

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 COMMITTEE OF THE WHOLE

4 - - -
5 Room 400, City Hall
6 Philadelphia, Pennsylvania
7 Wednesday, March 30, 2011, 10:10 a.m.
8 - - -

9 RES. 110161 - Five-Year Plan

10 BILL 110135, Capital Program 2012 through 2017

11 BILL 110136 - FY 2012 Capital Budget

12 BILL 110137 - FY 2012 Operating Budget

13 BILL 110138 - Wage Tax Bill

14 COMMITTEE MEMBERS PRESENT:

15 Anna C. Verna, Chair
16 Marian B. Tasco, Co-Chair
17 Jannie C. Blackwell
18 Blondell Reynolds-Brown
19 Darrell L. Clarke
20 W. Wilson Goode, Jr.
21 William K. Greenlee
22 Curtis Jones, Jr.
23 James F. Kenney
24 Frank Rizzo
25

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2 COUNCIL PRESIDENT Verna: Good
3 morning, everyone. This is a continued
4 public hearing of the Committee of the
5 Whole.

6 The Chair recognizes
7 Mr. McPherson.

8 MR. McPHERSON: This is a
9 continuation hearing on Resolution
10 110161, the City's Five-Year Plan; Bill
11 No. 110135, Capital Program 2012 through
12 2017; Bill No. 110136, the Capital Budget
13 for Fiscal Year 2012; Bill No. 110137,
14 the Operating Budget for Fiscal 2012;
15 Bill No. 110138, the wage tax bill.

16 And today, we are taking
17 testimony on Bill No. 110137, the
18 Operating Budget for Fiscal 2012, and the
19 first department is the City Controller.

20 (Witnesses come forward.)

21 COUNCIL PRESIDENT Verna: Good
22 morning and welcome.

23 CITY CONTROLLER BUTKOVITZ:
24 Good morning.

25 COUNCIL PRESIDENT Verna:

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2 Please identify yourself for the record
3 and proceed with your testimony.

4 CITY CONTROLLER BUTKOVITZ:

5 Yes. Good morning, Madam President and
6 members of Council. I'm City Controller
7 Alan Butkowitz, and I'm joined today by
8 Deputy City Controller Harvey Rice;
9 Deputy Controller Gerry Micciulla, and
10 this is his first budget as the Post
11 Audit Deputy, Al Scaparetta having
12 retired.

13 COUNCIL PRESIDENT Verna:

14 Welcome.

15 CITY CONTROLLER BUTKOVITZ: And

16 also Deputy Controller John Thomas, as
17 well as our Administrative Services
18 Director Andrea Rose.

19 Should I proceed now?

20 COUNCIL PRESIDENT Verna:

21 Please.

22 CITY CONTROLLER BUTKOVITZ:

23 Some of the more pleasant aspects of my
24 job as City Controller are opportunities
25 like these to work with members of

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2 Council under the leadership of President
3 Verna, I would like to publicly
4 acknowledge and thank you for your many
5 years of dedicated service to the
6 citizens of Philadelphia.

7 COUNCIL PRESIDENT VERNA: Thank
8 you.

9 CITY CONTROLLER BUTKOVITZ: The
10 Mayor's proposed Fiscal Year 2012
11 Operating Budget for the City
12 Controller's Office includes a General
13 Fund appropriation of \$7,556,052. While
14 this is an increase of \$200,000 over last
15 year's budget, the increase in revenues
16 is earmarked for the inordinate amount of
17 termination payments that the office will
18 incur for Fiscal Year 2012.

19 Unfortunately, my office staff
20 has decreased to 112 employees, down from
21 135 when I took office just over five
22 years ago, a decrease of 17 percent.

23 Again, I would like to publicly
24 thank all of my employees who continue to
25 provide professional and needed service

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2 to the citizens of Philadelphia. They
3 continue to sacrifice and do their part
4 to help our city meet our current
5 financial challenge.

6 I believe this clearly
7 demonstrates that City employees are
8 hardworking and dedicated individuals who
9 are willing to do whatever it takes to
10 keep our city running smoothly during our
11 current financial crisis. They are to be
12 commended and congratulated.

13 In spite of decrease in staff
14 positions, my office continues to issue
15 reports that not only help the City save
16 money but also to improve the quality of
17 life in Philadelphia.

18 Our Post Audit Unit issued
19 departmental audits, performance/special
20 audits, four entity-wide opinion audits,
21 and three related reports on internal
22 controls, a grant audit, and an opinion
23 of the City's five year forecasted
24 statements.

25 In those reports, we made 139

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2 new recommendations to safeguard assets,
3 enhance financial management, strengthen
4 internal accounting controls, and improve
5 operating economies and efficiencies. In
6 all, these audit reports identified
7 financial reporting errors, compliance
8 deficiencies, cost reductions, and
9 increased revenues totaling over
10 \$704 million.

11 This past year, my office not
12 only has concentrated in identifying
13 waste and inefficiencies, but we have
14 continued to find measures to bring
15 uncollected revenue into the City's
16 treasury.

17 Last January, we took the
18 unprecedented step of withholding from
19 employees' paychecks for those who owed
20 delinquent taxes. A State statute
21 enacted in 1937 gives the City Controller
22 the power to withhold up to 20 percent of
23 City employees' salaries who owe back
24 taxes.

25 Since the inception of the

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2 Controller's withholding initiative, it
3 has generated \$3 million for the City,
4 \$750,000 directly from payroll
5 withholdings. I would like to thank
6 Commissioner Richardson and Finance
7 Director Rob Dubow as well as their
8 respective staffs for their work and
9 their assistance in this project.

10 After realizing the success of
11 the withholding program for delinquent
12 taxes, we worked in collaboration with
13 Municipal Court President Judge Neifield
14 to launch an initiative to collect unpaid
15 court debt from City employees.

16 Currently, there are 650 City employees
17 owing more than \$1 million in court
18 fines, fees, and bail costs. The courts
19 are already looking to expand the court
20 debt withholding initiative to include
21 employees of other governmental entities
22 and private businesses who owe court
23 costs.

24 Both of these withholding
25 programs will bring in over \$5 million to

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2 the City treasury. These efforts clearly
3 demonstrate that government entities can
4 work together and make our government run
5 efficiently and effectively and collect
6 much-needed revenue.

7 Along with aggressively
8 collecting owed money to the City, we
9 identified \$64 million in unnecessary
10 costs in our review of the City's Risk
11 Management Division. In that review, we
12 found that the City's third-party
13 Worker's Compensation administrator
14 failed to evaluate 927 open cases,
15 resulting in \$64 million in future costs
16 to the City.

17 And, as you know, we are in the
18 midst of a forensic audit of the
19 Sheriff's Office which has resulted in
20 many red flags detected by our auditors
21 during a routine departmental audit.

22 I would like to publicly thank
23 you, the Council, and the Mayor for
24 giving us the supplemental appropriation
25 so that we were in a position to hire a

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2 very well-respected forensic auditing
3 firm to assist with this project.

4 We also issued numerous reports
5 identifying departments where overtime
6 costs were increasing or where controls
7 for oversight and justification were
8 either lacking or completely nonexistent.

9 For example, we found that the
10 Fleet Management Department's overtime
11 grew by almost 25 percent, or \$242,413,
12 in the first half of the fiscal year
13 compared to the same period in the
14 previous year.

15 We found that the Streets
16 Department paid out \$120,000 for improper
17 overtime payments due to lack of
18 processing requirements.

19 Finally, our departmental
20 reports continue to identify poor
21 controls over the administration of
22 financial resources and offer
23 recommendations to reduce the opportunity
24 for fraud and irregularities.

25 We also continue to report on

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2 prior-year findings until corrections or
3 recommended changes are made. Our
4 Preaudit Unit provided oversight for more
5 than 215 capital projects, an increase of
6 90 projects over last year, totaling more
7 than \$860 million. Our inspections
8 resulted in cost savings to the City in
9 the form of credits for work not
10 performed and overbillings.

11 This past August, my Preaudit
12 Unit identified a contractor at the
13 Philadelphia Airport who was not
14 compliance in with minority participation
15 requirements of his contract. We found
16 that the contractor failed to utilize his
17 minority subcontractor for approximately
18 \$4 million. As a result of the
19 Controller's audit, the City is taking
20 appropriate and necessary action against
21 this contractor.

22 In addition, we have put 150
23 vendors on tax hold, which has stopped a
24 total of \$2.2 million in payments.

25 The Fraud Unit worked on more

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2 than 100 cases this year that included
3 residency and other cases involving
4 misuse of City equipment, time-keeping,
5 and tax avoidance.

6 In addition, we conducted a
7 review of the BigBelly sole-source
8 contract, where we identified
9 questionable practices in the purchase of
10 the \$3700-apiece trash units. As a
11 result, the Streets Department has
12 implemented a number of our
13 recommendations.

14 Further, we are continuing our
15 Bank on Philadelphia Project that is
16 currently signing up unbanked
17 Philadelphians and getting them checking
18 and savings accounts.

19 The "Bank On" promise is also
20 working with financial institutions and
21 community organizations to promote
22 financial literacy within our City's
23 schools. We developed a youth education
24 portal through the Bank On Philadelphia
25 website that allows teachers, parents,

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2 and students to gain access to financial
3 literacy resources provided by the many
4 Bank On Philadelphia partners.

5 We have accomplished all of
6 this despite being short positions since
7 I took office a little over five years
8 ago. As I said, those positions include
9 14 auditors, including a manager and a
10 supervisor, three Clerk I's, a
11 Construction Project Technician I, an IT
12 Director, and four investigative
13 positions and a policy budget staff
14 position.

15 Although I am proud of all of
16 the accomplishments which I have
17 mentioned, the loss of these positions
18 has impacted our ability to complete all
19 of our Charter-mandated audits in a
20 timely manner and has limited our ability
21 conduct ad hoc requests for contracts and
22 other audits from City departments that
23 could result in cost recoveries for the
24 City.

25 My goal for the current year is

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2 to continue identifying as much waste,
3 fraud, and inefficiency in City
4 government as possible in order to save
5 taxpayers' money.

6 I will continue working on
7 issues and solutions to make Philadelphia
8 a better place for those who live and
9 work here.

10 And, most importantly, during
11 these difficult financial times, I will
12 continue finding more revenues that are
13 owed the City and identify performance
14 and management efficiencies throughout
15 City government so we can have the added
16 resources needed to fund the programs
17 that provide necessary City services.

18 I appreciate this opportunity
19 to present testimony, and I thank Madam
20 President and the members of Council for
21 your cooperation. I look forward to
22 working with you in the coming year.

23 My staff and I will be happy to
24 answer any questions that you have.

25 COUNCIL PRESIDENT VERNA: Thank

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2 you.

3 The Chair recognizes Councilman

4 Goode.

5 COUNCILMAN GOODE: Thank you,

6 Madam President.

7 Good morning, Mr. Controller.

8 CITY CONTROLLER BUTKOVITZ:

9 Good morning.

10 COUNCILMAN GOODE: Let me first

11 salute you for the work you've done on

12 minority participation.

13 During these hearings, I've

14 been asking questions about the largest

15 contracts that each department has and

16 whether they are renewable.

17 I am actually interested in

18 finding out your opinion on whether

19 renewable contracts actually helps or

20 hurts minority participation, with the

21 thought that if the goals are not reached

22 within the first year, as a contract goes

23 into a second or third or fourth year,

24 whether there's an opportunity for more

25 participation or whether it will stay

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2 level.

3 So my question is just twofold.
4 One, do you have to sign off on renewable
5 contracts? And then, two, how do you
6 think it impacts minority participation?

7 CITY CONTROLLER BUTKOVITZ:

8 Well, I sign off on own contracts. And
9 my experience happens on it happens to be
10 with the largest that we've awarded,
11 which is the one that's going on right
12 now on the Sheriff's audit.

13 And that gave us an opportunity
14 for a 25 percent minority participation
15 in that contract. It really helped
16 improve our numbers overall, and I can
17 tell from the way the interview went that
18 no matter how you sliced it, whether it
19 was -- you know, when it's renewable, you
20 don't have to go through this process
21 every year of interacting with the
22 contractor.

23 So you really only get one shot
24 at 'em over four years. And it's that
25 interaction that really communicates the

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2 seriousness of purpose that you expect
3 there to be responsiveness on that.

4 So I'd say that the more often
5 they have to come in and be interviewed
6 and make a pitch for the contract, the
7 greater a chance of success at achieving
8 the minority goals.

9 COUNCILMAN GOODE: Okay, thank
10 you.

11 Thank you, Madam President.

12 COUNCIL PRESIDENT Verna:
13 You're welcome.

14 The Chair recognizes Councilman
15 Jones.

16 COUNCILMAN JONES: First of
17 all, I still read all of your audit
18 reports, and I appreciate what you're
19 doing.

20 What I would like to get a
21 sense of is: Have you heard any update
22 about the analysis of the Gas Works and
23 where we should be with that asset?

24 CITY CONTROLLER BUTKOVITZ: It
25 hasn't been performed formally. I've

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2 only heard, you know, offshore, informal
3 kinds of comments. And just as we
4 suspected at the beginning, there's going
5 to be a cross pressure in terms of
6 different goals that the City has.

7 There's a very strong goal to
8 try to get this liability, open-ended
9 liability, off the City books. And
10 there's also a strong commitment to
11 preserving all sorts of protections for
12 low-income ratepayers and so on.

13 And those two goals -- and what
14 I'm getting is that it's kind of
15 difficult for better -- anybody who was
16 going to pick up a utility with a minus
17 \$1 billion value expects to be able to
18 make that money back either by raising
19 rates or firing workers; they're not
20 going to give us charity.

21 And I don't think that the City
22 policy leaders have -- it's a very
23 difficult issue for them to digest
24 because we have a very large impoverished
25 population in the City, and I don't think

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2 the City has -- you know, the Mayor has
3 made it pretty clear that he's just not
4 willing to just write off a lot of the
5 protections that have been embedded.

6 So my judgment's going to be
7 very, very hard to spin this off to a
8 private owner.

9 COUNCILMAN JONES: Well, I
10 reserve opinion about whether to spin it
11 off, whether to keep it, but I would like
12 your considerable intellectual staff over
13 there to probably weigh in on the
14 interaction between what potentially
15 could be the Governor's role within this
16 utility in light of the Marcellus Shale.

17 CITY CONTROLLER BUTKOVITZ:
18 Well --

19 COUNCILMAN JONES: Now, hear me
20 out, hear me out.

21 The potential for a hometown
22 discount, whether we ferret gas up, and
23 then because we are a prin -- we
24 actually -- Philadelphia still is a part
25 of the Commonwealth of Pennsylvania --

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2 and in some way, be able to get some type
3 of discount or some type of help or
4 relief from that debt to take that asset
5 from being a negative and a burden and
6 debt-ridden to at least being able to
7 fend for itself in the private market so
8 that it is an asset.

9 We can't force them to do that,
10 but if there was some type of extraction
11 tax or some type of formula to assist
12 this and other municipalities, because
13 this is a considerable fine, it has
14 considerable drawbacks by way of the
15 environment potentially, but there is
16 some economic value to finding that much
17 gas underground for 200 million years.

18 But what benefit, if any, is it
19 to the City of Philadelphia? And it
20 would seem as, though, you know, you have
21 so many intellectual properties over
22 there to help us out to figure that out.

23 CITY CONTROLLER BUTKOVITZ:

24 Well, I think you have really taken a
25 leading role on that issue in

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2 Philadelphia, and I think you're singing
3 to the choir.

4 The problem is that Governor
5 Corbett has been unequivocal. Even as
6 many other Republicans in the legislature
7 and even as the industry has a
8 willingness to the tax, he made a
9 campaign promise that he wasn't going to
10 raise taxes, and doesn't matter what the
11 details are.

12 So I'm not sure -- I'd be happy
13 if you could figure out a way that we can
14 help you flesh out that argument, but it
15 seems to me that this is just the
16 first -- there's definitely been a change
17 in the tenancy in the Governor's mansion,
18 and this and the treatment of the
19 Philadelphia schools and all of our
20 relationship with Harrisburg are going to
21 be on a downward trend for a while.

22 COUNCILMAN JONES: I've lived
23 long enough to a great Republican, George
24 Bush, say, "Read my lips, no new taxes"
25 and then raise taxes. So anything is

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2 possible.

3 But what I would like us to do
4 is be prepared that if in some
5 eventuality, that the economy and the
6 resources all collided at once, and they
7 say, Okay, Well, what do you want? that
8 we're prepared to at least make the ask.
9 Even if the answer is no, to be able to
10 make the ask.

11 CITY CONTROLLER BUTKOVITZ:

12 Okay.

13 COUNCILMAN JONES: And I would
14 ask that your department help us out with
15 that analysis.

16 CITY CONTROLLER BUTKOVITZ:

17 Sure.

18 COUNCILMAN JONES: Thank you,
19 Madam Chair.

20 COUNCIL PRESIDENT Verna:

21 You're welcome.

22 The Chair recognizes Councilman
23 Clarke.

24 COUNCILMAN CLARKE: Thank you,
25 Madam President.

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2 Good morning.

3 CITY CONTROLLER BUTKOVITZ:

4 Good morning, Councilman.

5 COUNCILMAN CLARKE: First, I'd
6 like to thank you and your staff for your
7 hard work on the NTI audit and review.
8 We're finally starting to spend money,
9 and I think it's good for us to have
10 \$60 million available to help stimulate
11 local development. So I just want to
12 thank you for the good job you've done.

13 I wish you had actually been on
14 it from day one; you would have gotten it
15 done a lot quicker.

16 CITY CONTROLLER BUTKOVITZ:

17 Well, also, I mean, you pushed this more
18 than anybody. So I appreciate your work
19 on this.

20 COUNCILMAN CLARKE: Yeah.

21 Well, we understand the importance of
22 having that money available.

23 Just real quick. You know, as
24 I listened to your testimony, it
25 continues to remind me of the broad array

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2 of activities you have in oversight as it
3 relates to waste, corruption, things that
4 aren't appropriate for City employees.

5 In the last couple of years,
6 given the expansion of the Mayor's Office
7 as it relates to the Integrity Officer
8 and the Inspector General, have you seen
9 any overlap in responsibilities or duties
10 or duplication of services or authority
11 as it relates to your ability to do your
12 job?

13 CITY CONTROLLER BUTKOVITZ:

14 Well, I mean, we're certainly -- there is
15 so much work to be done in that area.
16 We're certainly willing to divide the
17 world and allow them to be involved in
18 things that are -- not allow them, but be
19 happy with them being involved in things
20 that may be an individual case or not
21 systemic.

22 The area where I'm frustrated
23 is that we can't get the Inspector
24 General's Office to recognize our role in
25 this and to help us in our role to bring

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2 about systemic change.

3 So what happens repeatedly is
4 that they will get involved in an
5 investigation, they'll bring federal
6 authorities in, then they're under this
7 vow of silence, then they won't tell us
8 anything about the case and then they
9 won't tell us anything about the basic
10 architecture of the problem so that we
11 can try to develop a better system. And
12 they just stiff-arm us on those requests
13 for information.

14 And the problem is that fraud
15 is a -- it's a large-scale, prevalent
16 kind of problem. The fact that you catch
17 a perpetrator doesn't end the story; it
18 probably teaches you a couple more tricks
19 or a couple of gaps in the protections.

20 COUNCILMAN CLARKE: Right.

21 CITY CONTROLLER BUTKOVITZ: So
22 we need to be able to mesh better on
23 that.

24 But we have routinely asked for
25 the final results of everything they've

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2 done, and they simply haven't provided us
3 with anything. So that is a problem.

4 The second area would be to the
5 extent it becomes a competition for
6 funding. I mean, the thing that -- the
7 forensic audit that's occurring in the
8 Sheriff's Office is kind of precedent-
9 setting; it's never been done in
10 Philadelphia history. It's a half a
11 million dollars to look for problems in
12 accounting for over \$50 million. It's
13 been \$700 million that have gone through
14 those accounts in ten years.

15 Now, you know for the
16 expenditure of a half a million dollars,
17 you're really going to be scratching the
18 surface looking for the easiest or the
19 lowest-hanging fruit. And yet, if you
20 are not on that kind of problem on a
21 constant basis, it's going to be popping
22 out all over the place in city
23 government.

24 So that's a very good
25 investment, and it's why we thank the

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2 Council and the Mayor for helping us on
3 that.

4 But once that -- even once that
5 phase of the Sheriff's audit is over,
6 that doesn't mean it's done even in that
7 office, and it doesn't mean it's done in
8 City government.

9 And what happens between the
10 Inspector General's Office and us is that
11 they've identified a pool of money that
12 is for that kind of review. And it's as
13 if we're both pulling at it for our own
14 priorities.

15 COUNCILMAN CLARKE: Right.

16 CITY CONTROLLER BUTKOVITZ: The
17 pot of money for fraud investigations or
18 for controls of that type is not growing.
19 And you got to -- you have a \$4 billion
20 budget.

21 COUNCILMAN CLARKE: If
22 anything, it's shrinking.

23 CITY CONTROLLER BUTKOVITZ:
24 Right, right. I mean, as I've pointed
25 out, we've lost auditors. And we're in

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2 the business of "gotcha" and trying to
3 find this. And yet, we still have to
4 show the people of Philadelphia that if
5 everybody else is taking a cut, we're
6 taking a cut. But in taking the cut,
7 we're hurting our ability to catch that
8 kind of activity.

9 And so, the more people that
10 you have wearing the title of the
11 "anti-fraud director" wouldn't bother me
12 at all if it didn't divide the money and
13 the resources that are available for us.

14 COUNCILMAN CLARKE: Right,
15 okay. Thank you.

16 CITY CONTROLLER BUTKOVITZ:
17 Okay.

18 COUNCILMAN CLARKE: Thank you,
19 Madam President.

20 COUNCIL PRESIDENT VERNA:
21 You're welcome.

22 The Chair recognizes
23 Councilwoman Blackwell.

24 COUNCILWOMAN BLACKWELL: Thank
25 you, Madam President.

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2 Thank you, Controller and
3 office, for all that you do. We
4 obviously appreciated working with you on
5 projects like divestment from the Sudan
6 and others and your willingness to be
7 involved in those issues.

8 I only hope that as you look at
9 the Fleet Management contract -- our old
10 cars break all the time; consider that.
11 I need my car, and if we don't have them
12 to work all of the time, I don't know
13 what we'd do. Obviously, I don't know
14 the rest of it.

15 But basically, we want to thank
16 you for what you do.

17 CITY CONTROLLER BUTKOVITZ:

18 Thanks, Councilwoman. And thank you for
19 what you do.

20 COUNCILWOMAN BLACKWELL: Thank.

21 CITY CONTROLLER BUTKOVITZ: I
22 mean, you are one person who's always on
23 duty for the poor and the people who
24 don't have any voice in this city, and we
25 appreciate that.

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2 COUNCILWOMAN BLACKWELL: Thank
3 you.

4 Thank you, Madam President.

5 COUNCIL PRESIDENT VERNA:

6 You're welcome.

7 The Chair recognizes Councilman
8 Greenlee.

9 COUNCILMAN GREENLEE: Thank
10 you, Madam President.

11 Good morning, everyone.

12 Just real quickly. This is
13 kind of a follow-up to what Councilman
14 Clarke said. You kind of said this, but
15 I guess it's more of an observation than
16 a question.

17 I mean, you are a Charter-
18 mandated agency, correct?

19 CITY CONTROLLER BUTKOVITZ: Yes.

20 COUNCILMAN GREENLEE: So I
21 guess that it kind of makes sense that if
22 there's a problem here, you should be not
23 only in the loop but one of the -- sort
24 of the leaders of it, if you will.

25 CITY CONTROLLER BUTKOVITZ: I

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2 think so, yeah.

3 COUNCILMAN GREENLEE: And, you
4 know, nothing against other agencies, but
5 they are set up through the Mayor, and
6 that's fine. But, I mean, you are
7 Charter-mandated, so I would think, just
8 to kind of back up what you said, it
9 would seem that that's a key aspect here,
10 that you should know that kind of
11 information.

12 CITY CONTROLLER BUTKOVITZ:
13 Well, I would say, also, we're an elected
14 position.

15 COUNCILMAN GREENLEE: Right,
16 right.

17 CITY CONTROLLER BUTKOVITZ: And
18 also, if you look at it abstractly,
19 there's kind of a conflict of interest
20 between managing and auditing.

21 COUNCILMAN GREENLEE: Mm-hmm.

22 CITY CONTROLLER BUTKOVITZ:
23 Because I -- you know, one of the things
24 that I said in a press conference about
25 the Mayor a few months ago is that I

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2 think he deserves an A+ on these
3 corruption and ethics issues.

4 COUNCILMAN GREENLEE: Right.

5 CITY CONTROLLER BUTKOVITZ: He
6 personally has really moved the dial on
7 that. But when you talk about
8 organization charts and institution, that
9 changes.

10 COUNCILMAN GREENLEE: Right.

11 CITY CONTROLLER BUTKOVITZ:
12 Some day, he personally will not occupy
13 that office.

14 COUNCILMAN GREENLEE: Right.

15 CITY CONTROLLER BUTKOVITZ: And
16 if you're looking at it as a separation-
17 of-powers issue, you can't have -- you
18 can't police your own management. You've
19 got to choose whether you're doing
20 management or whether you're doing
21 auditing. And --

22 COUNCILMAN GREENLEE: And the
23 Controller is elected to do that.

24 CITY CONTROLLER BUTKOVITZ:
25 Right.

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2 COUNCILMAN GREENLEE: Right,
3 okay. We agree. I thought we'd agree.

4 CITY CONTROLLER BUTKOVITZ:

5 Thank you.

6 COUNCILMAN GREENLEE: Thank
7 you.

8 COUNCIL PRESIDENT Verna: Thank
9 you.

10 The Chair recognizes Councilman
11 Rizzo.

12 COUNCILMAN RIZZO: Thank you,
13 Madam Chair.

14 Likewise, I want to thank you
15 for you and your organization's good
16 work. The reports that you provide are
17 very, very helpful for me to understand
18 what is going on, especially the
19 executive summaries.

20 So all I can say is that we
21 appreciate all of your hard work, and I'm
22 pleased to be able to support some
23 additional funding for that good work.

24 Thank you.

25 CITY CONTROLLER BUTKOVITZ:

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2 Well, thank you, thanks.

3 COUNCILMAN RIZZO: Thank you,
4 Madam Chair.

5 CITY CONTROLLER BUTKOVITZ: You
6 know, if you'd like to give us an extra 2
7 to \$500,000 --

8 (Laughter.)

9 CITY CONTROLLER BUTKOVITZ: --
10 I'm sure it would be put to good work.

11 COUNCIL PRESIDENT VERNA: It
12 will be.

13 Thank you for all of the
14 wonderful work you do. We appreciate it.

15 CITY CONTROLLER BUTKOVITZ:
16 Thank you, Madam President.

17 COUNCIL PRESIDENT VERNA: Thank
18 you.

19 MR. McPHERSON: The next
20 department is the Register of Wills.

21 (Witnesses come forward.)

22 COUNCIL PRESIDENT VERNA: Good
23 morning.

24 MR. DONATUCCI: Good morning.
25 Good morning, Council President and

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2 members of City Council.

3 COUNCIL PRESIDENT Verna: Good
4 morning. Please identify yourself for
5 the record and proceed with your
6 testimony.

7 MR. DONATUCCI: Ronald R.
8 Donatucci, the Register of Wills. And to
9 my right is my Chief Deputy Ralph Wynder.

10 MR. WYNDER: Good morning.

11 MR. DONATUCCI: And Anthony
12 DeRose, my Finance Director.

13 I submitted approximately a
14 week ago or a week-and-a-half ago a
15 three-page letter highlighting -- for
16 time, maybe I could just highlight the
17 issues, Council President.

18 Basically, our request this
19 year is the same as last year.

20 COUNCIL PRESIDENT Verna: Yes.

21 MR. DONATUCCI: And I want to
22 thank Finance for working with us.

23 In my letter, you'll see that
24 again, once again, we will be turning in
25 another profit back to the City. If I

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2 could just highlight.

3 For this fiscal year, we're
4 projecting over a half a million-dollar
5 profit, which part of that profit -- and
6 which we're very proud of. Part of that
7 is that we're going to be turning
8 approximately back about \$143,000 in Our
9 Class 100, in our personnel, which we
10 will not be utilizing. We did the same
11 thing last year.

12 And our revenue should be even
13 higher this year, so keep our fingers
14 crossed. I guess the net profit to the
15 City will be about approximately
16 \$554,000.

17 As I stated in past testimony
18 in years prior, we're constantly being
19 mandated to do additional duties. And
20 when I first became Register of Wills a
21 few years ago, approximately 31-and-a-
22 half years ago, I seem to recall -- not
23 recall, but it was -- I think we had in
24 excess of 80 full-time employees. We're
25 down now to 65.

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2 And if you recall my prior
3 testimony, one function that we took over
4 alone in the number last number of years,
5 approximately twenty-some years ago, was
6 the inheritance tax collection, which was
7 six full-time state employees. In the
8 last number of years, we've also been
9 mandated by the courts these -- on all
10 these different rules because, I guess,
11 Councilman Greenlee will appreciate this,
12 with the fraudulent conveyance of deeds,
13 we've implemented in our office, I
14 believe, a real failsafe program.

15 We've spoken to the
16 Councilman's office, we've spoken To the
17 President Judge, you know, our
18 safeguards, and I think we have it pretty
19 well implemented in the sense of the
20 computer program, which City Council was
21 very helpful to help us fund, which I
22 would like to point out, our program for
23 computerization of our office -- and I've
24 been led to -- I've been told by the
25 Register of Wills Association that it's a

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2 model that they try to use across the
3 State, because, you know, it has all the
4 bells and whistles, all the safeguards.
5 We pick it up immediately if somebody
6 comes in under another name.

7 And so, these are some of the
8 mandated duties by the Supreme Court and
9 locally, which has required us to put in
10 more man hours, but we haven't hired any
11 additional employees.

12 And I'd like to point out there
13 was an -- one of the favorable articles
14 not long ago, one of the few about
15 this -- about our office was that we're
16 one of the -- I think we're the --
17 probably the only City -- I believe
18 there's a few other. We don't -- a few
19 other offices that we don't have any
20 overtime.

21 And that's the spirit of
22 cooperating in our office, Council
23 President. My employees will work
24 Wednesday nights, they'll work Saturdays.
25 But instead of paying overtime, they'll

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2 come in later on those particular days.

3 And there's no bitching or griping. They

4 do it because we're the only office, I

5 believe, in the five counties that has

6 the Marriage License Bureau open on

7 Wednesdays. We're also open on Saturdays

8 sometimes when they have the conventions

9 at the Convention Center for genealogy

10 studies, you know.

11 So that's the type of spirit.

12 We have employees that go out in our

13 speakers bureau sometimes at night. We

14 just give 'em straight -- we match

15 whatever hour it is, no time-and-a-half;

16 it's hour-for-hour. So that's the type

17 of spirit we have in the Register of

18 Wills Office.

19 And I'm proud to say

20 approximately -- I believe it was last

21 year or the year before, when our budget

22 was really difficult, we were, I believe,

23 the only City office that wasn't asked,

24 but every one of my employees gave a day

25 of their pay back to the City. And they

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2 also -- all of my deputies gave at least
3 a week.

4 And that's the type of spirit
5 that this office has, and I'm just proud.
6 And every so often, we get a shot, but
7 they're good people in the office. And I
8 just have to go out of my way to just
9 acknowledge my employees. And they go
10 out of their way.

11 And I'm proud that -- you know,
12 to be the Register.

13 COUNCIL PRESIDENT VERNA: And I
14 will tell you that I have not heard one
15 criticism about the Register of Wills
16 Office. I understand that you and your
17 employees go the extra mile to help
18 people in need, and you're really to be
19 commended for the excellent job that you
20 do, and I applaud you for that.

21 MR. DONATUCCI: Thank you.

22 COUNCIL PRESIDENT VERNA:
23 Councilwoman Blackwell.

24 COUNCILWOMAN BLACKWELL: Thank
25 you, Madam Chair.

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2 I certainly echo your comments.

3 I've never heard a complaint, and we get
4 so many who come into the office for so
5 many complaints and don't know what to do
6 and didn't know their will to be
7 probated. And forget marriage licenses.
8 People who need their license to verify
9 information for income, all kinds of
10 things.

11 And no problem's ever been too
12 hard and no issue's never been too small
13 and that your office hasn't done a great
14 job. We thank you all and applaud you
15 all for the excellent work that you do.

16 PANEL MEMBERS: Thank you.

17 COUNCILWOMAN BLACKWELL: Thank
18 you.

19 COUNCIL PRESIDENT VERNA: The
20 Chair recognizes Councilman Greenlee.

21 COUNCILMAN GREENLEE: Thank
22 you, Madam President.

23 I think this is the only group
24 of people that come in every year, and we
25 don't ask them questions; we tell them

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2 the good stuff you do.

3 COUNCIL PRESIDENT VERNA: Now,
4 see, if he were really smart, he would
5 tell us about the amount of people he
6 really needs to continue on with the good
7 work.

8 MR. DONATUCCI: (Indiscernible.)

9 COUNCILMAN GREENLEE: Yeah.
10 But then be in trouble and we'd have to
11 find the money for that, so he's being
12 nice to us.

13 I just was glad Mr. Donatucci
14 mentioned the fraudulent conveyance, and
15 I think that is very important. And he
16 mentioned the -- you mentioned the
17 cooperation that you -- you've talked to
18 our office. You know, I know you've
19 talked to other people.

20 And a problem that vast, I
21 think, is -- when everybody works
22 together, that's how you get solutions.

23 And this is just a little,
24 minor jab: I wish another department
25 would be as cooperative in that issue.

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2 But, again, we -- I also just
3 want to thank you for everything you do.

4 And as far as jabbing the
5 press, we feel your pain; we get that
6 every now and then.

7 MR. DONATUCCI: Well, it comes
8 with the territory.

9 COUNCILMAN GREENLEE: Right.

10 MR. DONATUCCI: I just wanted
11 to acknowledge the employees because I
12 know the pain when you see different
13 stories about eliminating the office, and
14 I know how they step to the plate. I
15 mean, really, it's just commendable.

16 We don't have voice mail, we
17 answer the phone by our first name. You
18 know, we just try -- and, you know, I'm
19 just so proud -- you know, I'm just very
20 proud to have 'em, you know.

21 And they take their job to
22 heart. And some of them of are active in
23 the evenings, doing other things, but
24 they don't do it during the day other
25 than being nice to people.

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2 And they understand, when
3 somebody comes in the office, they're
4 bereaved, and you just don't need
5 somebody that's going to be nasty. And
6 they understand because -- some of them
7 understand 'cause a lot of 'em are
8 involved in their own community, so they
9 understand the importance of being nice
10 to people.

11 COUNCIL PRESIDENT VERNA: Thank
12 you.

13 The Chair recognizes Councilman
14 Rizzo.

15 COUNCILMAN RIZZO: You took the
16 words right out of my mouth,
17 Mr. Donatucci. I've sent a lot of people
18 down not saying that Councilman Rizzo or
19 another Council office sent them your
20 way, but they come back up and say,
21 "Thank you. They resolved my problem."

22 And so, that's a good thing,
23 and I want to thank you for that -- the
24 compassionate part of what you do in
25 understanding people's needs. Thanks.

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2 Thanks, Madam Chair.

3 COUNCIL PRESIDENT Verna: Thank
4 you.

5 Are there any other questions
6 or comments from members of the
7 committee?

8 (No further questions.)

9 COUNCIL PRESIDENT Verna:
10 Seeing none, I thank you. And continue
11 to do the marvelous work you do.

12 MR. DONATUCCI: We try.

13 COUNCIL PRESIDENT Verna: Thank
14 you.

15 MR. DONATUCCI: Thank you,
16 Council President.

17 COUNCIL PRESIDENT Verna: All
18 right. We will now hear from the
19 Sheriff's Office.

20 (Witnesses come forward.)

21 COUNCIL PRESIDENT Verna: Good
22 morning. Welcome. Please identify
23 yourself for the record and proceed with
24 your testimony.

25 SHERIFF DEELEY: Good morning.

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2 My name is Barbara Deeley. I am the
3 Sheriff for the City and County of
4 Philadelphia.

5 Council President Verna,
6 members of the City Council Committee of
7 the Whole, I am Barbara A. Deeley,
8 Sheriff of the City and County of
9 Philadelphia. Today, I am submitting the
10 Sheriff's Fiscal Year 2012 budget.

11 Much has happened in the eleven
12 weeks since I took office as Sheriff of
13 the City of Philadelphia. My first days
14 in office, I removed the senior
15 management of the Real Estate Division
16 and requested and received permission for
17 a fifty-day moratorium on all Sheriff
18 sales.

19 My office has commissioned its
20 on internal audit of all Sheriff's
21 accounts and is currently cooperating
22 fully with the City Controller's forensic
23 audit as well as a federal grand jury
24 investigation.

25 Working with the Mayor's

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2 Office, I signed an historic agreement
3 that, for the first time, brings the
4 Sheriff's Office contracting functions
5 into compliance with the City's
6 accounting and legal protocols.

7 On March 15th, we conducted our
8 first Sheriff's sale without a hitch,
9 working with the City's Department of
10 Technology and the First Judicial
11 District. We are building technology
12 systems for these sales that will provide
13 the transparency and accountability
14 necessary to restore confidence in this
15 office.

16 Today I am announcing the
17 signing of a Sheriff's directive that
18 applies the City's new ethics executive
19 orders to Sheriff's Office employees not
20 currently covered by them. While we are
21 moving to form stronger alliances with
22 the Mayor's Office and the City's Finance
23 Department, let me make one point clear:

24 The Sheriff is an independent
25 elected office established in the

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2 Constitution of the Commonwealth of
3 Pennsylvania and the Philadelphia Home
4 Rule Charter. Since 1772, the citizens
5 of Philadelphia have elected their
6 sheriff. And this November 2011, the
7 citizens of Philadelphia will once again
8 elect a sheriff that will be sworn in and
9 take office on January 2012.

10 No memorandum of understanding
11 can or will undermine the independence of
12 the Sheriff in carrying out her
13 constitutional-mandated duties.

14 The budget I present to you
15 today represents the blueprint for how we
16 intend to lead the Sheriff's Office over
17 the next fiscal year.

18 The budget projects a
19 \$2.8 million increase in expenditures.
20 All of the positions associated with this
21 request are for sworn deputies and
22 first-level sworn supervisors.

23 While we intend to do more with
24 less in many areas, this is one area
25 where to do more requires more. Our

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2 ability to protect courtrooms across
3 Philadelphia is directly related to the
4 number of deputy sheriffs we can assign
5 to these courtrooms.

6 At present, we are approaching
7 dangerously low levels of sheriff
8 staffing in our courtrooms, while the
9 number of facilities at which the
10 Sheriff's Office provides security
11 increased to seven. Over the past year
12 the number of deputies in the Sheriff's
13 Office has fallen by 25.

14 The danger that unprotected
15 courtrooms and their surroundings pose to
16 the men and women who are at work and the
17 citizens of Philadelphia is not
18 hypothetically. Just last month, a young
19 woman was killed just outside Traffic
20 Court.

21 While we pride ourselves in the
22 training and professionalism of our
23 deputy sheriffs, we simply can no longer
24 turn the other way as gaps in courtroom
25 staffing continue to expand. I implore

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2 the members of this City Council to
3 recognize the need, meet the
4 responsibilities, and fully fund our
5 request to hire 32 deputies -- 32 deputy
6 sheriffs for Fiscal Year 2012.

7 Let me conclude by saying that
8 I am honored to be the first woman to
9 lead Philadelphia's Sheriff's Office. I
10 recognize that I have taken this position
11 at a time when the public confidence in
12 this office has been shaken.

13 But as I move to restore
14 confidence in this office, I feel
15 compelled to tell you the story of an
16 office that trains and equips brave men
17 and women who each day put their lives on
18 the line to protect the citizens of
19 Philadelphia.

20 To tell the story of a
21 Sheriff's Office that has led the nation
22 in showing compassion for victims of
23 foreclosure, an office that continues to
24 work with homeowners to educate and
25 inform them on the ways to avoid

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2 foreclosure.

3 To tell the story of an office
4 that continues to use its resources to
5 empower small businesses in underserved
6 communities and to make a difference in
7 neighborhoods that are too often
8 forgotten.

9 This is an office I have been
10 proud to serve, it is an office that
11 today I am proud to lead, and it will be
12 an office tomorrow that will fight as
13 hard to wisely spend our taxpayer money
14 as our taxpayers fight to earn it.

15 Thank you.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 Now, in your testimony, I see
19 that you're asking for an increase in
20 your budget of \$2.8 million; is that
21 correct?

22 SHERIFF DEELEY: Yes, Council
23 President.

24 COUNCIL PRESIDENT VERNA: And
25 is that to hire the 32 deputy sheriffs?

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2 SHERIFF DEELEY: Yes, Council
3 President.

4 COUNCIL PRESIDENT VERNA: Also,
5 as I looked at your Operating Budget
6 Summary, is most of the money that you're
7 asking for also an additional, what is
8 it, \$1 million? Is that for overtime?

9 SHERIFF DEELEY: There -- there
10 is a transfer ordinance for Fiscal 2011,
11 a transfer ordinance for a million
12 dollars, yes, for overtime.

13 COUNCIL PRESIDENT VERNA: So if
14 you were to receive an increase so that
15 you would be able to hire more deputies,
16 would you need that type of money for
17 overtime?

18 SHERIFF DEELEY: Well, for this
19 past year, I believe so, yes, although I
20 have cut the overtime by a million
21 dollars last year. But for 2012, no, we
22 will not need the extra money for
23 overtime.

24 COUNCIL PRESIDENT VERNA: Very
25 well.

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2 The Chair recognizes Councilman
3 Jones.

4 COUNCILMAN JONES: Thank you,
5 Madam President.

6 For the record, on television
7 now -- and I hope Connie Little is
8 looking -- I want to thank you for, even
9 before you were a sheriff, always being
10 responsive to not only my staff but to me
11 in reference to constituents that run
12 into problems.

13 There has never been a time
14 when you didn't get back to me --
15 sometimes angrily, but you've always
16 gotten back to me.

17 And I wanted to say that on the
18 record, in light of the fact that you
19 came into this responsibility under a
20 great deal of controversy and conviction
21 and courage, I want to publicly thank you
22 as a public servant for taking it on.
23 It's tough work but someone has to do it.

24 So I want to say that on the
25 record.

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2 SHERIFF DEELEY: Thank you,
3 Councilman.

4 And I want to thank each and
5 every Councilperson in here because from
6 the day I did take office, every
7 Councilperson was so very nice to me.

8 And Councilwoman Blackwell and
9 yourself, when I wanted to postpone the
10 Sheriff sales, you were right there,
11 fighting along with me.

12 I really want to thank everyone
13 here for being so helpful to me over
14 these couple of months. They really
15 have.

16 COUNCIL PRESIDENT VERNA: Thank
17 you.

18 The Chair recognizes Councilman
19 Rizzo.

20 COUNCILMAN RIZZO: Thank you.

21 Sheriff, I want to concur with
22 what you said earlier. This week, I had
23 an opportunity to be in one of our
24 courtrooms with Judge Dembe, and it was
25 reassuring. Even though it was not a

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2 criminal case, it was comforting to look
3 around and see the presence of the deputy
4 sheriffs and the professionalism and how
5 they handle people coming in.

6 And so, I think that presence
7 in the courtroom is so very important,
8 and people need to realize that one body
9 isn't enough --

10 SHERIFF DEELEY: No, it's not.

11 COUNCILMAN RIZZO: -- to have
12 in each courtroom. And you never know
13 when something is going to occur, as you
14 pointed out.

15 So, again, just this week,
16 personal experience of the need of having
17 that staff there. Thanks.

18 SHERIFF DEELEY: Thank you,
19 Councilman.

20 COUNCIL PRESIDENT Verna: Thank
21 you.

22 The Chair recognizes
23 Councilwoman Blackwell.

24 COUNCILWOMAN BLACKWELL: Thank
25 you, Madam President.

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2 I want to echo the comments of
3 my colleagues with regard to our sheriff
4 and her always getting back to you and
5 all that her department has done.

6 I don't pretend that I
7 understand what parts the court plays
8 with the Sheriff's Office until December,
9 but I guess -- i guess we'll let that go
10 since it still has existed and the fact
11 that we have no real role in that, so I
12 guess there isn't too much we can do
13 about that, I suppose, at this point.

14 But suffice it to say thank
15 you, and thank you for willingness to
16 take care of the issues that I mentioned
17 today and for still advertising in
18 neighborhood papers as well.

19 Thank you.

20 SHERIFF DEELEY: Thank you.

21 COUNCIL PRESIDENT Verna: Thank
22 you.

23 The Chair recognizes Councilman
24 Greenlee.

25 COUNCILMAN GREENLEE: Thank

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2 you, Madam President.

3 Ms. Deeley, I echo what every
4 other Councilmember said about the
5 service you've provided certainly over
6 these past few months.

7 As far as the 32 deputy
8 sheriffs, now, are you talking about -- I
9 shouldn't say "just," but is that
10 primarily courtroom supervision? I
11 know -- now, they also deal with
12 transportation of prisoners too.

13 SHERIFF DEELEY: Yes. That's
14 everything, yes.

15 COUNCILMAN GREENLEE: Okay,
16 that's everything, okay.

17 SHERIFF DEELEY: Yes.

18 COUNCILMAN GREENLEE: Now,
19 because of this cutback, have you -- has
20 that affected the transportation issue?

21 SHERIFF DEELEY: No.

22 COUNCILMAN GREENLEE: I guess
23 you have to keep people doing that,
24 right?

25 SHERIFF DEELEY: No, it has

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2 not.

3 COUNCILMAN GREENLEE: All
4 right, okay. And you say the number of
5 facilities which the Sheriff's Office
6 provides security has increased to seven.
7 I mean, you don't have to run 'em off
8 right now, but can you just tell us --

9 SHERIFF DEELEY: No problem.

10 COUNCILMAN GREENLEE: Okay.

11 SHERIFF DEELEY: Well, of
12 course, the Criminal Justice Center.

13 COUNCILMAN GREENLEE: Right.

14 SHERIFF DEELEY: 1801 Vine.

15 COUNCILMAN GREENLEE: Okay.

16 SHERIFF DEELEY: 34 South 11th
17 Street.

18 COUNCILMAN GREENLEE: Mm-hmm.

19 SHERIFF DEELEY: Traffic Court.

20 COUNCILMAN GREENLEE: Okay.

21 SHERIFF DEELEY: Administrative
22 Adjudication, which is the branch of the
23 Parking Authority.

24 COUNCILMAN GREENLEE: Mm-hmm.

25 SHERIFF DEELEY: City Hall and

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2 Community Court.

3 COUNCILMAN GREENLEE: Okay. So
4 I would guess at least Administrative
5 Adjudication and Community Court's been
6 one of those increases that you've had
7 over the more recent years.

8 SHERIFF DEELEY: More recently
9 the Parking Authority was the most
10 recent.

11 COUNCILMAN GREENLEE: Okay,
12 thank you.

13 SHERIFF DEELEY: Oh, by the
14 way, Councilman, happy birthday.

15 COUNCILMAN GREENLEE: Thank
16 you.

17 COUNCIL PRESIDENT VERNA: The
18 Chair recognizes Councilman Jones.

19 COUNCILMAN JONES: Thank you,
20 Madam President.

21 We did the round of niceties
22 'cause we -- they were sincere, but let
23 me ask you this question.

24 COUNCILMAN KENNEY: (Inaudible;
25 off-mic.)

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2 COUNCILMAN JONES: Oh, you're
3 not done? Well, I'm going to let you go
4 ahead first, and you can do that.

5 COUNCILMAN KENNEY: Just
6 quickly, Madam President.

7 COUNCIL PRESIDENT Verna:
8 Councilman Kenney.

9 COUNCILMAN KENNEY: Thank you.
10 Thank you, Councilman Jones,
11 for allowing me to say some nice things
12 about the Sheriff.

13 I mean, I think it's important,
14 Madam President, that every now and then
15 we have a love fest in here occasionally
16 instead of what we're generally doing,
17 but today seems to be a love fest day.

18 So you know how I feel about
19 you and the job you're doing and the
20 relationship we've had all these years.

21 And I just want to say one
22 thing about elected office. There's been
23 this kind of drumbeat by folks who want
24 to see the elections taken away from the
25 public and put into someone's appointed

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2 hands. We could argue the efficacy of
3 that one way or the other.

4 But despite how difficult
5 elections can be, it is a true test of
6 the public's will. And usually, people
7 who are complaining about elections and
8 are wanting to get rid of elected
9 officers are folks that either don't live
10 in the City or couldn't get elected
11 themselves to anything.

12 So, you know, I am an elected
13 person as you are -- as we are -- you're
14 still in that role for the next person
15 who's going to be elected. But I think
16 that the will of the people really should
17 weigh in on these issues and not just
18 someone's opinion who drives in from
19 Montgomery County every day to tell us
20 how we should run our government.

21 So thanks for all your hard
22 work, and I wish you were staying
23 forever, but...

24 SHERIFF DEELEY: Thank you,
25 Councilman.

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2 COUNCILMAN KENNEY: You're
3 welcome.

4 Councilman Jones, thank you.

5 COUNCILMAN JONES: There's a
6 warm feeling in this chamber that I don't
7 often feel.

8 But let me ask you this: Is
9 there -- and without impeding upon any
10 investigations or anything that
11 internally is proprietary to the office,
12 it's my understanding that there may --
13 is there -- are there lawsuits developing
14 about the process?

15 And it was my understanding
16 that there was an increased amount of
17 legal exposures, lawsuits, plaintiffs
18 that lost properties and weren't
19 receiving money differentials owed to the
20 bank or people find it, and then a
21 discrepancy on how much was owed to them.

22 Is that something that the
23 Sheriff's Office, under your interim
24 control, is experiencing?

25 SHERIFF DEELEY: One lawsuit.

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2 COUNCILMAN JONES: One.

3 SHERIFF DEELEY: One.

4 COUNCILMAN JONES: And that's
5 the only one.

6 SHERIFF DEELEY: Yes.

7 COUNCILMAN JONES: All right.

8 And that's not a class action or anything
9 like that?

10 SHERIFF DEELEY: Yes, it is.

11 COUNCILMAN JONES: It is?

12 Okay, all right. So one lawsuit being a
13 class action.

14 So can you, for the record,
15 tell us what's going on with that?

16 SHERIFF DEELEY: Well --

17 COUNCILMAN JONES: Without
18 jeopardizing anything?

19 And who's the --

20 SHERIFF DEELEY: It was just
21 filed.

22 COUNCILMAN JONES: And who's
23 the handsome gentleman back there?

24 SHERIFF DEELEY: Okay. I'll
25 introduce him.

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2 COUNCILMAN JONES: He should
3 come to the mic. He's been in this
4 chamber before.

5 SHERIFF DEELEY: I'm sure
6 everyone knows Joseph Vignola, who is my
7 Chief Deputy of Finance and
8 Accountability for the Sheriff's Office.
9 And also, he's a lawyer so he tells me
10 what I can say and what I can't say
11 legally, legally.

12 Okay. So, okay, Joe, would you
13 mind answering that?

14 COUNCILMAN JONES: Please?

15 MR. VIGNOLA: Madam Chairwoman,
16 a lawsuit was filed recently; they have
17 to get class action status. And it deals
18 with the distribution of excess funds to,
19 you know, to the defendants.

20 Right now, that's -- you know,
21 that's -- you know, that's all we know.
22 It's been referred to the Law Department
23 who is representing us in-house, and we
24 will be guided by the recommendations of
25 the Law Department in that matter.

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2 COUNCILMAN JONES: Again, this
3 is a difficult time. It precedes you, I
4 got it, I understood all of that.

5 But as a fellow government
6 entity, we're concerned about that
7 because, you know, we get calls to our
8 office about that kind of concern. And
9 it came to our office that they are, in
10 fact, a part of a lawsuit because of
11 differentials and what they believe to be
12 compensated to them after sale.

13 And so, I just wanted to kind
14 of get a sense of that. And the
15 resolution of it will obviously be in the
16 courts?

17 MR. VIGNOLA: Well, we -- Madam
18 Chairwoman, we hope not that it will be
19 in the courts. We hope that we will be
20 able to, you know, resolve it.

21 What the Sheriff has been doing
22 in the three months that she's been there
23 roughly is to get a lot of deeds filed,
24 get a lot of distribution policies up.

25 But, again, the nature of

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2 ensuring that the proper defendant is
3 getting the proper amount has been
4 difficult, and Sheriff Deeley is
5 beginning the process of putting in, and
6 has in put in, the necessary internal
7 controls to ensure the integrity of the
8 process so that the wrong person isn't
9 paid or the wrong amount is not paid to
10 the proper person. And both are
11 unacceptable to the Sheriff.

12 SHERIFF DEELEY: But if I may
13 tell you something, Councilman, there
14 are -- I guess there are some people out
15 there who prey on these homeowners,
16 previous homeowners, who have lost their
17 home at sheriff's sale and possibly have
18 money coming to them.

19 And they prey on them and say,
20 Well, look, we could get you that money
21 back; just sign over to us the power-of-
22 attorney, and we'll -- and then they
23 charge them an astronomical fee.

24 But they don't have to do that.
25 They could call our office, and we have a

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2 unit that deals specifically for that.

3 But they do a thorough
4 investigation to make sure it's, if I
5 may, "Curtis Jones" who has that money
6 coming to Curtis Johnson and make sure
7 that it is you.

8 And there's no fee for that.
9 Where these other entities, they actually
10 charge these people a fee.

11 COUNCILMAN JONES: So they've
12 made a cottage industry out of this
13 misery.

14 SHERIFF DEELEY: Yeah. I call
15 them "bounty hunters."

16 COUNCILMAN JONES: Thank you.

17 Thank you, Madam Chair.

18 COUNCIL PRESIDENT VERNA: Thank
19 you.

20 Are there any other questions
21 for the witness?

22 (No further questions.)

23 COUNCIL PRESIDENT VERNA:
24 Seeing no one, thank you very much.

25 SHERIFF DEELEY: Thank you,

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2 Madam President. And I wish you lots of
3 luck and God bless you.

4 COUNCIL PRESIDENT Verna: Thank
5 you. Same to you, dear.

6 We will stand in recess until
7 12 noon. Thank you.

8 (Short break taken.)

9 (Proceedings resume.)

10 COUNCIL PRESIDENT Verna: Good
11 afternoon. This is a continued public
12 hearing of the Committee of the Whole.

13 We will now hear from the Human
14 Relations Commission.

15 (Witnesses come forward.)

16 COUNCIL PRESIDENT Verna: Good
17 afternoon. Welcome. Please identify
18 yourself for the record.

19 MS. LANDAU: Thank you. Good
20 afternoon, Council President Verna.

21 Do you want to go first?

22 MS. DeSHIELDS: Good afternoon.
23 I'm Angela DeShields.

24 MS. YU: And my name is Kay Yu.
25 I chair the Commission.

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2 COUNCIL PRESIDENT VERNA:

3 Welcome.

4 MS. LANDAU: Thank you.

5 And good afternoon, Council

6 President Verna and members of City

7 Council. My name is Rue Landau, and I'm

8 the Executive Director of the Commission

9 on Human Relations Commission.

10 Established under the Home Rule

11 Charter, the Philadelphia Commission on

12 Human Relations is the quasi-judicial

13 agency empowered to enforce the City's

14 civil rights laws and deal with all

15 matters of intergroup conflict.

16 In particular, the Commission

17 enforces the Philadelphia Fair Practices

18 Ordinance, Chapter 9-1100 of the

19 Philadelphia Code, which prohibits

20 discrimination in employment, housing,

21 use of public accommodations, and the

22 delivery of City services. We also

23 process the applications of same-sex

24 couples who wish to register their life

25 partnerships with the City.

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2 Through our Compliance
3 Division, the Commission investigates
4 claims of unlawful discrimination. The
5 Commissioners decide disputed claims
6 through adjudicatory public hearings.

7 Our Community Relations
8 Division staff works with community
9 leaders, neighborhood organizations,
10 local businesses, schools, and the police
11 to resolve disputes and conflicts within
12 Philadelphia's diverse communities.

13 The CRD mediates to ease
14 intergroup in community tensions and
15 conducts public hearings for
16 informational and educational purposes.

17 Finally, the PCHR staffs the
18 Fair Housing Commission, which is charged
19 with enforcing the Fair Housing
20 ordinance, Chapter 9-800 of the
21 Philadelphia Code. The Fair Housing
22 Commission addresses unfair rental
23 practices in housing and other
24 landlord-tenant disputes.

25 The Commission has the power to

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2 hold hearings and conduct investigations
3 in connection with any unfair rental
4 practice upon complaint or its own
5 initiative.

6 The PCHR's budget is 98 percent
7 Class 100, less than 2 percent Class 200,
8 and less than 1 percent Classes 300 and
9 400.

10 We currently have a staff of
11 31, down from 34 in 2008 and
12 significantly lower than the 42 filled
13 positions we had in 2004.

14 While our staff is split
15 between three units or divisions --
16 compliance, Community Relations, and Fair
17 Housing -- we do not delineate expenses
18 among the divisions; all divisions are
19 included in one departmental budget for
20 the program.

21 Like many other agencies, we
22 have received budget cuts during the
23 recession. In July 2010, our Class 100
24 was reduced by \$80,691, causing us to lay
25 off one staff member. In addition, Class

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2 200 was reduced by \$1,444, and Classes
3 300 and 400 were reduced by \$543.

4 In our FY '12, our Class 100 is
5 proposed to increase by \$55,000 to pay
6 the Commission Chair's salary, as
7 mandated by Chapter 20-300, Subsection 11
8 of the Home Rule Charter.

9 The Commission's Chair, Kay Yu,
10 plays an integral role in the operation
11 of the Commission and, due to the fiscal
12 crisis, she had to forego her salary for
13 her first two years as Chair. We
14 thankful for that sacrifice and for this
15 year's increase.

16 Even with our small staff, we
17 have continued to work efficiently and
18 effectively. We have focused on
19 streamlining our work to maximize our
20 capacity. We also have raised outside
21 funds to support some of our work.

22 Between January and November of
23 2010, the PCHR held a series of public
24 hearings on intergroup conflict and
25 school violence. The goal was to hear

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2 firsthand from parents, teachers,
3 students, principals, and other community
4 members about their experiences with
5 intergroup conflicts in all of
6 Philadelphia's public schools.

7 This month, we issued a
8 comprehensive report detailing our
9 findings and recommendations to the
10 School District. The report has been
11 very well received by community-based
12 organizations, individual experts on
13 school violence, and the School District
14 itself. In fact, top officials have
15 agreed to meet with us on a quarterly
16 basis to monitor the District's progress
17 in implementing our recommendations.

18 We are continuing our outreach
19 efforts with this report, speaking to
20 student groups as well as advocacy and
21 community-based organizations, holding
22 one-on-one conversations with school
23 principals, and using our translated
24 versions of the report to meet with
25 parents and students in some of

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2 Philadelphia's largest immigrant
3 communities.

4 Given our budget constraints,
5 we successfully raised funds from four
6 private foundations to support this
7 important initiative.

8 In addition, after working for
9 more than a year to rewrite the City's
10 Fair Practices Ordinance, City Council --
11 thanks to all of you for your support --
12 passed legislation amending this
13 ordinance this month, and the Mayor
14 signed it into law on March 23rd.

15 The new law increases the fines
16 and penalties for violations of the
17 ordinance to the maximum of \$2,000 per
18 violation. Those fines and penalties go
19 directly to the City's General Fund.

20 The revised ordinance also
21 includes critical amendments and
22 additional protections that likely will
23 attract additional case filings with the
24 Commission and potentially generate new
25 revenue.

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2 Under the PCHR's work-sharing
3 agreement with the Federal Equal
4 Employment Opportunity Commission, the
5 EEOC, we are paid \$550 for each case we
6 close that is dual-filed with both
7 agencies.

8 In FY '10, we received \$108,050
9 from that contract. So far, in FY '11,
10 we have received \$223,600, which includes
11 back payments of \$117,700 from 2007,
12 \$9,900 from 2008, and \$1400 for travel
13 reimbursement for that year. We may
14 receive additional payments for FY '09
15 and FY '10 as well.

16 In addition, we are also
17 continuing to seek a work-sharing
18 contract with HUD to receive
19 reimbursement for the housing
20 discrimination cases we investigate. In
21 order to be awarded a HUD contract, the
22 City's anti-discrimination law must be
23 substantially equivalent to the Federal
24 Fair Housing Act.

25 Until now, our fair practices

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2 ordinance was far inferior to that law.

3 To remedy this situation, we included
4 enhanced fair housing and enforcement
5 provisions in the new Fair Practices
6 Ordinance to get us much closer to
7 gaining substantial equivalency status.

8 Only one piece remains: We
9 must be able to assess fines up to
10 \$50,000 for our fair housing cases, and
11 we will begin looking into our State and
12 federal options for this fine increase
13 immediately.

14 I believe these major
15 initiatives demonstrate that the
16 Commission is quickly moving in the right
17 direction. We have tooled, revamped, and
18 we are well on our way to becoming one of
19 the premier human relations commissions
20 in the country.

21 At the same time, we are
22 working to maintain our current service
23 levels despite recent staff reductions.
24 Employees in our Community Relations
25 Division have taken on larger territories

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2 in response to the layoff of a
3 staffperson in that division. Overall
4 the CRD's caseload has continued to
5 remain steady but with increased
6 individual caseloads

7 Moreover, we continue to hold
8 monthly meetings of our interagency Civil
9 Rights Task Force that brings together
10 local, state, and federal law enforcement
11 agencies, city departments, and
12 community-based organizations that work
13 on the prevention of intergroup tension
14 and bias and hate crimes. These task
15 force meetings have led to coordinated
16 effective responses of biased incidence
17 and hate crimes and a cosponsorship of
18 community projects and events.

19 Both the Compliance Division
20 and Fair Housing Commission are
21 continuing to streamline their internal
22 operating procedures for maximum
23 efficiency as well.

24 In Compliance, in FY '11, we
25 instituted a new case closing and case

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2 prioritization system that will allow us
3 to close even more cases. We also plan
4 to transfer our intake staff member to
5 fill a recent vacancy in an investigative
6 position in Compliance to work on
7 discrimination cases.

8 Due to our work-sharing
9 agreement with the EEOC, the more cases
10 we investigate and close, the more
11 revenue we generate.

12 Finally, the Fair Housing
13 Commission has introduced new forms and
14 modified hearing procedures to increase
15 efficiencies. In FY '12, we will
16 implement a new case-management system,
17 and the staff will increase community
18 outreach.

19 That concludes my budget
20 testimony. I thank you for your support,
21 and I will now be happy to answer any
22 questions that you have.

23 And should any of you wish to
24 discuss any of these matters further, my
25 staff and I would be happy to meet with

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2 you at your convenience.

3 COUNCIL PRESIDENT VERNA: Thank
4 you very much.

5 Miss Yu, nice seeing you. Did
6 I understand the testimony that you
7 worked for two years without any
8 compensation?

9 MS. YU: I did hold the
10 position as Chairperson of the Commission
11 for two years, since March of 2009. And
12 during that period of time, I -- that's
13 correct, I have not -- I have not
14 received that salary during that period
15 of time.

16 COUNCIL PRESIDENT VERNA: Well,
17 my dear, I want to congratulate you.

18 (Council President Verna hugs
19 Ms. Yu.)

20 There aren't too many people
21 that would do that. You're on a real
22 mission. Thank you.

23 COUNCILMAN GREENLEE: No, I'm
24 not following suit.

25 (Laughter.)

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2 COUNCIL PRESIDENT Verna: Okay.

3 The Chair recognizes Councilman Greenlee.

4 COUNCILMAN GREENLEE: Thank
5 you, Madam President.

6 And I didn't know about that --
7 about you, Kay, either. So, again, thank
8 you for your service. And thanks to all
9 of the folks -- to Rue and everybody --
10 in the Human Relations Commission for all
11 do you.

12 And in keeping in the spirit of
13 today where we say good things about
14 everybody here, I first want to
15 congratulate you on the report on -- on
16 the work you did on school violence.
17 That is actually a report I actually
18 read.

19 I can't say I read everything
20 that comes to us, but you really made
21 some great suggestions there, and it
22 showed that you were extremely thorough
23 in all that you did.

24 And, obviously, on the fair
25 practices law, which I was happy to work

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2 with you on, that was a painstakingly
3 long process maybe, but I think, in the
4 end, it came out right, and I think it's
5 to the Beth of everybody.

6 Just one question. On your --
7 you talk about the bias incidents, hate
8 crimes, that kind of thing. How much of
9 that has been involving recent immigrants
10 to the City? And is there one particular
11 group of immigrants that seem to have had
12 particularly problems in this area?

13 MS. LANDAU: First of all, I
14 want to speak very highly of the Victim
15 Services Unit at the Police Department.
16 We work very closely with Captain Blum
17 and his team. They're a relatively new
18 crew who are dealing with all of the bias
19 incidents and hate crimes.

20 And they're keeping stats of
21 bias incidents to make sure they're
22 looking at trends, things that don't rise
23 to the actual level of crimes, but
24 they're trying to follow trends that are
25 happening in the City.

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2 They're also reaching out to
3 all of the detective divisions in the
4 City to make sure that the crimes that
5 should be reported as hate crimes are
6 getting reported to them. And it's --
7 their work is really proving to be
8 effective.

9 It's unclear what's getting
10 reported and what's not. We hear a lot
11 stories from community-based
12 organizations who are dealing with the
13 immigrant groups about things that are
14 happening. And then we hear of more
15 official things that are coming through
16 the Police Department.

17 There is definitely some
18 concerns of some things that are
19 happening in the Mexican community, the
20 new immigrants. And there are certain
21 other new Asian immigrants as well who
22 are -- who have reported things, again,
23 usually through a community-based
24 organization, or often, they reach out to
25 the organization that helped to settle

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2 them here.

3 COUNCILMAN GREENLEE: Okay.

4 And I guess you raise a good point: Just
5 getting people to report it is
6 oftentimes, I guess, an issue, right?
7 'Cause maybe -- particularly more recent
8 immigrants are maybe more reluctant to
9 deal with the government for whatever
10 reason -- maybe because of where they
11 came from or whatever.

12 MS. LANDAU: You're right.
13 There absolutely is a fear of reporting.
14 And I think that, you know, the Police
15 Department is doing outreach on this.

16 COUNCILMAN GREENLEE: Right.

17 MS. LANDAU: And I think
18 Everett Gillison works on this very well
19 too, to make sure that people are
20 stepping forward, particularly victims
21 and witnesses of crimes. It's really
22 important that the Police Department
23 knows what's going on.

24 COUNCILMAN GREENLEE: Sure.

25 MS. LANDAU: But there is a

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2 level of trust that they have to build.

3 COUNCILMAN GREENLEE: Sure.

4 MS. LANDAU: And they're
5 working on it and all of us are working
6 on it.

7 Our Community Relations
8 Division works very closely with all of
9 the police districts -- the group is
10 split up by police districts -- and
11 really helps to broker that relationship
12 between the new-immigrant communities and
13 the Police Department.

14 COUNCILMAN GREENLEE: That's
15 great, that's great. Well, again, thanks
16 for all you do.

17 Thank you, Madam President.

18 COUNCIL PRESIDENT VERNA: Thank
19 you.

20 The Chair recognizes Councilman
21 Jones.

22 COUNCILMAN JONES: Thank you,
23 Madam President.

24 This is a lot of love today.
25 We've been giving out hugs and accolades.

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2 I don't know what's going on. It must be
3 an election year or something.

4 (Laughter.)

5 COUNCILMAN JONES: I also want
6 to join in the chorus and thank you for
7 what you do under difficult
8 circumstances. And for you to forego two
9 years of salary is a dangerous precedent
10 that we may get asked in Council to do by
11 your example, but we are truly thankful
12 that you have done that.

13 The question I would have is,
14 you have three major divisions. If you
15 were to break down your caseload, how
16 many in each division? Is there one
17 that's more busy than others? I mean,
18 which ones gives you --

19 MS. LANDAU: They all do
20 completely different work, so you can't
21 measure the amount of cases they have --

22 COUNCILMAN JONES: It's not a
23 apples-to-apples.

24 MS. LANDAU: -- versus the type
25 of work they have. And also, you also

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2 can't measure the number of cases they
3 have to the difficulty of that case.

4 We've resolved, you know,
5 intergroup community tension that can
6 take a year to resolve, and it's one
7 case, with the staff member also having
8 the rest of his or her caseload on the
9 side.

10 The same with our Compliance
11 Division and our discrimination cases.

12 But we have held pretty steady
13 over the years. They have pretty high
14 caseloads, and, you know, we just get
15 through 'em as quickly as possible.

16 COUNCILMAN JONES: Under your
17 case-closing system, the new one, can you
18 describe how you're doing that?

19 MS. LANDAU: Which division?
20 The Compliance Division?

21 COUNCILMAN JONES: Your
22 Compliance Division.

23 MS. LANDAU: There is a couple
24 of things.

25 One, we've changed the form --

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2 the actual format that we use in order
3 to -- after you investigate a case of
4 discrimination, the staff writes up a
5 case closing, and those case closings go
6 in front of the Commissioners to approve
7 or reject the staff's recommendations for
8 the case closing.

9 In the past, we've written a
10 lot. Even when the case would be, you
11 know, administratively closed, for
12 example, maybe the complainant decided to
13 take her case to federal court, we wrote
14 very long case closings.

15 We now have a new format -- I
16 finally have a lawyer on staff, which is
17 just wonderful, and she's created just
18 forms and systems that are remarkable.

19 We have a new case-closing
20 format that's actually far closer to
21 making it much more concise. It's a
22 summary, much more of a summary, and it's
23 very clear in questions of the law that
24 are answered for our case closings.

25 COUNCILMAN JONES: Are your

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2 cases synonymous on the same time line as
3 the federal?

4 MS. LANDAU: No, actually -- 0.

5 COUNCILMAN JONES: Do people
6 file at the same time?

7 MS. LANDAU: Yes.

8 COUNCILMAN JONES: Or is it
9 graduated -- they start with you and then
10 go there?

11 MS. LANDAU: So long as it's a
12 basis that's covered in the -- through
13 our law and the federal law. So, for
14 example, race is covered by both laws.
15 Sexual orientation is not covered by both
16 laws.

17 If you come in and you want to
18 file on -- and one of your bases can be
19 filed with the feds as well, when you
20 file with us, you are automatically
21 dual-filing with the EEOC.

22 The EEOC has such a backlog;
23 they have actually have a holding tank
24 for their cases, that they wait months
25 before they can even hand it to an

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2 investigator.

3 You get much quicker, and
4 faster more efficient service if they
5 file with us. And, in fact, if you go to
6 the EEOC and you're from Philadelphia,
7 they usually -- they're only up at Eighth
8 and Market. They say walk down the
9 street and go to the PCHR.

10 COUNCILMAN JONES: Well, that's
11 good to know that we're first at
12 something, and we want to put that on the
13 record.

14 We have invited you to
15 participate in the Aging in a New Age
16 Summit dealing with the whole paradigm of
17 people getting grayer or older.

18 MS. LANDAU: Yes.

19 COUNCILMAN JONES: What I would
20 ask you is, are there any cases of
21 discrimination based on age that you see?
22 And is it in housing or employment or
23 what?

24 MS. LANDAU: We've gotten -
25 have employment cases on aging -- based

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2 on age.

3 Our numbers didn't increase as
4 much as the Pennsylvania Commission's did
5 in the past year. We think that was the
6 fear for the recession. As soon as the
7 financial crisis is hitting, people
8 expected a lot of age claims.

9 The Pennsylvania Commission got
10 a very large increase in cases, and ours
11 styed relatively steady.

12 COUNCILMAN JONES: So if I were
13 to stereotype why they happen, is it
14 because the more mature employee has been
15 there, a longer tenure, and commands a
16 higher salary, and the corporate decision
17 to downsize is one where you get a newer
18 employee at a lower rate?

19 MS. LANDAU: There's various
20 reasons -- yeah, we see all sorts of
21 cases, and that is definitely a scenario
22 we've seen in the past for our age cases.

23 But, again, we didn't have as
24 high an increase in those cases as the
25 Pennsylvania Commission did.

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2 COUNCILMAN JONES: Well, we
3 would hope you and the Commission be a
4 part of that Aging in a New Age --

5 MS. LANDAU: Oh, absolutely.

6 COUNCILMAN JONES: -- and will
7 give us the best of your thinking.

8 One of the outcomes of this
9 daylong conference will be to set a
10 legislative agenda at the local level,
11 state level, and federal level from the
12 findings and trends that we may ferret
13 out from this conference.

14 So if you're seeing something,
15 we need to know about it. And if it's a
16 pattern that can be addressed
17 legislatively, we'd like to do that.

18 MS. LANDAU: Absolutely.
19 That's on my calendar, and I will look
20 into all of our cases before I get there.

21 COUNCILMAN JONES: All of these
22 questions was to get you to confirm it on
23 the record.

24 MS. LANDAU: And you've got my
25 commitment.

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2 COUNCILMAN JONES: Thank you,
3 Madam Chair.

4 COUNCIL PRESIDENT VERNA:
5 You're welcome.

6 Are there any other questions
7 or comments from the committee?

8 (No further questions.)

9 COUNCIL PRESIDENT VERNA:
10 Seeing none, I thank you for your
11 patience; you waited quite a while. And
12 I do want to applaud you for all the
13 wonderful work you do.

14 Thank you again.

15 MS. LANDAU: Thank you so much.
16 Appreciate it.

17 COUNCIL PRESIDENT VERNA: This
18 committee will stand in recess until
19 Monday, April the 4th, at 10 a.m.

20 Thank you all very much.

21 (Proceedings end at 12:35 p.m.)

22 * * *

23

24

25

C E R T I F I C A T E

I HEREBY CERTIFY that the
proceedings of the City of Philadelphia
Council Committee of the Whole are contained
fully and accurately in the stenographic notes
taken by me on Wednesday, March 30, 2011, and
that this is a true and correct statement of
same.

JOSEPHINE CARDILLO

Registered Professional Reporter

(The foregoing certification of
this transcript does not apply to any
reproduction of the same by any means, unless
under the direct control and/or supervision of
the certifying reporter.)