have
3 the draft of a manual that I spoke about earlier,
4 which is typical problems, and so we want to hear
5 from community folks as to, you know, what are the
6 most significant issues in your particular
7 neighborhood. Because, for instance, what's
8 bothering me in my neighborhood may not be the
9 same thing that's bothering somebody in another
10 part of the City.

11 Thank you.

12 COUNCILWOMAN MILLER: All right, thank
13 you.

14 Thank you, Madam President.

15 COUNCILWOMAN BLACKWELL: You're
16 welcome.

17 Are there any further questions for the
18 City Solicitor?

19 (No further questions.)

20 COUNCILWOMAN BLACKWELL: Thank you very
21 much.

22 MR. TRUJILLO: Thank you.

23 COUNCILWOMAN BLACKWELL: You're
24 welcome.

25 Next we'll have the Office of Labor

1 2/23/01 - FY '02 OPERATING BUDGET

2 Relations (Break taken.)

3 - - -

4 (Proceedings resume.)

5 COUNCIL PRESIDENT VERA: Good

6 afternoon. Thank you for your patience. Please
7 identify yourself for the record and proceed with
8 your testimony.

9 MR. GRAB: Good afternoon, President
10 Verna and members of City Council. My name is
11 Bill Grab. I'm the Director of the Office of
12 Labor Relations. I'm here with Joseph Tolan and
13 Delia Gorman, Deputy Directors of Labor Relations,
14 to present the Office of Labor Relations' request
15 for our Fiscal Year 2002 Operating Budget.

16 The Office of Labor Relations works
17 with City managers, union representatives, and
18 their members in collective bargaining, contract
19 administration, dispute resolution, and labor
20 management cooperation. To continue promoting
21 effective labor relations, the Office of Labor
22 Relations is requesting \$591,048 in the Fiscal
23 2002 General Fund Budget.

24 In the area of collective bargaining,
25 as you know, the collective bargaining agreements

1 2/23/01 - FY '02 OPERATING BUDGET

2 for all four major bargaining units expire on June
3 30, 2002, and we successfully reached agreement
4 with two unions and went to interest arbitration
5 with the Police and Fire. As the timetable in Act
6 111 allows, the City will begin preparations for
7 bargaining for successor agreements with the
8 Police and Fire this coming summer, and we will
9 begin negotiations prior to January 2002.

10 In the area of dispute resolutions, we
11 work with the District Council 33 and District
12 Council 47 representatives in grievance
13 arbitration -- in grievance and arbitration, and
14 we worked with the FOP and the firefighters in the
15 area of arbitration.

16 Finally, in the area of the Redesigning
17 Government Initiative, the Labor Management
18 Cooperation, currently we have committees active
19 in the Departments of Recreation, RGI, Revenue,
20 L&I, Health, Police, and the Airport.

21 We are working with the unions to
22 expand the area of the Labor Management
23 Cooperation, and we would like to thank Council
24 for this opportunity to present our budget request
25 for 2002, and I'm happy to answer any questions

1 2/23/01 - FY '02 OPERATING BUDGET

2 that you may have at this time.

3 COUNCIL PRESIDENT Verna: Thank you.

4 Are there any questions?

5 The Chair recognizes Councilman Cohen.

6 COUNCILMAN COHEN: What is the function
7 of the Office of Labor Relations?

8 MR. GRAB: We work with unions in
9 collective bargaining, handle grievances, we work
10 with the Law Department in arbitrations, and we
11 work in the area of Labor Management Cooperation
12 and the Redesigning Government Initiative.

13 COUNCILMAN COHEN: Do you -- are you a
14 policy office? are you a technical office that
15 performs specific functions?

16 MR. GRAB: Uh --

17 COUNCILMAN COHEN: Or are you a
18 combination?

19 MR. GRAB: I was going to say we're
20 more of a combination, where we suggest and
21 implement policy. And then we are also technical
22 to the collective bargaining process and the
23 arbitration process.

24 COUNCILMAN COHEN: Are you concerned,
25 say, about the image of Philadelphia? If we have

1 2/23/01 - FY '02 OPERATING BUDGET

2 a labor policy that brings gets us involved in
3 labor disputes where there's a question of
4 fairness and justice, is that a matter of
5 concern?

6 MR. GRAB: I guess we're the office
7 inside, we're the inside. We work with 33, 47,
8 the FOP, and the firefighters.

9 COUNCILMAN COHEN: But, say, we're kind
10 of embarrassed here because we have our different
11 wash rooms serviced by people who tell us from
12 time to time that we're paid less than other
13 people doing similar work in private buildings in
14 the City, we're working without a contract because
15 our direct employer, a company called Colin -- I
16 think they spell it one L. Maybe they can't
17 afford the second L because they say, apparently,
18 they can't pay the same level of wages that are
19 paid by other companies when there's a labor
20 dispute.

21 Does the City get in and try to help
22 that?

23 MR. GRAB: The City does --

24 COUNCILMAN COHEN: 'Cause to the
25 outside world, it looks like it's a problem

1 2/23/01 - FY '02 OPERATING BUDGET

2 affecting the City.

3 MR. GRAB: There is another office that
4 gets involved in -- in those type of disputes,
5 rather than our office. Our office works inside,
6 with City employees, not with contractors or like
7 the Convention Center. There's other offices that
8 get -- there's another office that gets involved
9 with that.

10 COUNCILMAN COHEN: Are you barred from
11 getting involved?

12 MR. GRAB: I don't think we're barred.
13 I mean, it's just been -- our mission is to work
14 with the City employees and City unions.

15 COUNCILMAN COHEN: Well, you say your
16 mission is the City employees, but not labor
17 situations that affect the City?

18 For example, it's only, I think, as a
19 result of Mayor Rendell's privatization effort
20 that custodial workers, you know, became non-City
21 workers. Before that, they were all City
22 workers. So it's a City function they're
23 performing.

24 Isn't that -- shouldn't that be a
25 matter of your office?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. GRAB: I can talk that over -- I do
3 not want to get into another office's
4 jurisdiction. I can talk that over and find out
5 about it and talk with the other office.

6 COUNCILMAN COHEN: Well, I'm raising
7 that because I think it important that there be an
8 Office of Labor Relations that deals with how
9 labor performs and what the City's relationship is
10 with labor in matters that involve City functions,
11 but not necessarily technically City employees.
12 We look bad.

13 Who was that young woman on a TV show
14 who used to be Regis Philbin, who said that
15 we'll --

16 UNIDENTIFIED SPEAKER: Kathy Lee.

17 MR. GRAB: Kathy Lee Gifford. She
18 tried the line, Well, I'm not involved, I'm not
19 the contracting party between the workers. You
20 know, it's the other fellow, the contractor that
21 pays these low wages. Now, to me, that tale
22 didn't go very long, you know, and it hurt her
23 very badly.

24 And the City's in that same kind of
25 position. We can't say, Well, that's Colin, some

1 2/23/01 - FY '02 OPERATING BUDGET

2 company that nobody knows about, that operates out
3 of New Jersey.

4 There -- a City function is being
5 performed, and I think the City has to be
6 concerned about it.

7 Do you know whether the matter that
8 used to bring many of us out on Friday afternoons
9 during lunchtime in front of the Criminal Justice
10 Center, the matter involving court employees; has
11 that been resolved?

12 MR. GRAB: We currently have a contract
13 with the court employees.

14 COUNCILMAN COHEN: We do have a
15 contract?

16 (Unintelligible, parties talking over
17 each other.)

18 COUNCILMAN COHEN: Well, that's a good
19 result.

20 All right. Thank you, Madam President.

21 COUNCIL PRESIDENT Verna: You're
22 welcome.

23 COUNCIL PRESIDENT Verna: At sometime,
24 I would like to suggest that you raise with
25 whomever you have to raise the desirability of

1 2/23/01 - FY '02 OPERATING BUDGET

2 your office being authorized to get into any areas
3 where there's a City function being performed.
4 For example, at the Convention Center, there's
5 currently a big problem that I think will hurt the
6 City if it doesn't get resolved.

7 Currently, in the food services, there
8 are some kind of divisions that exist. There's
9 sort of a front end, where people, as soon as they
10 get hired, are entitled to medical benefits, but
11 -- in what they -- I think they call it
12 officially the "rear end" or the "back end," where
13 the great bulk of employees are concerned that
14 really do, the, you know, the preparing and
15 cleaning of food and getting everything ready for
16 service, that end has to work a certain number of
17 days before they become eligible for medical
18 benefits. And amazingly, generally, just before
19 an employee -- this is what has been reported to
20 us -- gets to the magic number of days which would
21 enable that employee in the back end to get
22 medical coverage, suddenly the Convention Center
23 goes on a hiring spree and hires many more
24 temporary workers and, therefore, doesn't need the
25 older ones as much. So that most people never get

1 2/23/01 - FY '02 OPERATING BUDGET

2 to the point of even qualifying for medical help.

3 Now, I don't know the technical
4 question of who hires or who fires or who they're
5 employees of, but it doesn't look good for the
6 City of Philadelphia, you know, which is really
7 charged by the Convention Authority with the
8 responsibility for performing very important
9 work. And certainly, in the City's judgment, it's
10 very important, 'cause it's a part of our major
11 effort in tourism.

12 There ought to be a City agency that
13 looks into that, that says, you know, we can't
14 tolerate this -- somewhat like getting this
15 agreement between the unions.

16 MR. GRAB: Yes.

17 COUNCILMAN COHEN: And I congratulate
18 the City for its involvement in that. Now, did
19 your office have anything to do with that?

20 MR. GRAB: No, we did not. The
21 Convention Center issues, we were not involved
22 in. We deal with District Council 33 and District
23 Council 47, the Fraternal Order of Police, and the
24 International Association of Firefighters.

25 COUNCILMAN COHEN: Well, I just think

1 2/23/01 - FY '02 OPERATING BUDGET

2 the City is lacking, then, if it doesn't have
3 anybody covering this area, because then all kinds
4 of problems develop, we get to a crisis, as you
5 saw at the Convention Center, where our rate of
6 renewals is probably lower than any other
7 Convention Center in the country. You know, it's
8 a very unhealthy, low rate of renewals because a
9 problem was permitted to fester, and now we've got
10 the job of hoping we've arrived at a solution and
11 can win back the confidence of people who exhibit
12 their wares at the Convention Center.

13 MR. GRAB: Yes. The Administration has
14 been aggressive. They're trying to work out that
15 problem. It's not just our office, but --

16 COUNCILMAN COHEN: Is there an office
17 of the Administration that has worked on that
18 problem?

19 MR. GRAB: Yes, yes, there has.

20 COUNCILMAN COHEN: What is the office
21 that does it?

22 MR. GRAB: The Labor Standards Unit.

23 COUNCILMAN COHEN: The Labor Standards
24 Unit?

25 MR. GRAB: Yes.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN COHEN: What is the
3 difference?

4 MR. GRAB: I'd like to they're "Mr.
5 Outside" and we're "Mr. Inside." We work with the
6 unions that are -- with the City employees, and
7 they work with the unions who are not City
8 employees.

9 COUNCILMAN ORTIZ: Why can't we have
10 one office that works, that does it all?

11 MR. GRAB: That's the way that it's
12 been designed. I didn't design it. I just try to
13 administer it.

14 COUNCILMAN ORTIZ: It seems like a lot
15 of duplication there.

16 MR. GRAB: I -- our -- our areas are
17 the same types of issues, but we're dealing with
18 completely different groups.

19 COUNCILMAN ORTIZ: But with similar
20 functions?

21 MR. GRAB: Similar -- not only just --
22 but -- but different groups.

23 COUNCILMAN ORTIZ: Well, different
24 groups but, again, the same --

25 MR. GRAB: Yes. I mean, with different

1 2/23/01 - FY '02 OPERATING BUDGET

2 goals. I mean, we deal with different laws. They
3 deal with the National Labor Relations Act; we
4 deal with the Pennsylvania Labor Relations laws.
5 It's similar, but we're not exactly the same.

6 COUNCILMAN COHEN: But you get
7 involved, don't you, with the labor boards?

8 MR. GRAB: The Pennsylvania Labor Board
9 we get involved with, not the National Labor
10 Relations Board.

11 COUNCILMAN COHEN: With the State Labor
12 Board.

13 MR. GRAB: Yes, the State Labor Board.

14 COUNCILMAN COHEN: But the other office
15 handles the National Labor Relations Board?

16 MR. GRAB: If there is a role. The
17 City employees are not involved in the National
18 Labor Relations Board; it would be private-sector
19 employees.

20 COUNCILMAN COHEN: Well, I hope
21 somebody from the Administration at the level that
22 can make decisions is listening, because I think
23 there's kind of anarchist form of dealing with
24 labor problems, unless there are immediately the
25 problems, you know, until a crisis develops. You

1 2/23/01 - FY '02 OPERATING BUDGET

2 know, unless they're the ones that we have with
3 the four basic unions, but the City is involved in
4 all kinds of other activities which deal with
5 labor relations, and sometimes the line between
6 State and the National Labor Relations Boards is
7 dimmed. Sometimes there's concurrent
8 jurisdiction.

9 But we think something has to be done
10 because what happened at the Convention Center --
11 just imagine if somebody advocated a policy that
12 lost a single convention. We've had witnesses
13 here that tell us that we missed a convention
14 because we weren't big enough to handle it, and
15 they presented it as a calamity. Yet the City
16 kept very, very quiet about the loss of huge
17 numbers of conventions that apparently were lost
18 because there were certain labor matters that had
19 not been resolved.

20 So I think that the City has got to pay
21 attention to this, or we're going to have some
22 very, very severe problems in the future.

23 Thank you, Madam President.

24 COUNCIL PRESIDENT Verna: You're
25 welcome.

1 2/23/01 - FY '02 OPERATING BUDGET

2 The Chair recognizes Councilwoman
3 Brown.

4 COUNCILWOMAN BROWN: Thank you very
5 much, Madam President.

6 Good afternoon.

7 MR. GRAB: Good afternoon.

8 COUNCILWOMAN BROWN: I too am
9 struggling along with my colleague Angel Ortiz to
10 get a grasp of the organizational makeup of the
11 office. And help me along. There's labor
12 standards and then you have labor relations.
13 You're the Office of Labor Relations.

14 MR. GRAB: Labor relations, yes.

15 COUNCILWOMAN BROWN: To whom do you
16 support?

17 MR. GRAB: The Chief of Staff.

18 COUNCILWOMAN BROWN: And to whom does
19 -- is a representative here from the Office of
20 Labor Standards?

21 MR. GRAB: Not that I know of. I don't
22 see any.

23 COUNCILWOMAN BROWN: Okay. Might we
24 know to whom they report?

25 MR. GRAB: I believe they report to the

1 2/23/01 - FY '02 OPERATING BUDGET

2 Chief of Staff also.

3 COUNCILWOMAN BROWN: Okay.

4 MR. GRAB: I mean, I believe they
5 report to the Managing Director, I'm not sure.
6 They might report to the Managing Director.

7 COUNCILWOMAN BROWN: You should know
8 that a number of us share Councilman Cohen's
9 concerns with regards to the employees here in
10 City Hall who are not City employees but are
11 subcontracted to a particular union.

12 MR. GRAB: Yes.

13 COUNCILWOMAN BROWN: And that's why all
14 of this questioning. And we were indeed told by
15 the Commissioner of Public Property that the
16 entity to register this concern with was the
17 Office of Labor Relations. And we're now hearing
18 you say, Go to the Office of Labor Standards.

19 MR. GRAB: This is the first I'm
20 hearing of this issue.

21 COUNCILWOMAN BROWN: Okay.

22 MR. GRAB: I will talk with the Labor
23 Standards Office about it, and I will look into it
24 and get back. I just -- this is the first I've
25 heard about it at all.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILWOMAN BROWN: Okay. And you
3 will get back to us how? You will register what
4 you find out through the Chair, please.

5 MR. GRAB: Through the Chair, yes.

6 COUNCILWOMAN BROWN: Okay, then. Thank
7 you very much.

8 Thank you, Madam President.

9 COUNCIL PRESIDENT Verna: Thank you.

10 Are there any further questions of
11 these witnesses?

12 (No further questions.)

13 COUNCIL PRESIDENT Verna: Thank you
14 very much.

15 MR. GRAB: Thank you.

16 COUNCIL PRESIDENT Verna: The DA's
17 Office is next.

18 (Witnesses come forward.)

19 COUNCIL PRESIDENT Verna: Good
20 afternoon and thank you so much for your patience.

21 MS. ABRAHAM: You're quite welcome. We
22 brought you a little sustenance so we can sweeten
23 up the afternoon and fill up a few tummies with
24 goodies.

25 COUNCIL PRESIDENT Verna: Oh my.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: So if your chief of
3 protocol could take those and spread those around,
4 that would be very nice.

5 (Sergeant-at-arms passes around tray of
6 cookies from Ms. Abraham.)

7 COUNCIL PRESIDENT VERNA: Kindly
8 identify yourself for the record and proceed with
9 your testimony.

10 MS. ABRAHAM: My name is Lynne,
11 L-Y-N-N-E, Abraham, A-B-R-A-H-A-M. I am the
12 District Attorney of Philadelphia, and I am
13 pleased to be before the City Council.

14 I have already submitted to all members
15 of Council and to the Chair copies of our budget
16 statement.

17 Essentially, Madam President, we are
18 here to do several things. Number one, to thank
19 you and the City Council and the Mayor, John
20 Street, for the help that you have given to us in
21 the past year. As a result of those things that
22 you agreed to do last year and even the year
23 before, we have established a number of new
24 programs:

25 We have begun to deal with a very

1 2/23/01 - FY '02 OPERATING BUDGET

2 serious issue on an interesting new basis, a
3 Repeat Offender Unit;

4 We have a new Cyber Crime Unit;

5 We've really revolutionized the Private
6 Criminal Complaint Unit, which handles many, many
7 thousands of private complaints every year;

8 A new filing system;

9 A new training facility;

10 And with the productivity loan, we've
11 done a tremendous amount of computerization of the
12 office, something that we are very grateful for.

13 In addition to that, we are here also
14 to say that we are pleased that we in the District
15 Attorney's Office and the Mayor are on the same
16 page vis-a-vis our budget. And I'm not asking for
17 anything more than the money recommended by the
18 Budget Bureau and the Mayor.

19 The two things that we are interested
20 in today are \$478,538 for the ability to deal with
21 some of the issues that need to be addressed if we
22 are to keep pace with salary structures elsewhere,
23 and I believe that City Solicitor Trujillo
24 mentioned that in passing. First, to start
25 salaries of starting attorneys in our office to

1 2/23/01 - FY '02 OPERATING BUDGET

2 the same level approved this past August for young
3 solicitors who are coming to the City Solicitor's
4 Office; and, second, to increase for the first
5 time in four years the money provided through us
6 as a pass-through to victim witness organizations
7 which work throughout the City of Philadelphia.

8 These organizations are really
9 tremendously helpful. These organizations -- and
10 I have them listed in my outline by name. They
11 are: The Action Alliance for Senior Citizens,
12 Families of Murder Victims, Support Center for
13 Child Advocacy, Women Against Abuse, Women
14 Organized Against Rape, plus the Center City Crime
15 Victim Services, East Division Victim Services,
16 North Central Victim Services, Northeast
17 Philadelphia Victim Services, Northwest Victim
18 Services, Victim Witness Service of South
19 Philadelphia, and the West-Southwest Victim
20 Services.

21 These victim advocates play a vital
22 role in making sure that our victims and witnesses
23 come to court. They visit crime victims in their
24 home, they give them assistance at preliminary
25 hearings, they come to the police districts, they

1 2/23/01 - FY '02 OPERATING BUDGET

2 accompany our victims and witnesses to court.

3 And in addition to their many duties,
4 the Pennsylvania government, which monitors and
5 has oversight of these groups, is requiring more
6 detail and more training and more service-related
7 issues be addressed by these groups. And as a
8 result, their administrative and training
9 requirements are growing. And, therefore, we
10 believe that they have funded -- have been funded
11 at such a modest level, that this increase would
12 be just very well received.

13 So the Class 200 increase requested by
14 us totals \$171,755, which would mean about
15 \$14,313 per group. And that is an amount of money
16 that's very, very well-invested for our victims
17 and witnesses.

18 We, as the -- as I indicated before,
19 are seeking some differences in our pay scale. We
20 want to increase our pay starting salary from
21 around 37,200-and-something to \$42,250. And in
22 that way, we can attempt to make some small inroad
23 in the tremendous disparity between private
24 lawyers and private business and the City. And
25 this would, by the way, not go into effect until

1 2/23/01 - FY '02 OPERATING BUDGET

2 November of 2001, to coincide with the new Bar
3 results. So that would be a total Class 100
4 increase of a very modest \$306,783.

5 And I'll be pleased to answer any
6 questions that the committee has. And with me is
7 George Mosey (ph.), our Deputy for Narcotics. And
8 to my right Al Toczydlowski, who is our Director
9 of Administration.

10 COUNCIL PRESIDENT VERNA: Thank you.

11 Based on your testimony, can I believe
12 that your concerns regarding parity and additional
13 funding for the various groups that you mentioned
14 have been addressed in the budget?

15 MS. ABRAHAM: When you say "the various
16 groups," do you mean the victim witness groups.

17 COUNCIL PRESIDENT VERNA: I'm talking
18 about the Action Alliance and the victim witness
19 groups.

20 MS. ABRAHAM: Yes.

21 COUNCIL PRESIDENT VERNA: The Women
22 Against Abuse.

23 MS. ABRAHAM: Yes, they have.

24 COUNCILWOMAN VERNA: They all have been
25 included in the \$171,000?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: The -- no, it's \$171,000
3 -- yes, that's the figure.

4 COUNCIL PRESIDENT VERNA: So that
5 figure has been included in the budget, has it
6 not?

7 MS. ABRAHAM: Yes, that's been included
8 in the 400-and-some thousand dollars that I had
9 previously referred to.

10 The 200 increase is 171,755 for those
11 groups. And the issue of parity is in the
12 budget. All of this is in the budget.

13 COUNCIL PRESIDENT VERNA: So you are
14 very happy with your budget as you present it?

15 MS. ABRAHAM: I'm a very happy little
16 person. The Mayor and the Budget Bureau have
17 addressed it.

18 COUNCIL PRESIDENT VERNA: That's
19 wonderful. We don't see too many happy people
20 these days. I'm glad you're here.

21 The Chair recognizes Councilman Nutter.

22 COUNCILMAN NUTTER: What a place.
23 Thank you, Madam Chair.

24 Just first to the Chair, I appreciate
25 you going through that 'cause I could not figure

1 2/23/01 - FY '02 OPERATING BUDGET

2 out from the testimony whether or not an increase
3 was being requested, 'cause I heard the opening
4 statement and I'd also read the testimony, so
5 there seemed to be a request for an additional
6 478,538.

7 MS. ABRAHAM: That's correct. However,
8 it's -- it's actually a decrease because of the
9 nonrecurring expenses, the 631,979, but all of the
10 money that we're asking has already been agreed to
11 and is in the Budget Bureau and in the Mayor's
12 Budget.

13 COUNCILMAN NUTTER: So it's already in
14 there.

15 MS. ABRAHAM: It's already in there,
16 yes. We're not asking for anything above --

17 COUNCILMAN NUTTER: You were just
18 highlighting. You were just highlighting, you
19 were just pointing out that there had be an
20 increase from last year, and this is what it was
21 it's for?

22 MS. ABRAHAM: Well, I guess it depends
23 on how you mean by "increase" or "decrease." We
24 are -- there are some -- nonrecurring costs. It's
25 an overall decrease of 2.2 percent from last

1 2/23/01 - FY '02 OPERATING BUDGET
2 year's General Fund Budget, but that's above the
3 base budget that the Finance Department directed
4 that we use, but the Mayor and the Budget Bureau
5 have agreed to that.

6 COUNCILMAN NUTTER: Okay. First, let
7 me say that given some discussions from years gone
8 by, it is now apparent that the DA's Office is up
9 to speed from a technology standpoint, and you
10 also have color printers now?

11 MS. ABRAHAM: I don't think we have one
12 color printer -- we have one color printer.
13 Everything's back and white.

14 COUNCILMAN NUTTER: Okay. No, it's a
15 very nice -- on the testimony, a great emblem. We
16 had discussions a couple years ago, and it sounded
17 like you were, you know, still dealing with file
18 cards and paper and that kind of stuff.

19 MS. ABRAHAM: Actually, that is true.
20 And we are -- because we only received this
21 marvelous productivity loan last year, we are
22 gradually transitioning from file cards. But, for
23 example, our Homicide Division still uses file
24 cards, but we're gradually putting them on a
25 computer, so we're generally pleased with our

1 2/23/01 - FY '02 OPERATING BUDGET

2 progress.

3 COUNCILMAN NUTTER: Very good. And I'm
4 doing my best never to have any contact with the
5 Homicide Unit, so I wish them the best in their
6 computerization.

7 Let me ask you a couple of questions
8 about some general activities going on in the
9 community. One thing that's been in the news a
10 fair amount -- it's not a new issue, but there's
11 been heightened attention to it -- is the issue of
12 predatory lending.

13 MS. ABRAHAM: Mm-hmm.

14 COUNCILMAN NUTTER: And one of the
15 newspapers is on a pretty good tear about this
16 one. It's a very serious issue.

17 What part of the DA's Office deals with
18 that kind of issue? Is that the Economics Unit or
19 someone else?

20 MS. ABRAHAM: Yes, Economic Crime.

21 COUNCILMAN NUTTER: And what's been
22 going on in that area that -- I mean, there was no
23 mention in the testimony, I know you can't cover
24 everything that happens in life.

25 MS. ABRAHAM: In a really perfect, 100

1 2/23/01 - FY '02 OPERATING BUDGET

2 percent perfect world, there is much more that one
3 can ask for, but we recognize that the City has
4 financial constraints too. And because Council
5 and the Mayor have been gracious to us in the past
6 two years and have gotten us what we need to do to
7 become modernized, we recognize that good policy
8 and financial restraint is required.

9 However, crime changes, and we
10 recognize crime changes, and cyber crime is one of
11 those things, and economic crimes change as well.
12 In the past -- I'll give you some figures, which
13 you might find interesting. There were, in the
14 year 2000, 14,037 complaints received in the
15 Economic Crimes; and in 1999, 1,091.

16 With respect to predatory --

17 COUNCILMAN NUTTER: I'm sorry, the
18 first number 14,037 was what year?

19 MS. ABRAHAM: I'm sorry, 14,037 in
20 2000, 1,091 in 1999, in our Economic Crimes Unit.
21 Now, many of them relate to but don't only always
22 revolve around what now may be called "predatory
23 lending," schemes committed by contractors an so
24 forth.

25 We've also seen, at least briefly last

1 2/23/01 - FY '02 OPERATING BUDGET

2 year and perhaps a little bit more this year, home
3 frauds, use of computers or interlopers to steal
4 houses that are vacant from people who are in
5 nursing homes. It's house-stealing. It's been
6 featured in the press as well.

7 We are obviously very concerned about
8 practices that revolve around what's now
9 frequently called "predatory lending," the
10 subprime lenders. And last week, I went to a
11 meeting at Congreso de Latinos Unidos in East
12 Philadelphia to talk about the aspects of
13 predatory lending, and I met with several dozen
14 citizens who had been complaining that they had
15 been ripped off by these so-called subprime or
16 predatory lenders.

17 COUNCILMAN NUTTER: Well, tell me a
18 little bit about the 14,037 complaints in 2000,
19 the 1,091 in '99. What's your assessment of the
20 scope of this problem. Of that number of
21 complaints, how many do you think were for
22 predatory lending-type activities, and what was --
23 how many were prosecuted?

24 MS. ABRAHAM: I don't have that figure,
25 but I can certainly get it for you, but here is

1 2/23/01 - FY '02 OPERATING BUDGET

2 our major concern about predatory lending as it
3 pertains to today's reality.

4 As the current State of Pennsylvania
5 law exists, most practices that are engaged in by
6 what are now called so-called "predatory lenders"
7 are under are, under our present statutory
8 structure, lawful. They are sharp practices, to
9 be sure, they are reprehensible, and they are
10 disgraceful. But the State laws that we have do
11 not address themselves sufficiently, I believe, to
12 the issues of the subprime lender.

13 What we do in our office, when we find
14 matters that are covered by State criminal
15 statutes, theft statutes and the like, we
16 prosecute, and have prosecuted, and have a number
17 of cases open where we are investigating.

18 We are also cooperating with the
19 Community Legal Services, which is reviewing all
20 of the complaints that are funneled through their
21 office to see which complaints are civil in
22 nature, which might be classified as "class action
23 lawsuits," which might be classified as "criminal
24 conduct." Because the theft statutes and the
25 other statutes require us to prove -- have a

1 2/23/01 - FY '02 OPERATING BUDGET

2 greater burden of proof, and it's very, very
3 difficult.

4 And every day, we get more and more
5 letters from various agencies, Councilpeople,
6 legislators, and the like to investigate new
7 aspects of alleged predatory lending.

8 COUNCILMAN NUTTER: Do you have any
9 information regarding the results of what happened
10 to the 1,091 complaints in '99 or the 1,437 in
11 2000? Have those complaints been followed up on,
12 have there been prosecutions?

13 MS. ABRAHAM: They are all followed up
14 on. Not all of them involve predatory lending.
15 There may be various schemes and frauds involving
16 real estate or other financial dealings with
17 mostly elderly, infirm, or indigent people of
18 Philadelphia who complain that they have been
19 ripped off by home remodeling, refinancing, and
20 other people, among a variety of other issues.

21 COUNCILMAN NUTTER: What's the size of
22 the unit?

23 MS. ABRAHAM: I think there are about
24 seven lawyers in the unit, seven lawyers.

25 Mr. Deutchman (ph.), behind me, the

1 2/23/01 - FY '02 OPERATING BUDGET

2 gentleman in the dark beard and the shaved head,
3 is the Chief of the Unit.

4 COUNCILMAN NUTTER: Mr. Dubow, we may
5 have found him.

6 MS. ABRAHAM: May have found who?

7 COUNCILMAN NUTTER: We've been
8 searching throughout the government for a man with
9 dark hair and glasses for the past few weeks.

10 (Laughter.)

11 COUNCILMAN NUTTER: We'll have some
12 discussion with him shortly.

13 MS. ABRAHAM: He can, Councilman, if
14 you would care to, discuss all of the aspects of
15 the legal issues. There were bills in Harrisburg
16 changing the statutory scheme for predatory
17 lenders, but it died in committee, without ever
18 having -- or died, without ever having been
19 passed. So that never worked.

20 COUNCILMAN NUTTER: That was actually
21 one of my questions 'cause I know that from time
22 to time, you're fairly active on the legislative
23 front.

24 MS. ABRAHAM: We were and are. We
25 testify.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: And had you
3 initiated any legislation in that regard?

4 MS. ABRAHAM: We testified in favor of
5 that legislation. Mr. Deutchman testified as my
6 representative because I was unavailable, but he
7 testified for our office that we were in favor of
8 the changes, but whoever was successful in
9 derailing that legislation did so; and, therefore,
10 we left with the two statutes that we have: theft
11 by deception, which is 3922, and theft by failure
12 to make require disposition of funds received,
13 which is 3927.

14 COUNCILMAN NUTTER: Okay. My last
15 question in this area, and I think I'm getting
16 ready to get the hook, is from a law enforcement
17 standpoint and as the District Attorney, have you
18 given any thought to either notwithstanding or
19 given what -- notwithstanding the statutes that
20 are in place, and if there are changes that need
21 to be made but not have been made, you know, life
22 kind of goes on.

23 Have you given thought to what we can
24 do, what we should do, what kind of message needs
25 to be sent out from a law enforcement standpoint

1 2/23/01 - FY '02 OPERATING BUDGET

2 in the DA's Office in terms of dealing with this
3 particular problem, the types of people who are
4 being targeted for this kind of activity? What's
5 the message that should be going out?

6 MS. ABRAHAM: Well, I think there are a
7 couple of things that we can think of, and we
8 really should as a city and as a government think
9 of this together, not just from the District
10 Attorney's point of view, but as a city.

11 The people who are targeted by these
12 predatory lenders -- I'll call them that for want
13 of a better term. These are the people who are
14 bombarded by, let's say, radio commercials. One
15 of the issues at the meeting was how many
16 commercials that are on popular radio programs
17 that talk about home improvement loans.

18 There are millions of eyeballs looking
19 at television, talking to these wonderful smiling
20 faces who are going to rid your house of debt,
21 you're going to cash in on the equity in your home
22 and you're going to consolidate all of your loans
23 and you're going to get those new kitchen
24 cabinets. So actually, this is a much broader,
25 much more pernicious issue than just the District

1 2/23/01 - FY '02 OPERATING BUDGET

2 Attorney taking the stand.

3 We do attempt also, in our own right,
4 to educate as many people as we can. You know, I
5 speak hundreds of times a year to seniors and
6 other people who are the likely targets of these
7 practices and advise them about what to look out
8 for, what to do, and what not to do.

9 The biggest problem that we face as a
10 law enforcement agency is proving that the lender
11 had criminal intent at the time of transaction
12 occurred. And that sometimes is extraordinarily
13 difficult, but we are successful in some of those
14 instances, and we are working to alleviate all of
15 those issues.

16 COUNCILMAN NUTTER: Well, if you could
17 -- and I'm sure that a number of Councilmembers
18 would be interested. If you could forward
19 anything to the Chair that even in a small way
20 would lay out, I think, some kind of game plan or
21 strategy or your thoughts and ideas about what the
22 City can and should do given the constraints of
23 either the State or federal law in this particular
24 area.

25 It is something I think that's crying

1 2/23/01 - FY '02 OPERATING BUDGET

2 out for some level of attention, and to the extent
3 that any of us have our various hands tied, I
4 think if people understood that if you engage in
5 this practice, we will find out about you and we
6 plan to do something about it, we might actually
7 save a few people from going through some of this
8 horrible situation.

9 So if you could do that, I would
10 appreciate it.

11 MS. ABRAHAM: I already have a memo in
12 draft, and I will give you a game plan and
13 strategy.

14 The biggest problem is going to be
15 educating the public that if it sounds too good,
16 it obviously is, and the problems about signing
17 your name on a piece of paper, which is then sold
18 to somebody else, and before you know it, you're
19 out of your home.

20 COUNCILMAN NUTTER: Right, okay.

21 Madam Chair, I have other questions
22 but --

23 COUNCIL PRESIDENT VERNA: Thank you.

24 The Chair recognizes Councilman Cohen.

25 COUNCILMAN COHEN: Thank you, Madam

1 2/23/01 - FY '02 OPERATING BUDGET

2 President.

3 I'm not clear like Councilman Nutter
4 apparently wasn't. I just want to be made clear.
5 As a result of what exists in the budget proposal
6 for the District Attorney's Office, does it mean
7 you will be able to raise the level of salary for
8 the new attorneys? Do you have that funding
9 provided for in the budget, which has already been
10 approved by the Mayor?

11 MS. ABRAHAM: It's already in there.

12 COUNCILMAN COHEN: It's in there.

13 MS. ABRAHAM: It is, yes. It's in
14 there.

15 COUNCILMAN COHEN: So that you are
16 confident that beginning in the fall, whatever
17 date you refer to, it will be possible for you to
18 begin.

19 MS. ABRAHAM: We're not asking for
20 anything more than the Mayor and the Budget Bureau
21 have already agreed to.

22 COUNCILMAN COHEN: Well, that is sweet
23 news, Madam President.

24 So there is no additional requests
25 you're making of City Council?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: Councilman, as I
3 mentioned to Councilman Nutter, in a perfect
4 world, I could ask for lots of things that I would
5 really want to have in our office. You know, I've
6 talked about witness protection. We have a
7 truancy program in two clusters; we'd like to have
8 them in all of clusters. There's a wealth of
9 things that one could ask for.

10 But once we have been treated well by
11 Council and our mayor and we understand that we're
12 not the only agency, that there needs to be
13 financial constraints, we are satisfied that the
14 Mayor has taken the major issues that we want to
15 address this time, our victim witness program,
16 which is essential to getting victims and
17 witnesses to come to court and feel satisfied that
18 the system is working for them, and the small
19 increase for us for our starting salaries, we will
20 be satisfied this year with that figure.

21 In a perfect world, I could probably
22 give you multiples of millions of things I'd like
23 to have, but I'm not going to do it.

24 COUNCILMAN COHEN: Well, the reason for
25 our questioning is all morning long, we have had

1 2/23/01 - FY '02 OPERATING BUDGET

2 hearings involving different agencies, and I think
3 in just about every case, the request was for
4 money in addition to that approved by the Mayor.
5 So we wanted to make sure we were actually hearing
6 correctly.

7 (Laughter.)

8 MS. ABRAHAM: Well, Councilman, as you
9 know, I have been here many times in this body and
10 almost always ask for money more than was approved
11 in the Mayor's budget, but I'm doing something
12 novel this year and last year.

13 COUNCIL PRESIDENT Verna: She's saying
14 she's very happy.

15 MS. ABRAHAM: And we are very grateful.

16 COUNCIL PRESIDENT Verna: She's very
17 happy.

18 COUNCILMAN COHEN: Well, we're very
19 pleased -- one less problem for us to deal with.

20 MS. ABRAHAM: As far as we're
21 concerned, yes, sir.

22 COUNCILMAN COHEN: Thank you, Madam
23 President.

24 COUNCIL PRESIDENT Verna: Thank you.

25 The Chair recognizes Councilman Goode.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN GOODE: Thank you, Madam
3 President.

4 I have a quick question regarding
5 predatory lending. I think your opinion on it is
6 probably very key since so many people have made
7 this a game of cops and robbers. I was interested
8 -- I was not sure whether or not you were
9 actually making a distinction between predatory
10 lending and subprime lending; predatory lending
11 being a practice that should be illegal, and
12 subprime lending actually being a market, which is
13 -- it's nothing we can do about it. The market
14 exists because of the lack of access to capital.

15 MS. ABRAHAM: Sure, obviously. It just
16 so happens that some are also in some of the
17 others, that it's some of one or some of the
18 others.

19 Obviously, there is a need for subprime
20 lending. Not all subprime lenders are predators,
21 as that word has come to be known. We are
22 concerned that when the predatory lender gets into
23 a situation, we want to be able to address it.

24 We are constrained, however, by the
25 current state of the criminal law of

1 2/23/01 - FY '02 OPERATING BUDGET

2 Pennsylvania. And that's where our problem
3 primarily resides.

4 COUNCILMAN GOODE: I'm more concerned
5 with, as I said, this whole game of cops and
6 robbers that people are playing in not making a
7 distinction between subprime lending and predatory
8 lending. What is your view in terms of what you
9 need in terms of being able to prosecute people,
10 and what the laws should be, and what should be
11 illegal practices regarding subprime lending?

12 MS. ABRAHAM: If you wouldn't object,
13 Councilman Goode, I'll have Mr. Deutchman come up,
14 and he can give you sort of the bird's-eye
15 overview of what he sees day in and day out in our
16 Economic Crimes Unit, and he can address the
17 minutia of it.

18 COUNCILMAN GOODE: I'm not interested
19 in any more predatory lending stories. I'm
20 asking, what should be the law in terms of what
21 should be legal in terms of subprime lending, and
22 what should be illegal in terms of subprime
23 lending?

24 MS. ABRAHAM: I'm still going to ask
25 him to come up because I think he's better able to

1 2/23/01 - FY '02 OPERATING BUDGET

2 answer that even than I am.

3 COUNCILMAN GOODE: Okay, thank you.

4 (Witness comes forward.)

5 MR. DEUTCHMAN: Good afternoon. My
6 name is Leonard Deutchman, and I am the Chief of
7 the Economic and Cyber Crime Unit of the District
8 Attorney's Office. I'd like to thank you for
9 having me here.

10 Let me begin by clarifying that we tend
11 not to see -- when we get cases that are -- that
12 have been referred to as "predatory lending
13 cases," they come in by way OF home improvement
14 fraud. I can't think of a case that we have seen
15 that has not been linked with home improvement
16 fraud. No one has complained to us that they
17 simply have gotten stuck in a loan that they
18 didn't understand the terms or where they were
19 told one thing about a loan and it turned out to
20 be another thing, but that there was otherwise no
21 other problem.

22 The predatory lending practices tend to
23 be integrally woven with home improvement people
24 who come in and simply don't provide the
25 services. They typically sell a product or a

1 2/23/01 - FY '02 OPERATING BUDGET

2 package to somebody who has other debt problems,
3 and they say, We can make them all go away, your
4 credit card problems will go away, and other
5 payments go away, water bill payments. And also,
6 we can give you the brand-new kitchen you've
7 always wanted.

8 And then they get the check. Very
9 often, the broker is the same person as the
10 contractor. As the broker gets the check, cuts a
11 check to himself. And on Monday morning, when the
12 people are supposed to show up, nobody shows up.
13 And then we get the call.

14 COUNCILMAN GOODE: So actually, the --
15 you have not received any or many cases related to
16 subprime lending in the small-business loan market
17 or in the home mortgage market? It has strictly
18 been mostly contained to home improvement.

19 MR. DEUTCHMAN: I can't think of a case
20 -- we have not received any complaints about
21 predatory lending per se. The predatory lending
22 has always been a part of a home improvement fraud
23 scheme.

24 And outside of -- it's possible that
25 there is a predatory lending case that I can't --

1 2/23/01 - FY '02 OPERATING BUDGET

2 I'm not thinking of that's other than home
3 improvement, but I have to say that it's
4 100 percent home improvement schemes.

5 COUNCILMAN GOODE: So would you agree
6 that any legislation or laws that we put on the
7 books on the local, State or federal level, new
8 laws or existing laws, if we want to classify
9 predatory lending as a proactive to actually go
10 after those people who you're talking about, and
11 the problem actually exists, then maybe we need to
12 target that toward home improvement loans.

13 MR. DEUTCHMAN: Yes. And, in fact, the
14 two bills that the District Attorney referred to,
15 they were two versions of basically the same bill
16 -- one introduced in the House and one introduced
17 in the Senate in the 1999 session. Both of those
18 were home improvement scheme or home improvement
19 fraud bills, and both of them went a long way to
20 closing a lot of the loopholes that exist in
21 prosecuting home improvement fraud schemes.

22 In ten seconds or less, the problem
23 that we have there is that when someone does not
24 get in a home improvement situation, the builder
25 to show up on Monday, when the builder says

1 2/23/01 - FY '02 OPERATING BUDGET

2 they're supposed to show up on Monday, then the
3 builder says, Well, I'm busy. And then there
4 becomes a question: Well, how long do you have to
5 wait before a builder with a -- or a contractor
6 with a busy schedule becomes somebody who's simply
7 never going to deliver?

8 And the home improvement fraud bill
9 tried to close the loopholes which allowed that
10 kind of practice now. It really didn't address
11 the predatory lending aspects, the banking or the
12 loan aspects.

13 COUNCILMAN GOODE: So there's not
14 necessarily a need to regulate the whole subprime
15 market in Philadelphia but that which particularly
16 relates to home improvement loans.

17 MR. DEUTCHMAN: Well, I couldn't
18 comment on whether there's a need to do that. I
19 can just tell you, from the point of view of
20 prosecuting the crimes that we see related to
21 predatory lending cases that you've read about in
22 the paper and that we see come across desk, they
23 all involve home improvement, and that's really
24 where our focus has been.

25 COUNCILMAN GOODE: Thank you very much.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: There's also one other
3 aspect you should be aware of, Councilman Goode.
4 And that is when -- let's say on Monday morning,
5 the contractor does show up and he brings, oh,
6 \$20 worth of paint and some paint brushes and a
7 couple of boards and some nails, and says, I'll be
8 back tomorrow, and never shows up.

9 It almost is doubly, if not entirely,
10 difficult, if not impossible to prove that he
11 intended to defraud at the time that the contract
12 was made, because he's already, quote, started
13 work. And then it becomes a breach-of-contract
14 suit as opposed to a criminal fraud.

15 And also, these companies change names
16 all the time and identities. It's hard to track
17 those down as well. So that this is very, very
18 labor-intensive, very difficult, but very
19 problematic.

20 So, obviously, we are vitally
21 interested in protecting home owners. This is the
22 one thing that they have in their life, that they
23 now own free and clear, is their home. And it's
24 the one thing that they're absolutely guaranteed
25 entirely to lose by these practices.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN GOODE: Thank you.

3 Actually, contrary to popular belief,
4 I'm actually a member of the Predatory Lending
5 Task Force.

6 Thank you, Madam Chair.

7 COUNCILMAN COHEN: Are you familiar
8 with the bill we have before us? Mr. Deutchman,
9 are you familiar with the bill before us in City
10 Council?

11 MR. DEUTCHMAN: That would be this one,
12 the predatory lending practices bill?

13 COUNCILMAN COHEN: Yes, yes.

14 MR. DEUTCHMAN: Yes.

15 COUNCILMAN COHEN: And have you had an
16 opportunity to read it, study it, analyze it?

17 MR. DEUTCHMAN: Read it, yes; study it,
18 somewhat; analyze it, a little bit less, yes.

19 COUNCILMAN COHEN: Do you have any
20 opinions about it? Would that bill be effective,
21 do you think, based on your experiences, if it
22 were adopted?

23 MR. DEUTCHMAN: To be perfectly honest,
24 Councilman, I really couldn't tell you, not with
25 regard to home improvement fraud. I've been

1 2/23/01 - FY '02 OPERATING BUDGET

2 trying to puzzle through the relationship between
3 the home improvement fraud cases that we see and
4 this bill.

5 I think that it's likely that it might
6 dissuade those persons involved in the predatory
7 lending practices who are also contractors from
8 trying to ply their trade to begin with; and,
9 therefore, it might be somewhat helpful in
10 attacking the problem. I do think, however, that
11 we're going to see that problem, even with this
12 bill, and that we do need the legislation that
13 we've referred to before involving home
14 improvement fraud to attack it from the other end
15 as well.

16 But I can -- it's hard to predict the
17 future. It does seem to me, though, that there
18 are sufficient restraints on lending here,
19 particularly the provision that it requires any
20 anyone involved in what's defined in the bill as
21 "a predatory loan" to get counseling, which is
22 going to be, if implemented, a buffer between that
23 person that the DA described, who has been
24 saturated with the kind of too-good-to-be-true
25 advertising that we hear about a lot of these

1 2/23/01 - FY '02 OPERATING BUDGET

2 loans. It's going to provide that buffer between
3 that person and the broker/contractor who's going
4 to be standing there with a fountain pen saying,
5 Sign, and all of your troubles will be taken care
6 of.

7 So I do that think that it will have an
8 impact.

9 COUNCILMAN COHEN: Well, is the main
10 trouble that which you and the District Attorney
11 have described as being the failure of a
12 performance, the not showing up for work? Isn't
13 there also a good deal of bad, shoddy workmanship
14 involved where there is a more full effort to do
15 the work, but to do it in a way that's not very
16 satisfactory?

17 MR. DEUTCHMAN: I would say yes, and
18 I'd also point out that one of the things that the
19 two bills that we referred to before, the ones
20 that had died in the last session, tried to
21 address was how to structure a bill which would
22 make criminal home improvement fraud, that would
23 take into account the home improvement fraud
24 defendant who does a little bit of work, or who
25 does it in such a cursory fashion that you could

1 2/23/01 - FY '02 OPERATING BUDGET

2 no more say that they had done -- that they had
3 produced a good product than that somebody who
4 gave you a car without an engine had produced a
5 good automobile.

6 So those two bills tried to tailor
7 themselves particularly to that problem, because
8 absent that kind of legislation, the shoddy home
9 improvement contractor has the defense of not
10 having criminal intent. And as -- while that
11 home improvement contractor might be able to
12 suffer some kind of civil damages, might be in
13 civil court on a contract action, would be
14 basically immune from criminal prosecution because
15 of having made some attempt to -- or at least
16 acted like they had made some attempt to do the
17 work.

18 COUNCILMAN COHEN: And is there an
19 ability to show that the total cost involved may
20 be five to ten times the amount of a reasonable
21 cost for the home improvement that's been provided
22 for in the contract? When you add the balloon
23 payments, you add the high-interest payments and
24 all of the other fees, are there difficulties with
25 that that can be addressed by legislation?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. DEUTCHMAN: I'm sorry? Is that in
3 the --

4 COUNCILMAN COHEN: Well, the cost --
5 for example, there was a story in the paper about
6 a woman who owned her house free and clear and who
7 wound up in the end owing about \$30,000 on the
8 house.

9 MS. ABRAHAM: If you're asking the
10 question, Could all of this be remedied by
11 legislation? the answer is yes. It can't be
12 remedied by City Council ordinance, however. This
13 needs to be addressed in a very effective
14 statutory scheme, which will change our criminal
15 laws to allow us to show an intent to defraud
16 based on, among other things, the fact that the
17 person got \$25,000 but only showed up and did \$200
18 worth of work. Or he tore out the toilet, the
19 sink and the tub, and then never showed up, and
20 got five times, ten times, or twenty times
21 whatever the value of the tub, the sink, and the
22 toilet or the ceiling was worth.

23 But right now, intent to defraud must
24 be shown at the time that the contract was entered
25 into, that the person had no intent of delivering

1 2/23/01 - FY '02 OPERATING BUDGET

2 on the contract. The fact that he went out of
3 business, that he was busy, that he was not very
4 good at what he does shows judges anywhere in
5 Pennsylvania that we cannot prove beyond a
6 reasonable doubt that the defendant had at the
7 time of the entry of the agreement a criminal
8 intent to defraud.

9 That's the biggest problem that we
10 have, because we're limited in the factors we can
11 show.

12 COUNCILMAN COHEN: And you're saying
13 that on the basis of the complaints the DA's
14 Office has had over a period of time, these
15 complaints are all, or certainly 99.9 percent,
16 consisting of kind of residential rather than
17 business problems?

18 MR. DEUTCHMAN: Yes, absolutely.

19 COUNCILMAN COHEN: So that the fraud
20 that we're talking about does not interfere with
21 the subprime concerns that may be exist or that
22 may even be required in business-to-business
23 relations?

24 MR. DEUTCHMAN: If it does, we haven't
25 seen it.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN COHEN: All right. Thank
3 you very much for that clarification.

4 COUNCIL PRESIDENT Verna: Thank you.
5 The Chair recognizes Councilman Ortiz.

6 COUNCILMAN ORTIZ: Thank you, Madam
7 Chair.

8 How many of these cases have been
9 prosecuted by your office?

10 MR. DEUTCHMAN: I don't have a specific
11 statistic with regard to home improvement cases,
12 but they are -- in the family of cases that we
13 have been doing, for as long as I've been Chief of
14 the Economic Crimes Unit, and I've been Chief
15 since May of 1998.

16 COUNCILMAN ORTIZ: Well, within that
17 family, tell me -- tell me what has been done to
18 the family that is perpetrating this crime.

19 MR. DEUTCHMAN: The cases are brought
20 to us, they are prosecuted. We have a very high
21 success rate. I can't think of a case that we've
22 lost. The defendants -- are you asking what
23 happens to the defendants in the criminal justice
24 system?

25 COUNCILMAN ORTIZ: Right.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. DEUTCHMAN: They tend to get
3 probation and restitution ordered. They very
4 rarely get jail time.

5 COUNCILMAN ORTIZ: In the period of
6 time over the last two years -- and who then goes
7 after them to make sure that they do make
8 restitution?

9 MS. ABRAHAM: The Probation Department
10 is supposed to, and the judge, more importantly,
11 is posed to. And we could probably have a very
12 long discussion of how long it takes to chase
13 after somebody to get them to repay --

14 COUNCILMAN ORTIZ: If they don't make
15 restitution, does the District Attorney then issue
16 an order of arrest and bring 'em back?

17 MS. ABRAHAM: No, no, we can't do
18 that. What we can do is, we can ask the probation
19 officer to ask the court to file a violation of
20 probation for failure to pay restitution. It's
21 usually the probation officer who finds out from
22 the complaining witness that the defendant does
23 not -- has not paid restitution.

24 We also can find that out. We get to
25 the probation officer and we say, Has Mr. X made

1 2/23/01 - FY '02 OPERATING BUDGET

2 his payments this month? And if they haven't, the
3 Probation Department --

4 COUNCILMAN ORTIZ: I'd like to see
5 numbers to that. If you have them, forward them
6 over to the Chairman's office. Because we've been
7 dealing, and we're dealing in this Council now,
8 with predatory lending. And we'd like to see
9 what, if anything, is being done to these
10 individuals, as you claim, that enter into
11 fraudulent practices in terms of household
12 financing and so on.

13 Madam District Attorney, we go over
14 this every year. How many attorneys do you have
15 currently?

16 MS. ABRAHAM: 305.

17 COUNCILMAN ORTIZ: Out of that 305, how
18 many of those can we classify as minorities --
19 African-American, women, and Latinos.

20 MS. ABRAHAM: I think it's 20 percent.

21 COUNCILMAN ORTIZ: Break 'em down for
22 me.

23 MS. ABRAHAM: Yes, sir.

24 Okay, we have -- let's see. We have --
25 let's see. We have 16 African-American males,

1 2/23/01 - FY '02 OPERATING BUDGET

2 5 Asian, 4 Latino males, 21 African-American, 9
3 Asian, 6 Latino females.

4 So we have a total of 50 African-
5 American males, 9 Asians, 10 Latinos. 90 --
6 sorry, strike it out. We have 20 -- sorry, let's
7 go back again.

8 These are support and regular. Let me
9 just stick to the lawyers. You want just lawyers
10 only?

11 COUNCILMAN ORTIZ: Well, for now,
12 lawyers.

13 MS. ABRAHAM: Okay. We have 16
14 African-American males, 5 Asian males, 4 Hispanic
15 males, 21 African-American females, 9 Asian
16 females, and 6 Hispanic females.

17 COUNCILMAN ORTIZ: So you have a total
18 of 10 Latinos 9 Asians --

19 MS. ABRAHAM: We have 10 Latinos.
20 Let's see -- no, 14 Asian and 38 African-American.

21 COUNCILMAN ORTIZ: Is that an increase
22 in Latinos from last year or a decrease in
23 Latinos, or are you just maintaining the status
24 quo?

25 MS. ABRAHAM: I'm just trying to

1 2/23/01 - FY '02 OPERATING BUDGET

2 remember. Do you remember, Al?

3 I don't remember. So many people come
4 and go, Councilman, I can't -- I don't know. It's
5 always -- it remains relatively constant.

6 And as I heard Ken Trujillo testify
7 previously, we suffer the same problems. As a
8 matter of fact, not only do I personally go out
9 and talk to law students about minority
10 recruitment; in fact, I had a date at Temple
11 University Law School last Monday, but it had to
12 be changed because of some other intervention.

13 We also had a minority reception in the
14 Mayor's conference about, what was it, four or
15 five weeks ago, where we invited every person we
16 could possibly think of to come and be wooed and
17 wowed by our office.

18 COUNCILMAN ORTIZ: Of the interns that
19 your office hires every year, how do they break
20 down by race and ethnic group?

21 MS. ABRAHAM: Well, in the summertime,
22 most of the interns --

23 COUNCILMAN ORTIZ: You usually do your
24 hiring from people who have interned in your
25 office.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: Yes. The -- well, most
3 of our interns are volunteers, they're not hired;
4 the greatest number are volunteers. But from our
5 volunteer staff, a significant number are hired.
6 We give preference to those people who come and
7 volunteer, and we are always interested in making
8 our office more representative of the clients we
9 serve.

10 But we suffer the same problems as the
11 City Solicitor: our salary structure is such
12 that --

13 COUNCILMAN ORTIZ: How many of those
14 are interns?

15 MS. ABRAHAM: -- given the greater
16 world, they have other choices.

17 COUNCILMAN ORTIZ: How many of those
18 interns are minority?

19 MS. ABRAHAM: A heavy concentration of
20 our summer interns are minorities. We have
21 special programs at schools. In fact, somebody at
22 -- somebody, an alumnus of the University of
23 Pennsylvania, as a personal favor to me, pays the
24 salary of minority lawyers at Penn, hoping that
25 they will come in, like the office, and we have

1 2/23/01 - FY '02 OPERATING BUDGET

2 offered those graduates now graduates jobs, and
3 they always go where they can get 135, \$140,000 a
4 year.

5 And I have to say, Councilman, I can't
6 blame somebody wanting to make \$140,000 instead of
7 37,000 a year.

8 COUNCILMAN ORTIZ: Well, there are
9 other interests that people have.

10 MS. ABRAHAM: There are. And to the
11 extent that we can woo -- look, the people I have
12 referred to, the 305 lawyers in my office -- to a
13 man and to a woman, even the ones who have been
14 there many years, can go out and make double,
15 triple, or quadruple their salaries, but they do
16 it for the same reason that I do it. I love the
17 City, I love public service, I am not interested
18 in making money. And I do it for those reasons;
19 not to make money.

20 COUNCILMAN ORTIZ: I think there are a
21 lot of Latinos and African-Americans who feel the
22 same way.

23 MS. ABRAHAM: There are indeed.
24 However, when you look at, for example, loan
25 repayment, all of the debt that a person comes to

1 2/23/01 - FY '02 OPERATING BUDGET

2 a new job, the first job out of law school, you
3 have college tuition and law school tuition.

4 COUNCILMAN ORTIZ: White attorneys have
5 to look at the same thing.

6 MS. ABRAHAM: Well, but you see, but
7 there are differences. There are always -- first
8 of all, we're not looking for lawyers, let me just
9 make that clear. We're looking for litigators.
10 And 99.9 percent of the Bar are lawyers, but 99.9
11 percent of them can't with walk into a courtroom,
12 and don't want to walk into a courtroom. It's a
13 different kind of lawyer who's a litigator, the
14 person who can go in front of a court, who can
15 really be a command presence.

16 And I think Councilman Cohen's son has
17 demonstrated that you're a litigator, not a
18 lawyer.

19 COUNCILMAN ORTIZ: The judge.

20 MS. ABRAHAM: And now the judge, that's
21 right.

22 And it's a different kind of person who
23 wants to be a lawyer as opposed to a litigator.
24 It's a much different jump. But it's not a matter
25 of race; it's a matter of economics.

1 2/23/01 - FY '02 OPERATING BUDGET

2 It's very difficult to woo anybody to
3 come to public service at \$37,000 a year. And if
4 Mr. Trujillo has a hard time getting them, we have
5 a similar problem.

6 COUNCILMAN ORTIZ: Thank you.

7 Thank you, Madam Chair

8 - - -

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1 2/23/01 - FY '02 OPERATING BUDGET

2 (Reported by Lisa C. Bradley, RPR.)

3 - - -

4 COUNCILMAN NUTTER: I wanted to go back
5 for a second and maybe finish up with -- I'm sorry.

6 MS. ABRAHAM: Mr. Deutchman?

7 COUNCILMAN NUTTER: The gentleman with
8 the dark hair and glasses, yes.

9 It's my understanding that you were
10 involved or the offices was involved -- I don't if
11 it was you personally, but there was a recent
12 account about a contractor. This is back to the bad
13 contractors and kind of how we get into the
14 predatory lending. You were successful in a
15 contractor prosecution in this regard?

16 MR. DEUTCHMAN: Mr. Hollerin (ph). That
17 case is still proceeding, yes. He's going to enter
18 a guilty plea in that case, to our understanding.

19 COUNCILMAN NUTTER: And out all of this,
20 and I heard the earlier discussion about intent, you
21 were able to figure out the intent?

22 MR. DEUTCHMAN: Yes. And one of the
23 unfortunate ironies in a case like Mr. Hollerin's
24 case, the best way to glean the intent of someone is
25 to see them do the same thing over again. So what

2/23/01 - FY '02 OPERATING BUDGET

1

2 we end up with is, we end up because of the state of
3 the law having to wait for the criminal to victimize
4 a number of people before we can make the case. In
5 that particular case, the first complainant called
6 us a few years ago. At that point there was one
7 complaint. There was nothing we could do.

8

COUNCILMAN NUTTER: One complaint
9 against that particular individual.

10

MR. DEUTCHMAN: When that case
11 mushroomed into numerous complaints, we made the
12 arrest.

13

COUNCILMAN NUTTER: Do you plan to
14 continue vigilance in this particular area?

15

MR. DEUTCHMAN: Absolutely.

16

COUNCILMAN NUTTER: Can give us a
17 statistical breakdown or an analysis of the numbers
18 that the District Attorney gave us earlier in terms
19 of you '99 complaints, your 2000 complaints and put
20 them into categories of somewhat of a general that
21 we might be able to make some distinction between
22 this kind of economic crime versus -- what are some
23 of the others?

24

MR. DEUTCHMAN: Based on my familiarity,
25 I can give you an off-top-of-my-head, so to speak,

1 2/23/01 - FY '02 OPERATING BUDGET

2 breakdown.

3 COUNCILMAN NUTTER: That would be a lot
4 of breakdown. Don't give it to us right now. Why
5 don't you just give us a report.

6 MR. DEUTCHMAN: Sure.

7 COUNCILMAN NUTTER: Thank you. Do you
8 take calls from the predatory hotline, predatory
9 lending hotline?

10 MR. DEUTCHMAN: I have not gotten one.

11 COUNCILMAN NUTTER: Would you take any
12 if they started contacting you?

13 MR. DEUTCHMAN: It would depend upon the
14 nature of the call. If there was something that
15 they called about that fell within a criminal law
16 that we could prosecute, yes, absolutely. Or if
17 there was something that the police would prosecute,
18 it might be referred to the police, to major crimes
19 unit or the detective divisions depending upon the
20 nature of the case, but we don't bar those calls.

21 COUNCILMAN NUTTER: Maybe there needs to
22 be some coordinated effort between the various and
23 organizations and your office.

24 Madam District Attorney, I was trying to
25 keep track of many of the numbers that you were

2/23/01 - FY '02 OPERATING BUDGET

1

2 giving in response to Councilman Ortiz's question,
3 but it will be impossible for me to figure out what
4 this is tomorrow, let alone a month from now. Could
5 you also in that regard maybe either forward us a
6 copy of what you were reading through or develop
7 some other report that will be able to lay out
8 what's going on there?

9

MS. ABRAHAM: Be happy to do that.

10

COUNCILMAN NUTTER: Thank you. I'd like

11

to move on to another area. A couple years ago

12

there was a major announcement about an issue that

13

many people do care about. It does affect

14

Philadelphians a great deal, and that was the auto

15

insurance fraud group or announcement and some

16

contact with, I think, some state office of

17

insurance fraud or something like that that the

18

insurers contribute to.

19

MS. ABRAHAM: The Insurance Fraud

20

Prevention Authority.

21

COUNCILMAN NUTTER: Can you give us an

22

update on what's happening with that, what's the

23

result of that been, how many prosecutions?

24

MS. ABRAHAM: I can't give you a number

25

off the top of my head, but I'll be happy to provide

2/23/01 - FY '02 OPERATING BUDGET

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2 you with what's happened. Fundamentally there are
3 two authorities, the Insurance Fraud Prevention
4 Authority and the Auto Theft Prevention Authority.
5 Both are covered in my office under the chiefship of
6 Linda Perkins. We have prosecuted hundreds of cases
7 of insurance fraud of the kind such as -- and it
8 maybe more than hundreds, frankly, Councilman
9 Nutter. It's actually been more than a couple
10 years; it's probably been closer to maybe four years
11 now. The frauds, for example, we take any fraud
12 against the City. City employee who claims that he
13 or she is injured while at work and he or she
14 wasn't. Any fraud involving SEPTA, somebody who
15 claims they were on SEPTA conveyance and they were
16 in a crash when were not injured. You know, one
17 person on the bus, 50 claims. Any auto crashes that
18 occur where people claim injuries from minor
19 fender-benders or non-existent injuries because
20 there are non-existent automobile crashes. Anything
21 like that, we prosecuted hundreds of those.

22 On the auto theft prevention, that is
23 also covered under these laws. Our thefts of
24 automobiles have gone down dramatically, in part
25 because of that prosecution and because also it's

2/23/01 - FY '02 OPERATING BUDGET

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2 been a well documented fact that when the police
3 department does COMSTAT and does its overview of
4 auto thefts, it shifts men and women around from
5 their department to concentrate on those areas where
6 auto theft is hot. We have gone down from about
7 27,000 stolen a year to somewhat less than that.
8 And that is also occasioned in part the Police
9 Department going out to every home where an
10 automobile is stolen or reported stolen and
11 personally interviewing the person as opposed to
12 when my car -- actually, when three of my cars were
13 stolen, all I did was report it over the telephone.
14 So that has cut down on fraud, too. As well as, for
15 example, give-backs: A person who is tired of
16 paying for their automobile payments and they have
17 it arranged to be stolen. So we still have lots of
18 thefts. We still a net exporter of automobiles and
19 auto parts. There will be -- well, I'll just leave
20 it go at as that. But also chop shops and the
21 multi-state nature of auto theft, but those are the
22 two areas that I think you're interested in and
23 we'll be happy to that breakdown. I'll make a note.
24 COUNCILMAN NUTTER: Get something back
25 to me. I didn't know that Crown Victorias were in

2/23/01 - FY '02 OPERATING BUDGET

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such high demand.

MS. ABRAHAM: Actually, they're not.

But Toyotas, Acuras, BMWs, Mercedes Benzes, Lexus,
all the high-end cars, Jeep Cherokees. Also mag
wheels, big, big wheels are really big.

COUNCILMAN NUTTER: I was speaking with
regard to your three.

MS. ABRAHAM: No, nobody wants it.

COUNCILMAN NUTTER: On average, what
does it cost to prosecute first degree murder case?

MS. ABRAHAM: I believe many years ago
you asked me this, and we've never been able to
figure out what it costs for this reason: One can
prepare a case for trial and on the day of trial --
we don't know how much trial prep cost because we've
never sat down nor could we ever figure out how much
on a per-hour basis your time is worth. We don't do
it that way.

But let's assume we get the case all
prepped up. It's supposed a three-week jury trial
and we're all ready to go. And the defendant's
lawyer comes up to us at the moment of trail and
says, "My client wants to negotiate something with
the prosecution. And we've never --

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: I understand that.
3 I'm talking about they don't negotiate or decide not
4 to. It just goes.

5 MS. ABRAHAM: Hard to say because we
6 don't know what court time is worth, what the court
7 officer's time is worth, what the judge's time is
8 worth. For us, we've done that either.

9 COUNCILMAN NUTTER: I wasn't talking in
10 the entire universe of people involved in the case.
11 I was speaking more from the District Attorney side.

12 MS. ABRAHAM: Don't know.

13 COUNCILMAN NUTTER: The cost -- I mean,
14 some are known things. I mean you have an attorney
15 or two that work on the case. You have either your
16 experts and other resources I guess you have to put
17 together to make it all -- I mean, those things are
18 quantifiable. You have to pay these people, some of
19 them for their time.

20 MS. ABRAHAM: Actually, Councilman,
21 we've never done -- I don't know, to us, what the
22 benefit of knowing how much it is for my time to go
23 prosecute a case where someone hit you over the head
24 or killed somebody. I think what happens is that
25 our lawyers carry lots of cases at one time. It's

2/23/01 - FY '02 OPERATING BUDGET

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2 difficult even to do that, but I'm not sure to what
3 purpose. We are not attempting to put a value on
4 preparation. I suppose we -- we could tell you how
5 much we pay an expert witness because that's
6 submitted to the court or there's bill. I don't
7 know how we do attorney time. I don't know how to
8 do that.

9 COUNCILMAN NUTTER: I guess, I asked in
10 the context of we were here, as Councilman Cohen
11 mentioned, earlier today there was a lot of
12 discussion around court-appointed counsel.
13 Obviously, there is a dollar amount set.

14 MS. ABRAHAM: Per hour. We don't do per
15 hour.

16 COUNCILMAN NUTTER: Well, I guess my
17 understanding from earlier was that there's flat fee
18 for the case and then there might be this other fee
19 for how much time you're in court and how much time
20 you're out of court.

21 MS. ABRAHAM: I think there's out of
22 court time and there's in court time. There's two
23 different layers of costs, but you see, they're paid
24 on a per hour basis. And sometimes there's a cap
25 placed on a case with the Court at his or her

2/23/01 - FY '02 OPERATING BUDGET

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discretion allowing additional fees and costs. But we don't pay salaries by the hour, so it's hard to figure out.

COUNCILMAN NUTTER: Most of the government people don't work on a salary. I guess more in the realm of just trying to figure out how do you run an efficient office. I'm making no comment as to whether the office is efficient or not. I have no way of knowing. Other departments and agencies of the government generally can tell us what it costs the citizens to provide that particular service. I think the Streets Commissioner can probably tell us what it cost to either fill a pothole, pick up trash. The Recreation Department can tell us what it costs generally to run a recreation center, something like that. So as we talk about either court-appointed counsel, what's going on in the courts, what the Public Defender does and how we value their particular time. I mean everyone's time and effort and resources and what you have to put into a case has a value. Unless we've determined that we just spend whatever it takes and figure it out in the next budget year.

2/23/01 - FY '02 OPERATING BUDGET

MS. ABRAHAM: I mean, I really don't think we're capable of doing that. For the very simple reason that we'd have require that attorney or those attorneys to keep detailed records of his or her minutes or hours for every case and then carefully keep those records from the time that he or she is assigned, the prep time, the trial time, the post-verdict motions, the pretrial motions, the in-court motions, the motion in lumina, the sentence, the post-verdict motions, the habeas corpus. We just don't do that. And frankly, I have to honest, that since the -- the benefit to a salaried employee like the benefit of having a public defender is that you pay a base salary. You don't have to worry about per diems or hours of work. I have to tell you frankly from my own experience of sitting on the bench, lawyers who try cases, besides never mind the difference of level of competence and capability of an attorney, which we can talk about some other time.

COUNCILMAN NUTTER: I won't be talking about that.

MS. ABRAHAM: Lawyers frequently put in for more money than the court could or would pay.

2/23/01 - FY '02 OPERATING BUDGET

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2 In a complex homicide. Look, if you have two
3 homicide cases, they're never really alike. A
4 particular client can give an attorney fits, make
5 him or her crazy, cause him all kinds of hours of
6 work. Where another defendant charged with
7 relatively the same or similar events might just
8 sail through, puts on his or her confidence in the
9 lawyer. The same result was obtained but without
10 all the storm and drom. But we don't do that and we
11 can't -- I just asked Mr. Toczykowski could we do
12 that. He said, no, we can't because we have no way
13 of doing that without tasking the lawyer to say from
14 the moment you get in a case start keeping records,
15 but that won't give you any insight into any other
16 case.

17 COUNCILMAN NUTTER: How many homicide
18 prosecutions were there last year.

19 MS. ABRAHAM: I'll tell you in a second.
20 269.

21 COUNCILMAN NUTTER: Homicides, 269? And
22 were all of those somewhere in the charging process
23 or somewhere as the case moves along, I guess in
24 those kinds of cases you have to decide whether to
25 seek the death penalty?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: Correct.

3 COUNCILMAN NUTTER: How many of those
4 were death penalty cases.

5 MS. ABRAHAM: You mean how many times
6 does the jury bring back a death penalty?

7 COUNCILMAN NUTTER: No. How many times
8 was the person -- you charge for a death penalty, it
9 doesn't always mean that's what they get, right?

10 MS. ABRAHAM: You man how many times you
11 gave a notice that we might seek the death penalty?

12 COUNCILMAN NUTTER: Right.

13 MS. ABRAHAM: Last year, 68 cases with
14 approved for the possible seeking of the death
15 penalty.

16 COUNCILMAN NUTTER: This is 68 out of
17 the 269?

18 MS. ABRAHAM: Yes, out of the 269.

19 COUNCILMAN NUTTER: And when you give
20 the notice --

21 MS. ABRAHAM: No, we gave more notices
22 than that. You're talking about two different
23 things. Let me explain 352. The Rules of Criminal
24 Procedure provide that within 10 days of your
25 arraignment, that means after a person's been

2/23/01 - FY '02 OPERATING BUDGET

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2 arrested, they've had a preliminary hearing, the
3 charges have been held over for court, you go to an
4 arraignment where the judge and the lawyers talk and
5 decide this is going to be a jury trial, a non-jury
6 trial. The defendant automatically enters a not
7 guilty plea. The lawyer says, "I want a jury
8 trial," for example. We must by Rule of Criminal
9 Procedure give a notice that we may seek the death
10 penalty in this case within 10 days of that time.
11 Now, that doesn't mean we always will, but because
12 the Rule requires this 10-day notice, we gave it in
13 143 cases last year. That's a 352 Notice.

14 COUNCILMAN NUTTER: Out of the 269?

15 MS. ABRAHAM: Out of the 269.

16 COUNCILMAN NUTTER: What was that number
17 again?

18 MS. ABRAHAM: 143.

19 COUNCILMAN NUTTER: 143 Notice?

20 MS. ABRAHAM: 352 Notice. Pennsylvania
21 Rule of Criminal Procedure 352.

22 COUNCILMAN NUTTER: Very limited
23 knowledge and information here. I'm dealing with
24 the small numbers. 269 prosecutions, 143 of which
25 you gave notice?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: Notices filed, right.

3 COUNCILMAN NUTTER: And then somewhere
4 along the line a decision is made to not go down
5 that particular track. It's obviously still a
6 murder case.

7 MS. ABRAHAM: Correct. But additional
8 information and investigation proves that the death
9 penalty is not appropriate for those cases. So what
10 we had left was 68 finally got to the point where we
11 thought we might ask for the death penalty.

12 COUNCILMAN NUTTER: At what point in
13 time -- it looks like 70-some plus cases dropped
14 from the notice stage to the actual 68.

15 MS. ABRAHAM: Correct.

16 COUNCILMAN NUTTER: Is there a point in
17 time that you kind have to fish or cut bait, for
18 lack of more articulate terms, and decide that
19 you're not going down that path and you're going
20 another path?

21 MS. ABRAHAM: Actually, it can be one of
22 several things. It can be the defendant pleads
23 guilty to a lesser offence. It could be that the
24 case disintegrates. It could be that there is
25 information that we received from the defendant or

2/23/01 - FY '02 OPERATING BUDGET

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from our investigation which indicates that the
penalty not appropriate.

COUNCILMAN NUTTER: But all during that
time, there's investigation going on and stuff
happening?

MS. ABRAHAM: Sure, all the time.
Absolutely. Up until -- even during the trial, we
can always find additional information.

COUNCILMAN NUTTER: Is a death penalty
case more expensive than a non-death penalty case?

MS. ABRAHAM: I think a death penalty
case as the potential for being more expensive.

COUNCILMAN NUTTER: What happened in the
68 that got through all of this system? And then at
that point, you've actually gone to trial, right?

MS. ABRAHAM: We had five death
penalties last year.

COUNCILMAN NUTTER: Were the other 63
found guilty of something else?

MS. ABRAHAM: Some were; some weren't.
The greatest bulk of them were found guilty of first
degree murder without a death penalty.

COUNCILMAN NUTTER: I don't really know
very much about this particular aspect of your

2/23/01 - FY '02 OPERATING BUDGET

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business, nor am I particularly advocating that the number should be higher, but I am trying to understand. If you went from 68 and ultimately down to 5, what went on and why is there such a --

MS. ABRAHAM: What happens is, as you well know, I can't remember in the past 25 years that a judge has ever imposed a dealt penalty. These are always jury trials. A jury listens to the case. There are, as you know, two phases: There's the trial phase which is the guilt phase; and then there's the penalty phase, the second trial, so to speak. In the first part of the case, the jury listens to the evidence and they decide did the prosecution prove the defendant guilty of the crimes and all the elements of the crimes beyond a reasonable doubt and what degree of guilt the person should be found guilty of. In most of those cases, but not all, the jury found either first degree murder, in which case they had to then go on to decide the penalty. So assume for the moment that the jury came back with a first or a second degree verdict. Second degree verdict has also potential for life but there's no death penalty. If a jury comes back with a first degree verdict, then there's

2/23/01 - FY '02 OPERATING BUDGET

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2 a penalty trial where the prosecution and the
3 defense put on the evidence as to the specific
4 aggravating circumstances provided by law. There
5 are, I think, 17, which the prosecution has given
6 notice of before the trial. We have to give a
7 notice and we have to check off or circle or
8 indicate which aggravating circumstances we are
9 seeking to justify a dealt penalty on. The
10 prosecution puts on whatever evidence it has in
11 support of a death penalty. The defense puts on
12 whatever evidence they choose in the diminution of a
13 death penalty. We argue. The jury goes out and
14 decides for a second time. The jury's power is
15 absolute. And in Pennsylvania, and including
16 Philadelphia obviously, the jury does not recommend
17 anything. The jury fixes the penalty in
18 Philadelphia and in Pennsylvania.

19 In Philadelphia's juries last year, the
20 jury fixed the penalty five times at death. If they
21 could not agree -- and remember, the verdict has to
22 be unanimous for a death penalty. If the jury could
23 not agree, if it was 11 to 1 or 8 to 4, 10 to 2,
24 the jury could not agree unanimously, it was
25 automatically a life sentence.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: What were -- for the
3 five death penalty, this was last year, 2000?

4 MS. ABRAHAM: What were they? You mean
5 you want the case?

6 COUNCILMAN NUTTER: No. There were five
7 last year in 2000?

8 MS. ABRAHAM: That's right.

9 COUNCILMAN NUTTER: What was the race
10 and gender of the individuals?

11 MS. ABRAHAM: For 2000, I'll just give
12 it to you this way. The first is Wilfredo Ramos who
13 was 22, male, and white; the decedent was James
14 Crawford, 36, male and black. Lance Arrington, 39,
15 male and black; the decedent was Tondra Dennis, she
16 was, 24, female and black. Daniel Dougherty, 25,
17 male and white who killed Daniel and John Dougherty
18 who were 4 and 3, respectfully; they were his
19 children, both males, both white. Gregory Powell,
20 37, male and black killed Raymond Graves, 6 years
21 old, male and black. Steven McRae, 18, male and
22 black killed Kendrick Haskil and John Ford, 21 and
23 18, male and black. So we had three children
24 murdered which the jury felt was deserving of the
25 death penalty.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN NUTTER: These were family
3 members?

4 MS. ABRAHAM: Yes.

5 COUNCILMAN NUTTER: Last question
6 revolves around the drug forfeiture dollars. What
7 was the amount for last year?

8 MS. ABRAHAM: Low. What was it, George,
9 do you remember?

10 It was about 2.4 million this past year
11 down from 4.7 million about three or four years ago.

12 COUNCILMAN NUTTER: And what happens to
13 that money? How is it used?

14 MS. ABRAHAM: I'm going to give you Mr.
15 Mosey to give you the breakdown, Councilman, so he
16 can answer the question specifically.

17 MR. MOSEY: I'm George Mosey. I'm the
18 Deputy for Narcotics in the Philadelphia DA's
19 Office.

20 The vast majority of that money seized
21 by the Philadelphia Police Department and we have a
22 sharing agreement with the Philadelphia Police
23 Department. The Control Substances Forfeiture Act
24 requires that we spend that money on law enforcement
25 purposes that are designed to enforce the Drug Act.

1 2/23/01 - FY '02 OPERATING BUDGET

2 So that money can only be spent in narcotics-related
3 activity. We share that money with the Police
4 Department in a way that takes the expenses for
5 actually pursuing the forfeiture off the top and
6 then the rest of the money is shared 60 percent to
7 the Police Department and 40 percent to the
8 Philadelphia District Attorney's Office.

9 COUNCILMAN NUTTER: When you say the
10 expenses of pursuing the forfeiture, are you talking
11 about the prosecution? What are the expenses off
12 the top?

13 MR. MOSEY: Preparation of the petitions
14 and actually paying the salaries of the staff that
15 we have on hand who actually prepare the petitions,
16 who maintain the property, who do the advertising,
17 who serve the petitions on perspective owners.

18 COUNCILMAN NUTTER: So I know we're
19 dealing with \$2.4 million, but a much more simple
20 example, if it was a hundred dollars and your costs
21 were 30 bucks, you take the 30 off and you guys
22 split on the 60/40 basis the 70.

23 MR. MOSEY: Actually, there are expenses
24 incurred by the Police Department as well and they
25 come off the top. So if you added another \$20 to

1 2/23/01 - FY '02 OPERATING BUDGET

2 that scenario, our 30 would come off, the Police
3 Department's 20, and then we would split the rest
4 60/40, 60 going to the Police Department.

5 COUNCILMAN NUTTER: What happens to the
6 portion that you get?

7 MR. MOSEY: I couldn't hear you.

8 COUNCILMAN NUTTER: After the expenses
9 and the split portion, what happens to the dollars
10 that the District Attorney's Office gets, the 40
11 percent?

12 MR. MOSEY: We use that to pay salaries
13 for law enforcement personnel who aren't directly
14 involved with preparation of the petitions, those
15 quote/unquote direct forfeiture expenses. So we
16 actually pay salaries for the detectives who conduct
17 proactive investigations in the division and the
18 salaries of the attorneys involved. And the Police
19 Department, they utilize that money to purchase
20 supplies and to pay salaries as well.

21 COUNCILMAN NUTTER: Do you do any grants
22 out of the those salaries?

23 MR. MOSEY: I'm getting old. I still
24 couldn't hear you.

25 MR. NUTTER: No, it's our sound system.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MS. ABRAHAM: Any grants.

3 MR. MOSEY: Yes, we do have grants and,
4 in fact, programs like the Public Nuisance Task
5 Force are supported by a local law enforcement block
6 grant money in addition to money from the
7 Pennsylvania Commission on Crime and Delinquency.
8 Most of our other grant money has expired, however.

9 COUNCILMAN NUTTER: What about the
10 grants to groups and organizations, do you still do
11 any of that?

12 MR. MOSEY: Yes, we do provide money on
13 a limited basis to community organization that
14 submit proposals to the DA's Office.

15 COUNCILMAN NUTTER: Does that come out
16 of the drug forfeiture money?

17 MR. MOSEY: It does.

18 COUNCILMAN NUTTER: Do you have sort of
19 an accounting of that or how those dollars get
20 spent, what's the program, how do you apply?

21 MR. MOSEY: Well, we require that those
22 organizations that submit proposals demonstrate that
23 the money will be used to quote/unquote enforce the
24 Drug Act. And we have, of course, don't require
25 that go out and make arrests or anything like that,

1 2/23/01 - FY '02 OPERATING BUDGET

2 but they need to demonstrate that their activities
3 are in fact related to curbing the occurrence of
4 drug sales in their community, maintaining corners,
5 even town watch operations.

6 COUNCILMAN NUTTER: What was the total
7 amount of money spent for those purposes?

8 MR. MOSEY: I don't have it with me, but
9 I can get that to you.

10 COUNCILMAN NUTTER: Thank you very much,
11 Madam Chair.

12 COUNCIL PRESIDENT VERNA: You're
13 welcome. The Chair recognizes Councilman Cohen.

14 COUNCILMAN COHEN: Just if Mr. Deutchman
15 is still here.

16 MS. ABRAHAM: He's still here.

17 COUNCILMAN COHEN: I wanted to clear up
18 at least in my mind, and maybe in the mind of
19 everybody, the percentage of help you can give to
20 people who consider themselves victimized by
21 predatory lending, on one hand you've indicated that
22 because of difficulties with the state law there's
23 relatively little criminal prosecution that can be
24 successful. On the other hand, you've indicated
25 that there are case that the DA's Offices has

2/23/01 - FY '02 OPERATING BUDGET

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2 handled and in those cases has been a very high
3 rate, maybe almost a hundred percent rate of
4 success. Could you give me kind of a percentage of
5 the complaints that come in how effective and what
6 percentage of cases roughly could we hope that under
7 current laws there could be some success of criminal
8 prosecution? I don't want to have a rosy future or
9 you're going to get swamped with calls because
10 everybody will think every case can be successfully
11 prosecuted.

12 MR. DEUTCHMAN: Well, if I may, instead
13 of answering the question with a percentage which I
14 don't know if I can, I can tell you this: In cases
15 where -- and again these are home improvement cases.
16 We haven't prosecuted anyone for purely predatory
17 lending, for anything that goes by the name of
18 predatory lending absent the home improvement fraud
19 scheme. But for people who have been involved in
20 both and have been the victim of the home
21 improvement fraud scheme, for someone whose
22 complaint is that money has been given to a
23 contractor and no work has been done or so little
24 work has been done that virtually nothing has been
25 done, the chances of obtaining a successful

2/23/01 - FY '02 OPERATING BUDGET

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prosecution are close to a hundred percent. For those persons who complain that they don't like the work that has been done, we refer that is a civil matter and we simply don't prosecute.

Off the top of my head, again, to use a bad metaphor here, I would say that we probably get more calls in the nature of shoddy work than we do in the nature of no work. But of the calls that we get with regard to no work, we take them all.

COUNCILMAN COHEN: I think that clarifies the picture very well. Thank you.

Thank you, Madam President.

COUNCIL PRESIDENT VERNA: Thank you.
The Chair recognizes Councilman Goode.

COUNCILMAN GOODE: Thank you, Madam President. I'll be brief. I'm very interested in the breakdown that Councilman Nutter asked for in terms of complaints in the economic crimes unit, but I need something more immediate in terms of how many complaints you received about small business loans in the sub-prime market and if you've received no small business lending in sub-prime market, if you could, I would like you to document that as soon as possible.

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. DEUTCHMAN: We haven't had any.

3 COUNCILMAN GOODE: Can you memorialize
4 that in a letter?

5 MR. DEUTCHMAN: Absolutely.

6 COUNCILMAN GOODE: Thank you. Thank
7 you, Madam President.

8 COUNCIL PRESIDENT VERNA: Thank you.
9 The Chair recognizes Councilman Rizzo.

10 COUNCILMAN RIZZO: Thank you. I have a
11 question I'd like to follow-up on, the contractors
12 and the predatory lending. After involving myself
13 in a couple issues where especially senior citizens
14 and that's when it's really troubling when someone
15 involves themselves in a situation and winds up
16 signing papers that just take their life savings
17 away. After investigating a couple of these cases,
18 I found that the contractors involved had licensing
19 to do business or work in the City of Philadelphia.
20 Is there any information, possibly, that we could
21 put out especially to the most vulnerable, a phone
22 number where a person can check to see that this is
23 a legitimate contractor. That should be the first
24 red flag if someone would call and this person not
25 be licensed by the City of Philadelphia to do

2/23/01 - FY '02 OPERATING BUDGET

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2 business. Is there anything that your unit can do
3 beyond the criminal charges that possibly could
4 arise that if a person's acting a contractor has no
5 licenses at all? I'm just searching for something
6 that we could implement to educate our citizens
7 about involving themselves. At this point, I don't
8 think they realize that they may be dealing with a
9 contractor that's not a contractor or a person that
10 has no licensing to even begin or do the work.

11 MR. DEUTCHMAN: Well, in response to
12 that, I should point out that of the complaints that
13 we've gotten, it hasn't been a deciding factor as to
14 whether the person who is being complained about has
15 a license or doesn't. We've had as many complaints
16 about licensed professionals, so to speak, or
17 contractors as we've had about unlicensed ones.
18 Although I think it's important for a consumer to
19 know whether someone is licensed, in terms of what
20 we see from the criminal side, it hasn't played that
21 large a role. I'd also note that one of the things
22 that I found attractive in making reference to the
23 legislation we had talked about before that had gone
24 up to Harrisburg and had just died without being
25 passed, one of the features of both of those bills

2/23/01 - FY '02 OPERATING BUDGET

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2 was t barred anyone who was not licensed from, in
3 essence, having any right to go after any customer
4 in a contract action. So if you were an unlicensed
5 contractor and you don't get paid and then you want
6 to take your customer to court, you simply couldn't
7 do it.

8

COUNCILMAN RIZZO: Let's go a step

9 further. Let's go to something that I think would

10 probably interest the District Attorney's Office

11 even more so than a person just without a license.

12 What about a complaint against a contractor and you

13 find that they haven't been paying any of the tax

14 that is due the City, what could you due do that

15 contractor? Forget the actual incident, you start

16 an investigation, you find out that this person's

17 been conducting business in the City of Philadelphia

18 for just a year and has paid no tax, what could you

19 do about that?

20 MS. ABRAHAM: Nothing.

21 COUNCILMAN RIZZO: Nothing?

22 MS. ABRAHAM: Nope. No offense

23 intended, the City Councilpeople are very much

24 interested in contractors and everybody else pay

25 taxes, but that is not a criminal action. That

2/23/01 - FY '02 OPERATING BUDGET

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2 would be, for example, L & I would report to the
3 City Solicitor and the City Solicitor would do what
4 they do if I didn't real estate tax. They try to
5 collect it or they dun me or something else. But I
6 want to make sure you understand, Councilman Rizzo,
7 that if I'm a thief and I'm a contractor, the fact
8 that I don't pay my taxes or the fact that I don't
9 get a license is not going to impede my desire to
10 rip people off. So I don't know that except for
11 good financial management of the City it's important
12 that the City collect its taxes, but it's not a
13 violation of the statutes of the Commonwealth of
14 Pennsylvania if you don't your City licenses fee.
15 That's an issue for the City solicitor, the
16 Department of Licenses and Inspections.

17 COUNCILMAN RIZZO: If the City of
18 Philadelphia then, is there anything that the DA's
19 Office could do to that individual if the City of
20 Philadelphia asked the District Attorney's Office to
21 involve themselves?

22 MS. ABRAHAM: Well --

23 COUNCILMAN RIZZO: Especially if it's --

24 MS. ABRAHAM: Let's say in the real
25 world, I mean, if the City wanted me to go after tax

2/23/01 - FY '02 OPERATING BUDGET

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2 cheats and you want to pay me to go after tax
3 cheats, I don't know that that's great use of our
4 resources, frankly, because we're not truly equipped
5 to on do that. That is situation that's best left
6 to other department heads of the City of
7 Philadelphia, not the District Attorney's Office, if
8 I may be so forward.

9

COUNCILMAN RIZZO: District Attorney,

10 the reason I'm pushing this is the fact that you
11 describe a very, very difficult situation, how hard
12 it is to go after a person especially if they leave
13 the nails and the chalk and the other paraphernalia
14 for 49 if they picked up at Home Depot and then
15 they're not really committing any fraud, there's
16 just a breach of a contract. I guess I'm just
17 searching for something that could send a message to
18 these people because you brought these --

19

MS. ABRAHAM: The best thing as I

20 suggested, Councilman Rizzo -- this is really true.
21 So many people are gullible and vulnerable and they
22 think that they can consolidate all their deaths and
23 get some money left over and get a second mortgage,
24 whatever they do, and get their kitchen taken care
25 of. But they don't know nor can they possibly

2/23/01 - FY '02 OPERATING BUDGET

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2 understand the technicalities of the fine print of a
3 contract, plus the fees, the balloon payments, the
4 credit insurance and all those other things. So my
5 sense tells me that just like the Marcy Simms
6 commercial, an educated consumer is our best
7 customer. An educated wary consumer is our best
8 defence against a fraud. But still, fraud will be
9 permitted to go as long as people are willing to put
10 their name on a piece of paper when they're not
11 entirely sure what all the fine print means. That's
12 why we've been talking to CLS about how Community
13 Legal Services and our office can perhaps help to
14 educate consumers. It's like holding somebody's
15 hand. We have all kinds of frauds and things
16 happening in Philadelphia because in spite of our
17 best efforts, people still do things, even having
18 been told if it sound too good it probably is, there
19 are some people in the City who will do it anyway.
20 And that's the sad thing of it. I'm willing to
21 listen to anything that you might want to suggest,
22 but I'm not aware of anything other than what I've
23 said.

24 COUNCILMAN RIZZO: In the last week or
25 so, we've all in Council been focussed on these

2/23/01 - FY '02 OPERATING BUDGET

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2 budget hearings, so I know that something -- maybe
3 the Chair can help me with this. The Administration
4 just announced a new organization or a consumer
5 protection arm of government or something to do with
6 the consumer, and I would assume it also did
7 something that would protect the consumer and I
8 would hope that they would draw, when appropriate,
9 the District Attorney into -- because I don't think
10 a scam like that against anyone, especially like I
11 mentioned earlier on our senior citizens is just --

12 MS. ABRAHAM: We work very closely with
13 the State Attorney's General's Office and their
14 Consumer Protection Bureau. Plus, we would be
15 pleased to work with anybody in the City
16 Administration to alleviate some of the tremendously
17 pressing and horrible situations that our citizens
18 find themselves in.

19 COUNCILMAN RIZZO: I can't recollect,
20 but I know that just in the last week during the
21 budget process I heard maybe --

22 COUNCIL PRESIDENT VERNA: Councilman
23 Rizzo, I believe it was City Council that passed a
24 resolution for a consumer advocate.

25 COUNCILMAN RIZZO: Is that what I'm

1 2/23/01 - FY '02 OPERATING BUDGET

2 recollecting?

3 COUNCILMAN GOODE: It was a resolution
4 followed up by two bills offered by Councilman
5 Clarke.

6 COUNCIL PRESIDENT VERNA: Right.

7 COUNCILMAN RIZZO: So hopefully, that
8 will lead to being helpful with this issue. Thank
9 you again, District Attorney Abraham.

10 COUNCIL PRESIDENT VERNA: Thank you.
11 Are there any other questions of the District
12 Attorney?

13 Thank you. I hope you're walking out of
14 here as happy as when you walked in.

15 MS. ABRAHAM: I'm a happy person. Thank
16 you very much.

17 COUNCIL PRESIDENT VERNA: You're
18 welcome.

19 The Defender Association is next.

20 (Witnesses come forward.)

21 COUNCIL PRESIDENT VERNA: Good
22 afternoon. Thank you for your patience. Identify
23 yourself for the record and proceed with your
24 testimony.

25 MS. GREENLEE: Good afternoon, Madam

2/23/01 - FY '02 OPERATING BUDGET

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2 President. I'm Ellen Greenlee, Chief Defender,
3 Defender Association of Philadelphia. On my left is
4 First Assistant Charles A. Cunningham. And on my
5 right is our Controller Selim Tawadros. Also with
6 us and part of our team I should recognize our
7 business manager, Linda Kozinski (ph); our assistant
8 controller, Christian Muel (ph); and my assistant,
9 Christine Adler; as well as Byron Carter who is
10 chief of Probation Parole and Alternative
11 Sentencing.

12 COUNCIL PRESIDENT Verna: Ms. Greenlee,
13 the stenographer has been given a copy of your
14 testimony. It will be transcribed in full. I would
15 ask if you could summarize your testimony. We would
16 really appreciate it.

17 MS. GREENLEE: I'll be happy to do that,
18 Madam President.

19 COUNCIL PRESIDENT Verna: Thank you.

20 MS. GREENLEE: My request would be for
21 those extra District Attorney doesn't need because
22 we could certainly put them to good use as we're
23 struggling mightily to try to keep up with the
24 District Attorney's Office in terms of staffing and
25 retention of our attorneys to do our business.

2/23/01 - FY '02 OPERATING BUDGET

I thank you, Madam President and Members of City Council, for this opportunity to present our appropriation request to you this year for Fiscal Year 2002. As you're aware, we are purchase of service contractor providing representation in the criminal defense area for adults and juveniles, providing representation to the mentally ill in civil and criminal matters, and to dependent children in contested custody matters. For Fiscal Year 2002, the appropriation request from the budget department is 26.5 million for the Defender which includes the Fiscal Year 2001 base plus funding for the third year of our attorney pay equity plan, a 3 percent pay increase for staff, and a budget cut of 1.5 percent of personal services asked of all City departments.

I should mention, while I'm certainly pleased to hear the District Attorney say that she's able to manage this year a starting salary of \$42,250, as you will recall, we will be in the third year of our parity plan and this September our starting salaries for those who are barred in Pennsylvania will be \$36,500. So while I certainly feel that assistant district attorneys are worth

2/23/01 - FY '02 OPERATING BUDGET

more than \$42,250, I certainly would urge the Council to consider seriously some changes in this parity plan we're involved in because to my mind there is no question that the work that the assistant defenders do is, as the Rendell Administration said in its party days, we are certainly deserving of parity with the District Attorney's Office. And I think anyone familiar with the work that's done in the criminal courts, in dependency court, and mental health court realizes that the quality of work done by the Defender Association is superior.

In Fiscal Year 2001, we increased our attorney staff by 10 and our social service staff by 4. This was to meet our obligations in the model courts, in dependency court and family court and to have additional attorneys for the afternoon court and municipal court that was started in May. In October, we were able to staff that PM court that municipal court started.

We had requested also for Fiscal Year '01 an increase of eight in our administrative staff. This request was turned down. We come now for Fiscal Year '02 with certain open issues that we

2/23/01 - FY '02 OPERATING BUDGET

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2 are working with the budget director on. We have a
3 critical need for additional administrative staff,
4 which I'm sure the numbers I will show you will
5 indicate that need. We have a need for 18
6 additional positions. We have also some issues
7 around insurance, health insurance and workmen's
8 comp yet to be resolved. And fortunate or
9 unfortunately, we will have to move our offices
10 probably within the next year which is going to be
11 quite a considerable experience. As I know you're
12 aware, Mr. Rause (ph) has designs on that block
13 where we're located at 17th and Arch. And in fact,
14 we are in the footprint of the new project that he
15 is planning, so while our lease is not up until
16 February 2003, we have begun work on attempted to
17 relocate since Rause is eager to get started on that
18 project. So that will be other areas that we will
19 be working on with the Budget Director to resolve
20 quickly.

21 When we look at what has been happening
22 since 1996 in this five-year period, the work in the
23 Defender Association has increased dramatically.
24 The increases in case load and work load are just
25 staggering in terms of the amount of staff that we

2/23/01 - FY '02 OPERATING BUDGET

have to handle these. As you will see from exhibit B, in terms of new cases, we have had a 42 percent increase in the number of cases we have received. Our work load has increased by 32 percent. And our court listings have increased by 36 percent. The most dramatic increases we have experienced during this period has been in municipal court cases. Those are the misdemeanor cases, which include so many of the drug cases that come into the system. We have seen a 76 percent increase in our case load and a 76 percent increase in our work load. In terms of new Common Pleas cases, we have experienced a 54 percent increase.

These numbers are staggering in terms especially in terms of our staffing, in terms of the problems that we have in maintaining staff, not only legal staff, but also administrative staff which is another issue that we will be working with the Budget Director on because our starting clerical and clerk typist and telephone operators start at 13,500, which is not a salary that anyone in the City is even remotely familiar with. What this means is we have difficulty filling our positions and we have difficulty keeping people in those

2/23/01 - FY '02 OPERATING BUDGET

positions so we're constantly struggling to maintain full staffing.

A good example is our paralegal salaries where we have difficulty hiring people because our salaries much, much lower than the District Attorney. When we're fortunate enough to find a good person and spend time training that people, we have seen several of them taken away District Attorney's Office with increases of about \$5,000 in salary to do the same kind of work at the DA's Office that they're doing for us. So this is really a serious area of concern for us.

As I mentioned, it's been another record-setting year this last year. And this five-year growth has been enormous. The heaviest volume of cases has been in municipal court where last year we had 72,751 cases, which as I mentioned is a 76 percent increase.

In juvenile court, we're also experiencing long case lists with a very large increase in the number of sex assault cases. With the police doing a lot more serious review of sexual assault cases, we have a lot more clients charged with sex assault crimes.

2/23/01 - FY '02 OPERATING BUDGET

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We are doing well in juvenile in terms of our grants and special projects. We have received national recognition for our girls project and we are working on a multi-systemic therapy project to begin in April which will provide extensive services to a hundred young people in their home.

Our Juvenile Special Defense Unit, as you are aware, which handles direct file cases, juveniles filed directly into adult court, last year had a 52 percent return rate of youngsters who were returned to family court, which obviously we consider to be indicative of the fine work that is done by that unit. The Federal Bureau of Justice Assistance has applauded our team approach. I have included a copy of that article for your review on their report on the team approach that we use in our Juvenile Special Defense Unit and its success.

In our Homicide Unit since we became involved in homicide in almost, let's see, '93 so it's almost eight years ago, we've handled 710 cases. 85 percent of them were designated as capital cases, and during that time period, we have had no one receive a death sentence. I think just

2/23/01 - FY '02 OPERATING BUDGET

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2 from a practical point of view, whether you like the
3 death penalty or not, there is a very substantial
4 savings to the City in terms of cost of counsel when
5 clients or defendants receive the death penalty that
6 the City saves because of the excellence of our
7 representation in homicide cases.

8

9 In our Child Advocate Unit, we have seen
10 the opening of the second model court. We are
11 representing presently 7200 children. The number is
12 down a little because the court is managing to close
13 more cases and to get children into permanent
14 placements much better. This model court which
15 began as an experiment two or so years ago has
16 really taken hold. It is front loading services to
17 children and it is quickening the response for
18 children in crisis. I know that Judge Sylvester who
19 is now back as administrative judge really wants to
20 take these processes from model court and have them
21 apply to all the courtrooms in family court.

21

22 In our Probation Unit, as I mentioned,
23 Mr. Carter is here who is the chief of that unit.
24 We have a high volume of probation and parole
25 violation hearings. We are constantly reviewing
sentences in order to file petitions for

2/23/01 - FY '02 OPERATING BUDGET

reconsideration for early parole. We have more than 26,000 different communications last year around our clients in state and county prisons, with them and with their families and others concerned. And our intermediate punish section of Mr. Carter's unit, we review all felony cases after preliminary hearing, about 500 a month, to see if they are appropriate for alternatives. This unit has worked extremely hard with the other players of the system, the Department of Health, the DA, Probation and the other players, to work at establishing alternative placements for those in custody. This also a very important financial situation for the City because not only does treatment work, but treatment is much less expensive than keeping someone in prison.

At the present time, the prison has a population of 7300 which is the highest it has ever been. When we had a cap just two or three years ago, the population was expected to not exceed 5600. So we at present have 1700 more inmates than the prisons were intended to hold, which is a problem in and of itself and represents a pending crisis, I think, for the City in terms of management.

But we are striving mightily to try to

2/23/01 - FY '02 OPERATING BUDGET

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2 get out of prison those who have been paroled. We
3 have right now a hundred clients sitting in jail who
4 have already been paroled, but they cannot get into
5 a program because the City has not put up the money
6 for the beds that they might go to. We are in a
7 freeze situation at this point in time and we cannot
8 get these folks out except at the rate of 18 a
9 month. So this backlog is continuing and continuing
10 and adding to the overcrowding. This is one of the
11 areas of concern that we have and I think it's a
12 serious matter of concern for the City what is
13 happening with the prisons and what the costs are to
14 the City.

15 Also, in dependency court, one of our
16 areas of concern is the report from Philadelphia's
17 Public Interest Bar and Advocacy Community, which is
18 just coming out this week and probably will be
19 printed and distributed, there is a serious shortage
20 of judges in family court to handle dependency
21 cases. There are long lists and private counsel is
22 not paid sufficiently to induce them to work on
23 dependency cases. So there is a serious situation
24 that is growing in dependency court in those areas.

25 We are also concerned as to the

2/23/01 - FY '02 OPERATING BUDGET

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2 treatment of our mentally ill clients, many of whom
3 are staying in jail much longer periods of time than
4 they should because there are no treatment
5 facilities available. This is something that we
6 have been working on without a lot of success in
7 terms of the Director of Social Services to try to
8 make more beds available to try to get more beds at
9 Norristown and to find other facilities where those
10 who are mentally ill can be treated and not simply
11 kept in jail much longer than those who are not
12 mentally ill.

13 We are concerned also about our
14 staffing, our internal staffing, about salaries, as
15 I mentioned, sufficient to attract and retain staff,
16 especially our administrative staff. And we are
17 working on a parity plan for that and we will
18 obviously have to do something in terms of salaries
19 for our attorneys. We have seen a very serious drop
20 in the number of applicants this year for attorney
21 positions. Routinely three or four years ago, we
22 would get 7 or 800 applicants. We were down to
23 about to about a hundred this year. I think this
24 poses a serious problem. And it's not, I think,
25 because of lack of good will, of people willing to

2/23/01 - FY '02 OPERATING BUDGET

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2 do public interest work, but young people coming out
3 of law school with law school debt and college debt
4 piling one on top of the other just can't afford to
5 work for the salaries that we are able to pay them.
6 As I mentioned, our starting salary is thirty-six
7 five this September. In Fiscal Year 2003, we will
8 be in the fourth year of our parity plan and our
9 salary will be thirty-seven two at that time. So we
10 are managing -- if the District Attorney can do what
11 she says, and I know she's a woman of her word, I'm
12 sure she can give those increases this year, we are
13 falling back to a position of second class citizens
14 in a system that requires a vibrant and prepared
15 Defender Association where we're handling on average
16 75 percent of the cases. If we really believe that
17 the poor deserve effective representation, the same
18 as those of means, then we cannot have the system
19 tilted so that the prosecution has all the resources
20 it can possibly use and we are struggling not only
21 for resources, but to try to keep the people we've
22 been able to attract to this work.

23 I note also the District Attorney saying
24 that she received a productivity loan last year and
25 each assistant DA has a computer. Well, we were

2/23/01 - FY '02 OPERATING BUDGET

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2 very proud ourselves that we were able to put one in
3 an office of three attorneys. We have not had much
4 success in terms of pushing for a productivity loan.
5 And while I realize that we are not a City agency
6 which we all too well, unless we can be kept at the
7 same level of resources, and certainly technology is
8 one of those areas, then this system is skewed in
9 favor of the prosecution and we are paying lip
10 service to providing effective representation to the
11 poor. This is really becoming a very critical
12 matter that our resources and the resources for
13 private counsel be at the same level as they are for
14 the prosecution.

15 As you can see, the prosecution is
16 having no difficulty whatsoever in meeting its
17 demands. And they have other resources not
18 available to us, obviously, with grants and
19 forfeiture monies and those that they can -- they
20 can on their own afford to give a very substantial
21 increase to their staff. That, of course, is one of
22 our concerns.

23 As I mentioned, our relocation, we are
24 obviously very interested and we know you will be
25 interested in our relocating to a place that is

2/23/01 - FY '02 OPERATING BUDGET

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2 convenient for the work that we do which means it
3 needs to be convenient to family court at 1801 Vine
4 and to the Criminal Justice Center at 13th and
5 Filbert. We have begun some preliminary
6 investigations along these areas, and I know that
7 you will be hearing more about that. I trust that
8 you will support the need for us to be located in an
9 area that is accessible to both of these places and
10 not even think about putting our people on buses or
11 shuttles to court because it doesn't work for our
12 practice.

13 Our final area of concern then would be
14 in that area of technology, that there been some
15 thought given to a productivity loan for us as well
16 as the other players in the system to bring us up to
17 speed in those areas. We have managed, certainly
18 with the able assistance of my business manager and
19 assistant, to put together a brochure on our
20 services and a report which we will be sending to
21 the Councilmembers for your constituent services, I
22 think you will want those.

23 Having said that and awaiting your
24 questions, I thank, Madam President, for the time
25 that you have given us and the interest that you and

1 2/23/01 - FY '02 OPERATING BUDGET

2 the Members of Council have always shown to the work
3 in the Defender's Association.

4 COUNCIL PRESIDENT VERNA: Thank you, Ms.
5 Greenlee. I think you have stated very clearly that
6 you are working with Mr. Dubow regarding the need
7 for administrative staff and also attorneys.

8 MS. GREENLEE: Yes.

9 COUNCIL PRESIDENT VERNA: You made
10 mention of those who are in prisons have been
11 paroled but the City doesn't have beds for them to
12 go to. Are you talking about a halfway half or are
13 we talking about --

14 MS. GREENLEE: Can I bring Mr. Carter
15 up?

16 COUNCIL PRESIDENT VERNA: Is this for
17 rehab?

18 MS. GREENLEE: This is our expert on
19 alternative sentencing.

20 MR. CARTER: This is for drug treatment.
21 I'm Byron Carter, Director of Alternative Sentencing
22 for the Defender's Association.

23 COUNCIL PRESIDENT VERNA: Can you
24 explain to us, please.

25 MR. CARTER: Yes. The client is

2/23/01 - FY '02 OPERATING BUDGET

evaluated by the City Health Department and also a doctor trained in addiction reviews that evaluation and picks a level of treatment. The client is then paroled to that level of treatment. Approximately 65 percent go to in-patient and the remaining percentage go to outpatient. The people are in-patient are then stepped down to intensive outpatient and finally to outpatient. We also provide services for them to obtain employment as they near the end of their addiction treatment. We find that there's a 44 percent improvement in the conviction rate for people that have gone through six months of treatment.

There's approximately a hundred clients per month costing the City in prison costs approximately a quarter million dollars per month that are waiting -- that have been paroled by the courts, by the judges, and ready for release except the City cannot afford or will not pay for those clients to go to treatment. The beds are available.

COUNCIL PRESIDENT VERNA: And the City refuses to pay; is that what you're saying?

MR. CARTER: That's correct.

COUNCIL PRESIDENT VERNA: Mr. Dubow,

1 2/23/01 - FY '02 OPERATING BUDGET

2 could you check into that and get back to us,
3 please?

4 MR. DUBOW: Yes.

5 COUNCIL PRESIDENT VERNA: The Chair
6 recognizes Councilman Nutter.

7 COUNCILMAN NUTTER: Thank you, Madam
8 Chair. I'd like to explore that a little further.
9 It wasn't even the original reason I put my light
10 on. Give me the tail end of that again. These are
11 people who have been released?

12 MR. CARTER: These people are prison but
13 are paroled. There's nothing holding them except --
14 they have been paroled to go to drug treatment. The
15 the only thing that keeps them in jail is that the
16 City will not pay for those treatment slots. They
17 often wait two to three months in prison before a
18 slot will open up. The approximate cost is about a
19 quarter million a month for those people waiting to
20 go to treatment.

21 COUNCILMAN NUTTER: And give me some
22 context. You're saying across the criminal justice
23 systems a quarter of million dollars a month to hold
24 them.

25 MR. CARTER: Yes.

2/23/01 - FY '02 OPERATING BUDGET

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COUNCILMAN NUTTER: What does it cost for them to be placed a month? You understand what I'm -- I'm trying to make a comparison. I'm assuming it costs us more to hold on to them than it does to put them out.

MR. CARTER: It depends what level of treatment they go to. That can range from a cost of approximately \$65 a day to a cost of approximately \$135 a day for treatment. However, the City only has to incur those costs for approximately 35 days. Then due to the efforts of the Health Department and our social service staff, they are rolled over into state and federal funding programs. Therefore, it would save the City a great deal of money if they were released rapidly.

COUNCILMAN NUTTER: You said the slots are available?

MR. CARTER: Yes, sir.

COUNCILMAN NUTTER: And this is for drug treatment?

MR. CARTER: Yes, sir. We deal with approximately 56 different programs from here to as far out as Harrisburg.

COUNCILMAN NUTTER: Were these people

1 2/23/01 - FY '02 OPERATING BUDGET

2 getting drug treatment in prison?

3 MR. CARTER: Some of them --

4 approximately, I would say, 20 percent are receiving
5 drug treatment. Again, the treatment in the prison
6 is called the options program. It's basically to
7 prepare those people for release to the drug
8 treatment programs.

9 COUNCILMAN NUTTER: Thank you.

10 Ms. Greenlee, as you well know, along
11 with a number of other members, I have had a concern
12 about the whole parity issue, pay issues, resource
13 issues as it relates to the Defender's Association,
14 and I think today, I can certainly understand if
15 you're feeling a sense of exasperation. In any fair
16 system, if one has been created yet, on budget day
17 if one side of the system is apparently pleased as
18 punch about what's going on with their office, then
19 the other side should be as well. And I think it's
20 fairly clear that that is not the case today. And
21 you have different things that you do with your
22 offices, although I still maintain there was a
23 somewhat infamous exchange a number of years ago
24 where I think the District Attorney pointed out to
25 us that the DA's Office and the Public Defender's

2/23/01 - FY '02 OPERATING BUDGET

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2 Office has different interests. I naturally still
3 maintain that you have the same interest which is
4 justice and fairness in the system. So
5 notwithstanding whatever, if you're in the third
6 year of the parity agreement, I think all of that
7 needs to be revisited, whether we're talking about
8 salaries, resources, computers, you're obviously
9 soon to be in new space. I would certainly like to
10 see a plan that lays out all of those issues. And
11 if it's not going to be exact parity, the difference
12 should be so immaterial that it doesn't make that
13 much difference.

14 We had some of this discussion earlier
15 with the First Judicial District around the issue of
16 court appointed counsel and what's going on with
17 that system and the fees. There are a couple
18 different levels of justice around here. And for
19 many of us, we might pretty much be in a situation
20 that we'll get as much justice we can afford and not
21 be subject to the vagaries of the system and just
22 kind of take your chance and get in and potentially
23 never get out. None of us would ever want to be in
24 that situation. I'm not saying that we can solve
25 everybody's problem or that it's ever necessarily

2/23/01 - FY '02 OPERATING BUDGET

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2 going to be perfect. But it certainly can be a lot
3 better than it is today. And I would like to see us
4 move to a point where in the area of salaries,
5 general resources, and ability to do the job,
6 whether it's the Solicitor's Office, the DA's
7 Office, or the Public Defender's Office, there
8 shouldn't be that much difference. There shouldn't
9 be a glaring difference between and among the
10 parties because whether you're the defendant or
11 you've made an accusation, we're all Philadelphians
12 here together and everyone should feel that their
13 day in court was a fair day in court and that the
14 deck wasn't so stacked against them that they really
15 never had a chance the day they showed up.

16 MS. GREENLEE: I couldn't agree more. I
17 certainly WOULD support efforts to do that. I have
18 had informal conversation with City Solicitor who
19 supports the idea of equality among what he called
20 the three law offices, the Law Department, the
21 Prosecution and the Defense. I do not think that
22 the District Attorney shares that view from comments
23 she expressed at the time this parity plan was put
24 in place. But perhaps she can be persuaded to think
25 differently about it. One would hope so. And I

1 2/23/01 - FY '02 OPERATING BUDGET

2 would hope that we could make whatever efforts are
3 necessary to see equality among the law offices in
4 the City.

5 COUNCILMAN NUTTER: Well, Mr. Dubow
6 obviously is working certain magic with the DA's
7 Office. We've had in previous years very different
8 circumstances and situation. I don't think Madam
9 Chair she's ever announced that she was so happy so
10 I think if Mr. Dubow can do that for the DA's
11 Office, he could probably make you happy, Ms.
12 Greenlee.

13 MS. GREENLEE: I know that he would do
14 it if he could. But it was total surprise to us
15 because we do not have the kind of lines of
16 communication from the District Attorney's Office
17 that we even knew about this news today.

18 COUNCILMAN NUTTER: Every now and then
19 he needs a little encouragement. We'll be working
20 with you. Thank you.

21 COUNCIL PRESIDENT VERNA: Thank you.
22 Are there any other questions of Mr.
23 Greenlee?

24 The Chair recognizes Councilman Cohen.

25 COUNCILMAN COHEN: Thank you.

2/23/01 - FY '02 OPERATING BUDGET

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2 I like the atmosphere created by all
3 those on the Council side who have spoken today.
4 I'll probably be a little less reasonable than
5 Councilman Nutter, but I think he really speaks for
6 all of us. The only disagreement I have with him is
7 I think we got to get away from near approximation
8 and get to equality. One of the parts of the
9 compensation of attorneys is the respect they
10 receive from the courts, and everybody will tell you
11 that part of pay of an assistant district attorney
12 is the respect accorded to him compared to the
13 respect accorded to a public defender because,
14 unfortunately, many times judges confuse the
15 attorneys with their clients and treat the attorney
16 for the indigent person accused of crime. They
17 treat the attorney just as if he were the defendant
18 or she were the defendant. I think it's necessary
19 that we get to reality on the question of equality
20 of treatment. It's got to be a bit discouraging to
21 feel just as you're getting equal, the bar has been
22 raised. But the good part is that it's important
23 that the bar be raised for you as well as for the
24 other side because I don't know how lawyers can be
25 expected to accept so much pay in terms of public

2/23/01 - FY '02 OPERATING BUDGET

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service. They pay an enormous amount in public service on both sides, the District Attorney and the Public Defender. But I think the Public Defender probably pays much more because of the way in which they're treated by the courts. I just think it's essential that we resolve.

And Madam President, I think we ought to be asking from Mr. Dubow -- and you're probably going to be asking him. I may just be anticipating it. That by next week we ought to get a report because I think this has got to be resolved before the budget is finally decided. Your needs are great in so many areas and I think they've just got to be addressed. If we want to load up the municipal court with all of these quality of life crimes, it's probably a good thing then we've got to pay the cost for doing so. We've got to make it possible for the cases to be effectively prosecuted and effectively defended at the municipal court level. And you've got to get the increase in staff.

I was very concerned by the public announcement on that report that you referred to and the family court.

MS. GREENLEE: Family court, yes.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN COHEN: It's terrible to have
3 these cases wait so long and take so long, not only
4 in the case you talked about do the prisoners stay
5 in jail longer -- and that absolutely makes no sense
6 whatever. And I would like to know who in the City
7 is responsible for saying no? Who makes that
8 decision, do you know? You deal with them; you ask
9 for approval, I assume. You must be negotiating
10 with somebody to get approval to release a prisoner
11 on a given date to go to a particular facility. Who
12 has the power, other than the Mayor?

13 MS. GREENLEE: Who has the purse
14 strings?

15 MR. CARTER: I'm sure the Mayor works
16 with Estelle Richman who is in charge of health
17 services and the prisons.

18 COUNCILMAN COHEN: Does she indicate
19 that it is a fiscal problem?

20 MR. CARTER: She indicates that it's a
21 physical problem and that they're working on it.
22 However, over the last five years due to the early
23 parole to drug treatment programs, we estimate the
24 Health Department and our office and the District
25 Attorney's Office estimates that there's been

2/23/01 - FY '02 OPERATING BUDGET

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approximately a 30-million-dollar savings to the City as a result of these early releases, and that's not counting the fact that they're not coming back to commit crimes. Again, there's a 44 percent increase in not being convicted of a crime when you go through these programs.

COUNCILMAN COHEN: It was tremendously short-sighted from every point of view, from the point of view of recidivism, from the point of view cost to the City. I just think it's necessary because somebody is missing the boat somewhere or somebody's not saying something that ought to be said to somebody to open the lock and permit the City to get the savings both in terms of reducing the recidivism rate and saving money.

MS. GREENLEE: It's a short-term expense for a very long-term gain, and a serious long-term gain, I think.

COUNCIL PRESIDENT VERNA: Thank you.

Mr. Dubow.

MS. GREENLEE: We're certainly putting Mr. Dubow on the spot. We didn't mean to do that. We have a very good relation with him.

COUNCILMAN COHEN: That's his job, to be

1 2/23/01 - FY '02 OPERATING BUDGET

2 put on the spot.

3 COUNCIL PRESIDENT VERNA: Mr. Dubow, you
4 don't have to come forward. Councilman Cohen is
5 asking that by next week when you give us your
6 report regarding the other departments that you
7 include the Defender's Office and also try to give
8 us some explanation as to the problem of the
9 parolees being in prison and not having beds to go
10 to. Thank you. Thank you very much.

11 Councilman, are you finished?

12 COUNCILMAN COHEN: Yes.

13 MS. GREENLEE: Thank you, Madam
14 President.

15 COUNCIL PRESIDENT VERNA: Thank you.

16 The City Commissioners.

17 (Witnesses come forward.)

18 COUNCIL PRESIDENT VERNA: Good
19 afternoon. We have a copy of your testimony. It
20 will be given to the stenographer. It will be
21 transcribed in full. Feel free to summarize your
22 testimony, if you will.

23 MS. TARTAGLIONE: Good afternoon. I am
24 Margaret Tartaglione from the Commissioner's Office.
25 I would like to thank you for this opportunity to

2/23/01 - FY '02 OPERATING BUDGET

present 2002 operating budget. The \$8 million is allotted as follows: Class 100, personal service, \$4,163,653. Class 200, Purchase of Services \$3,044,035; Class 300, materials and supplies, \$590,334; class 400, equipment, \$52,784; Class 800, payments to productivity bank, \$281,082. This represents additional \$3,981 in Class 100 over FY 2001 estimated obligations. The above figures also provide funds for three and a half wage increase effective December 5, 2001 in the amount of \$41,079.

Please note there is no provision in the above Class 100 figures for additional funding appropriations in the amount of 613,223 for 25 required to operate and maintain voters records and document imaging and the new electronic voting machines.

Our rate of attrition has been greater than anticipated. It is expected that over our current number we will be reduced by additional five key employees enrollment in the drop program by early 2002. This will impact already 34.9 staff reduction over the last 10 years due to resignation, retirement, and deaths. It is imperative to address these funding issues as soon as possible in order to

2/23/01 - FY '02 OPERATING BUDGET

begin hiring the staff, training and anticipation of the arrival of new voting machines.

We have provided you with copies of justification schedules submitted to finance with our FY 2002 operating budget details which have not yet been adopted. Approval of our request for the additional funding will begin our overall spending of \$8,745,111. The amount applied to Class 100 funds will bring that figure up to \$4,776,876.

Although the City's Commissioner has made every effort to reduce our expenditures whenever possible and will continue to carry out cost savings, we respectfully ask the Council to consider approval of our request for funding of 25 positions. This department is instituting sweeping changes of the system by which the citizens of Philadelphia cast their votes. We are forced with devoted work force as we enormous technology advances in order provide level of service to the citizens of Philadelphia, we must have adequate number of employees. The new electronic voting machine system which is tentatively scheduled to be placed for the 2001 general election, can not be implemented without these positions.

1 2/23/01 - FY '02 OPERATING BUDGET

2 The priority of this department is to
3 assure the citizens of Philadelphia their
4 Constitution right to vote, to certify that each
5 voter counted properly.

6 Once again, thank you for the
7 opportunity to present our Fiscal 2002 operating
8 budget.

9 COUNCIL PRESIDENT VERNA: Thank you,
10 Commissioner. Did you ask the Administration for
11 the additional 25 positions? Did you make that
12 request?

13 MS. TARTAGLIONE: We have been making
14 the request in the last four or five years and
15 always been turned down. It's getting worse.

16 COUNCIL PRESIDENT VERNA: Mr. Dubow,
17 you've heard the Commissioner testify for the need
18 of 25 additional employees. She also referred to
19 the fact the new electronic voting machine system is
20 tentatively scheduled to be in place for the 2001
21 general election. How do we expect the
22 Commissioner's Office to operate efficiently if
23 we're not going to give them the help that they
24 need?

25 MR. DUBOW: The Commissioner's Office

1 2/23/01 - FY '02 OPERATING BUDGET

2 right now has 72 filled positions. The '02 budget
3 has that going to 84.

4 COUNCIL PRESIDENT VERNA: I'm sorry,
5 they have 72 filled.

6 MR. DUBOW: 72 filled positions now.
7 The '02 budget has that going to 84. One of the
8 problems the Commissioner's Office has had over time
9 is they haven't filled the positions that have been
10 funded. One of our concerns about increasing the
11 authorized positions is that they don't even fill
12 what's in their current budget.

13 MR. LEE: In '91 we had 109 --

14 COUNCIL PRESIDENT VERNA: Excuse me.
15 You're going to have to identify yourself for the
16 stenographer.

17 MR. LEE: My name is Bob Lee. I'm
18 City's Voters Registration Administrator. In 1991
19 we had a total of 109 employees. Right now we're
20 down to 72. The increase to 84 is actually
21 positions I think that are currently budgeted, so
22 it's not really an increase to make up for those
23 that we lost through attrition. Even from the 109
24 down to the 84 is 25 less employees.

25 Currently, I'll tell you, thank God we

2/23/01 - FY '02 OPERATING BUDGET

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2 have that imaging system. We got that image in. We
3 put in a new poll book out there on the street. We
4 eliminated the need for our people to carry those
5 heavy binders around. The process works. We are
6 able to review and provide access to documents
7 quickly, efficiently. This system in 1998, we
8 handled 419 committeeman challenges in a matter of
9 three days and 19 challenges to petitions for state
10 representative in a matter of a couple weeks. That
11 system has given us a lot of increased efficiency.
12 However, the law still mandates that we keep an
13 original document.

14 Right now sitting in that office I have
15 300,000 voter registration applications that have to
16 be filed alphabetically in cabinets in a City-wide
17 file. We are in the process of doing that. We just
18 do not have the people to file them. We move people
19 where the priority is in order to conduct an
20 election without taking any risk or without causing
21 any problems of certifying and completing the count.

22 The people that we're asking for are not
23 only going to be needed to run the electronic voting
24 system, they've been needed in order to allow us to
25 comply with federal and state mandates on how we

1 2/23/01 - FY '02 OPERATING BUDGET

2 operate and maintain our voter registration files.

3 COUNCIL PRESIDENT VERNA: Mr. Lee, these
4 are all Civil Service positions, are they not?

5 MR. LEE: They were, yes.

6 COUNCIL PRESIDENT VERNA: The 12
7 unfilled positions, are they Civil Service
8 positions?

9 MR. LEE: They are. There's no list
10 existing for any of the positions.

11 COUNCIL PRESIDENT VERNA: I beg your
12 pardon?

13 MR. LEE: There is no list existing.

14 COUNCIL PRESIDENT VERNA: Oh, there's no
15 existing list?

16 MR. LEE: No.

17 COUNCIL PRESIDENT VERNA: What happens
18 in an event like that, if there's not an existing
19 list? They stay vacant for as long as the Personnel
20 Department does not give a test?

21 MR. DUBOW: I think that's right. I
22 have to talk to the Personnel Department and figure
23 out why there are no lists. How long has that --

24 COUNCIL PRESIDENT VERNA: Are they
25 clerical positions, Mr. Lee? What type of positions

2/23/01 - FY '02 OPERATING BUDGET

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are they?

MR. LEE: They're various positions.
They're called election assistants. Some of them
are technicians for voting machines.

MR. DUBOW: I'll have to talk to
personnel about that. I didn't know there weren't
lists.

COUNCIL PRESIDENT VERNA: And Mr. Dubow,
exclude the 12 that there are vacancies on. Do you
have a problem with 13 additional? They want 25
additional, but --

MS. TARTAGLIONE: Not counting the 12.

COUNCIL PRESIDENT VERNA: Oh, you don't
want to count the 12?

MS. TARTAGLIONE: No.

MR. DUBOW: They want to go from the 72
filled positions now up to 109. That's what their
request is. And I think from our perspective, we'd
like to understand what they can do with 84 because
they've been providing their current level of
service with 72 before we entertained going above
that.

MR. LEE: We're providing the current
level of service by not performing certain functions

2/23/01 - FY '02 OPERATING BUDGET

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2 in our office that we need to be performing on a
3 daily and weekly basis. That work is backlogged,
4 it's sitting there. It hasn't prevented us from
5 conducting elections or maintaining our files in
6 accordance with law, but I'll give you an example.
7 There are currently 300,000 voter registration
8 affidavits that have been entered into the computer.
9 They're labeled. They're in trays. Some elections
10 are in alphabetical order, others are in batch
11 orders as we enter them. We can locate them,
12 they're not in a cabinet alphabetically. We get a
13 list every week from the Department of Motor
14 Vehicles telling us that 2200 people in Philadelphia
15 have changed their address. We've got to locate
16 that original affidavit, take it, re-label it. Our
17 computer does the transfer. We've got to re-label
18 it, re-scan it, re-index so that nobody thinks it's
19 an error in the imaging system.

20 In addition to that, this year under
21 federal law this year for the first time we've done
22 our first large cancellation of records. We deleted
23 22,500 records in January. Those are people we
24 designated inactive in 1998. Currently, we have
25 140,000 voters designated inactive. Those people

2/23/01 - FY '02 OPERATING BUDGET

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2 are scheduled to be cancelled in December 2002. If
3 we do not get the 300,000 records in the cabinets
4 before we try to do the cancellation of those
5 records in December 2002, we're going to spend
6 months going from file and tray and file and tray
7 trying to locate those records. Updating the
8 computer, thank God, our poll book is based on the
9 computer and it's based on effort there. We can
10 conduct the election, but we're not maintaining our
11 files. And we need to maintain these files on an
12 ongoing daily basis. We are severely backlogged in
13 maintaining those alpha files.

14 COUNCIL PRESIDENT VERNA: The Chair
15 recognizes Councilman Cohen.

16 COUNCILMAN COHEN: One question I have.
17 It's not clear to me. Are you down to 72 because
18 you chose not to fill these vacancies?

19 MS. TARTAGLIONE: No.

20 COUNCILMAN COHEN: Well, why haven't
21 they been filled?

22 MS. TARTAGLIONE: Well, there's no
23 titles.

24 COUNCIL PRESIDENT VERNA: They don't
25 have an existing list.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN COHEN: It's not your fault.
3 Is it personnel that's holding up the filling of the
4 jobs?

5 MS. TARTAGLIONE: Right.

6 COUNCILMAN COHEN: That's what I'm
7 gathering from what Bob Lee is saying. You need
8 these people, right? You need them desperately now.

9 MS. TARTAGLIONE: Right.

10 COUNCILMAN COHEN: Seems to me, we've
11 got to get to the bottom of this. It's untenable to
12 expect the Commissioners to do all they're doing
13 with this depleted staff.

14 MS. TARTAGLIONE: When this new system
15 comes in, the central system -- Bob will you explain
16 the central system and where we'll need these
17 people. It's imperative.

18 MR. LEE: Need these people imperative.

19 MR. LEE: Basically, the configuration
20 of the system is there's going to be a central vote
21 tabulation and reporting center down at Delaware and
22 Spring Garden. There will be five do seven regional
23 report -- vote transmission centers located in
24 various sections of the City where at the close of
25 the polls, the poll workers will close down their

2/23/01 - FY '02 OPERATING BUDGET

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2 machine, print out the results tape that comes out
3 of the machine and take the cartridge containing an
4 electronic copy of those votes, put both of those
5 items in an envelope. The Philadelphia Police
6 Department hopefully and thankfully will still
7 continue to pick those up and drive them to these
8 seven regional locations where our employees will
9 place the cartridge into a cartridge reader and the
10 votes will be read and transmitted over a wide area
11 network down at Delaware Avenue and Spring Garden.

12 The vender has estimated we need just to
13 operate to reading stations, we need three people at
14 each of the regional vote transmission centers. If
15 there are seven of them, you're talking 21 permanent
16 employees that you can train and rely on that's
17 going to do that all the time.

18 There is going to be a central system
19 where we're going to have to staff that with about
20 five or eight of our permanent employees. We have
21 also included in this system an identical LAN and
22 backup system at our warehouse. So that if this
23 central system goes down, the votes will be
24 continued to be tabulated at our warehouse on the
25 backup system with only a 10- to 20-second lag. And

1 2/23/01 - FY '02 OPERATING BUDGET

2 the votes that are not transmitted during that time
3 would be picked up with a final re-transmission at
4 the end of the night.

5 It's a widespread system. It requires
6 staffing by permanent employees.

7 COUNCIL PRESIDENT VERNA: Mr. Dubow, it
8 just seems absolutely ridiculous to me that we
9 should be spending hundreds of millions of dollars
10 to get new voting machines and we're not going to
11 have the people to actually do the necessary work to
12 get the end results.

13 MS. TARTAGLIONE: Plus, Council
14 President, we will be printing our own ballots. The
15 monies we spend on outside mechanics now, we are
16 going to train our own people and -- this is all
17 savings but we need to train these people before we
18 get this equipment.

19 MR. DUBOW: Let me just make sure I
20 understand. Are you saying that there will be
21 savings in other areas that will offset these
22 increases?

23 MR. LEE: We won't have to print anymore
24 ballot strips to put on the machines. You'll save
25 in degreasers, any mechanical parts. The contract

2/23/01 - FY '02 OPERATING BUDGET

with the vender calls for a two-year primary warranty where the machines and the system itself is warrantied for two years, but it also includes in the price a parts warranty for years 3 through 10. The City Commissioners will not have to buy any parts outside of consumables such as seals and other items for those voting machines for the next 10 years. It's all included in the contract price. Our mechanics, the current ones we have here and a few more that we need will trained by the vender and certified to do those repairs. Our people will be doing the repairs and the maintenance on these machines during the entire 10-year period with interval support from the vender during the first two primary years.

So there will be savings as far as there won't be any parts cost outside of consumables for the first 10 years. Our hope is that we will not need the number of outside mechanics that we've had to use to program these mechanical machines. In fact, we hope to eliminate them completely and rely solely on our City staff to do this. And we won't require as much printing as far as for the machine itself. The system prints its own ballot faces and

2/23/01 - FY '02 OPERATING BUDGET

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you put them on the machine.

COUNCIL PRESIDENT VERNA: Mr. Dubow, I suggest that you sit with the Commissioners and whoever the Commissioners assign to go over this issue. I want a report by next week. And if need be, all of the departments that were asking for more appropriations or more money, we will have to get them in if need be and we'll just have to have another hearing.

MR. DUBOW: Okay.

COUNCIL PRESIDENT VERNA: The Chair recognizes Councilwoman Blackwell.

COUNCILWOMAN BLACKWELL: Thank you, Madam President. I agree with all that was said. We've come a long way and it would be foolish to not see the forest for the trees. I want to thank you the Commissioner and certainly Bobby Lee. We all call him at the drop of a hat, and he always has the answer. Thank you.

Let me ask you, for election court with the judges, do you have any -- or should we have asked the courts? Do you have any say in that? We know, for example, in my areas in the 18th District they skipped it. My people have to go to two other

1 2/23/01 - FY '02 OPERATING BUDGET

2 districts instead of being able to have --

3 MR. LEE: It wasn't our decision. We
4 used to have 18 courts throughout the City. The
5 courts decided that over the last few years that the
6 number of court orders that were being applied for
7 and granted on election day had substantially
8 decreased, which they have. Therefore, their
9 problem was the personnel and labor and cost they
10 were putting out there and they actually decreased
11 it down to 12, I believe it is now. This year we
12 had a total of 4400 court orders compared to '92.
13 That's down about 800. In '92 we had 5200.

14 COUNCILWOMAN BLACKWELL: The courts were
15 here. I didn't think about it until I saw you. So
16 I will get back to them in that regard. Thank you.

17 COUNCIL PRESIDENT VERNA: I think it's
18 imperative that you get in touch with -- or Mr.
19 Dubow get in touch with you or you'll get in touch
20 with him, but I think that you have to sit down and
21 go over approximately how much savings there will
22 be. I think it's ridiculous for us to be spending
23 all that money for new voting machines and not have
24 personnel to give us the end result.

25 Councilman Cohen.

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2/23/01 - FY '02 OPERATING BUDGET

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2 COUNCILMAN COHEN: Madam President, I'm
3 very concerned about the fact that we have published
4 our calendar with specific dates as to when Council
5 intends to take action on the budget. I don't know,
6 but it may be a policy of the Administration or
7 maybe they're just taking advantage of
8 circumstances. We've got a lot of work piled up and
9 I just want to be clear that I would intend to delay
10 our program because under the Home Rule Charter
11 there is need whatever for Council to complete the
12 budget work until the end of May. And with the PICA
13 law in effect, assuming that their requirements were
14 in order on us, it would only bring up the day
15 forward by 10 days to May 21st. I think there's a
16 lot of work to be done and I'm concerned that the
17 Administration may be sitting this out, knowing that
18 we intend, I think, by March 22nd or March 23rd to
19 complete the budget and I think they may be using
20 the time against us because there are a good number
21 of questions we referred to Mr. Dubow. He's the
22 point man taking all the hits for the Administration
23 today. He's really a very nice fellow.

24 I think the Administration has to be on
25 noticed that we are going to be prepared to extend

1 2/23/01 - FY '02 OPERATING BUDGET

2 the dates from March 23rd as long as necessary to
3 get all these matters resolved satisfactorily.

4 COUNCIL PRESIDENT VERNA: And it's
5 certainly not the Commissioner's fault that they
6 didn't have a list to fill their vacancies.

7 COUNCILMAN COHEN: They haven't been
8 able to fill these jobs, I gather, over the last
9 four or five years.

10 MS. TARTAGLIONE: And every time we come
11 up, we ask for the same thing.

12 COUNCIL PRESIDENT VERNA: We will
13 definitely see what we can do, I assure you.

14 And Mr. Dubow, again, I'm going to tell
15 you, we want you to work with these groups. Thank
16 you.

17 The Chair recognizes Councilman DiCicco.

18 COUNCILMAN DI CICC0: Thank you, Madam
19 President. Good afternoon, Commissioner. Sorry I
20 got here late. I was in an office in a meeting. I
21 did overhear some of the testimony, so the question
22 I'm about to ask, if it was already asked, I'll
23 yield to the stenographer's report.

24 As a result of the last federal
25 election, the general election in November and all

2/23/01 - FY '02 OPERATING BUDGET

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2 the problems related to the presidential election in
3 Florida and other states, there was some mention, I
4 believe, that the federal government is looking to
5 set aside some funds upgrading voting machines
6 throughout the country. Has anyone contacted you?
7 Do you have any information that you can share with
8 us? Because we have appropriated I think was it \$20
9 million, \$21 million for new voting machines, and I
10 was wondering if you know of anything that may be
11 coming did down the pipeline either from the Feds or
12 Harrisburg.

13 MR. LEE: We don't have anything.
14 Naturally, anything passed federally would probably
15 channeled through the state governments. But I
16 think the key thing to remember is a person was
17 asked what it would take to update the voting
18 systems throughout the country. They said since we
19 put a man on the moon, we ought to be able at least
20 have undated voting system. And the answer was, you
21 can but it will cost as much as it cost to put that
22 man on the moon.

23 COUNCILMAN DI CICCIO: We only did that
24 once, though. We vote twice a year.

25 COUNCILMAN NUTTER: It cost so much

2/23/01 - FY '02 OPERATING BUDGET

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that's why we only did it once.

(Laughter.)

MR. LEE: I have serious thought whether if there is some action down there, whether there's going to be enough funding there that it would go across.

COUNCILMAN DI CICCIO: You know, the moon could be a good source of absentee ballots, we don't want to go there right now.

(Laughter.)

COUNCILMAN DI CICCIO: I just was curious if we heard anything.

MR. LEE: Nothing.

COUNCILMAN DI CICCIO: Thank you.

COUNCIL PRESIDENT VERNA: Thank you.
Are there any other questions?

Thank you all very much. SEPTA is next.

(Witnesses come forward.)

COUNCILWOMAN BLACKWELL: Good afternoon.
Thank you for your patience. Please identify yourself for the record. Welcome. And begin your testimony.

MR. LEARY: Thank you. Good afternoon.
Council President Verna Members of the City Council,

1 2/23/01 - FY '02 OPERATING BUDGET

2 thank you for the opportunity to speak this
3 afternoon in support of the \$63.5 million Fiscal
4 Year 2002 SEPTA operating budget request and to
5 highlight key initiatives undertaken last year.
6 Included in this request, funds to leverage state
7 operating assistance and the City's Phlash contract
8 services. I'm also joined at the table today by
9 board members Jettie Newkirk --

10 COUNCILWOMAN BLACKWELL: Excuse me, Mr.
11 Leary. Identify yourself for the record for our
12 stenographer.

13 MR. LEARY: I'm sorry. My name is Jack
14 Leary, I'm the general manager of SEPTA.

15 COUNCILWOMAN BLACKWELL: Thank you.

16 MR. LEARY: And joining me to my far
17 right is board member Jettie Newkirk and board
18 member Christian DiCicco and also Frances Jones.

19 COUNCILWOMAN BLACKWELL: We just have to
20 get used to seeing Mr. DiCicco regularly. The
21 others are like household names to us, but we'll get
22 used to him as well.

23 COUNCILMAN DI CICCIO: Difficult for you?
24 You know how difficult it is for me?

25 (Laughter.)

2/23/01 - FY '02 OPERATING BUDGET

MR. LEARY: Last year was a time spent constructive reassessment to build on SEPTA's strengths in delivery of safe, convenient, accessible public transit services to the citizens of the City of Philadelphia. This was also a time that we evaluated our organization and our operations and made some very important changes advancing our business plan, restructuring decision-making paths, and establishing new policies and practice for the day-to-day management of SEPTA's complex system.

Focusing on infrastructure, significant improvements were made to stations, customer amenities and track and power lines. A major escalator renewal program we launched. New escalators with installed at Juniper, Margaret-Orthodox, Pattison, and Olney Stations. While contracts were let for the replacement of seven additional escalators at City Hall Station, Cecil B. Moore Station, Spring Garden, two escalators at Erie Avenue and two at 30th Street at the Regional Rail Station.

Our inspection and maintenance programs were revamped with the objective to sustain good

2/23/01 - FY '02 OPERATING BUDGET

state of repair for the equipment and decrease the time needed to complete repair and maintenance work.

Also, significant accessibility improvements and enhancements were also made during the year, including installation of audiovisual public address systems at designated key stations, 69th Street, Pattison, Olney, Cecil B. Moore, Market East Railroad Station, just to name some of them.

Our in-house resources also completed ADA upgrades at several Philadelphia rail stations, including Market East, Queen Lane, Chestnut Hill West, Forest Hills, and Bala.

We implemented a range of route enhancements last year to meet the diverse travel needs of the marketplace within the City. Improving access to jobs remained a very high priority particularly for the growing ranks of newly employed Philadelphians. Routes 1, 14, 37, 68, the R, the L, and R1 Regional Rail service to the airport were all expanded to serve new growing business centers. Route 80, a new limited stop line operating out of Olney Terminal has significantly improved travel time for North Philadelphian residents who work in Horsham area businesses.

2/23/01 - FY '02 OPERATING BUDGET

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Our ridership today reflects steady increases, demonstrating the growing viability and importance of public transit serve service to our City and to the region. I'm pleased to report to you 13 million more trips were taken on SEPTA in year 2000 than in the year 1999. And that trend is continuing this year.

SEPTA also worked very hard to develop partnerships to build and strengthen the communities we serve. We are pleased to be part of the City's block buster showing at the 2000 Republican National Convention and SEPTA received many letters of praise from across the state and across the nation commending the City for being such a gracious and attentive host. We were also proud of our participate City's Minority Enterprise Development MED Week Program and symposium. And our commitment to customer security and comfort let us to a partnership between SEPTA's Transit Police and the School District of Philadelphia to create a pilot Transit Truancy Program.

All of our safety and risk management programs, including investigation in claims management have been brought together now under the

2/23/01 - FY '02 OPERATING BUDGET

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2 direction of an assistant general manager for risk
3 management. Many of you know Jim Jordan. And our
4 general counsel has implemented fundamental
5 structural and procedural changes within the legal
6 division. Together, these divisions have forged a
7 new working partnership to address critical safety
8 and claims issues. We remain vigilant in
9 disseminating information about safe travel on the
10 system and we are resolute in our message. Our
11 primary concern remains safety of all our customers
12 all of the time wherever and whenever they select
13 SEPTA to travel.

14 I'd also like to mention just a few key
15 accomplishment that enhance the quality of life for
16 our community and our business constituents.
17 Automatic voice broadcasts began on the
18 Market/Franford line announcing accessible stations
19 and accessible connecting routes. We published an
20 accessible SEPTA guide and have installed mobile
21 data terminals on our customized community Transit,
22 all 323 vehicles.

23 Ten new railcars were put into service
24 to support increased customer demand. And the last
25 of the new 60-foot articulated buses, 155 have been

2/23/01 - FY '02 OPERATING BUDGET

delivered and placed in service here in the City of Philadelphia.

Through the ongoing diligence of our police force, crime on the system is now at an all-time low.

We proudly participated in the ribbon cutting with Mayor Street to launch Phase I improvements of Suburban Station and work has begun on the Frankford Transportation Center, a signature transportation investment project here in the City of Philadelphia.

Our work began on the installation of automatic train control systems on the Market/Frankford elevated structure. A major track rehabilitation project was undertaken on Route 34 along Baltimore Avenue.

Erie-Torresdale Station and Allegheny Station construction is now near completion. And construction has begun on the Route 15 Girard Avenue Light Rail infrastructure system.

Now, in recent years, we have been able to contain our annual budget increases to 1.7 percent, about half the rate of inflation while at the same time expanding service levels. These

2009

2/23/01 - FY '02 OPERATING BUDGET

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2 efforts notwithstanding, we are faced today with
3 serious financial issue for the foreseeable future.
4 Our budgetary horizon reflects real world concerns,
5 including staggering increases in key expenses. For
6 example, since last year, diesel fuel prices
7 increased 100 percent, skyrocketing from 51 cents a
8 gallon to a \$1.03 a gallon. Now, we use 15 million
9 gallons a year. That's a \$7 million increase.
10 Natural gas prices have risen 30 percent, from \$1.01
11 to \$1.33. Again, a million dollars increase.
12 Prescription drug costs have increased 125 percent.
13 That's an increase of \$14 million. And nationwide
14 medical costs are expected to increase by double
15 digits, creating a financial impact for
16 organizations such as SEPTA. Other escalating
17 costs, such as the delivery of Paratransit continue
18 to strain our limited resources. Compounding all
19 this is the disappointing news that the Governor's
20 budget submission does not provide SEPTA with an
21 increase needed to meet even our normal 3 percent
22 inflationary cost.

23 Now, under state law we cannot present
24 an unbalanced budget. With the prospect of 35 to 50
25 million dollars in increased costs, we must work to

2/23/01 - FY '02 OPERATING BUDGET

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2 find responsible solutions to these issues by
3 looking at all possible avenues. To increase
4 revenue sources, increase our subsidy funding to
5 decrease expenses. Some of these choices may be
6 very difficult, including the possibility of a fare
7 increase, the first in over six years. But to be
8 responsible in addressing our financial situation,
9 every option must be made. Definitive action must
10 be taken if we are to sustain current City service
11 levels and continue to strengthen the viability and
12 the value of our system.

13 Now, as to the issue of school tokens,
14 we support Councilman Goode's effort to hold public
15 hearings on this issue and we'll do what we can to
16 help get all the facts on this important subject
17 before Council. SEPTA remains committed to working
18 with the School District, legislative officials, and
19 all interested parties.

20 In spite of our financial condition
21 there are important and exciting new capitally
22 funded projects that will take place this year,
23 included construction of new stations, Berks,
24 Church, and Huntingdon on the Frankford side of the
25 Market Elevated structure, and the Market Elevated

2/23/01 - FY '02 OPERATING BUDGET

reconstruction project in West Philadelphia will begin as well as certain selected Broad Street subway stations.

I'm also pleased to announce that Philadelphia will be the host City for the 2001 American Public Transportation Association International Annual Meeting later this fall with some 3,000 transit professionals from across the country and around the world expected to attend. We are looking forward to showcasing our City and our public transit system and providing a boost to the hospitality sector of the Philadelphia economy.

Finally, I would just like to just briefly mention our current discussions with the transport workers union, local 234. As we near the end of the current contract set to expired on March 15. The SEPTA Board and the management team remain committed to the principles forged with the Transport Workers Union. Our approach for these contract discussions is partnerships and solutions for the 21st Century. Our goal is to work together in partnership to find solutions and frame a contract that is good for our employees, creates growth and job security while at the same time is

2/23/01 - FY '02 OPERATING BUDGET

fiscally responsible to all of our customers and our taxpayers of the region.

Council President Verna, thank you again for the opportunity to provide testimony this afternoon and the City Council's generosity and continued support of SEPTA and your commitment to enhance public transportation in this region is greatly appreciated, and we look forward to working with Councilman Goode, Chair of your Transportation Committee, and the other members of the Council to address some of these problems. We'd be happy to answer any questions you might have. Thank you.

COUNCIL PRESIDENT VERNA: Thank you very much.

The Chair recognizes Councilwoman Blackwell.

COUNCILWOMAN BLACKWELL: Thank you, Madam President. Thank you again, Mr. Leary. And thanks again certainly to Jettie and Frances with whom we work regularly, weekly, always. And again, to Christian DiCicco, we look forward to gaining the same type of relationship with you.

Mr. Leary, can you comment on the partnership between the SEPTA Police Force and the

1 2/23/01 - FY '02 OPERATING BUDGET

2 School District on the Transit Truancy Program.

3 MR. LEARY: Yes. We have been working
4 very closely with the School District. Our police
5 chief is with me today, Police Chief Richard Evans
6 who can provide us some of the details. But both
7 systems have been working very close. They work
8 together. They patrol the subways and the system.
9 They identify individuals and return them to school.
10 I think we can tell you exactly how many, and we
11 have the details. Chief Evans can comment on that.

12 MR. EVANS: Good afternoon. My name is
13 Richard Evans. I'm the chief of SEPTA's Transit
14 Police. About three years ago, we joined with the
15 School District in a truancy intervention program
16 which we target stations once a week and we
17 intercept truant children that are using our
18 stations and we take them back to a designated
19 school, designated by the School Board. Last year
20 we brought 700-some children back a school. This
21 year the numbers are about consistent. We expect by
22 the end of the school year we'll have taken the same
23 number of children back to school. We additionally
24 started a program during school dismissal time.
25 It's called Operate Safe Rail. We put plain-clothes

2/23/01 - FY '02 OPERATING BUDGET

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2 officers on the elevated trains and several stations
3 either east or west of the major boarding point. We
4 invite school principals and vice principals to join
5 us on the platform. The plain clothes officers
6 identify children who are disorderly and we ask them
7 to exit the train where the school officials are
8 stationed and we introduce them to the school
9 officials and then allow them to catch the next
10 train home.

11 COUNCILWOMAN BLACKWELL: That's great.
12 And it's been working pretty well with students not
13 being left at their own school, at a designated
14 spot? Do you know how they get to their own
15 schools? I guess in the morning they would have to
16 have transportation to their own schools. How does
17 that work?

18 MR. EVANS: I'm not certain how the
19 school Board handles that, Councilwoman. We turn
20 them over to the school officials at that point.

21 COUNCILWOMAN BLACKWELL: Thank you.

22 COUNCIL PRESIDENT VERNA: Thank you.

23 The Chair recognizes Councilman Goode.

24 COUNCILMAN GOODE: Thank you, Madam
25 President.

2/23/01 - FY '02 OPERATING BUDGET

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2 Good afternoon, Mr. Leary. Let me first
3 thank you and your staff sincerely for responses to
4 many requests from my office and let me thank
5 Frances Jones in particular for responses to
6 constituent service and community issues. I will
7 say that I do have one bone to pick, though. I do
8 have a serious issue I want to address here and put
9 on the record. And it is not with you or your
10 staff; it's actually with your Board Chair, Mr.
11 Deon.

12 I'd like to go through time line in
13 terms of where we have come from last year. Last
14 year this time there was an issue of school tokens
15 or student transportation, however you want to frame
16 it, that was raised and there were members of this
17 Council, including the vice chair of Transportation
18 Committee Councilman Cohen who sought to withhold
19 the total subsidy until that issue was resolved to
20 this Council's satisfaction.

21 I didn't believe coming in as a freshman
22 Councilperson in my freshman year that I was
23 prepared to take that action. Instead, I asked for
24 hearings to be held, although hearings have been
25 held the prior year under the leadership of

2/23/01 - FY '02 OPERATING BUDGET

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Councilman DiCicco. And I thought that in the end, recognizing the context of the situation, that we could pursue a different route, understanding that in my belief, which is still my belief, this issue is probably resolved best at the state level and through state subsidy, but that is something beyond our control.

Pursuant to that, within weeks of us ending our budget process last year, I went to meet with State Representative Dwight Evans to begin to brainstorm about we might do on this issue in his capacity as Minority Chair of the House of Appropriations Committee. He laid out what I thought a very good strategy, and I'm not sure that it wasn't a good strategy now, in many ways we might approach this, but in particular, who I need to talk to.

Subsequently, he arranged through former board member Herman Wooden for me to sit down with Jettie Newkirk and Pat Deon. Unfortunately, Pat Deon was not able to make that meeting, but subsequently I sat down with him in my office. At that point, we talked about the whole issue of school tokens and other issues that I needed to be

2/23/01 - FY '02 OPERATING BUDGET

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2 resolved, many of which were resolved to my
3 satisfaction. All of which probably except the
4 student transport issue which he said that he would
5 work diligently on. He in particular said to me
6 that he had already spoke with the House Majority
7 Leader about looking for money in the state budget
8 to provide this type of funding. He said he would
9 speak to him again because of the impending school
10 financial crisis at that time. He didn't think it
11 was an appropriate time to deal with the student
12 transportation issue because of the competing needs
13 with other student needs in terms of we didn't know
14 how we were going fund a contract, we didn't know
15 whether schools were open. He said once the issue
16 is resolved between Philadelphia and Harrisburg what
17 we're going to do with the other student needs with
18 the school crisis, that's the time when he would
19 approach the Majority Leader again about the state
20 subsidy.

21 But as I look back now on that
22 conversation, I'm particularly concerned by things I
23 remember about it and what he thought our political
24 approach might or might not be. In view of the fact
25 that the local subsidy provided to SEPTA was

2/23/01 - FY '02 OPERATING BUDGET

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2 significant in terms of being tens of millions of
3 dollars, it's not significant in terms of the
4 overall picture of operating expenses. He made a
5 comment which I will put on the record and I don't
6 mind putting on the record because I think that we
7 are in a very political situation right now with
8 regard to this issue. He said that the City Council
9 could never withhold a subsidy because that would
10 force SEPTA to just cut off service at the borders
11 of the City. I assured him that while I was a
12 freshman in my freshman year that I would probably
13 not take the approach of trying to withhold the
14 total subsidy. I would do what hurt probably a
15 little bit and seek to cut 5 to 10 percent of it and
16 transfer it to the School District to meet our
17 needs. And not to be in a position of political
18 posturing right now, recognizing through research
19 that my office is doing, I recognize this is a
20 highly state-subsidized five-county regional
21 authority and that to deal with the issue of student
22 transportation costs, it's going to come through one
23 or two sources in terms of operating expenses. It's
24 going to come from fare revenue or it's going to
25 come from subsidy. That subsidy is mostly

2/23/01 - FY '02 OPERATING BUDGET

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government subsidy. The overwhelming majority of that government subsidy is from the State. If the State is not our partner in this, then we cannot resolve this issue.

My concern is, a year later as we're approaching budget time again, it was your board Chair that was supposed to reach out to the Majority Leader of the State House to resolve the state part of this. We don't know where to turn. Essentially, I think this Council probably is prepared to look at what it can do on a local level in terms of perhaps providing additional local subsidy toward that end, and we do have hearings scheduled on April 3rd at 10 o'clock to deal with that issue and to deal with what we plan to do in terms of a whole comparative look at how SEPTA performs versus other transportation systems in the top 10 cities in the United States.

But I am concerned about, one, whether SEPTA is going to show up on April 3rd at 10 o'clock ready to talk seriously, and what SEPTA is really prepared to do in terms of reaching out to the State. We are prepared to do our part to resolve this issue. But I am not just going to at face

2/23/01 - FY '02 OPERATING BUDGET

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2 value accept that our lobbying efforts without your
3 lobbying efforts to the State are going to work,
4 particularly in view of the fact that we as the
5 City, Administration, and Council cannot do anything
6 to jeopardize other student needs. We don't want to
7 cut student transportation costs at the expense of
8 books, at the expense of teacher salaries and
9 looking at \$189 million deficit the School District
10 is facing. We need state help. So we need your
11 involvement on that issue.

12 And I have to tell you that I've been
13 burned once on this issue. You will probably hear
14 of many members of this Council raise this issue
15 again today. We need you to take very seriously
16 outreach to the State in terms of trying to direct
17 some of that state subsidy toward this problem as we
18 look at how to direct local subsidy to this problem.
19 Thank you very much.

20 COUNCILWOMAN BLACKWELL: Thank you,
21 Councilman.

22 Councilwoman Blondell Reynolds-Brown.

23 COUNCILWOMAN REYNOLDS-BROWN: Thank you
24 very much.

25 Good afternoon. Councilman Goode has

2/23/01 - FY '02 OPERATING BUDGET

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2 quite beautifully laid out the big picture with
3 regards to school tokens. I have some specific
4 questions around the same question. I think it's
5 important to point out that there's some value --
6 there's already of the value of partnerships because
7 you indicated that with your three-year-old truancy
8 initiative with the School District, it's working.

9 So I should mention that last year when
10 colleague Councilman Cohen raised the issue, I
11 decided to look to the leadership of the Chair of
12 the Transportation Committee, my colleague W. Wilson
13 Goode, as it relates to school tokens and actually
14 decided to wait a year to see what would happen.
15 Leadership was taken on behalf of the Chair of this
16 committee in this body. Has there been any
17 additional discussion at board level? Has it ever
18 even been an agenda item at board meetings with
19 regard to this issue, when we know that last year
20 extensive discussion and debate happened on this
21 floor on the issue of school tokens?

22 MR. LEARY: Let me begin, and then
23 perhaps the board members might want to comment.

24 On Councilman Goode's comments, let me
25 say I will take those comments back to my Board

1 2/23/01 - FY '02 OPERATING BUDGET

2 Chair and remind him of his discussion with you and
3 willingness to approach the Majority Leader on this
4 issue. I will also commit to you that we will be
5 there on April 3rd at the meeting.

6 We have been struggling with this issue
7 all year long. This is not an issue that we have
8 just easily discarded. Just to characterize it
9 again, I know you're aware of this. But we spend
10 approximately \$45 million every year to transport
11 32,000 school children in the City of Philadelphia.
12 This amount comes directly out of the SEPTA
13 operating budgets. Now, to offset a portion of
14 that, we receive 15 million dollars in fare revenue
15 from school tokens and school transfers. But the
16 balance of the \$30 million has just sort of become
17 part of the SEPTA -- we found ways to make it part
18 of the SEPTA overall budget.

19 If you remember my comments as part of
20 the budget process, we are by law required to submit
21 a balanced budget. We cannot submit an unbalanced
22 budget. So without that \$15 million, we are put in
23 a position of having to reduce services somewhere
24 else. We're really trading these resources from one
25 place to another and we've just been able to find --

2/23/01 - FY '02 OPERATING BUDGET

COUNCILMAN DI CICCIO: Could you speak into the microphone?

MR. LEARY: I'm sorry. Let me just say again, we spend \$45 million carrying the 32,000 school youngsters in the City of Philadelphia. And of that \$45 million, we receive \$15 million in tokens. The problem is, we are by law required to submit a balanced budget. We cannot have a deficit budget. And without that -- that \$15 million is turned right back into service. And so we're put in a position of having to take the \$15 million away from one group and give it to another group or take the service away from one group. And we've never been able to deal with that. We just don't know how to deal that.

I think this idea of approaching Representative Evans and the Majority Leader and building a coalition to get some help from Harrisburg may be an approach that would actually deliver some results. I know the school department was very successful this year in expanding their subsidies from Harrisburg. Unfortunately, we were not. We lost \$6 million from the Governor's budget at Harrisburg.

2/23/01 - FY '02 OPERATING BUDGET

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So I will take this information back. I want you to know that we have not just been cavalier and discarded this. We have been struggling with this all year long and just do not have an answer at this time.

COUNCILWOMAN REYNOLDS-BROWN: A couple of additional follow-up questions. Currently, SEPTA provides discount to universities. Help me understand again how the discount you provide to universities differ or does not differ from the discount currently provided to students who attend Philadelphia public schools. Can someone speak to that?

MR. LEARY: Yes. We have a bulk discount program. Let me back up. The base fair of SEPTA is \$1.60. \$1.60 is very heavily discounted if you buy a token. A token is \$1.15. We have weekly passes and monthly passes that are also very heavily discounted. Almost 35 percent of our ridership buys a discounted pass of some sort. Businesses and universities are also made -- a program Compass, Company Pass Program I think it is, is made available to businesses and universities that buy bulk, buy large numbers. I'd have to look to the

1 2/23/01 - FY '02 OPERATING BUDGET

2 staff to tell me the number. I think it's 500
3 minimum. And in the same time, they do all the
4 bookkeeping, and usually employee withholding and
5 payroll deduction kinds of arrangements are put
6 together to facilitate this. I believe it's about a
7 5 percent discount on a transit pass if you buy in
8 bulk.

9 COUNCILWOMAN REYNOLDS-BROWN: And so how
10 does that -- one way that differs is that you say
11 the business or university pay for a portion of the
12 discount, correct, which would not happen with
13 students?

14 MR. LEARY: Let me look to the staff. I
15 think there's some universities, I think maybe
16 University of Pennsylvania for some of its students
17 picks up some of the cost. I know there are some
18 businesses that pick up as much as 50 percent of the
19 cost of the pass just as part of their regular way
20 of doing business and attracting employees as an
21 employee benefit.

22 COUNCILWOMAN REYNOLDS-BROWN: New York
23 has a swipe card which helps them towards being a
24 contributor to this whole notion of discounted
25 school tokens. Has SEPTA ever explored that

2/23/01 - FY '02 OPERATING BUDGET

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possibility?

MR. LEARY: Yes. We have a swipe card now. Our monthly pass if you notice on the back of it has a magnetic card, it's a swipe card on the buses. We have a swipe card in the subways, using the subways with a monthly pass.

What New York has at this point that we don't have is a steward value card. If you buy a SEPTA pass for \$34.50 a month and you can swipe it and it allows you in and out for the month, the New York system would allow you to buy three months worth of value on the card. You could put a hundred dollars on the card and then every time you swipe it, it subtracts a certain amount.

We have looked at that. We are looking at a wide range of fair collection kinds of technologies and so forth and have made no decision at this point. It is something in the future.

COUNCILWOMAN REYNOLDS-BROWN: Okay. You're still in the investigative stage?

MR. LEARY: Yes.

COUNCILWOMAN REYNOLDS-BROWN: Back to what you mentioned, the bulk discount program, that type of model could not be used with the school

1 2/23/01 - FY '02 OPERATING BUDGET

2 District, or is used with School District? Where is
3 the difference? I'm trying to get a handle on the
4 difference.

5 MR. LEARY: Excuse me one second. Let
6 me introduce Bernard Cohen from the staff.

7 COUNCILWOMAN REYNOLDS-BROWN: Good
8 afternoon, sir.

9 MR. COHEN: Good afternoon.

10 COUNCILWOMAN BLACKWELL: Excuse me.
11 Please identify yourself for the record.

12 MR. COHEN: My name is Bernard Cohen,
13 Assistant General Manager, Transit Operations.

14 COUNCILWOMAN BLACKWELL: Spell your
15 last name, please.

16 MR. COHEN: C-O-H-E-N.

17 The pass discount program that you're
18 referring to is a program that is available for, as
19 the general manager said, for companies or for any
20 large institution that's going to buy large volume
21 of monthly or weekly passes.

22 COUNCILWOMAN REYNOLDS-BROWN: Like the
23 School District?

24 MR. COHEN: The School District could do
25 the same THING. The difference is that the token is

2/23/01 - FY '02 OPERATING BUDGET

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2 actually a much deeper discounted form of fair
3 medium than the pass is. The pass is discounted by
4 us by 5 percent if you buy large volumes of the
5 passes. The token discount percentage off the base
6 fare is 28 percent. So really, if the School
7 District continues to buy tokens the way they've
8 been buying, they're getting a 28 percent discount
9 off the base fare. Whereas, the bulk pass program
10 that you're talking about is a 5 or 10 percent
11 discount off of the monthly or the weekly pass. So
12 it's a different program.

13 COUNCILWOMAN REYNOLDS-BROWN: So you're
14 saying that SEPTA does discount the School District
15 when you take the 15 million from the 45 million,
16 the balance is the discount that SEPTA is offering
17 to the School District?

18 MR. COHEN: No. What we're saying is
19 that for every trip that a school student in the
20 City of Philadelphia takes, the token that's
21 purchased by the School District only covers about
22 half or last than a half of the actual cost of that
23 trip, and SEPTA's operating budget picks up the
24 other half. So that even though we are being paid
25 for the token, we're actually picking up 50 or 60

1 2/23/01 - FY '02 OPERATING BUDGET

2 percent of the actual cost of that trip, and that's
3 the subsidy that's really hidden because it comes
4 out of SEPTA operating budget.

5 COUNCILWOMAN REYNOLDS-BROWN: I will
6 yield to Councilman Ortiz and I just have a couple
7 of different questions separate from this issue.

8 COUNCILMAN ORTIZ: I think when you put
9 it that way, you give the wrong impression. You
10 sell the tokens to the school for \$1.15. Anyone,
11 not the school alone -- the impression is given that
12 this is a discount that is given to the public
13 school system. It is not a discount that is given
14 to the public school system. Anyone can buy tokens
15 for \$1.15, right.

16 MR. COHEN: That's correct.

17 COUNCILMAN ORTIZ: So it is not a
18 discount. And then the school has to sell them and
19 they sell them to students at a cheaper basis
20 incurring a cost to the school system that really
21 they cannot incur at this point in time. So I think
22 what I'm trying to say is I think that you were
23 getting the impression that this discount is for the
24 school. No, anyone in the City can buy at this
25 point at that level.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILWOMAN REYNOLDS-BROWN: That
3 clarification is helpful.

4 MR. LEARY: Just a point on that. The
5 State does provide a subsidy to the school
6 department to pay a portion of that cost of that
7 token, so there is a third avenue that ways in here
8 in this equation.

9 COUNCILWOMAN REYNOLDS-BROWN: Clearly,
10 as we can see from the discussion 12 months later
11 that we have a lot of work to do in this area. I am
12 not a member of this committee, but I will be paying
13 close attention and following the leadership of the
14 Transportation Committee on this issue.

15 Let's move to a another final question I
16 have. Page 2 of your testimony, top paragraph. It
17 is stated that, and I quote, "We are proud to have
18 participated in the City's Minority Enterprise
19 Development Program and Symposium." Elaborate,
20 please, on the level of participation. What does
21 that mean?

22 MS. JONES: Good afternoon. My name is
23 Frances Jones, Assistant General Manager of
24 Government Affairs.

25 Each year we participate in the MED

2/23/01 - FY '02 OPERATING BUDGET

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2 Week, which is the Minority Enterprise Development
3 Council program that's done annually by providing
4 symposiums for small business people at our site.
5 We also provide technical assistance workshops to
6 help small business people to be able to participate
7 on a greater level in SEPTA contracts. We are
8 really trying to be ambitious in this effort
9 starting this year because we are about to begin
10 serious work on the Market Street Elevated
11 reconstruction project. And in that vein, we are
12 attempting to get as many minority business people,
13 local business people as possible to really
14 participate on that project. So in a more ambitious
15 way this year, I think that our MED Week involvement
16 will be at a greater level.

17 COUNCILWOMAN REYNOLDS-BROWN: Was SEPTA
18 ever able to achieve its goals around MBE and WE
19 participation with the Frankford Elevated effort?
20 Did SEPTA achieve its goals?

21 MS. JONES: On most of those contracts,
22 we did achieve our goal, and in some instances we
23 exceeded the goal. On the Market Street end,
24 participating in the MED Week effort, having a
25 community outreach, participating in community

2/23/01 - FY '02 OPERATING BUDGET

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2 events will enable us to increase our DBE MBE goals
3 for contracts as move forward with that project.

4 And really to set the tone to try to increase

5 minority participation on other projects

6 authority-wise.

7 COUNCILWOMAN REYNOLDS-BROWN: So with

8 the benefit of hindsight, what you're doing

9 differently in West Philadelphia is the outreach

10 that you just spoke about so as to -- nothing is a

11 guarantee, but for sure it will move you closer to

12 the achievement of those MBE WBE goals.

13 Is there anything else you're doing

14 that's different what you did with the Frankford

15 initiative.

16 MS. JONES: Initially, I would say that

17 we were just a little bit more ambitious in our

18 outreach. But authority-wide, whenever we projects,

19 we try to have minority participation and community

20 participation. I think that we're just trying to do

21 it a greater level to make sure that the community

22 is made aware of exactly what it is that we're

23 doing, be it our riders, the business people, or

24 residents. We are really just trying to do a

25 greater level of outreach now. But it's been a part

2/23/01 - FY '02 OPERATING BUDGET

of our plan always to keep everybody involved.

COUNCILWOMAN REYNOLDS-BROWN: Thank you very much. My final comment is just to congratulate on the work you are doing with the School District around the truancy piece because we know as a City it was out of control, and when we look to see what the District Attorney's Office is doing in this area coupled with what SEPTA is doing with the School District is helping us get better at the bottom line which is to see less truancy in the street during school hours. Thank you very much.

Thank you, Madam.

COUNCILWOMAN BLACKWELL: You're welcome.

I have one question and then I'll call on Councilman Ortiz. We submitted to you a copy of a report adopted by Council regarding Resolution 000684 dealing with improving responses to mentally disabled persons in crisis. I mention this because we held hearings, and I will read one paragraph, only one. "I have called this investigative hearing in response to the tragic shooting of Mr. Robert Brown, a severely mentally ill African-American resident of my district. Mr. Brown was approximately 45 years of age and had been battling

2/23/01 - FY '02 OPERATING BUDGET

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2 with schizophrenia since the late '70s. He had been
3 in and out of treatment facilities that provided
4 varying degrees of services, and at this stage of
5 his life, he was attempting to live on his own as a
6 productive member of society. Mr. Brown received
7 his treatment from one of the Behavioral Health
8 System's community-based mental health centers where
9 he allegedly received individual and group therapy,
10 had an intensive case manager and received
11 psychotropic medication. Mr. Brown spent his days
12 at 30th Street Station and was known to many of the
13 local merchants as well as Amtrak Police. And prior
14 to this incident, he never showed signs of violence.
15 On July 18, when he arrived at 30th Street Station,
16 he was acting a little stranger than normal."

17 Let now go down to the main point. I
18 wanted to give you a little bit of background.

19 "There was a chase. When the case came
20 to a halt, Mr. Brown felt threatened. He picked up
21 the chair from the dining area of 30th Street
22 Station, raised it over his head, and the police
23 perceived it as an opportunity to throw it at them.
24 We will never know for sure because he was then shot
25 in the abdomen and died shortly thereafter on the

2/23/01 - FY '02 OPERATING BUDGET

third floor of 30th Street Station in front of children, visitors, and patrons."

In fact, it was in front of a McDonald's restaurant where there many, many people around. So it's been a very unsettling incident for us because this was a person who was connected to the system and was nonetheless shot when we were half a block away, a matter of feet away from an outreach center, an outreach office for Horizon House. And there are so many ways that this should have been dealt with, but this man was killed in front of a lot of people in front of McDonald's restaurant.

So we ask you what your policy is in dealing with mentally ill disabled persons in crisis, if you have one. We certainly made this report available to you and would hope that you would take it seriously because there is not one life that we can spare. And because this gentleman was mentally ill certainly makes his life no less valuable to his family and friends and certainly to our society.

MR. LEARY: Thank you, Councilwoman. It certainly was a tragedy.

COUNCILWOMAN BLACKWELL: He was shot by

1 2/23/01 - FY '02 OPERATING BUDGET

2 Amtrak Police.

3 MR. LEARY: We're very sensitive to
4 this. We work very closely with the Philadelphia
5 Police Department and Amtrak Police Department and
6 is taking this issue very seriously. If Chief wants
7 to elaborate on it.

8 MR. EVANS: I am Richard Evans again.
9 Councilwoman, our officers receive annual training
10 in the use of deadly force and they are also trained
11 in dealing with mentally ill persons and how to
12 treat them, how to get them treatment.

13 COUNCILWOMAN BLACKWELL: Thank you very
14 much. We really need this on the record because,
15 again, we say because a person is ill makes their
16 life nonetheless valuable. God created all people
17 and we have to try to realize in the final analysis
18 that we are our brother's keeper; and until we
19 accept that, then I think that we'll have problems,
20 more problems than we should have in our society.
21 So it's very, very important. I'm sure that you
22 received a copy of this report. We wanted to make
23 sure that everyone -- Amtrak didn't appear at our
24 hearing because they don't know where they are in
25 terms of being sued, but we certainly focussed a lot

2/23/01 - FY '02 OPERATING BUDGET

on the Philadelphia Police Department, mental health agencies, etcetera. All right, thank you.

Councilman Ortiz.

COUNCILMAN ORTIZ: Thank you, Madam Chair.

Mr. Leary, I want to thank Frances and yourself. Last year we've been trying to start dialog between latino contractors and other business folks and although we've had bumps on the road, it is still going on and I really want to thank Frances for the efforts that she's put forward along those lines.

Now that the nice things have been said, on the tokens issue. There's a degree of patience and degrees of impatience. When your predecessor Mr. Gambiccini (ph) was here, we discussed the issue of tokens with Mr. Gambiccini. The issue is that there are students in this City who find it impossible because their families cannot really carry the cost and we have students in this City that are not attending. Usually those students are black and brown, Latinos and African-Americans. And they're finding it impossible from going to school because at times they cannot afford the tokens. And

2/23/01 - FY '02 OPERATING BUDGET

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2 we didn't begin talking about this last year. We've
3 been talking about this, as I said, from the period
4 of time of Mr. Gambiccini. It is our problem, this
5 is a Philadelphia problem. I understand that the
6 State has to play a role, but it is mainly in
7 essence it comes down to the kids that are not going
8 to school are our kids. And we talked last year
9 about the transfers and could we begin taking away
10 the cost that the transfer imposes. And that's a
11 small step. And then when we talked about the
12 overall aspect of just providing tokens or free
13 transportation to the school kids in Philadelphia,
14 really the cost was not that the great. I think it
15 was, what, \$2 million?

16 MR. LEARY: Two and a half million
17 dollars, yes.

18 COUNCILMAN ORTIZ: Two and a half
19 million dollars. And I think two and a half million
20 dollars out of all of the money that we spend in
21 this City can be found. And like I said, we've been
22 talking about it for so long that if we keep talking
23 and going back to Harrisburg and trying to do this,
24 we're never ever going to answer this question to
25 our most poor kids in the City. So I'm all for

2/23/01 - FY '02 OPERATING BUDGET

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2 talking to go Harrisburg and trying to get Harrisburg
3 to give us some more money. But we're talking to
4 Harrisburg about giving us more money for the school
5 system. And that proves to be a monumental and
6 almost impossible task.

7 So the responsibility of whether we are
8 going to have our kids attend school daily then
9 falls on this Council for us to find two and a half
10 million dollars. And for us to find it with your
11 assistance and be able to provide this service. And
12 if not two and a half million dollars, then enough
13 so that the cost not become such a burden on the
14 families of these students.

15 So I'm not willing to keep on just
16 waiting for a solution to this because we've been
17 talking about this ad nauseam for too many years.
18 And I don't want to find ourselves here next year
19 going on about the same issue and talking about the
20 hearings that we've had but that have didn't come to
21 the issue and the objective of solving the problem.

22 So I want to end the discussion that we
23 started with Gambicini and so on. I want it to end
24 so that we can begin really discussing what needs to
25 be done. And I think if we can begin with the

2/23/01 - FY '02 OPERATING BUDGET

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2 transfers and the cost of the transfers, that can be
3 a step. And so to me, the discussion goes beyond
4 just the issue. We can't keep on studying it
5 anymore. We know what the problem is. The solution
6 is two and a half million dollars. Whether we can
7 get it or not, that depends on the will of this
8 Council and what our priorities are going to be.

9

Do you have a response to that?

10

MR. LEARY: Well, Councilman, you know,
11 I feel the passion you have for this issue. Two and
12 a half million dollars represents the salaries of 50
13 bus operators. If we were cut 50 bus operators and
14 the same level of service, we could do it instantly.
15 That's never been on -- anything anybody wanted to
16 do to begin to cut service to pay for something
17 else. As I said, we are unable -- by law, we cannot
18 produce a deficit budget. We have to balance the
19 budget. Three of the last four years we have
20 balanced the budget and actually ended with a slight
21 surplus of a few thousand dollars every year.
22 That's how close we are to the bottom line. We've
23 never been able to deal with that. You know, taking
24 service from one place and putting it someplace
25 else, and that's really what it entails if we don't

1 2/23/01 - FY '02 OPERATING BUDGET

2 work together and find additional money.

3 I have to tell you, I never expected to
4 lose \$6 million from Harrisburg this year. If you
5 were here for the presentation, we have some pretty
6 serious financial issues.

7 COUNCILMAN ORTIZ: But you just made my
8 point. You never expected to lose \$6 million from
9 Harrisburg. But in the discuss that we had, it
10 seems like we got to find the solution to the tokens
11 in Harrisburg.

12 MR. LEARY: Find the solution -- I'm
13 sorry.

14 COUNCILMAN ORTIZ: To the token issue in
15 Harrisburg. But Harrisburg really doesn't give a
16 damn that much about whether some of our kids are
17 able to afford transfer or bus fare and so on.
18 They're interested in some other bottom line that
19 they pursue and they see. And I'm not saying that
20 it is just your responsibility. Like I said, I
21 think it is the responsibility of this Council
22 together with you to find out how it is that we move
23 on this, because we discussed it. And I'm not
24 saying that you're not as concerned as we are.
25 We've just got to move towards how it is that we

1 2/23/01 - FY '02 OPERATING BUDGET

2 find that money.

3 Another issue, the people who clean the
4 subways and the stations, Vitec is a company that
5 you contract with, and it seems that --

6 MR. LEARY: Councilman, for the record,
7 that's not exactly correct. Vitec is a
8 subcontractor to another firm. They contract with
9 another firm, and I have to check with staff.

10 COUNCILMAN ORTIZ: Well, Vitec is
11 subcontractor and they hire the workers to work and
12 clean Suburban Station and so on, right?

13 MR. LEARY: We contract with a firm
14 called Clean Tech.

15 COUNCILMAN ORTIZ: And then they
16 contract with Vitec?

17 MR. LEARY: And they contract with one
18 or more subcontractors to help them.

19 COUNCILMAN ORTIZ: Well, Vitec seems to
20 operate on very, let's say, bad labor practices. It
21 does not seem to have a very good record of labor
22 relations. I wonder why we keep them on the
23 payroll, we keep giving them a contract or accepting
24 them as a subcontractor to do the work in our
25 stations. And right now you have those labor unions

2/23/01 - FY '02 OPERATING BUDGET

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in negotiations and it seems like there's a problem in getting together in terms to fairly negotiate a contract at this time. And I want to know what are the impediments and what are the road blocks to a fair contract at this point?

MR. LEARY: Councilman, I'm not sure I can answer that. I'm aware of the fact that one of the subcontractors of this particular contractor is in the process of either organizing or some labor dispute, jurisdictional dispute or whatever.

As you know, public dollars have a very defined procurement process. You're not permitted to influence in any way. You put the specifications out. The low bid firm, if it's a responsible firm, and Clean Tech has proven to be a very responsible firm. They have a long record of success, both in the private sector and public sector. Given that they have been lowest responsible bidder on this work, our choices are limited at that point. There is no way we can disqualify them.

COUNCILMAN ORTIZ: There's no way you disqualify them because they're the lowest responsible bidder, but do you only take into consideration the bid? What about their practices

2/23/01 - FY '02 OPERATING BUDGET

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MR. LEARY: They've been determined to be both responsive and responsible. And if we were to interrupt that, if we were to disregard that criteria, we would find ourselves in court instantly. We've been very careful not to interfere with the relationships between prime contracts and subcontractors. I have to check with counsel again, but at the time that this was raised to my attention, I was told that I had to very, very careful.

COUNCILMAN ORTIZ: Will you check with counsel and get back to us? There are problems there, problems with this company named Vitec. I'd like to hear from your side as to the problems that are there because I hear other side. I'd like to see and hear what your side and this other company has to say about this. Could you --

MR. LEARY: We will get back to you, sure.

COUNCILMAN ORTIZ: One last thing. The Metro Newspaper, how much does that cost to put out?

MR. LEARY: Councilman, I'm not sure. I can tell you what they pay us. Metro Newspaper pays

1 2/23/01 - FY '02 OPERATING BUDGET

2 us a fee of \$35,000 a month, plus --

3 COUNCILMAN ORTIZ: Is that a separate
4 company outside of SEPTA?

5 MR. LEARY: Outside of SEPTA. Separate
6 company. Again, we competitively bid it. We
7 advertised it. This concept, this service, we
8 advertised it in the "Daily News" and the
9 "Philadelphia Inquirer." A firm came in and bid on
10 it. They were determined to be responsive and
11 responsible. Their bid was based on two parts. One
12 was a fee to SEPTA for the right to use our
13 facilities and distributed, that was \$35,000 a
14 month.

15 COUNCILMAN ORTIZ: \$35,000 what?

16 MR. LEARY: A month. And an additional
17 \$15,000 a month for cleaning, for the cost of
18 cleaning up or any cost we may incur as a result of
19 people leaving these newspapers.

20 COUNCILMAN ORTIZ: So it comes to like
21 \$50,000 a month that you get from Metro.

22 MR. LEARY: Let me just check with
23 budget and treasurer. Close enough.

24 COUNCILMAN ORTIZ: You get from Metro.

25 MR. LEARY: They pay us to do it. We'll

1 2/23/01 - FY '02 OPERATING BUDGET

2 tell you that there are at least six other cities,
3 transit properties around the country now that are
4 considering doing the same thing.

5 COUNCILMAN ORTIZ: Do they make a
6 profit?

7 MR. LEARY: It's a private company that
8 has publications around the world. I'm sure they
9 make a profit.

10 COUNCILMAN ORTIZ: Thank you, Madam
11 Chair.

12 COUNCILWOMAN BLACKWELL: You're welcome.
13 Councilman Clarke.

14 COUNCILMAN CLARKE: Thank you, Madam
15 Chair.

16 Good afternoon. This may be a question
17 that relates primarily to the capital budget, but it
18 ultimately affects the operation of a particular
19 line. I wanted to talk to you about the Route 15,
20 the new reconstruction of the trolley line. I
21 wanted to get a sense of the time line, the project,
22 when we can expect these trollies to come on-line,
23 what possible delays we may have during the
24 construction period as it relates to bus service.

25 MR. LEARY: I can tell you, Councilman,

2/23/01 - FY '02 OPERATING BUDGET

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2 Route 15 light rail project, it is moving along very
3 quickly. The contracts, the civil structural and
4 right-of-way facility contracts have all been
5 awarded. Contractors are out there doing it right
6 now. I believe it's about 24 to 30 months of
7 construction until it will be complete and in place.
8 Within the next 90 days, 120 days, we expect to
9 award a contract to a car manufacturer or a vehicle
10 re-manufacturer. It's been determined in
11 coordination with everybody, everyone kind of likes
12 the idea of us taking the old historic trollies and
13 not rebuilding them, but re-manufacturing them to a
14 modern day standard. The standard that they would
15 have lifts and be accessible to the disabled.

16 COUNCILMAN CLARKE: It will look the
17 same aesthetically.

18 MR. LEARY: Aesthetically, they would
19 look old, but they would be air conditioned and
20 accessible. That contract, we expect to award a
21 contract for this re-manufacturing process within
22 the next 120 days. And then there will be a
23 three-year period, 30-month to 36-month period while
24 these vehicles will be re-manufactured and then
25 delivered back to us. And I don't expect any

1 2/23/01 - FY '02 OPERATING BUDGET

2 interruption of the bus service. I expect a very
3 smooth transition from the existing Route 15 buses
4 to the new Route 15.

5 COUNCILMAN CLARKE: Will there be
6 interruptions during the course of the construction?
7 I'm assuming you may have to detour bus service.
8 Will that affect it?

9 MR. LEARY: There will be some
10 crossovers and intersections. There will be some
11 disruption. We've opened a community office. I'm
12 going to turn to Frances on this one.

13 MS JONES: Frances Jones, Assistant
14 General Manager, Government Affairs.

15 Councilman, we have a community office
16 that we've opened at 19th and Girard Avenue and
17 there are series of community meetings that are
18 going on within the next couple of weeks just to
19 bring the community up to speed on where we are with
20 the project, to answer their questions and their
21 concerns and generally just to layout the project so
22 that they understand exactly what's going to go on,
23 what's the benefit to the community, the long-term
24 benefit, the short-term inconvenience, and what we
25 expect the project to look like when it is complete.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILWOMAN BLACKWELL: I might note,
3 we've been through that a lot in my area, and
4 Frances handles it well.

5 COUNCILMAN CLARKE: You go from where?

6 COUNCILWOMAN BLACKWELL: I'm going from
7 46th to 63rd.

8 COUNCILMAN CLARKE: We're like three
9 council districts?

10 MS. JONES: Yes, that's correct -- four
11 council districts.

12 COUNCILMAN CLARKE: Four?

13 MS. JONES: Yes. We had a meeting last
14 week at the zoo to talk about the art in transit
15 project that we're going to do at the zoo location.
16 So it's been a series of meetings and outreach just
17 so that we can keep the community abreast of what's
18 going on.

19 COUNCILMAN CLARKE: With respect to the
20 transformation back to light rail as opposed to the
21 bus system, what factors were part of that
22 decision-making process.

23 MS. JONES: It's my understanding that
24 the conversion from the bus to the light rail was a
25 part of an agreement that we had with the City of

2/23/01 - FY '02 OPERATING BUDGET

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Philadelphia to initiate the return of trollies or light rail vehicles beginning with the Route 15. We did a series of focus groups with the community, our riders, employees, just to get a tone or a feel for exactly how receptive our riders would be to the return of the light rail vehicles. And as a result, we implemented and started the procedure and the process to have that happen.

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COUNCILMAN CLARKE: It wasn't financial, environmental? People just like trollies as opposed to buses?

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MS. JONES: Well, of course, all of those issues are taken into consideration. Of course, we have a lot of support from the Trolley Coalition interested in returning trollies to the lines in Philadelphia, but the Route 15 was the one where we started.

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COUNCILMAN CLARKE: I'm not sure you answered my question. Did it have any financial considerations? Is the light rail less expensive to run than the bus or is it more expensive? Are there certain environmental concerns? I've heard that raised the pollution levels, bus versus trolley? Or was it just simply because people like trollies?

2/23/01 - FY '02 OPERATING BUDGET

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MS. JONES: I'll let Pat Nawalkowsky
answer that.

MR. NAWALKOWSKY: Good afternoon. I'm
Pat Nawalkowsky, I'm the Assistant General Manager
for Infrastructure, Engineering and Technology.

To try to answer your question, from a
capital perspective, capital cost, to restore the
Route 15 to trolley service from a bus service was
absolutely much more expensive as compared to what a
bus service would cost.

COUNCILMAN CLARKE: That answers my
question. But because we like trollies, we made the
decision? And I'm fine with that. I just want to
make sure I understood.

COUNCILMAN DI CICC0: We'll take it on
23 if you don't want it on 15.

COUNCILMAN CLARKE: I hear you. I used
to ride the 23.

You may want to stay. I had another
question with respect -- as we're closely
approaching, I'm starting to get questions about it.
I've actually had some questions about some of the
property owners on the Girard Avenue corridor I
guess between College Wall and the river because

2/23/01 - FY '02 OPERATING BUDGET

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2 they are the properties relatively close to the rail
3 lines and I've gotten some calls that people feel
4 that the implementation of the trolley service will
5 affect the foundations of the properties. And I
6 don't know, not being an engineer or a person
7 involved in that. Is there a possibility that the
8 trollies, which most people think are probably
9 heavier, I'm assuming, and impact on the pathway,
10 the groundway may have more vibrations and people
11 are concerned about foundation.

12 MR. NAWALKOWSKY: Let me try to answer
13 that. As you know, we obviously run trollies in
14 West Philadelphia on 10, the 11, the 13, the 34 and
15 the 36, and trollies running on those lines are
16 heavier than a bus. They will create more noise and
17 vibration than a bus would. Typically, what we have
18 found is that they do not rise to the level of
19 causing cracks in foundations or anything like that
20 unless there are a number of voids in the street
21 because voids tend to propagate the vibration
22 through the ground. If there's solid ground there,
23 they tend to get damped in the ground and dissipate
24 in that way.

25 COUNCILMAN CLARKE: Frances, I

2/23/01 - FY '02 OPERATING BUDGET

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2 understand your person is going to be having
3 meetings. In that particular area, because that's
4 where I've gotten most of the calls, would it be
5 possible for your outreach person to talk to the
6 business association up there? We may actually want
7 to look at the foundations prior to the construction
8 process so we don't have these folks coming up with
9 these mysterious cracks in the wall after the fact.
10 That would be very helpful to me.

11 MS. JONES: Yes.

12 COUNCILMAN CLARKE: So I can just tell
13 them that we'll be in contact?

14 MS. JONES: Yes.

15 COUNCILMAN CLARKE: Okay, thank you.

16 Thank you, Madam Chair.

17 COUNCILWOMAN REYNOLDS-BROWN: Thank you,
18 Councilman.

19 Councilman Nutter.

20 COUNCILMAN NUTTER: Good afternoon, Mr.
21 Leary, Ms. Newkirk, Mr. DiCicco and Ms. Jones. Mr.
22 Leary, I needed to get, I guess, an update on a
23 situation with a proposal for some new service in
24 the City Avenue corridor related to the City Avenue
25 Special Services District and an attempt by many of

2/23/01 - FY '02 OPERATING BUDGET

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2 us over in that area, Philadelphia and Lower Merion
3 to provide some additional service, not only on City
4 Avenue, but also into the Manyunk section to help, I
5 think from our perspective, alleviate some of the
6 vehicular congestion in both of those communities.
7 I was perplexed at learning that SEPTA apparently
8 declined to respond to the bid for what we've
9 generally begun to call the City Avenue Regional
10 Transit. Conceptual, at least, somewhat similar to
11 the Phlash, which I think SEPTA operates in Center
12 City, and Lucy out in West Philadelphia as a part of
13 University City Special Services District. Can you
14 tell me why that decision was made?

15 MR. LEARY: Councilman, I remember at
16 the time, and it was primarily the time line of we
17 had fully committed a couple vehicles and were just
18 unable to respond to the bid in the time that they
19 were pursuing. It was a matter of bus procurement,
20 a matter of time table development. We operate on a
21 quarterly cycle of schedules and timetables and was
22 just unable to deal with it at the time.

23 COUNCILMAN NUTTER: Do you know if any
24 of that information was communicated to any of the
25 representatives of City Avenue Special Services

1 2/23/01 - FY '02 OPERATING BUDGET

2 District, including myself.

3 MR. LEARY: I believe that we did notify
4 them that we would be unable to bid.

5 MR. COHEN: Again, I'm Bernard Cohen,
6 Assistant General Manager, Transit Operations. I'd
7 have to check to be sure, but I do believe that we
8 did notify the special services district that we
9 would be not in a position to put in a proposal for
10 that service for the reasons that the general
11 manager just stated.

12 COUNCILMAN NUTTER: Well --

13 MR. LEARY: Councilman, we can check on
14 that.

15 COUNCILMAN NUTTER: I appreciate you
16 giving the more detailed explanation because that's
17 the first I've heard I've heard of it and no one
18 from the agency had touched base with me about it,
19 whether there could be some adjustment or something
20 like that. I mean, they operate two very fine
21 service in other parts of the City. And quite
22 honestly, notwithstanding an RFP process, one would
23 think that if something involves transit in our area
24 here that we have a five-county state-authorized
25 transit agency, I mean, that is kind of your

1 2/23/01 - FY '02 OPERATING BUDGET

2 business, right?

3 MR. LEARY: That's correct, yes.

4 MR. COHEN: We attended a number of
5 meetings with the district. We went over the RFP
6 very carefully. It is, as you said, ordinarily the
7 kind of business we would be interested in, but the
8 time frame for getting the service up and running
9 based on our operator availability or the time frame
10 that we felt we would need to hire people and, more
11 importantly, the time frame available to get the
12 vehicles was on a much faster timetable. I think it
13 was a matter of like two months that they wanted the
14 service up and running, and we just didn't feel we
15 could meet that schedule.

16 COUNCILMAN NUTTER: Okay. Well, I'd
17 like to get further into details. Quite honestly,
18 though, and I don't know who the responding parties
19 were, I'm not going to be deciding who gets anything
20 in any of this, but, I mean, if you're going to have
21 trouble responding to it and this is what you do in
22 a fairly large way, then I can't imagine that anyone
23 else is going to be in an easier position. Now,
24 maybe this is a case where someone that's smaller,
25 lighter, quicker might be able to do something.

1 2/23/01 - FY '02 OPERATING BUDGET

2 Every now and then the bigger is not always better,
3 but we would certainly benefit tremendously from
4 some type of SEPTA participation at least, quite
5 frankly, through the bidding process. You get a
6 chance to compare. It's always as compared to what.

7 MR. LEARY: Councilman, we're check on
8 it. Maybe we can work with them.

9 COUNCILMAN NUTTER: I mean, as we go out
10 in the marketplace for different things, I mean, if
11 we were trying to buy cars or something, it's
12 interesting if, you know, Kia or somebody like that
13 responded to the bid, but generally, you kind of
14 want to know what's Ford and GM and what are those
15 guys doing. And you're obviously in that category
16 and you provide a good service and we'd like to hear
17 a little bit more from the agency.

18 MR. LEARY: Okay.

19 COUNCILMAN NUTTER: Thank you.

20 COUNCILWOMAN BLACKWELL: Thank you.

21 Councilman, are you finish?

22 COUNCILMAN NUTTER: Yes.

23 COUNCILWOMAN BLACKWELL: Thank you very
24 much.

25 Councilman DiCicco.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN DI CICCIO: Thank you, Madam
3 Chair. Good afternoon.

4 MR. LEARY: Good afternoon.

5 COUNCILMAN DI CICCIO: I just want to go
6 back to the issue of school tokens primarily just to
7 get some background. A couple years ago I conducted
8 some issues hearings on this, and I believe you
9 testified, Jack, at that time. I think the School
10 District at this time said that they were spending
11 about a million dollars a year -- and this really
12 has nothing much to do with you, but by way of
13 background. The School District, I believe at the
14 time, said that they spend about a million dollars a
15 year in distributing tokens to the students, which I
16 thought was an astronomical figure. And I don't
17 think we ever got a complete response as to what
18 they were doing to eliminate some of those costs
19 because I thought if they could reduce those costs,
20 we could use those cost savings to put into the pool
21 of money to reduce the 2.5 million that ultimately
22 has to be absorbed by the students. Is the swipe
23 card a fairly new means of payment for students? It
24 is available to students, I assume, right?

25 MR. LEARY: It would be available to

1 2/23/01 - FY '02 OPERATING BUDGET

2 students.

3 COUNCILMAN DI CICC0: Is that fairly
4 new?

5 MR. LEARY: It's been in place at least
6 five to seven years, maybe even a little bit longer.

7 COUNCILMAN DI CICC0: So then do the
8 students have the option of the swipe card versus
9 the token?

10 MR. LEARY: Oh, they certainly can go to
11 Rite Aid, for example, or places where we sell
12 weekly and monthly passes.

13 COUNCILMAN DI CICC0: I thought that was
14 part of the conversation at those hearings also, if
15 we find more places where they would be available.

16 My next question is, is the swipe card
17 less expensive in terms of the cost to both SEPTA
18 and the School District as it is compared to the
19 tokens? I see a lot of people shaking their heads
20 no.

21 MR. LEARY: Well, the swipe card has to
22 be replaced every month, so there's not only a cost
23 of production but there's a cost of distribution.

24 COUNCILMAN DI CICC0: I'm really looking
25 for questions that I may hit the School District

1 2/23/01 - FY '02 OPERATING BUDGET

2 with when they come in as to why they're not doing
3 anything more to be more efficient to help us get
4 those costs down.

5 MR. LEARY: Councilman, the 2.5 million
6 just reflects the cost of the transfers.

7 COUNCILMAN DI CICC0: I think the
8 difference was around 5 million, if I'm not
9 mistaken, overall between -- that's what the cost to
10 the students is in total was the transfer and that
11 portion of the tokens that they pick up. Ms.
12 Yanoff's in the audience --

13 COUNCILMAN ORTIZ: What about a
14 year-long card for a student?

15 COUNCILMAN DI CICC0: When you said two
16 and a half million, I thought that was a little bit
17 lower than we initially --

18 MR. LEARY: That's right. It's 15
19 million total; 15,500,000, it's a very large number.

20 COUNCILMAN DI CICC0: Obviously, we're
21 going to have some more questions for the School
22 District when they come in because I don't think
23 they're doing what they need to be doing to help us
24 get this costs down. Everyone looks to SEPTA. I
25 think everyone has to share in this. And that was

1 2/23/01 - FY '02 OPERATING BUDGET

2 the theme of what our hearings were, how do we all
3 share in finding ways in which we can reduce these
4 costs.

5 The other question goes to -- you and I
6 have had some conversation in the past about doing
7 some sort of audio advertising in the subway
8 stations and selling some airtime to -- my colleague
9 to the right calls me the entrepreneurial guy here
10 because I guess I'm still going back to my
11 republican roots.

12 (Laughter.)

13 COUNCILMAN DI CICC0: Is anything being
14 done there? And I don't suspect that it would be
15 such a windfall that it would create all that kind
16 of revenue, but we're all looking to figure out ways
17 in which we could generate some revenue, and if it's
18 a way in which we can raise a half million dollars
19 or something a year by way of advertising and that
20 can help reduce some of the costs to the students,
21 that would be helpful.

22 MR. LEARY: Councilman, in a strange
23 way, the Metro Newspaper came out of those
24 discussions. The nontraditional way of raising
25 revenues for transit property began discussions like

2/23/01 - FY '02 OPERATING BUDGET

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2 you talked about, audiovisual advertising in the
3 stations surfaced the Metro Newspaper. And now that
4 the Metro Newspaper -- they didn't want us to pursue
5 both at the same time. Next week, for example, we
6 have a company coming in, I've forgotten the name,
7 but we've identified two companies that have come in
8 and making a presentation to us. The idea of
9 putting digital readouts in the subway stations
10 where they would provide us with the ability to
11 provide information for our customers, at the same
12 time provide advertising and concurrently find
13 revenues. I'm not sure you were here for the
14 earlier part of the discussion, but just diesel
15 fuel, medical cost, prescriptions, we've got a 30
16 million dollar --

17 COUNCILMAN DI CICC0: I heard that part.

18 MR. LEARY: We're looking for every
19 possible nontraditional way of raising it, and one
20 of them is the idea of --

21 COUNCILMAN DI CICC0: Just for my
22 colleagues who were not here a couple years ago,
23 what I'm talking about is if you're standing on a
24 subway platform, as an example, during the time that
25 you tet there until the train or the subway arrives,

2/23/01 - FY '02 OPERATING BUDGET

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2 there's really not much to do so I thought about
3 kind of what the Disney atmosphere is when you're
4 waiting to get on the monorail or the shuttle,
5 there's all kinds of information being put out over
6 a PA system, not only about what time the train is
7 arriving, but places of interest to go. So I
8 thought that might be an opportunity for SEPTA to
9 maybe sell some airtime. White sail, you know,
10 whatever they call that sale at Strawbridges, you
11 know. Lord & Taylor has sales going on today. I
12 mean, that's means of advertising and it's a way of
13 generating money possibly. And my other colleague
14 who just appeared on the scene now, I can't get away
15 from that republican mentality. But hey, look,
16 advertising is money. And guess what? If we can
17 generate that kind of money and help offset some of
18 the cost to the students, why not? I mean, you're
19 standing there on a platform anyway, so what's the
20 difference if over a PA system --

21 COUNCILMAN COHEN: Right to privacy.

22 COUNCILMAN DI CICCIO: Right to privacy?

23 I don't know how private you can be on a subway.

24 Anyway, but I just wanted to revisit that.

25 MR. LEARY: It still is on radar screen.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN DI CICCIO: Okay, thank you.

3 No further questions, Madam Chair.

4 COUNCILWOMAN BLACKWELL: Councilman
5 Cohen, you're next.

6 COUNCILMAN COHEN: I have to hand it to
7 Councilman DiCicco. I think he's the most creative
8 salesperson I've ever met. And I mean that
9 positively, not negatively.

10 My concern is a simple one. I think we
11 operate in the United States on the theory that
12 there is a public school system, that education of
13 our children is very important, every youngster has
14 the right to go to school, public school or some
15 other school of the parents' choosing if they can
16 afford to and they desire to. And I think we make a
17 mockery of it in Philadelphia much worse than almost
18 anywhere else by denying people the right to send
19 their kids to school because of the financial
20 encumbrance that transportation costs involve and
21 the poorer you are, the more you suffer, the more
22 you have to make a decision not only between food
23 and medicine and heat in the house, but if you have
24 a number of children, maybe which child goes to
25 school that day or week or whether they go at all.

2/23/01 - FY '02 OPERATING BUDGET

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2 And I think there are three agencies that have a
3 responsibility to correct that. I think we've been
4 gentle. We've tried to be persuasive. We've tried
5 to build a logical case over a number of years.
6 It's in a new issue; it's an old issue. And
7 unfortunately, I'm beginning to reach the
8 conclusions that public agencies are as unlistening
9 as most private organizations that operate solely
10 for profit and only have a duty to the shareholder,
11 but that public agency adopt the manner as if they
12 have no public duties and they have no concerns and
13 they come up with theories, well, we don't have the
14 money or they say to the people, where are you going
15 money, even though they're supposed to be experts.
16 So I'm saying to you, I think it's time to end the
17 games. I think that no money ought to be
18 appropriated by the City of Philadelphia to SEPTA,
19 to the School District, or even the City budget
20 until there is an arrangement whereby every kid
21 going to public school or any other school of their
22 choosing from K to Grade 12 has to pay any fair at
23 all on public transportation. And I think that the
24 reasons that SEPTA gives are just unrealistic. I
25 don't think it would actually cost SEPTA a penny. I

2/23/01 - FY '02 OPERATING BUDGET

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2 think you have ample transportation facilities. And
3 if there are times that are busy, maybe we could get
4 different arrangements for school hours in certain
5 areas of the City, whatever could be done between
6 you, the School District, and the City of
7 Philadelphia, the executive, I think can work out a
8 way in which kids can get to school and we don't
9 have the fiction that school is available to
10 everybody. And let's stop the fiction of the Year
11 of the Child, because children has been neglected
12 this year and the last year and the year before like
13 they don't count. And I think we treat them in
14 government like they don't count. We say on one
15 hand, oh, we want to educate them, we want them to
16 live a full life, we want them to be able to pay
17 taxes, we want to attract business so we have to
18 have an educated work force. And then
19 systematically we adopt policies which work to
20 defeat all of those goals.

21 Now, it isn't for us in City Council and
22 it isn't for the public to have the wherewithal, the
23 knowledge as to how to work out everything. But if
24 those three bodies, the City, the School District,
25 and SEPTA made its mind up that this would be done,

2/23/01 - FY '02 OPERATING BUDGET

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2 it would be done and if money were needed would be
3 provided. So I have to tell you, Mr. Leary, and
4 others with you, all of whom I know, some much
5 better than others and I know how sincere you are,
6 but I think this could be done with the student
7 wearing a badge, maybe the school will give it to
8 them with the kind of identification you see in
9 offices saying I am a student and they could wear it
10 proudly. And if the schools have uniforms, they can
11 wear their uniform, too. And they ought to be able
12 to ride free, no transfers, no tokens, none of this
13 stuff that cost money to administer, which doesn't
14 do a thing for kids but does things maybe for
15 adults. We don't need that. They can walk on a
16 bus, on a trolley car, whatever it is, and get to
17 school so that there won't be any truancy to the
18 degree that exists today and families won't be put
19 in the bind they are today.

20 So this isn't in the matter of a
21 question. I think you're delinquent in your duties
22 because you're a public agency. Most of your
23 business comes from Philadelphia; isn't that right,
24 even though you're a state agency? We have some
25 representatives, a small minority represent

2/23/01 - FY '02 OPERATING BUDGET

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2 Philadelphia technically. It seems to me that we've
3 got to get to that decision, we've got to get to it.
4 And if you don't, I am saying to you I intend to
5 make this a major campaign in Philadelphia. I think
6 it's a disgrace that other cities in Pennsylvania
7 either provide free transportation totally or
8 transportation at a much lower cost than is involved
9 in Philadelphia. And I think by default we've
10 decided kids don't count. And kids ought to count;
11 they ought to count more than anybody else. So I'm
12 making this statement to you. I will be addressing
13 the School District when it comes in on the budget.
14 I've already raised with the Council President that
15 I don't think we can kind of meet the time limit of
16 passing a budget by March 23rd because there are too
17 many undecided issues affecting the quality of life
18 in Philadelphia that have to be addressed. And kids
19 ride free has to be, in my mind, the slogan and the
20 achievement if we're to be regarding as serious when
21 we talk about the Year of the Child. Thank you,
22 Madam Chair.

23 COUNCILWOMAN BLACKWELL: You're welcome.
24 Councilman Clarke.

25 COUNCILMAN CLARKE: Thank you, Madam

2/23/01 - FY '02 OPERATING BUDGET

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2 Chair. There was something I forgot in my earlier
3 questions. About maybe a little more than a year
4 ago there began to be a public debate about the
5 number of large-scale parking garages that were
6 being proposed, particularly in Center City in
7 Councilman DiCicco's district, mine, and parts of
8 Ann Verna's, and out of that discussion we
9 introduced a resolution to talk about some changes
10 that we needed to do as it related to the Center
11 City plan and upgrading, doing an analysis of the
12 parking issues. In those discussions, I thought of
13 a couple of ideas that some people think are
14 ridiculous, but I put them out there anyway. And I
15 talked about the possibility of having dedicated
16 subway cars solely for Center City for purposes of
17 supporting shoppers and the purposes of supporting
18 commuters, and I tell you why. It's understood that
19 a substantial number of individuals come into the
20 City every day to work and they want to park in
21 close proximity to their jobs. Unfortunately, we
22 have this rush hour, we have all these large parking
23 garages that most people who live downtown hate. I
24 asked the question in those discussions, would it
25 make sense to have the majority of our larger

2/23/01 - FY '02 OPERATING BUDGET

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2 parking garages around the periphery of Center City
3 and have a dedicated rail line into the Center City
4 area. And some people say, well, we have the
5 Phlash. But the reality is is that the Phlash is
6 subject to everybody else traffic jam. So as soon
7 as somebody gets on the Phlash and they get caught
8 in a traffic jam trying to get to work and they're
9 late, they're never going catch it again, they're
10 going to say, I'm drive my own car; I may get stuck
11 in traffic, but I have my own vehicle.

12 And also during the course of the
13 various shopping times, you know, Christmas some of
14 these man-made created shopping times, Valentine's
15 Day -- that's man-made, right? It's capitalism,
16 right? People want to be able to get on some system
17 and go down to Fourth Street and go back to work up
18 at 17th Street very quickly, and I thought that
19 potentially there was an opportunity to have that
20 same dedicated rail line go back and forth as a
21 shopper special and we put some of the amenities on
22 this rail line, say, for instance, we'll make it as
23 nice as what we have in Washington because that's a
24 very nice system down there. And I just kind of
25 threw that out there not knowing if it made any

2/23/01 - FY '02 OPERATING BUDGET

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sense. And low and behold, the other night

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Councilman DiCicco and Councilman Rizzo and myself

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attended a parking forum. And during one of the

5

presentations, they had a real nice slide show --

6

Frank, I can't remember where that was. Was it San

7

Antonio or somewhere where they actually had a

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dedicated rail line.

9

Frank, do you remember? Frank, you're

10

not listening to me.

11

They actually had dedicated rail line

12

that came from the parking garages on the periphery

13

of Center City. I can't remember what city it was.

14

COUNCILMAN DI CICCIO: I think it might

15

have been San Antonio.

16

COUNCILMAN CLARKE: And that was their

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solution to this parking problem. I was wondering,

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first of all, in the discussion about this whole

19

Center City parking issue if you guys are in the

20

loop, because there was nobody at the SEPTA at the

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parking forum, although the Parking Authority was

22

there? And second, if you are in the loop, what are

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your ideas about that?

24

MR. LEARY: Just a couple quick

25

comments, Councilman. I like your idea about

2/23/01 - FY '02 OPERATING BUDGET

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2 parking, large parking structures on the outskirts.
3 When Philadelphia built the Broad Street line and
4 the Market El, I mean, 75 years ago it created
5 Philadelphia as the center of commerce in this
6 region because of the transportation. But parking
7 lots weren't required then. The system really needs
8 expanded parking on the system. We have an
9 excellent system going north-south and east-west;
10 the El and the Broad Street line. I don't think
11 you're way out of bounds on that at all.

12 COUNCILMAN CLARKE: The problem with
13 that is that you're on the same train that the
14 person that rides from Fernrock to Vet Stadium. If
15 car that went on a consistent basis from, say,
16 Washington Avenue to Vine Street that ran every 10
17 minutes, I think the likelihood of an individual
18 wanting to catch that, you know what I mean, that's
19 coming into town that know it's going to be every 10
20 minutes.

21 MR. LEARY: There is a train running
22 from 30th Street through a subway every three
23 minutes right now, from 30th Street to Second
24 Street. We have what you're talking about. Not
25 just exclusively for a certain class of people just

2/23/01 - FY '02 OPERATING BUDGET

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because they have an automobile and they're parked there. It's open to everybody. Adding capacity to that three-minute train running back and forth is real easy.

COUNCILMAN CLARKE: Is it tied into a parking opportunity?

MR. LEARY: No. I don't think you're out of the box at all on that issue. We have been, and I personally talked to Paul Levy in his initiative to kind of move Philadelphia commerce away from becoming parking lots and parking garages. Moving the parking out on the peripheral, reducing vehicle miles traveled, eliminating the congestion or reducing the congestion, making it much more efficient for those automobiles that need to be on the streets of Philadelphia --

COUNCILMAN CLARKE: You get a reduced rate either in the parking or on the subway if you park here and you ride in?

MR. LEARY: You could easily have a joint ticket, a joint fare, pay \$5 to park your on the peripheral and that includes a trip on the transit.

COUNCILMAN CLARKE: In the future,

2/23/01 - FY '02 OPERATING BUDGET

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because we're continuing the discussion. At some point there's supposed to be a report put out. Could you all make sure that somebody from your shop are --

MR. LEARY: We'll make sure we're included. I'll make sure that we're at these meetings.

COUNCILMAN CLARKE: Thank you.

Thank you, Madam Chair.

COUNCILWOMAN BLACKWELL: Good issue. We'll take a five-minute break for the stenographer. And then Councilwoman Reynolds-Brown, you'll be next.

(Brief recess.)

COUNCIL PRESIDENT VERNA: We're back in session. The Chair recognizes Councilwoman Brown.

COUNCILWOMAN REYNOLDS-BROWN: Thank you, Madam Chair.

My question was sparked by the added information that Councilman DiCicco provided, given his experience as chair of the committee. The swipe card that is currently used is used by university students, correct?

MR. LEARY: It's not just university.

1 2/23/01 - FY '02 OPERATING BUDGET

2 It's a regular pass, it's a Transpass. It's the
3 regular pass, just purchased in bulk in a compass
4 program, so it's the regular monthly pass.

5 COUNCILWOMAN REYNOLDS-BROWN: And the
6 question, do Philadelphia school students, be they
7 public, Catholic, private, do they have the option
8 to use the swipe card? Is it available to them as
9 well?

10 MR. LEARY: Yes, it's available to
11 anybody.

12 MS. NEWKIRK: This is Jettie Newkirk,
13 Philadelphia representative.

14 Council Lady, I think the issue is it is
15 open to them as an option, but it costs more so they
16 would not select this option. And it would cost
17 more even if were bought in bulk.

18 COUNCILWOMAN REYNOLDS-BROWN: That helps
19 me. And while I would agree, albeit reluctantly,
20 with my colleague Councilman DiCicco on the School
21 District in the manner in which manages the way it
22 spends money, it should be on the record that the
23 School District is a partner around the issue of
24 school tokens because they are indeed providing a
25 subsidy, correct?

1 2/23/01 - FY '02 OPERATING BUDGET

2 MR. LEARY: That's correct, yes.
3 They're paying for the tokens and the State is
4 providing the subsidy to them.

5 COUNCILWOMAN REYNOLDS-BROWN: And so the
6 challenge as we move to the hearings that are going
7 to be convened by Councilman Goode is how and what
8 we need to do to have SEPTA be a partner around the
9 issue of school tokens, because if I am
10 understanding this as this scenario currently
11 exists, SEPTA is a pass through right now for those
12 dollars coming from the State. Help me out.

13 MS. NEWKIRK: Council Lady, that's not
14 correct. SEPTA is already a partner. I think the
15 issue is determining how SEPTA can be a larger part.
16 SEPTA is already providing the discount, the
17 discount between the base fare of \$1.60 and the
18 \$1.15 which the tokens cost. The children get them
19 for less than that based on the state subsidy when
20 they purchase them from the School District.

21 COUNCILWOMAN REYNOLDS-BROWN: And the
22 dispersement of those tokens, the administrative
23 piece of that, is currently handled by the School
24 District?

25 MS. NEWKIRK: That's correct.

2/23/01 - FY '02 OPERATING BUDGET

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2 COUNCILWOMAN REYNOLDS-BROWN: As we look
3 to the hearings, help us determine how and if SEPTA
4 can help with those administrative costs because
5 that would then relieve the School District of the
6 dollars attached to that and move towards, again,
7 SEPTA becoming a greater partner around the whole
8 issue of school tokens. It's a challenge, for sure,
9 but I am not yet fully persuaded that SEPTA is a
10 larger partner.

11 MS. MOORE: Hi, my name is Fay Moore,
12 I'm SEPTA's treasurer. Hopefully I can help with
13 some limited pieces of information. Right now the
14 \$1,15 that they pay us is indeed for the token.
15 They receive in bulk some 300,000 tokens monthly or
16 weekly or whatever it is. We send it to the School
17 District. The School District is the only one who
18 in turn there knows how those tokens should be
19 distributed within the district. SEPTA cannot be
20 that administrator because we're in the business of
21 distributing the token.

22 COUNCILWOMAN REYNOLDS-BROWN: That is
23 well taken. Okay then. We'll look forward to these
24 all-important hearings and hopefully make some
25 progress over the next 12 months. Thank you very

1 2/23/01 - FY '02 OPERATING BUDGET

2 much.

3 COUNCIL PRESIDENT Verna: The Chair
4 recognizes Councilman Kenney.

5 COUNCILMAN KENNEY: Thank you, Madam
6 Chair.

7 I know there's been a lot of discussion
8 about tokens and service and fares and contract
9 negotiations upcoming. Just a word of compliment, I
10 guess. I'm not a regular daily user of SEPTA, but I
11 do use it on occasion. I'm on the 23 Route, the
12 Broad Street Subway, Market El, I use the bus on
13 Market Street occasionally going from place to place
14 in town. They are extremely clean, they are
15 extremely well maintained, and I notice an amazing
16 -- not amazing, but a noticeable change over the
17 last five to seven years in the operators and
18 drivers, extremely courteous, much more courteous
19 than they had been in the past in my opinion. Plus,
20 the information that's provided on the bus or on the
21 subway or on the El itself as to what stop is coming
22 up next, it's very clear, the speaker systems is
23 very clear, they're air conditioned in the summer,
24 they're very comfortable to ride in in the summer.
25 I usual use it most of the time in the summertime.

2/23/01 - FY '02 OPERATING BUDGET

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2 But I think the system, despite the economic
3 challenges, despite the fare issues and despite the
4 things you're dealing with as it relates to
5 governance, as a City person, I'm only able to judge
6 -- I don't use the R7 and R5 and those. I assume
7 they're as well maintained also. But from a City
8 perspective, I find the system much more user
9 friendly and much more safe, at least the feeling of
10 safety. You're in the big City, you know, big
11 cities have their crime problems, but I feel safe on
12 them and I any they're clean, well maintained, and
13 the drivers have been much more improved in the
14 last, say, 10 years in their helpfulness and their
15 politeness and in their information, giving
16 information where you're going, when the next stop
17 is and that kind of stuff. And one of the things I
18 always notice I guess in the last 10 years as
19 opposed to 10 years before, is sometimes you see two
20 buses come to an intersection at the same and people
21 are trying to make the run to get from the one
22 transfer to the other. Years passed, maybe a decade
23 or so ago, I've seen those doors stay shut and
24 people keep driving by. Now I see them wait, wait
25 for the people to get across the street. The driver

2/23/01 - FY '02 OPERATING BUDGET

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other driver will beep the horn and make sure that the other driver sees them. So I think there's been some substantive changes in the way the system's operated and the way it's maintained, and I want to think thank you for it.

MR. LEARY: Councilman, thank you. The people behind me work very hard and they appreciate hearing that. Thank you.

COUNCIL PRESIDENT VERNA: Thank you.
Are there any other questions of SEPTA?

Thank you so very much.

MR. LEARY: Thank you.

COUNCIL PRESIDENT VERNA: Community College is next.

(Witnesses come forward.)

COUNCIL PRESIDENT VERNA: Good evening.
Thank you so much for your patience. Kindly identify for yourself for the record and proceed with your testimony.

MS. COHEN: Good afternoon, Madam Chair, Members of City Council. My name is Ronda Cohen and I am the Chair of the Board of Trustees of Community College of Philadelphia. I am honored to have as colleagues on the board a group of dedicated civic

2/23/01 - FY '02 OPERATING BUDGET

and business leaders in Philadelphia who recognize the importance of Community College of Philadelphia to our great City. With your permission, I would like to introduce those present today. Mannie Ortiz, Delores Brisbin, Dr. Bruce Casswell, Alan Skimal, Dr. Ed Kung, Hugo Warren, Christine James-Brown, Representative James Roebuck.

Let me first express our appreciation to the Mayor for recognizing the excellent work of our faculty, administrators, staff and students by recommending a \$1 million additional allocation to the budget this year. We are most appreciative of this investment in the educational future of our City.

Community College of Philadelphia was founded in 1965 and opened with an enrollment of 700 full-time and part-time students. Today, your City College is one of the largest urban community colleges in the nation with over 1,000 full- and part-time faculty and more than 41,000 credit and non-credit students enrolled in programs throughout the City. We are proud to be the third largest degree-granting institution in the City of Philadelphia.

2/23/01 - FY '02 OPERATING BUDGET

Today, in addition to the board and staff present, our president, Stephen M. Curtis joins me. The college's board of trustees is pleased that President Curtis is leading the college at this significant time in the history of our City. We believe that he has the right combination of experience and dedication to ensure the realization of our shared vision for Philadelphia's City College. He has set a clear path for the college and we are making impressive strides under his able leadership. Therefore, at this time and with your permission, Madam Chair, I would like ask Dr. Curtis to present the formal testimony to Council on the budget for Community College of Philadelphia.

Dr. Curtis.

COUNCIL PRESIDENT VERNA: Thank you.

The Chair recognizes Dr. Curtis.

DR. CURTIS: Thank you. Good evening Council President Verna and Members of City Council. I'm Stephen Curtis, President of Community College of Philadelphia and I am honored to testify on behalf of the college's 2001-2002 operating and capital budget requests.

First, I do want to extend my thanks to

2/23/01 - FY '02 OPERATING BUDGET

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2 this Council for the support that you have provided
3 for the college throughout our 36-year history of
4 service to the City. Let me also add a personal
5 note of thanks for each of you for the support and
6 guidance you've provided for me since my appointment
7 as president. And I've appreciated other
8 opportunities to meet with the Council President and
9 individual Councilmembers to discuss, not only
10 budget needs, but future directions of the college.

11 As the City's only public institution of
12 higher education and the third largest
13 degree-granting post secondary institution in
14 Philadelphia, we do share with the Mayor and this
15 Council a commitment to strengthening our
16 neighborhoods, improving educational opportunities,
17 and supporting economic development.

18 This current year, the 2001-2001 Fiscal
19 Year has been one of the of significant change and
20 forward movement for the college. I'll briefly just
21 list a few of the opportunities that we've seen this
22 year.

23 There's been a major expansion of
24 programmatic and degree opportunities at the
25 college's three regional centers. This year marks

2/23/01 - FY '02 OPERATING BUDGET

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2 the first time that the college is offering full
3 degree completion opportunities at the three
4 centers. In years past, those centers have served
5 as a starting point for students who then move to
6 the main campus for their degrees. But as of last
7 fall, we offer a minimum of at least four full
8 degrees now in their entirety at each of the
9 regional centers. Our intention is to offer some
10 additional ones.

11 This year as seen our offerings to the
12 business and industry community expanded. There's
13 been an increase in collaborative programs in
14 Philadelphia Public Schools. As an example, this
15 year we have a pilot underway with the William Penn
16 cluster in which we are doing professional
17 development for middle school teachers in the areas
18 of science and mathematics. Again, the intent is to
19 expand that kind of effort across other clusters in
20 the future.

21 New programs are being offered in areas
22 such as computer information systems, leadership
23 studies, printing arts technology.

24 This year represents the inauguration of
25 our new biomedical technician program in

2/23/01 - FY '02 OPERATING BUDGET

collaboration with the Wistar Institution.

The college has become an active member of the Pennsylvania Virtual Community College Consortium, a distance learning initiative of all 15 Pennsylvania community colleges that delivers instruction via today's communication technologies across the State.

Use of computer technology to facilitate student placement testing and financial aid application has been greatly expanded.

Phase 2 of the college's new Northwest Regional Center at 1300 West Godfrey Avenue has been completed. And now that center includes eight new general purpose classrooms, two computer classrooms, a technical craft classroom, and additional offices and meeting rooms. Enrollments at the Northwest Center have grown by 180 percent in the last year and a half as the result of the new program opportunities made possible by the space expansion.

The college's web pages have been redesigned to make the home page more effective for potential students, to make the support pages more useful for enrolled students, and to provide the opportunity for on-line applications.

2/23/01 - FY '02 OPERATING BUDGET

The college has expanded GED, adult literacy, and English as a second language offerings in community centers throughout the City and has assumed responsibility for the operation of standard evening high school from the Philadelphia School District. We have recently completed a strategic plan and a companion technology plan which outlines strategic directions for the college for the next four years. To compliment these two plans, we shall be updating the college's 1997 facility master plan.

A strong coordinated vision for the college's future has been set. In short, because of City and State funding for the current year, the college was able to make extraordinary progress in a wide range of programmatic and service areas. To continue that progress and to address forth-coming issues of increasing enrollment, technological literacy, expanded access to programs, and our commitment to work force and economic development, additional resources in 2001-2002 will be essential.

Community College of Philadelphia has been the education answer to almost 500,000 Philadelphia residents since our creation in 1964. We are the sixth largest institution of higher

2/23/01 - FY '02 OPERATING BUDGET

education in the State. Over 60 percent of our students are 25 years of age or older. The college works with business, industry, government, higher education, public and parochial schools to prepare, train, and develop students, employees, leaders and contributing citizens for our City.

We touch the lives of students long before they ever enter the college. Our programs with the School District of Philadelphia are helping high school students improve their academic skills, access college credit courses and experience college. We are also helping to develop new teachers in a variety of critically important areas.

Our students select us for certificate or associate degree programs that lead to employment or transfer to the four-year institution of their choice. Students choose us because of our affordable tuition, although, unfortunately, it remains the highest tuition among Pennsylvania's community colleges and one of the highest in the country. Nevertheless, taking the first two years of study at Community College of Philadelphia significantly reduces the cost of a four-year degree. Students also choose us because they are

2/23/01 - FY '02 OPERATING BUDGET

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working parents and need to remain close to home and they can take courses at one of our many facilities throughout the City. Most importantly, students choose us because we have a proven record of success, a record confirmed by family, friends, and neighbors.

Similarly, business and higher education choose Community College of Philadelphia in ever increasing numbers. More and more businesses select Community College to find employees or upgrade the skills of current employees. Four-year colleges and universities, Drexel, Penn, Bryn Mawr, Temple, the state system and others offer our students to opportunities to continue their education at their schools. The quality we provide and the success of our education programs create a positive benefit for all.

To help us better achieve our shared vision for 2001-2002, we appreciate the Mayor's including a \$1 million increase in the City subsidy for a total of \$21.7 million in the next budget. Without these added and necessary resources, the college's efforts to serve the City will be hampered. With them, we will be able to continue on

2/23/01 - FY '02 OPERATING BUDGET

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the positive path of improved student services,
expanded programs for business and industry, and
enhanced effectiveness for the citizens of
Philadelphia. We respectfully urge Council to
support this allocation.

The increase in our allocation will
allow us to make significant progress in a number of
areas. As a few brief examples, it will enable us
to keep any increase in tuition and fees to a
minimum. It will help us further improve our
technology infrastructure. As an example, within
the next 9 to 12 months we intend to quadruple our
internet-based courses and to upgrade our computers
across the college, both in number and beginning a
cycle of replacing older computers with new ones.
It will enable us to introduce new degree programs
and other curricular changes to meet the needs of
the City's emerging industries; to expand student
services at off-campus locations throughout the
City; to replace worn out or obsolete equipment used
in our laboratories; to enhance our partnerships
with the School District of Philadelphia; to address
some key deferred maintenance issues; to
significantly expand the career planning and job

2/23/01 - FY '02 OPERATING BUDGET

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2 placement services available to our students; to
3 plan for a new expanded business and industry
4 education center; to strengthen and expand our dual
5 Administration agreements with area four-year
6 colleges and universities; to continue our highly
7 successful ACE Program, that's the Advanced College
8 Experience for high school age students; and also to
9 implement a new summer camp program for younger
10 children; and to expand instructional offerings
11 using alternative delivery strategies such as
12 web-based courses, as I mentioned previously,
13 interactive video and television in order to provide
14 greater flexibility for both current and potential
15 students.

16 We cannot tackle our students' need for
17 technological literacy, skills that are mandatory
18 for the 21st Century without your help. We cannot
19 expand career exploration and job placement services
20 without your help. We cannot meet the demands of
21 increased enrollment without your help. We cannot
22 do any of the things I've listed without your help
23 and support. Community College of Philadelphia has
24 made tremendous progress in meeting its mission over
25 the past year. With your continued support, our

2/23/01 - FY '02 OPERATING BUDGET

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contribution to the economic vitality of the City
will be further enhanced.

As we do continuously, we have tightened
our belts, secured supplemental grant funds, and
advocated in Harrisburg for additional resources.
We now need to ensure that our City's college is
positioned to continue to respond efficiently and
effectively to the needs of business, industry,
government and its citizens for high-quality,
affordable educational opportunities. To do this
requires the additional resources recommended in the
Mayor's budget.

We have the experience and work force
development and training and we have excellent
programs in business, science, engineering and
technology, health care, social and human services,
liberal arts, arts and communications. We have
talented faculty, dedicated employees, a visionary
board of trustees and a collective talent to ensure
success. We ask you to see us as this City's
college here to help our City achieve its education
and economic goals. We have been pleased to work in
many ways to support the City, but we can and seek
to do more. We ask that you help us formalize our

2/23/01 - FY '02 OPERATING BUDGET

position as the City source for educational resources. Systematically consider us as your training source when you need to upgrade the skills of the City's work force. Include us in your discussions to provide expanded professional development opportunities for School District teachers and staff. Involve us in the planning to improve work force training and economic development for current and potential employers.

Community College of Philadelphia is affordable, agile, and responsive. And we are this City's college. We ask your help in achieving our collective vision for the City of Philadelphia. I thank you for the opportunity to speak with you today. We urge your support of Community College of Philadelphia's annual appropriation as recommended in the budget. And we're happy to answer any questions you may have.

COUNCIL PRESIDENT Verna: Thank you very much, Doctor.

The Chair recognizes Councilwoman Blackwell.

COUNCILWOMAN Blackwell: Thank you very much.

2/23/01 - FY '02 OPERATING BUDGET

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2 Thank you, Doctor. Thank you, Mrs.
3 Cohen. We certainly wanted to say a special thank
4 you to Lynette Brown and my own State Rep Jim
5 Roebuck who's very active on this board, I know, and
6 certainly to Lillian Smith. I see Delores Brisbin
7 back there, too. We certainly want to thank Lillian
8 Smith in West Philadelphia. I'm glad to hear about
9 the expanded programing because our branch has
10 really become a pillar in the community. We have
11 the perfect leadership out there who understands the
12 community and has really open the doors so that we
13 always have all kinds of seminars and important
14 meetings, etcetera, going on there and we're just
15 glad to hear about your positive leadership and
16 willing to be flexible and to enhance programs there
17 and certainly support your endeavors. Thank you.
18 Thank you both.

19 MR. LEARY: Thank you very much.

20 COUNCIL PRESIDENT VERNA: Thank you.

21 The Chair recognizes Councilwoman Brown.

22 COUNCILWOMAN REYNOLDS-BROWN: Thank you,
23 Madam President.

24 Good afternoon, Community College. On
25 Page 1 of your testimony you mention, and I quote,

2/23/01 - FY '02 OPERATING BUDGET

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that you have developed and expand collaborative programs with the Philadelphia School District. If you could just elaborate on that for us and speak if you will about the ACE Program that you also talk about in your testimony.

DR. CURTIS: Surely. Starting with ACE, ACE is in our summer program for high school students, 10th, 11th, and 12th graders. It's open to any high school student in the City. There are some parameters. I think you have to have some of experience in terms of English composition, that kind of thing. But aside from that, it's open to any student, 10th, 11th and 12th grades. We offer a group of courses, typically about 12 to 15 just for the high school students. These are sections geared just for the high school students. The students get either A, B, and C; they can not fail. The goal is to let them have a collegiate course experience. If it turns out they're not prepared enough to really pass the course, they're not penalized; that's bottom line. So they either receive either the passing grade or they get no grade at all. It's a program that we're looking to expand. And as we work with clusters and high schools around the City,

2/23/01 - FY '02 OPERATING BUDGET

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we're starting to try some other courses that haven't been previously offered. As an example, I believe on the schedule for this summer it is an automotive course designed to point toward West Philadelphia, for instance. That's not the kind of thing we've offered in the past. It's typically been a computer course or some other kinds of courses.

In terms of general question, there are a number of things we are doing. I gave you one example. We're trying to do more in terms of professional development because we have things to offer the School District, and Act 48 does allow for community colleges to participate in that endeavor as well. The pilot program I mentioned to you is in response to something that has been said to me personally, but also a number of us at the college as we work with our K through 12 colleagues around the City. And that is that at middle school level, there is real need for math science technology among the teachers. Many are elementary school teachers who have moved into the middle school may not have that kind of background. So this is an effort to move forward in that way. As I said, this is a

2/23/01 - FY '02 OPERATING BUDGET

pilot we hope to expand.

We're expanding our dual enrollment program. That gives during the year 11th and 12th graders an opportunity to take college courses for credit. And I'll use the West Philadelphia example again. This year, I believe, there are 13 students taking our automotive course from West Philadelphia. So again, that did not occur a year ago. So we're reaching out in different ways, whether it's students taking courses, whether it's working with teachers. We conducted a career fair at a middle school a number months back, again, looking at career opportunities, so it's a range of things.

COUNCILWOMAN REYNOLDS-BROWN: And starting earlier. What you're talking about, I know historically has been a practice of four-year institution where you tap young people around the 8th or 9th grade and then try to hold on to them and guide them, if you will, through the ultimate admission to that institution. But this is the first time I'm hearing a two-year institution take that approach, and I commend you for that.

Earlier this week or last week the Commerce Department was before us and a new

2/23/01 - FY '02 OPERATING BUDGET

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initiative they have undertaken with regards to bringing high tech new technology companies to our City. What initiatives is the college pursuing to ensure that students are getting prepared for the new technology companies?

DR. CURTIS: I mentioned in my testimony that among other things that we have done is to create a long-range -- and I use the word advisedly -- technology plan. I say advisedly because it's only three years out. Things change so quickly, you have to constantly reassess where you're going. But that plan calls for a number of things. I'll give you two or three examples. One, we're seeking to infuse technology more and more into every curriculum. And to do that, we're putting a computer in every full-time faculty member's office. We are increasing the level of professional development that we're doing for faculty and staff. They need to know how to incorporate that into their curriculum. It's easy for computer science, computer information systems. What do you do in chemistry, what do you do in some other areas? So we're infusing in that way.

I mentioned that we are expanding our

2/23/01 - FY '02 OPERATING BUDGET

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web-based courses. When I arrived about a year and a half ago, we had four interest-based courses and we intend to quadruple that in the next 9 to 12 months. We have a dozen faculty who are developing internet-based courses now.

But we're not just trying to do it that way, we're also trying to get faculty to develop modules for their regular courses, a history course or other courses to give internet assignments so that students are forced to encounter technology in that way. We expect in the next two years, as I mentioned briefly, to expand our center for business and industry. And as we do that, we'll be moving toward a 24-7 computer lab that, again, will expand access for students. So there's a whole range of things that are very much part of our plan and which we are aggressively pursuing.

COUNCILWOMAN REYNOLDS-BROWN: That's encouraging as well when we know what tomorrow holds with regards to high technology.

Back to the ACE Program, how old is that program? How many years?

DR. CURTIS: About 10 years old.

COUNCILWOMAN REYNOLDS-BROWN: Are you

2/23/01 - FY '02 OPERATING BUDGET

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operating at capacity?

DR. CURTIS: I'm not sure there's an issue of capacity. We keep looking to build it. If there are enough students, we'll create more courses.

COUNCILWOMAN REYNOLDS-BROWN: Finally, with the Welfare to Work and the insistence that at some designated hour men and women have to either go into the work force or to college, child care has been one reality that's come as a result of to that. I know that Community College does have child care facilities. Should I assume that there has been increase in enrollment due to the Welfare to Work phenomena.

DR. CURT: I don't know that I can answer that in a databased way. I would say the answer is no. I think that as Welfare reform came in, what we probably saw overall was a decline in enrollment because it put some parameters on what you could do education-wise. So if your question is, are we increase; I think the answer is no. What we're trying to do is to accommodate the nature of the work requirement in some different ways. And I may have mentioned this last year. I can't

2/23/01 - FY '02 OPERATING BUDGET

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2 remember. We have a church in the City for two
3 years now provide a scholarship -- not one
4 scholarship, a fund for scholarships specifically
5 for persons on public assistance. And the goal is
6 to turn that into work study money. The college
7 actually matches those scholarships dollar for
8 dollar out of our work study funds. The goal is to
9 allow that person who is on public assistance to
10 come to the college, take the courses, but also
11 fulfill will work requirement on campus. It makes
12 it much easier to handle both. So we've been
13 working with ways that we can accommodate the
14 situation. But I don't think the literal answer is
15 that it means we're increasing enrollment, no.

16 COUNCILWOMAN REYNOLDS-BROWN: That's
17 troubling. I thank you for the explanation. Thank
18 you very much.

19 Thank you, Madam President.

20 COUNCIL PRESIDENT VERNA: Thank you.

21 The Chair recognize his Councilman
22 Kenney.

23 COUNCILMAN KENNEY: Thank you, Madam
24 Chair.

25 In the last paragraph of your testimony

2/23/01 - FY '02 OPERATING BUDGET

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2 there's discussion of a systematically consider us
3 as your training source when you need to upgrade
4 skills of the City's work force. Since John Timoney
5 became commissioner, for example, he has been
6 extremely strong on management, people continuing to
7 improve their skills. And I know that through the
8 Police Academy there is a relationship that's
9 developed with Family College in Philadelphia. As
10 it relates to the Police Department, as it relates
11 to other management upgrade, as it relates to all
12 the departments of the City, do you have a
13 relationship with the City?

14 DR. CURTIS: Absolutely.

15 COUNCILMAN KENNEY: Which departments
16 are they and what's the arrangement?

17 DR. CURTIS: Some are continuing, some
18 are about to start. We are just completing
19 negotiations with the Police Department, in fact, to
20 offer credit courses at the Academy so that as
21 cadets finish their -- I think it's 40 weeks there,
22 they'll walk away with five courses, 15 credits
23 toward an associate degree. That's not a signed
24 deal yet. But that's a proposal that we are
25 currently working on with them. We do things with

2/23/01 - FY '02 OPERATING BUDGET

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2 the Streets Department. I mean, we have a series of
3 relationships throughout the City. My comment was
4 meant to say that most of those develop in an ad hoc
5 way. We reach out or, honestly, someone from a
6 particular department will call us, but I'm not sure
7 that the City has historically thought we've
8 invested all this money in our local Community
9 College, it has a level of experience and a level of
10 I think a record of really producing. And so when
11 we're talking about retaining a company in the City
12 or trying to bring in a new company as well as the
13 City itself to automatically call and say, Would you
14 like to sit at the table, so that we see what you
15 have to offer, I think it's not done in that
16 systemic way. That's what that was meant to say.

17 COUNCILMAN KENNEY: So the potential
18 relationship between the Police Department and
19 Community College as it relates to cadets, has there
20 any discussion as it relates to continuing
21 management rank of lieutenant, captain and up or
22 sergeants -- or even more generically, I guess,
23 leadership kinds of courses that could be applied to
24 Fire Department, to other areas?

25 DR. CURTIS: Yes. I'm sorry, my answer

2/23/01 - FY '02 OPERATING BUDGET

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was not complete enough. That usually gets dealt with through our regular course curricula. We have a justice program and we have an advisory board on which members of the department, and it's true for fire as well, a separate program -- not justice. And we do have upper level members of both departments who are taking a curriculum through the college in that way.

COUNCILMAN KENNEY: But that's done through the department itself or individual --

DR. CURTIS: It's with the support of the department. Individuals are signing up.

Am I stating this correctly? Yes.

COUNCILMAN KENNEY: So it's clear to the individual employees that graduation or matriculation through to particular course is something that their commissioner smiles upon?

DR. CURTIS: Absolutely. And again, we have an advisory board for every career program and specifically for fire and police, which is what you asked me about, we have advisory board members from the department that sit with us and they helped us craft originally and now modify the curriculum so that it meets the needs of those departments.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN KENNEY: I'm happy to hear
3 that. I was just concerned about the comment that
4 we don't think of you enough.

5 DR. CURTIS: I've tried to explain what
6 I meant by that. I will be frank with you and say
7 that it's true at the state level too, I think. The
8 State also doesn't look at what they have invested
9 in community colleges throughout the State, not just
10 us, and say we have an investment there. When we're
11 talking about economic development at the State
12 level, let's look at immediately to community
13 colleges. It tends to happen based on the hard work
14 of the parties involved rather than let's take a
15 look in a systemic what can be done.

16 COUNCILMAN KENNEY: You mentioned the
17 State. The close proximity of our state office
18 building here in Philadelphia and the college is an
19 opportunity to have students from the state
20 government advance their skills in Community
21 College. Is there any relationship directly between
22 the State and Community College?

23 DR. CURTIS: I don't know the answer to
24 that. I don't think there's anything formal. I'm
25 not aware of it at least.

1 2/23/01 - FY '02 OPERATING BUDGET

2 COUNCILMAN KENNEY: Thank you.

3 COUNCIL PRESIDENT Verna: The Chair
4 recognizes Councilman Ortiz.

5 COUNCILMAN ORTIZ: Thank you, Madam
6 Chair.

7 In terms of using Community College, and
8 we have right now coming to fruition the five-year
9 period of people that have been on Welfare. How has
10 Community College been approached or used in terms
11 of these individuals that have been required by law
12 to go out and find work, many times without the
13 skills necessary to be able to find those jobs? Has
14 any City or State agency worked or contracted with
15 City College to begin a process of preparing
16 individuals for the workplace?

17 DR. CURTIS: Sure. We work with PWDC as
18 an example. We've started a new program this year,
19 the Next Step Program. We are involved with the One
20 Stop to a certain extent, the one that's currently
21 in place. So we do have some of those specific
22 programs. I would say to you they're in the large
23 programs in terms of numbers.

24 COUNCILMAN ORTIZ: That's my next
25 question. How extensive are they and how many

1 2/23/01 - FY '02 OPERATING BUDGET

2 people are you touching.

3 DR. CURTIS: I don't know that I can
4 give you a number off the top of my head. I know
5 it's fair to say it's not huge numbers. Part of
6 that is driven by some of the program requirements.
7 Sometimes when these programs are geared on a
8 particular training track, there may be other
9 requirements, 6th grade reading level, that sort of
10 thing. If that isn't matched, it's difficult to get
11 them into that program within a reasonable amount of
12 time. That's something you're starting to see more
13 of because in the good economy many people who have
14 at least some skills have been able to find some
15 employment.

16 COUNCILMAN ORTIZ: I know that at one
17 point we had many individuals, mostly women, that
18 were on Welfare that were attending Community
19 College. And then with the new law, schooling or
20 higher education was not defined as work so they had
21 to leave. What has been the loss of that? Do you
22 have any numbers of people?

23 DR. CURTIS: No. We are asked this
24 question from time to time. Because students are
25 not identified to us in that way anymore, we're not

2/23/01 - FY '02 OPERATING BUDGET

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2 able to really track it in a data way. We only know
3 that anecdotally, and that was the response I gave
4 the Councilwoman earlier, that the numbers are
5 definitely less, but we can't give you a definitive
6 number because it's not reported to us in that way
7 any longer.

8

COUNCILMAN ORTIZ: Well, many of them

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had kids in the day care center that you have.

10 Incredible day care center. I don't how many people
11 have gone and seen it, but it is a very good
12 facility. How is that operating and how many kids
13 are now in the day care center, do you know, and was
14 that part of the impact? Because I imagine that
15 many of the people and many of the women that were
16 on Welfare had their kids in that day care center so
17 they can study.

18

DR. CURTIS: Dr. Jones, can you tell me

19

about how many children are there right now?

20

Fifty-two is the answer. And again, I

21 don't know right off the top of my head if we know
22 how many would be children of families on public
23 assistance. We don't know that, do we? No, we
24 don't know that again.

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COUNCILMAN ORTIZ: Do you have numbers

2/23/01 - FY '02 OPERATING BUDGET

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of different high schools and how many high schools
feed into Community College every year?

DR. CURTIS: Yes, we do.

COUNCILMAN ORTIZ: From the City of
Philadelphia?

DR. CURTIS: Yes, we keep close track of
that.

COUNCILMAN ORTIZ: And the retention
rate and the individuals, how many of them -- I
imagine it's a two-year associate degree?

DR. CURTIS: Yes, we do.

COUNCILMAN ORTIZ: How many of them go
on to the four-year colleges and so on?

DR. CURTIS: Yes, with the caveat that
because almost all go on to private universities, we
are dependent on that university to give us the
data. Some give it to us more regularly than
others.

COUNCILMAN ORTIZ: And you have those?

DR. CURTIS: Yes, we do.

COUNCILMAN ORTIZ: I really would like
to look at that. If you can send that over to the
president, I'd really like to see what's the flow
and graduation rate.

1 2/23/01 - FY '02 OPERATING BUDGET

2 The outreach aspect of Community
3 College, how are you doing that? What is the
4 success rate of your effort?

5 DR. CURTIS: In terms of students?

6 COUNCILMAN ORTIZ: Yes.

7 DR. CURTIS: Well, our enrollment is
8 rising. This will current semester in our credit
9 programs we're 5 percent larger than we were a year
10 ago in the spring, and our non-credit numbers are up
11 too. So I think we are reaching out in many
12 different ways, some of them obviously relate to
13 marketing and so on, but some of them are
14 programmatic in nature. When I mentioned in
15 response to earlier questions about our relationship
16 with the public schools, for example, that's a
17 connection that ultimately we hope will lead to a
18 transition into our college environment and that
19 effects enrollment. I would say in ever category
20 essentially this year, we are up in enrollment.

21 COUNCILMAN ORTIZ: You currently have
22 some satellites; is there any plans to build any
23 more satellites for Community College in other parts
24 of the City?

25 DR. CURTIS: Not at the moment. Our

2/23/01 - FY '02 OPERATING BUDGET

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2 three regional centers are each up in terms of
3 enrollment. I've mentioned the Northwest because it
4 was the one that we moved most recently into a new
5 facility. With that move and with the addition of
6 space, it has grown considerably faster than the
7 other two, considerably faster than the main campus
8 too. But all three regional centers are gradually
9 moving up in terms of enrollment. But I think we
10 have a lot of other things on our plate at the
11 moment in terms of anticipated needs. I mentioned
12 the business and industry center. We are losing our
13 lease at our current site and are having to
14 negotiate a least at another site. That's an issue
15 that we have to address first. We have still not
16 completed the renovation of our Northwest center.
17 We're two-thirds the way through or three-quarters
18 of the way through, but that's part of our master
19 plan. So there are a series of other steps first, I
20 think.

21 We will continue the community-based
22 sites that we have around the City in terms of at
23 least some initial offerings.

24 COUNCILMAN ORTIZ: One last thing, my
25 entrepreneurial friend over here to my left and I

2/23/01 - FY '02 OPERATING BUDGET

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were talking, maybe that we could begin naming rights and selling naming rights to raise some more funds to Community College. That seems to be the fad nowadays.

DR. CURTIS: We will have plenty of things. If you know anyone that would like to take advantage of that.

COUNCILMAN ORTIZ: Or we could wrap Community college in these huge advertisements, wall wraps.

(Laughter.)

COUNCILMAN ORTIZ: Thank you, Madam Chair.

COUNCIL PRESIDENT VERNA: Thank you.

Are there any further questions?

Dr. Curtis, thank you so much for all the wonderful work you do. We certainly want to thank everyone who has joined you today. Good luck. Thank you.

MR. MCPHERSON: This hearing stands in recess until Tuesday at 9 a.m.

(Council adjourned at 5:45 p.m.)

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RE: COMMITTEE OF THE WHOLE

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Josephine Cardillo, RPR
and Notary Public

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Lisa C. Bradley, RPR
and Notary Public

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