

1
2 COUNCIL OF THE CITY OF PHILADELPHIA
3 PUBLIC MEETING
4 BEFORE THE COMMITTEE ON PUBLIC SAFETY
5 - - -
6 Room 400, City Hall
7 Philadelphia, Pennsylvania
8 Thursday, November 13, 1997
9 3:10 p.m.
10 - - -
11 RES. 970579 - Authorizing the Council's Committee on
12 Public Safety to conduct hearings on the status
13 of the City program for the seizure and
14 impoundment of unregistered vehicles and vehicles
15 driven by unlicensed drivers.
16 RES. 970634 - Authorizing the Committee on Public
17 Safety to hold hearings investigating the
18 implementation of Bill No. 181.
19 - - -
20 PRESENT:
21
22 COUNCILMAN ANGEL ORTIZ, Chair
23 COUNCILWOMAN JOAN KRAJEWSKI, Vice Chair
24
25 COUNCILMAN DAVID COHEN
COUNCILMAN FRANK DiCICCO
COUNCILMAN JAMES F. KENNEY
COUNCILWOMAN DONNA REED MILLER
COUNCILMAN FRANK RIZZO
COUNCILWOMAN ANNA C. VERNA
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN JANNIE BLACKWELL
- - -
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2 CHAIRMAN ORTIZ: Good afternoon,
3 everybody.

4 I want to welcome everybody to this
5 Public Safety hearing on Resolution 970579 and
6 Resolution 970634.

7 A quorum of the Public Safety
8 Committee having been established, I will now ask
9 the clerk to read into the record the title of both
10 Resolutions.

11 THE CLERK: Resolution No. 970579,
12 Authorizing the Council's Committee on Public Safety
13 to conduct hearings on the status of the City's
14 program for the seizure and impoundment of
15 unregistered vehicles and vehicles driven by
16 unlicensed drivers.

17 Resolution No, 970634, authorizing
18 the Committee on Public Safety to hold hearings
19 investigating the implementation of Bill No. 181.

20 CHAIRMAN ORTIZ: Good afternoon. I
21 bring up to the floor the City Solicitor, Stephanie
22 Franklin-Suber, please.

23 I know that you are pressed for time
24 and you have somewhere else to be, so we are not
25 going to detain you for a very long time.

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2 So you know the way we do these
3 things. So you can go ahead.

4 MS. STEPHANIE L. FRANKLIN-SUBER:

5 Thank you. Good afternoon, members of Council.

6 I do not have prepared testimony. I
7 am here today simply to provide any additional
8 information, answer questions the Committee may
9 have, with regard to the implementation of Bill No.
10 181.

11 I understand that copies of City
12 Solicitor Judith Harris' 1992 opinion explaining why
13 enforcement of the bill would violate the
14 Constitution, the Home Rule Charter, and applicable
15 state rules of procedure have been circulated to the
16 members of the Committee.

17 CHAIRMAN ORTIZ: Could you put that
18 into the record, please?

19 MS. FRANKLIN-SUBER: Pardon me?

20 CHAIRMAN ORTIZ: Could you put those
21 procedures and why it would violate the
22 constitutionality of the bills and so on. And could
23 you put that into the record?

24 MS. FRANKLIN-SUBER: Yes. To give an
25 outline of the reasoning of the opinion?

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2 CHAIRMAN ORTIZ: Yes.

3 MS. FRANKLIN-SUBER: Yes. I would be
4 happy to do that.

5 Bill 181 was passed by City Council
6 on October 22, 1992. It would add a new provision
7 to Title 10 of the Code.

8 Essentially, there are four aspects
9 of it. One, conduct that violates Section 5-902 of
10 the Crimes Code would also constitute a violation
11 under the Philadelphia Code.

12 Number two, any vehicle used --

13 CHAIRMAN ORTIZ: Excuse me.

14 Councilman Cohen is leaving. Present are
15 Councilwoman Donna Miller, Councilwoman Krajewski,
16 Councilman Mariano, Councilman DiCicco, Councilman
17 Kenney.

18 You can continue.

19 MS. FRANKLIN-SUBER: The second
20 aspect of the bill provides that any vehicle used in
21 the commission of this prohibited conduct is subject
22 to impoundment.

23 The third aspect of the legislation
24 is that a \$300 fine is imposed for the release of
25 the vehicle that's been impounded.

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2 And number four, all fines collected
3 are to be used for enforcement of the bill.

4 On November 17, 1992, after Council
5 had passed Bill 181, City Solicitor Judith Harris
6 issued a legal opinion to Mayor Rendell in which she
7 identified serious legal deficiencies which, in her
8 opinion, rendered the bill invalid.

9 The main legal issue that's raised by
10 the bill, in her opinion, is the impoundment of the
11 vehicle used in the commission of the prohibited
12 conduct.

13 Essentially, she reached the
14 conclusion that this aspect of Bill 181 violates the
15 Constitutional right to due process.

16 There is no notice or hearing
17 required prior to the impoundment of the vehicle.
18 There is no provision for a prompt hearing after
19 impoundment of the vehicle. There is no provision
20 for the release of the vehicle, other than after
21 payment of the fine.

22 So, in effect, what happens is that
23 the individual posts, in effect, his or her vehicle
24 as security for paying the fine.

25 So, in other words, the owner of the

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2 vehicle is not given an opportunity to challenge the
3 propriety of the impoundment of the vehicle.

4 The opinion also raises a number of
5 other legal deficiencies.

6 For example, City Solicitor Harris
7 concludes that the temporary impoundment of the
8 vehicle is not legally defensible as a punishment
9 for an offense.

10 The Rules of Criminal Procedure do
11 not authorize temporary seizure of property as
12 security for the payment of fines. And she also
13 reaches the conclusion that there is no
14 authorization under state law.

15 I understand that, more recently, it
16 has been suggested that recent state legislation may
17 have cured at least some, if not all, of the legal
18 problems that City Solicitor Harris has identified
19 in her 1992 opinion.

20 I believe specifically Act 149, which
21 was enacted by the General Assembly in 1996, it
22 authorizes the impoundment of vehicles for certain
23 kinds of Vehicle Code offenses, including driving
24 without operating privileges or registration.

25 Act 149, and certainly based on

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2 additional research our office has conducted
3 recently, it does not authorize the impoundment of
4 vehicles for this particular offense.

5 So, again, the conclusion that City
6 Solicitor Harris reaches in her opinion, that there
7 is no authorization for the impoundment of the
8 vehicle under state law, continues to be a valid
9 one.

10 CHAIRMAN ORTIZ: I know, obviously,
11 you are speaking if you are soliciting a woman of
12 the night, that there is no legal authorization for
13 the impoundment of the vehicle.

14 However, if you are participating in
15 a drug sale and you are arrested as the buyer, can
16 the automobile at that point also, between the
17 arrest, can the city, will the city, have the
18 authority to impound and confiscate that vehicle?

19 MS. FRANKLIN-SUBER: I believe that
20 there may be -- and I am speculating at this
21 point -- I believe that there may be authorization
22 under separate state law to seize property for
23 drug-related activity.

24 CHAIRMAN ORTIZ: If you are the
25 buyer, you are not the seller.

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2 If you are the buyer in this case,
3 you are coming into a neighborhood in your BMW, and
4 you are soliciting and you are buying drugs, and I
5 believe that you could be arrested.

6 But do we also have the authority to
7 impound the vehicle and confiscate that vehicle at
8 that time?

9 MS. FRANKLIN-SUBER: Under that
10 statute, I don't know the answer to that question.

11 CHAIRMAN ORTIZ: Is there under any
12 other statute that you may know?

13 I mean, does the city police
14 department, and the district attorney, have the
15 legal authority to be able, on a drug transaction,
16 not a prostitution action --

17 MS. FRANKLIN-SUBER: Right. I
18 understand.

19 CHAIRMAN ORTIZ: -- but on a drug
20 transaction, can we arrest the buyer, but also at
21 the same time impound and confiscate that vehicle?

22 Because if we can't do that, I think
23 it would be a great idea. And I see that we have
24 two deputy commissioners here.

25 And it would be a very good idea to

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2 begin. Instead of arresting the drug dealer corner,
3 why don't we put out some of our own folks on the
4 corner and start selling drugs and arresting those
5 individuals that we sell the drugs to at that time.

6 I think if we confiscate and arrest a
7 couple of these guys, and we confiscate a couple of
8 BMW's and Mercedes in Kensington, I think it would
9 send a message to, as Kenney would like to say, the
10 guys up there in the suburbs and New Jersey.

11 DEPUTY COMMISSIONER THOMAS J.

12 NESTELL: Thomas J. Nestell, Deputy Police
13 Commissioner.

14 Councilman, under the state
15 forfeiture law, I believe that we could confiscate
16 those vehicles under the circumstances that you
17 alluded to.

18 The state --

19 CHAIRMAN ORTIZ: I am talking about
20 not the drug dealer. I am talking about a guy who
21 comes in from the suburbs, or from another
22 neighborhood, to make a buy. They are coming in to
23 make a buy.

24 There was a guy in my neighborhood
25 the other day -- and my wife saw this -- and the guy

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2 went by in a car, did the buy, and then just sped
3 off.

4 Can we at that point arrest the
5 individual that did the buy and confiscate his
6 automobile at that time?

7 DEPUTY COMMISSIONER NESTELL: Yes, we
8 can.

9 What the Narcotics Unit has done is,
10 on some of their operations, working with the
11 District Attorney's Office, what they call their
12 sting operations, that was one of the things that
13 was done on those operations.

14 They would take, confiscate the
15 vehicle, in addition to making the arrest.

16 CHAIRMAN ORTIZ: So we can do that.

17 So we could put out our undercover
18 individuals out on the corners, and sell some of
19 these drugs, and arrest some of the guys that we
20 sell the drugs to?

21 DEPUTY COMMISSIONER NESTELL: Yes.

22 CHAIRMAN ORTIZ: They are doing that
23 in Chicago, I think, and so on.

24 DEPUTY COMMISSIONER NESTELL: And we
25 have done that.

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2 We mainly do it on the sting
3 operations, though, not on individual buys. And I
4 believe that it could be done on that, also.

5 CHAIRMAN ORTIZ: I think we need to
6 send messages. And I think a message can be sent if
7 we start doing it on individual buys.

8 Because if we do it on individual
9 buys, and that begins to get publicized, I think we
10 could send a very good message along those lines.

11 Councilman Kenney, you have something
12 to say?

13 COUNCILMAN KENNEY: Mr. Chairman, I
14 am on the Committee, but there is not room at the
15 table.

16 We can, I think, confiscate cars,
17 despite all due respect to the City Solicitor, for
18 any reason. And I will tell you why I believe that
19 to be true.

20 An individual solicits an undercover
21 police officer for the purposes of prostitution.

22 And that individual is arrested on
23 Kensington Avenue, Frankford Avenue, Broad Street,
24 wherever. And that individual is taken in custody
25 and booked.

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2 We have the responsibility, in my
3 view, to ensure the safety of that automobile. It
4 is not parked on the curb.

5 We are not confiscating his vehicle
6 or impounding it for the purposes of reselling it.
7 We should be confiscating and impounding it for the
8 purpose of keeping it protected so it is not stolen
9 off our city streets.

10 We didn't then take that car by hook
11 down to the impoundment lot, and we put it in
12 storage for its own safekeeping.

13 Once the miscreant is released from
14 police custody, he is then required to go on his own
15 down to the impoundment lot, pay the towing fee, pay
16 the fee for storage, and take his car back to
17 Jersey.

18 I don't think there is a problem with
19 that at all. It is not an issue of due process; it
20 is an issue of protecting the vehicle from being
21 damaged or stolen.

22 CHAIRMAN ORTIZ: What you are saying
23 is, you are not confiscating the vehicle.

24 COUNCILMAN KENNEY: The issue for the
25 John, in my experience -- this is not the license

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2 and registration issue; this is the prostitution
3 issue.

4 This guy, when he comes to town or he
5 comes in from another neighborhood, he wants to get
6 in, do his business, and get out. His arrest delays
7 him.

8 Now he has to explain to his wife
9 where he is at. His, not confiscation, but
10 protective custody of his vehicle takes more time,
11 also.

12 He then has to go down to the
13 impoundment lot, use his credit card or use his cash
14 to pay for the towing and storage fee.

15 He has additional things to explain
16 to his wife when he gets home, as to why he is
17 spending money to get his car out of custody when he
18 was going to buy a loaf of bread at the Wawa.

19 And if it takes him two days or three
20 days to get home -- because on a Friday night, he
21 could get arrested and wind up getting out on Monday
22 morning, with a three-day storage fee and towing
23 fee, have to go to the impoundment lot to get his
24 car -- I will guarantee you that man will not be
25 back to that street again. Because he would never

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2 want to go through this aggravation anymore in his
3 life.

4 Because the biggest problem for him
5 is exposure to his family and friends and coworkers
6 about his nighttime activities, or, in some
7 instances in the city, his morning and afternoon
8 activities.

9 But I believe that due process is not
10 an issue here because we are not confiscating his
11 car to own it; we are just confiscating it to keep
12 it safe.

13 MS. FRANKLIN-SUBER: Councilman
14 Kenney, I appreciate your comments. And I
15 understand. And we certainly are not taking issue
16 with the intent of the legislation.

17 At this point there is a City
18 Solicitor's opinion that raises Constitutional and
19 other legal deficiencies.

20 And in transmitting the message to
21 City Council, I think the Mayor made it clear that,
22 if I might quote -- and I believe this was also
23 circulated to members of the Committee -- that the
24 Administration will not enforce the provisions of
25 Bill No. 181 pending consultations with members of

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2 Council on ways to design a bill that is not legally
3 objectionable.

4 I am certainly prepared to meet with
5 members of Council to consider any additional
6 information that you may want to provide to my
7 office, to reevaluate and reconsider the opinion,
8 and to see if there are ways that we might be able
9 to address some of the Constitutional concerns and
10 other legal deficiencies identified in the opinion.

11 It may be that, certainly, there are
12 situations in the context of parking and towing
13 violations where vehicles are confiscated. But
14 there is a detailed procedure.

15 And that is covered in the opinion in
16 some detail, which goes back to, at least, the
17 fundamental problem with the fact that there is no
18 due process right incorporated or procedure
19 incorporated into the legislation.

20 That aspect of it, could it be
21 cured? That's certainly something that we could
22 look at.

23 COUNCILMAN KENNEY: I just want one
24 comment. Just two comments.

25 First of all, I think the issue of

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2 due process comes in when we are impounding the car,
3 we are taking possession of the car to take it away
4 from the person forever.

5 I don't think the issue of protective
6 custody of the car is an issue of due process. I
7 think we could do the guy a favor, so his car is not
8 stolen.

9 The inconvenience that he encounters
10 because of that custody, that's his problem. That's
11 not something we should be worried about, because we
12 are not taking the car away from him.

13 My final comment on this issue, we
14 can't sit around -- and, again, I understand your
15 position and where you are coming from and your
16 responsibilities -- but the Mayor has to understand,
17 and the Administration has to understand, that while
18 we diddle around worrying about the Constitutional
19 rights of men who come into our city to do this
20 activity, 450 to 500 people a month are leaving the
21 city.

22 By the time we, quote, unquote, cure
23 the legal problems, there may be no one left to
24 worry about curing anything.

25 And I think that what happens is, if

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2 we start taking these guys' cars, none of these men,
3 none of them are going to waltz down to the Federal
4 Courthouse at 6th and Market and file a Civil Rights
5 violation because, again, he doesn't want his wife
6 to know what he is doing. He will be happy to get
7 his car and get home.

8 And I think we go beyond the pale of
9 bending over to worry about the rights and
10 Constitutional protections and everything for this
11 guy, when all he wants is his car back.

12 I assure you, he won't be in front of
13 a Federal Magistrate filing any action. And if he
14 does, so what? He exposes himself further.

15 CHAIRMAN ORTIZ: But the city can be
16 exposed on a federal action. And that, I don't
17 think, is an exposure that the city wants to be
18 involved in.

19 COUNCILMAN KENNEY: I disagree,
20 Mr. Chairman. I disagree.

21 I think that kind of exposure and
22 publicity, that we are taking guys' cars, and
23 federal court actions are necessary to get paid,
24 they will go to the White Horse Pike, where they
25 used to go.

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2 But now they come here because we are
3 easy-going and worry about their Constitutional
4 protection.

5 So, again --

6 CHAIRMAN ORTIZ: But Madam Solicitor,
7 that issue in which the car is not confiscated and
8 the car is not impounded, in which the car is
9 simply, at the time of the arrest, the car is also
10 removed from the site of the arrest, and removed to
11 a --

12 MS. FRANKLIN-SUBER: For
13 safekeeping.

14 CHAIRMAN ORTIZ: -- to a locale that
15 the city owns, does that, does the moving of the
16 vehicle -- not the taking, because you are not
17 taking property from the individual -- but you are,
18 in essence, you are removing the vehicle from the
19 site of the arrest to a site where the city can keep
20 the car until the owner can get it, does that
21 represent any Constitutional issues in terms of due
22 process?

23 The opinion doesn't address that.

24 MS. FRANKLIN-SUBER: Correct. That
25 is correct.

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2 CHAIRMAN ORTIZ: The opinion doesn't
3 address that.

4 MS. FRANKLIN-SUBER: That is
5 correct.

6 CHAIRMAN ORTIZ: And could I ask you
7 to take that question and address it, and submit to
8 us a reasoning of why or why not that thing cannot
9 be done?

10 MS. FRANKLIN-SUBER: I would be happy
11 to do that.

12 CHAIRMAN ORTIZ: Okay.

13 MS. FRANKLIN-SUBER: And, also, I
14 think in response to Councilman Kenney's comments, I
15 just recently became aware of Bill 181 and the
16 opinion.

17 And, so, in addition to responding to
18 that question, we would be happy to consider any
19 other information, ideas, or thoughts that you or
20 other members of the Committee may have.

21 It is not simply an issue of
22 protecting the rights of the individuals from a due
23 process standpoint, but working with you to develop
24 and craft legislation that is going to withstand
25 legal challenge.

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2 That's one aspect of it, and there
3 are other issues that we could work on, as well.

4 COUNCILMAN KENNEY: It is an issue of
5 emphasis.

6 While we are trying to craft the
7 perfect bill that will never be challenged, we are
8 not doing anything in the meantime.

9 I don't mean to denigrate the efforts
10 of Judge Cirmelli and Judge DeAngelis, and other
11 people who are working on this.

12 But the wheels of government turn so
13 slowly. You will never craft a piece of legislation
14 that is unchallengeable, ever.

15 And we might as well start doing
16 something, and let some federal judge tell us we
17 have to stop. At least the people in the city will
18 think we are trying.

19 CHAIRMAN ORTIZ: Can you address
20 those issues --

21 MS. FRANKLIN-SUBER: Yes.

22 CHAIRMAN ORTIZ: -- and then get back
23 to us on it?

24 And Councilman Mariano, go ahead.
25 And then Councilman Rizzo.

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2 COUNCILMAN MARIANO: I don't want to
3 overemphasize what Councilman Kenney said. And the
4 Solicitor and I have talked on this. And she
5 graciously promised to work on something.

6 We can always continue this
7 particular of this hearing to figure out -- until we
8 try to do what Councilman Kenney wants to do. And
9 that's what we all want to do. But I just can't let
10 everybody here know how important it is.

11 I represent the 7th Council Distrist,
12 the East Police Division, the El is mine and
13 DiCicco's and Councilwoman Krajewski's, to at least
14 Girard Avenue, and then Frankie picks it up.

15 It is bad. I mean, it is so bad.
16 You know, you may read in the papers and you may see
17 things we are trying to do. It is like an endless
18 game with these people.

19 And Councilman Kenney is right. We
20 need to make sure that these people are -- he didn't
21 totally say it, but I will say it -- we have to make
22 sure they are inconvenienced, that they have to walk
23 back over the Tacony-Palmyra Bridge to Pennsauken,
24 or wherever they are from. That may be what we have
25 to do.

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2 Because when you are coaching a
3 soccer team at North Catholic, and you are walking
4 out, and the prostitutes are soliciting the soccer
5 players that are 15 years old, because this is
6 acceptable behavior under the El.

7 Now, it is better than it was in July
8 because the heat is on there. We have deputy
9 commissioners here; we have judges. The heat is
10 on.

11 But if we stop, if Kenney and I
12 decide to move to Florida, hopefully somebody else
13 will be here to do this -- it would be Jupiter, by
14 the way -- but there will be somebody else here to
15 do this. There are a lot of people in this city.

16 But can you imagine living on
17 Kensington Avenue, and your child comes out every
18 day to walk to the local public store, and there are
19 girls whacked out on crack and there's guys?

20 Besides this issue, the safety. Some
21 of these cars may not be safe. And I understand
22 Councilman Kenney's frustration. We bend over
23 backwards.

24 And I know it is not you. And I know
25 you want to work with us. But we bend over

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2 backwards to make sure we don't hurt anybody's
3 feelings or get sued. We are going to get sued
4 anyhow.

5 And do you know what, I don't work
6 for the Mayor. And I don't really care about the
7 Mayor, because he doesn't do anything for me.

8 He is great for Phillies tickets,
9 that's great. The Phillies had a bad season.

10 But what we need to know is, they are
11 not standing there in East Falls. They are not in
12 East Falls, they are not in front of his house. But
13 they are in front of the people in the 23rd, 33rd
14 Ward and the 45th Ward.

15 And we have to look at these people.
16 And they say, do you know what, if I call 911, by
17 the times the cops come out, these guys -- I mean, I
18 personally have stopped cars. And I love guys with
19 Jersey tags.

20 I say, "Did you give her any money
21 yet? Because she has AIDS, and you are going to
22 die." And guys throw the money back, throw them out
23 of the car. That's beautiful.

24 But eventually somebody is going to
25 get killed here. Some kid is going to get hit

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2 because some guy is looking the other way. Some
3 prostitute herself is going to get run over because
4 they are standing out in the middle of the street
5 half naked.

6 It is like a cartoon. People are
7 slamming into the sides of cars. Nobody is paying
8 attention because they have their mind on one
9 thing.

10 We need to craft something. And I am
11 glad you will help us with it. And it would be very
12 important to this Committee if we can do that,
13 because it has to end.

14 MS. FRANKLIN-SUBER: I appreciate
15 your concerns and issues. That's why I'm here
16 personally today, to reaffirm that my office is
17 committed to working with you to see if we can come
18 up with some approach to this.

19 CHAIRMAN ORTIZ: Councilman Rizzo.

20 COUNCILMAN RIZZO: Thank you. My
21 question is to the City Solicitor.

22 Solicitor, maybe you can explain
23 something that I am not clear on. If a person is
24 arrested by the police and they are in a motor
25 vehicle, and the police leave the vehicle on the

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2 street and transport the people that were arrested,
3 and that vehicle is stolen or that vehicle is
4 vandalized when it is left on-site after an arrest,
5 is there any precedent?

6 Have we been sued or have we ever
7 been responsible because we have left the vehicle,
8 possibly, not secured properly or locked?

9 MS. FRANKLIN-SUBER: I am assuming
10 that we have, but I would have to check into it.

11 DEPUTY COMMISSIONER NESTELL: I don't
12 have any facts with me. But I am quite certain we
13 have been sued for not protecting the vehicle.

14 COUNCILMAN RIZZO: Could you explain
15 the policy?

16 Commissioner, if you arrest someone
17 in a vehicle and the officers don't lock the car, or
18 they don't put it in a legal parking space, and it
19 is damaged or stolen, do you have any
20 responsibility?

21 DEPUTY COMMISSIONER NESTELL: Our
22 policy is that unless it is evidence, they lock the
23 vehicle and leave it on the highway.

24 COUNCILMAN RIZZO: And what happens
25 if it is vandalized or stolen?

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2 DEPUTY COMMISSIONER NESTELL: Well,
3 then, it is up to the individual whether or not they
4 want to sue us.

5 COUNCILMAN KENNEY: Or if you just
6 tell us where the cars are, we will come and
7 vandalize them ourselves and steal them.

8 But what happens also, Councilman --
9 and I have heard this on police radio -- is that an
10 officer in uniform is taken out of service to drive
11 the guy's car to the police station, where it is
12 waiting for him at the door when he gets his summary
13 citation and gets let loose.

14 So we have police officers driving
15 cars to the police station to get them off the
16 street.

17 CHAIRMAN ORTIZ: Is that the policy?

18 COUNCILMAN KENNEY: It is happening.

19 CHAIRMAN ORTIZ: Let's put it on the
20 record. Is that the policy, Commissioner? Let's
21 create a record, then.

22 DEPUTY COMMISSIONER RICHARD ZAPPILE:
23 Deputy Commissioner Zupelli, Philadelphia Police
24 Department.

25 The same occurs not only if it is a

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2 drug deal or prostitution, or even, say, it is a
3 drunk driver.

4 Our police officers are
5 instructed, -- not only by policy, but by
6 practice -- to use due care in doing what any
7 normal, reasonable person would do.

8 Is the car in a safe place? Is it
9 parked legally? Are the doors locked?

10 If the car gets broken into, anybody
11 can sue anybody for anything. But as long as it can
12 be shown that we exercised due care in doing that.

13 There is another side that sometimes,
14 in some districts -- because policy doesn't dictate
15 that we do this in all cases -- that police
16 officers, based on upon the totality of the
17 circumstances, may decide to remove that vehicle to
18 the district for safekeeping.

19 CHAIRMAN ORTIZ: What's to stop us,
20 then, from establishing a policy that as we do and
21 take all of the precautions and act in due diligence
22 and due care and so on, that we drive the car down
23 to Spring Garden, Delaware Avenue, and we put it in
24 the city lot?

25 DEPUTY COMMISSIONER ZAPPILE: That, I

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2 think, the City Solicitor said that she would
3 address. I don't know all the legal --

4 CHAIRMAN ORTIZ: No. But I'm
5 saying -- and I am just putting this out -- that in
6 the manner in which we go out and we do due
7 diligence, due care, and we take all of the
8 necessary precautions -- because I agree, we should
9 live by the law.

10 We are a country of laws, and we live
11 by the law. And if the city begins to violate the
12 law, then we cannot begin to talk when other people
13 begin to violate the law, also.

14 So when you speak about violating
15 Constitutional rights of somebody, I don't care
16 whether it is a prostitute or whatever it is, we are
17 treading on very dangerous ground.

18 But if we are going to do due
19 diligence, why cannot we, since we are not
20 impounding, we are not confiscating, and we actually
21 do that as a public policy, as a policy of the
22 police department, why don't we -- and, City
23 Solicitor, maybe you can look at this -- as we do
24 this, why don't we just take it down and put it in
25 the lot at Spring Garden and Delaware Avenue?

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2 DEPUTY COMMISSIONER ZAPPILE: That's
3 part of what she is going to look at.

4 CHAIRMAN ORTIZ: Very good.

5 DEPUTY COMMISSIONER ZAPPILE: But
6 there is also a practical side to that, and that's
7 how many cars and how many police officers we have
8 to move them.

9 There are a lot of logistical
10 questions, which I think you are going to address
11 later.

12 COUNCILMAN MARIANO: I have to say
13 this.

14 In the 25th and 24th Police
15 Districts, we are trying to build a new station.

16 When I go there, I can't park my
17 car. It gets egged when it is on the street.

18 So if we are going to impound
19 somebody's car -- not impound; wrong word -- take
20 somebody's car for safekeeping, it would be better
21 to take it down to somebody's lot.

22 I mean, the 24th and 25th, even the
23 2nd and the 15th is bad. The 26th, it is crowded.
24 And they were built 45 years ago.

25 CHAIRMAN ORTIZ: But the City

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2 Solicitor will be addressing that.

3 So why don't we just take all of
4 these things into consideration so that we may be
5 able to do certain things that we might be able to
6 implement.

7 But the drug dealer, the drug buyer,
8 that we can take.

9 So why don't we begin a whole series
10 of small, small stings, not a huge one. But, you
11 know, let's put some undercover folks out on 4th and
12 Cambria or 6th and Indiana. And as the marketplace
13 opens up -- or on 3rd and Ontario.

14 And as that happens, we make some
15 selling, and we are able to arrest the buyer right
16 then and there. You know, why don't we begin?

17 And maybe, then, publicize those
18 small, small sting operations, you know, especially
19 with pictures of the cars and the individuals, and
20 so on.

21 DEPUTY COMMISSIONER NESTELL:

22 Councilman, I will go back, discuss that with the
23 Commissioner, with our Narcotics Enforcement
24 officers, and get back to you.

25 CHAIRMAN ORTIZ: Because I think if

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2 we do it at that level, and instead of arresting the
3 corner dealer, let's put our own dealer out there
4 and let him deal some drugs.

5 And I think if the message goes
6 out -- they have been doing it in Chicago in a small
7 manner. And they seem to have had some success in
8 driving and cleaning up from outside individuals
9 coming into the neighborhood, from outside the
10 neighborhood and outside the city. And, you know,
11 it has had some success.

12 Instead of the nickel-and-dime
13 seller, to let's arrest the nickel-and-dime buyer,
14 and take his BMW along with it.

15 Councilwoman.

16 COUNCILWOMAN MILLER: Hi. Good
17 afternoon. Councilwoman Miller.

18 One of the concepts that the Guardian
19 Angels used -- and we can either agree or disagree
20 that they were effective -- was that they, you know,
21 took over street corners and they drove away the
22 customers.

23 Because I think that's also a method
24 that works, that you harass the customers enough
25 that they won't return.

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2 And, for the record, I want to make
3 sure that we note that prostitution and, of course,
4 drug dealing is pretty much a citywide problem.

5 There are lots of corners in the 14th
6 District, 35th District, 39th District, and all
7 those other districts that I represent, police
8 districts.

9 So I think it would be interesting to
10 see some type of legislation crafted to have an
11 impact, a positive impact, on what's happening in
12 these neighborhoods. Because these are real
13 quality-of-life issues for people.

14 I don't really have any questions. I
15 just wanted to say that.

16 CHAIRMAN ORTIZ: Councilman Mariano.

17 COUNCILMAN MARIANO: While I have you
18 three learned people right here at the table,
19 Zupelli, too, what about the motorcycles, dirt
20 bikes, and the four-wheel and three-wheel vehicles?

21 Do we take them? Is it up to the
22 police captain in the district? Where are we with
23 that? Is that illegal, too?

24 CHAIRMAN ORTIZ: They are illegal.

25 COUNCILMAN MARIANO: People sell

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2 drugs on them up and down 5th Street.

3 DEPUTY COMMISSIONER ZAPPILE: They
4 are illegal, most of them -- and Ortiz knows at the
5 Puerto Rican Day Picnic, we confiscated.

6 CHAIRMAN ORTIZ: In the 25th, Captain
7 Colloruto has begun a policy of confiscating as many
8 multiple vehicles, multi-terrain vehicles, as he
9 sees.

10 And the key situation is that they
11 have to catch them in operation. But, they are
12 doing it.

13 And I think we have like 20 now that
14 we have confiscated, or that the district has
15 confiscated, around 20 up there in that area.

16 COUNCILMAN MARIANO: Let me address
17 that. That's what I wanted to ask you. Two
18 questions there.

19 How do you catch them? And, second
20 of all, when you get them, what do you do with
21 them? You take them down to the 25th, and they sit
22 there and rust out? Do the people get to get them
23 back? Do you auction them off?

24 DEPUTY COMMISSIONER ZAPPILE: Well,
25 you are right in the first part. We tell our

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2 officers not to -- because they are inherently
3 dangerous.

4 COUNCILMAN MARIANO: You can't catch
5 them.

6 DEPUTY COMMISSIONER ZAPPILE:
7 Sometimes we use police motorcycles, highway patrol,
8 which will interdict and catch them.

9 COUNCILMAN MARIANO: How many highway
10 patrol motorcycles do we have left? Ten.

11 DEPUTY COMMISSIONER ZAPPILE: For
12 certain events, we do have them.

13 But even our bicycle officers, they
14 are adept at stealth.

15 You have to catch them when you are
16 down, when they are sitting on a highway. And if
17 you catch someone driving them, it is a summary
18 citation. You give them tickets; you confiscate the
19 vehicle.

20 Most people do not have the paperwork
21 to get them back. And they are sent, as in any
22 other city property, into the auction process at
23 some point in time.

24 COUNCILMAN MARIANO: Are these items
25 titled? Because I don't think they are titled.

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2 DEPUTY COMMISSIONER ZAPPILE: Most of
3 them aren't. My experience is, most of them are not
4 titled.

5 COUNCILMAN MARIANO: I don't think
6 they are.

7 DEPUTY COMMISSIONER ZAPPILE: They
8 are not titled; they are not licensed.

9 CHAIRMAN ORTIZ: The policy is, we
10 just instituted, the captain instituted, a policy in
11 that area, at least, like as of September, really,
12 when he got in there.

13 And it is something that I have been
14 asking for for a long time. And he has been doing
15 it.

16 But if we can do that in the 25th and
17 the 26th, and if we can do that on the 24th, in that
18 area, I think we could have, one, a real effect on
19 the corner drug dealing. Because they are used in
20 terms of messengers and carriers and so on. And I
21 know that we have to catch them.

22 The other day I was up there, and I
23 was on 6th Street, and two guys just went by. And I
24 didn't see a police car at that time. But it would
25 have been just great to just take those two young

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2 guys and just take their vehicle away.

3 But I think if we continue that
4 policy, and we extend it, I think up there in that
5 area, in the East Division, we would disrupt the
6 drug dealing that goes on. At least we would put
7 some chinks into the armor.

8 Any other questions?

9 Thank you. We have been joined by
10 Councilwoman Jannie Blackwell. Thank you.

11 Why don't we have the Honorable
12 Christopher Columbus and Bernice DeAngelis come up.
13 Oh, I am sorry, Richard Cermele. Forget that.

14 Come up as a panel. And I would
15 leave it to the panel, the distinguished panel in
16 front of me, Rina and Bernice and Richard, to decide
17 who begins.

18 JUDGE CERMELE: If everyone doesn't
19 mind, I would begin because I am the person that was
20 in charge of implementing Phase One, and then we can
21 move on from there.

22 CHAIRMAN ORTIZ: Please identify
23 yourself for the record.

24 JUDGE DOMINIC M. CERMELE: I am
25 Dominic Cermele. I am the Executive Director of the

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2 Office of Administrative Review, an agency of the
3 Finance Department of the City of Philadelphia.

4 I want to thank you, Mr. Chairman,
5 for the opportunity of appearing before the Council
6 to demonstrate the strong record of the city and its
7 agent, the Philadelphia Parking Authority, in
8 enforcing some of the provisions of House Bill 2360
9 pertaining to the impoundment of vehicles that are
10 unregistered or uninsured or otherwise not in
11 compliance with the Motor Vehicle Code of
12 Pennsylvania or the Traffic Code of the City of
13 Philadelphia.

14 House Bill 2360 was passed by the
15 General Assembly of the State of Pennsylvania on
16 July 2, 1996, and took effect November 2 of that
17 year.

18 On December 2 -- in other words,
19 within 30 days of the effective date -- the city
20 began enforcement of this important piece of
21 legislation.

22 As I reported to all Council members
23 in my memorandum of November 21, 1996, the concept
24 of depriving citizens of their property is fraught
25 with danger.

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2 Further I noted at the time that
3 projects of the scope and vision by that particular
4 legislation had overwhelmingly complex logistical
5 concerns.

6 Perhaps these two reasons explain why
7 the General Assembly later withdrew from the law the
8 ability to immobilize vehicles discovered by the
9 police to be operated without benefit of liability
10 insurance.

11 Nevertheless, Phase One of our
12 enforcement program, carried out by the Parking
13 Authority and the Bureau of Administrative
14 Adjudication, has been highly successful.

15 Starting December 2, 1996, the
16 Parking Authority dramatically altered its
17 procedures for the release of vehicles impounded for
18 outstanding parking tickets and other reasons.

19 From that point to this very day, no
20 vehicle is released to its owner or agent to be
21 driven out of our municipal impoundment lot unless
22 the following are fully complied with:

23 One, proof of registration must be
24 supplied and the same verified through the
25 authority's on-line connection to PennDOT;

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2 Two, financial responsibility must be
3 proven by presenting proof of financial
4 responsibility, or insurance card;

5 And, finally, that the vehicle is in
6 compliance with the applicable provisions of the
7 Pennsylvania Motor Vehicle Code.

8 By this I mean that all vehicles
9 owned by individuals who have driver's licenses
10 suspended because of failure to satisfy outstanding
11 moving violations, they must submit proof from the
12 Philadelphia Traffic Court that all of those
13 violations are now satisfied or they are on an
14 approved Traffic Court payment program.

15 These changes and procedures were not
16 easily accomplished because, quite frankly, many
17 individuals became enraged and angered over the
18 prospect of losing their vehicles.

19 Despite the difficulty in
20 implementing these changes, the program has been
21 highly successful, as the following statistics would
22 show.

23 In the period from December 2, 1996,
24 until the end of October this year, the Authority
25 towed 22,351 vehicles.

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2 Applying those standards that I just
3 read to you, 2,385 vehicles were not released
4 because they did not prove they had insurance.
5 1,066 vehicles were not released because they were
6 not properly registered. And 107 were referred to
7 the Traffic Court because their licenses had been
8 suspended for failure to respond to a motor vehicle
9 violation.

10 Thus, a total of 2,852 were held,
11 which is represented 13.6 percent of vehicles
12 towed.

13 You will note that the total number
14 of vehicles held is less than the sum of the whole
15 categories. This is so because many of the vehicles
16 are held for more than one defect.

17 You will also note that the
18 percentage of vehicles held is less than 15 percent
19 of all vehicles towed during that period.

20 We find this quite interesting, since
21 we very often hear that 35 to 40 percent of all
22 vehicles in Philadelphia are uninsured, and, thus,
23 those of us who are insured must pay higher rates to
24 make up for this large percentage.

25 We are still analyzing our figures

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2 and are, as of yet, unable to attribute any
3 particular significance to this. We do find it to
4 be an interesting anomaly.

5 Vehicles whose owners are unable to
6 correct registration defects or the other defects
7 are eventually sold onto the Authority's auction
8 program as authorized by this Council by Bill 747 of
9 1995.

10 I am happy to report that the results
11 of that auction program have been simply
12 astounding.

13 Since July of 1996, through October
14 of 1997, a total of 7,000 vehicles have been sold at
15 auction for a gross amount of \$2.7 million.

16 This has resulted in net dollars to
17 the city's General Fund in excess of \$1.5 million.

18 Phase Two of the program has also
19 been fraught with some logistical problems, all
20 which, I am informed, have been worked out.

21 This includes the Traffic Court
22 issuing impoundment orders in accordance with the
23 provisions of Pennsylvania Consolidated Statutes,
24 75, Section 6309.

25 Under those provisions, the Court has

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2 appointed the Parking Authority to act as the agent
3 for the Court in impounding certain vehicles.

4 Essentially, these are vehicles
5 determined by the Court to be in violation of
6 provisions of the code relating to registration,
7 insurance, licensing, or other vehicle
8 characteristics for which the outstanding fines are
9 \$250 or more.

10 This phase will be fully implemented
11 as of the end of this month. And from that point on
12 those vehicles for which impoundment orders have
13 been issued by the Traffic Court will have their
14 registration tag numbers listed in the database of
15 the Parking Authority.

16 Booting crews, equipped with mobile
17 digital terminals, will search out those vehicles
18 while performing their normal patrol patterns.

19 And, finally, I would say that Phase
20 Three is, as you well know, by law, under the sole
21 authority of the Traffic Court and, as I understand
22 it, will also soon be implemented.

23 I believe that the successes
24 accomplished under the first phase of this program
25 will spill over into the other two phases, and

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2 Philadelphia will become a model for the rest of the
3 municipalities in this state.

4 Thank you.

5 COUNCILWOMAN KRAJEWSKI: Thank you
6 very much, Judge.

7 Councilman Mariano.

8 COUNCILMAN MARIANO: Judge, thank
9 you. Thank you for your help.

10 First, as the Councilman introduced
11 these two resolutions, I need everybody to know,
12 this isn't a witch hunt for anybody here.

13 It is just, when you represent the
14 district that I represent, you need to get things
15 done. We need to get this done.

16 And we are glad for everything you
17 did -- and we will probably continue this -- and
18 everything you will do. That goes for everybody
19 here. But I have a couple of questions.

20 Now, I understand -- and all your
21 figures look good -- but everything is real
22 practical to me.

23 Now, in Juniata, in the 33rd Ward, by
24 the golf course you may have visited once or twice,
25 Judge, because I know you are an avid golfer. I

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2 heard that rumor, that might not be a good enough
3 course for you.

4 But right by the golf course there,
5 it is a public course, at Dungen and Cayuga, there
6 is a group of people that live in the corner house
7 that play this T tag game.

8 And what they do is, they have two or
9 three Temporary tags. And any good cop on the
10 street will tell you, anybody that has been on the
11 street for a while can see that tag and say,
12 "Councilman, see that tag, that is too old to be a
13 T tag. It was issued a year ago."

14 But these guys keep these tags
15 clean. Because they are not paper anymore, they are
16 metal. They shine them, and they still look new.
17 But by the numbers, the police can tell. They keep
18 switching these tags, Judge, about three tags under
19 six, seven, eight cars.

20 Now, when I have a problem with that,
21 I call the captain in the 24th, and he sends some
22 people out. But these same guys could be down that
23 end of the 24th doing some real police work.

24 Can I call you or somebody in the
25 Parking Authority to send like a sweep of different

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2 neighborhoods? Would you know if these T tags were
3 bad? Would you know what cars are bad?

4 JUDGE CERMELE: I think the Executive
5 Director of the Parking Authority would probably be
6 best able to answer that.

7 MS. RINA CUTLER: For the record,
8 Rina Cutler, Executive Director, Philadelphia
9 Parking Authority. And I actually may need a little
10 assistance here.

11 I do believe within the boundaries
12 that the Parking Authority currently operates under,
13 that my folks can identify, and do identify,
14 nonvalid tags.

15 So the problem, as I see it, is
16 two-fold. One, depending on the time of day, as you
17 are aware, there are not always available folks to
18 send out.

19 And, two, we generally do not operate
20 outside the purview of even either the neighborhood
21 business districts or the boundaries of Center City
22 as defined, as river to river, Spring Garden to
23 Bainbridge.

24 COUNCILMAN MARIANO: River to river,
25 Vine to Pine.

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2 MS. CUTLER: Bainbridge to Spring
3 Garden.

4 And so whether or not we have either
5 the authorization or staffing to go there, I would
6 say no on both counts.

7 COUNCILMAN MARIANO: No
8 authorization, no staffing. Let me change this
9 question just a little bit.

10 DEPUTY COMMISSIONER ZAPPILE: If I
11 could just amplify that a little bit.

12 The patrol patterns that the Parking
13 Authority works on, and that is the central business
14 district and those outlying residential business
15 strips, and one block on either side, that is not
16 law, but that is by agreement of Council. We abide
17 by Council's wishes.

18 COUNCILMAN MARIANO: And we can
19 change all that. We can add the authority to you.

20 Let me ask this question, and either
21 one of you can answer that. Say it is inside your
22 parameter there to do this.

23 And here is a car -- and since I got
24 my new Council car with the police scanner on there,
25 I spend a lot of time listening to it. It is very

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2 addictive.

3 And a lot of the police work in the
4 city is nonsense, in the term of it is not serious
5 police work. There is enough serious police work,
6 but it is, "I stopped this car at 10th and Race, and
7 the tags belong to a Chevy, but the car is a Ford.
8 It hasn't been registered." And that's when we get
9 into the third part for Judge DeAngelis.

10 If you see a car parked at 10th and
11 Race and you run the tag and the tag is good, do you
12 know that it belongs to a Chevy, but it is actually
13 on a Ford?

14 MS. CUTLER: The problem, Councilman,
15 is that I don't know that until I take the car into
16 the tow lot. There is no direct on-line access on
17 the street to the PennDOT system.

18 So once I have the vehicle and it is
19 in the tow lot, then we run all of those things.
20 But not on-street.

21 COUNCILMAN MARIANO: Thank you.

22 COUNCILWOMAN KRAJEWSKI: Councilman
23 Kenney.

24 COUNCILMAN KENNEY: Thank you.
25 Councilman DiCicco, did you have an answer?

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2 COUNCILMAN DiCICCO: I have a
3 question.

4 COUNCILMAN KENNEY: Judge Cermele,
5 Phase One, which you have indicated you believe to
6 be a success, all involve cars that are parked by
7 the curb; is that correct?

8 JUDGE CERMELE: That's correct.

9 COUNCILMAN KENNEY: Nothing that is
10 moving?

11 JUDGE CERMELE: That's correct.

12 COUNCILMAN KENNEY: And in Phase Two,
13 which is in the process of being implemented, soon
14 to be fully implemented, or it is fully implemented
15 now? It is kind of almost there?

16 JUDGE CERMELE: As I understand it --
17 and Judge DeAngelis and Rina Cutler might answer
18 that better -- they are able to proceed as of the
19 Wednesday before Thanksgiving.

20 But I think they have agreed that
21 that would not be an appropriate day to start this,
22 and so they intend to start it the first of the
23 month.

24 COUNCILMAN KENNEY: Why is that?

25 MS. CUTLER: Just holiday.

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2 COUNCILMAN KENNEY: Holiday staffing
3 issues? Okay.

4 Phase Two and Phase Three, are they
5 moving vehicles?

6 JUDGE CERMELE: Phase Three is.

7 COUNCILMAN KENNEY: Maybe you could
8 explain Phase Two, so we know what that is.

9 JUDGE CERMELE: Okay. I think
10 probably Judge DeAngelis can do that.

11 COUNCILMAN KENNEY: Madam Chair, I
12 will forego my questions.

13 COUNCILWOMAN KRAJEWSKI: Thank you,
14 Councilman.

15 COUNCILMAN DiCICCO: I guess my
16 questions were kind of where Councilman Kenney was
17 going. We are discussing these numbers, these
18 22,351, are related to people who park illegally.

19 JUDGE CERMELE: That's correct.

20 COUNCILMAN DiCICCO: So we really
21 don't know if the 35 to 40 percent is accurate.
22 Because when you begin to implement the next phase,
23 where police who stop individuals for alleged moving
24 violations, that number that we all believe to be
25 somewhere between 35 to 40 percent of the people who

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2 are driving are either unlicensed and uninsured, may
3 be real.

4 JUDGE CERMELE: It may be.

5 COUNCILMAN DiCICCO: Based on my
6 experience as the former Court Administrator of
7 Traffic Court, looking at the pool of people who are
8 constantly issued tickets, repeat offenders, I think
9 35 to 40 percent is right on target. And maybe that
10 will come out through other discussions.

11 JUDGE CERMELE: And that may very
12 well be.

13 COUNCILMAN DiCICCO: But I think it
14 is important that we bring that out. And Councilman
15 Kenney already began to bring it out.

16 We are only talking about people who
17 park at a meter or park illegal. We don't really
18 know what the full impact is going to be on removing
19 people who are driving through the streets of
20 Philadelphia who may park legally, but are driving a
21 car illegally.

22 JUDGE CERMELE: And the other thing
23 is, you remember that the patrol patterns of the
24 Authority do not extend into residential
25 neighborhoods. And, so that you eliminate those

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2 people, also.

3 All I am saying is that individuals
4 who have had three or more parking violations and
5 have ignored them, and, as a result, have had their
6 vehicles towed or impounded, and, therefore, by
7 definition, are individuals who don't pay particular
8 attention to their debts, we have found that 15
9 percent of them or less have problems with
10 registration or insurance.

11 But we may be talking a lot of
12 up-standing citizens who just don't happen to have
13 parking tickets.

14 MS. CUTLER: If I may, Councilman
15 Kenney, a lot of what direction I know you are
16 heading in will actually, I am sure, be addressed by
17 Judge DeAngelis.

18 But I think it is important to state
19 the answer to your question, which is that Phase Two
20 is relative to people who are parked on streets, as
21 well.

22 And that even now, within the mission
23 of the agency, we do not do any towing for moving
24 violations.

25 For vehicles that are stopped, under

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2 the current rules, by the police department, they
3 are towed by the police department's tow trucks.

4 COUNCILMAN KENNEY: Would you then
5 explain to me -- and maybe I missed it when you were
6 testifying, Judge Cermele, the difference between
7 Phase One and Phase Two, if they are all involving
8 parked --

9 JUDGE CERMELE: Phase One involves
10 vehicles that we happen to know because they have
11 three or more violations or they are in a two-away
12 zone.

13 Phase Two would then include vehicles
14 that may be parked illegally, may not have any
15 tickets, but they are wanted by the Court because
16 the Court has issued impoundment orders.

17 MS. CUTLER: But they are parked.

18 JUDGE CERMELE: Parked, but not
19 necessarily legally.

20 COUNCILMAN KENNEY: And parked in the
21 Center City District.

22 MS. CUTLER: Either there, or within
23 the district boundaries in the neighborhood business
24 districts.

25 COUNCILMAN KENNEY: Thank you, Madam

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2 Chair.

3 COUNCILWOMAN KRAJEWSKI: Thank you.

4 Any other questions?

5 Judge DeAngelis.

6 JUDGE BERNICE DeANGELIS: Good
7 afternoon, Madam Chair, Councilpeople.

8 I think, first of all, I have to
9 clear up the issue here as far as phases.

10 Phases are terms used by the Parking
11 Authority for whatever type of operation they are
12 into or not into.

13 First of all, the law for this
14 impoundment law is in two categories. Those
15 categories have absolutely nothing to do with
16 whether a car is parked or not parked.

17 And it is important for you to
18 understand both categories of that law, so that we
19 can go into the implementation and the enforcement
20 of the law.

21 The law has two major categories, the
22 first category being for vehicles whose owners --
23 key word, whose owners -- have been to court, to
24 Traffic Court. This entire law has nothing,
25 absolutely nothing, to do with parking tickets.

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2 Whose owners have been to court, who
3 have been found guilty of moving violations, who
4 have ignored paying their fines that are now in
5 default.

6 And that among those tickets that
7 they were found guilty for, they were either found
8 guilty for one of the following: No insurance, no
9 registration, no license.

10 Those for prior convictions can be
11 impounded on-site, anyplace.

12 The second category are for those
13 vehicles that are being operated by anyone, who
14 belonged to anyone, who are moving on the street.
15 And the owner is not licensed, the vehicle itself is
16 not registered, or the registration has been
17 suspended because of no insurance.

18 At that point the police officer, who
19 for some probable cause -- maybe the fact that he
20 sees one of these tags you talked about, Councilman
21 Kenney -- can stop that vehicle, verify information
22 with Harrisburg, ask the people in the vehicle to
23 leave the vehicle, and to call for a tower to
24 impound that vehicle, call the Court for the Court
25 to impound the vehicle.

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2 So the two categories of the law are
3 for owners of vehicles that have prior convictions
4 of \$250 and more. The Court alone would know who
5 those people are because the convictions and the
6 fines are ours.

7 And it was an enormous job to have
8 our computer, who keeps records by operator number,
9 to translate that information into a tag number so
10 that they can be identified on the street by the
11 Parking Authority, who up front is supposed to help
12 us find some of those cars, for an up-start, for a
13 quick start.

14 The live stop, the second part of the
15 law, is going to be implemented in full effect by
16 January 1.

17 Now, the phases that Judge Cermele
18 talked about have nothing to do with the Court
19 because the Court and its operation with the Parking
20 Authority, in all effects, have not begun yet. And
21 I am going to address that in the statement in
22 chronological order.

23 I know of no Court regulations that
24 allow them to sell any cars, the Parking Authority,
25 to sell any cars, except for parking tickets.

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2 The joint Court regulation for
3 selling cars, for moving violations, has not begun
4 yet.

5 As Judge Cermele said, 22,000 cars
6 may have been impounded. You also heard him say 107
7 of those how many thousand came up to Traffic
8 Court.

9 If those 107 were sold, the Traffic
10 Court realized nothing from the sale of those cars.

11 But let me, please, tell you the
12 Court's perspective, and the Court who is
13 responsible for implementing this law.

14 This report that I will now give you
15 will summarize the progress achieved in
16 implementation of procedures of the boot and two
17 law.

18 The law makes provisions for
19 governmental seizure and possible sale of private
20 vehicles. The law was enacted to be an enforcement
21 tool to ensure and guarantee public safety.

22 Since mid January 1997,
23 implementation efforts have been guided by the
24 leadership of Traffic Court.

25 There is documentation and testimony

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2 here that suggests that other associated city
3 departments assumed the leadership role early on.

4 But today's end product is a
5 collaborated effort between representatives of the
6 Court, the state agencies, the Philadelphia Police
7 Department, and the Pennsylvania Department of
8 Transportation.

9 And I would be remiss at this point
10 if I did not thank the President Judge of the Common
11 Pleas Court, and his staff, in the name of Dominic
12 Rossi; the Administrative Office of the Pennsylvania
13 Court and their staff, Mark Flood; Joe DePrimio, the
14 Office of the Administrator of the Courts, with his
15 staff Lynn Hacking; Commissioner Neal and the
16 Philadelphia Police Department, in giving us Deputy
17 Commissioner Nestell and the services of Cerviano
18 and folks -- Mr. Croft, the Department of
19 Transportation.

20 Without their cooperation, this Court
21 could not be in the position today to tell you we're
22 ready to start implementation -- implementation has
23 been started, but to start towing vehicles.

24 I already explained to you the two
25 sections of the law, so I can pass that.

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2 The first section of the law that
3 deals with prior convictions, these are people that
4 have already been to court, they have fines, the
5 fines are in default.

6 From the onset, the enforcement of
7 this part of the law was based on a cooperation
8 venture between the Philadelphia Traffic Court and
9 the Parking Authority.

10 The Court asked the Parking Authority
11 to tow automobiles that were identified by the
12 court. And that if they see them in the regular
13 course of their present activities, to pick them up
14 for us.

15 The Traffic Court, on April 3,
16 identified a list of vehicles that could be
17 impounded under this program.

18 Early January, the Court operations
19 expanded to match the hours of the Parking Authority
20 to be open from 8:30 until 8:00 in the evening every
21 day of the week and Saturday from 9:00 to 1:00.

22 A Memorandum of Agreement for a
23 six-month pilot program, spelling out exactly the
24 responsibility of the PPA and the Traffic Court, was
25 signed and sent to the Parking Authority on April

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2 3.

3 An Impoundment Order, as I say, to
4 identify 4,000 plates was sent to them. And every
5 week after that, an additional 200 plates was added
6 to that list.

7 On July 7, Rina Cutler, the Director
8 of the Philadelphia Parking Authority, signed the
9 Memorandum of Agreement.

10 Notices were mailed out to those
11 people that were eligible, and potentially eligible,
12 to warn them to come into court to pay up their
13 fines before their car was impounded. Common Pleas
14 Court and Traffic Court entered into joint court
15 regulations.

16 But, to date, no cars have been
17 towed.

18 I understand the last hold-up is the
19 computers between Traffic Court and the Parking
20 Authority that are not speaking to one another.

21 I don't know about this November
22 start. No one called to tell me that. That is news
23 to me here today.

24 My court has been open and
25 operational. Revenues are being paid in overtime

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2 waiting for those cars to come in.

3 That's the update on the first
4 phase. The Court has done everything that we can,
5 everything is in order. We are waiting for the
6 Parking Authority to go out and get them.

7 Now I would like to talk about the
8 second part of the law. That's the law that
9 everyone is waiting to see implemented, and that's
10 the livestock.

11 I have explained the law. As it was
12 first written, a person having to have insurance was
13 a criteria for a stop.

14 And in December of 1996, that
15 particular piece was removed because it was
16 impossible for a police officer on the street to
17 verify the car's authenticity, whether the person
18 was insured or not.

19 But those people are caught under not
20 being registered. Because if you do not have
21 insurance, you cannot get registered. So that
22 population will be addressed in this live stop.

23 It made sense up front, and it
24 confused a lot of people because everyone just
25 figured that the Parking Authority was going to go

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2 out and get those cars for us, also.

3 And we did offer to, Rina Cutler, the
4 Executive Director of the PPA, if she would be
5 interested that when the police do identify a car,
6 in the area of her current operation, if she would
7 be interested towing that car into their lot.

8 I got a cautious response from Miss
9 Cutler, and I understand why. Because she wanted to
10 know more about the scope of our procedures.

11 Another thing you have to take into
12 consideration is that the Parking Authority has,
13 what, 15, 16, 17 tow trucks. How can that few tow
14 trucks be available on a 24-hour basis for the
15 entire City of Philadelphia?

16 We took into consideration the outcry
17 from the public and from the Council and from the
18 legislature, why isn't the law being implemented.

19 You remember that this law was
20 directed to be implemented with no funding. We
21 received no money to buy tow trucks, no money to
22 have tow truck drivers operate them, no money to
23 secure lots, and very little money to hire the
24 people in the Traffic Court that we need to go into
25 this operation.

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2 Council, I offer you, I have 120
3 people on a no-growth budget. They have already
4 been split from one shift, 8:30 to 4:00, to two
5 shifts. The court is now open six days a week. It
6 is going to have to be open seven.

7 How far can I split those same 120
8 people?

9 Dispatchers and other employees are
10 going to be needed for 24 hours around the clock.
11 Because at any time multiple stops, probably, in 25
12 police districts, police officers will be doing
13 their long-awaited job, taking these cars off the
14 street.

15 Because of all those issues, the
16 Court had no other avenue to go but to ask private
17 towers to come out and tow the cars for us.

18 CHAIRMAN ORTIZ: Who is going to pay
19 you, if you have no money? Who is going to pay
20 you?

21 JUDGE DeANGELIS: The defendant is
22 going to pay them from his pocketbook, the folks
23 that have it, or from the sale of the vehicle.

24 And if nothing is going to be
25 realized from the sale of the vehicle, then, in the

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2 bid, the towers understand that they get nothing,
3 either.

4 However, the Court has put a \$75 --
5 assessed a \$75 administrative fee to every vehicle
6 that's going to be impounded on the live stop, which
7 means -- let me give you a conservative figure.

8 Up until May of this year, we had no
9 way to estimate how many cars were going to be
10 towed.

11 So we went to the police department,
12 and they began keeping accurate statistics of how
13 many tickets are being written for those violations
14 that would now make these cars impoundable.

15 Taking in the repetitive pattern,
16 that some people may get multiple citations, and
17 giving the most conservative figures, we think that
18 6 cars an hour, 147 cars a day, 4400 cars a month,
19 53,000 cars a year, conservatively, can be
20 impounded. Do you know the enormity of that?

21 Now, you put the \$75 administration
22 fee, times 53,000 cars, you are looking at
23 \$3,000,975.

24 Will we get it? I don't know. We
25 will get some part of it.

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2 And maybe that will give the Court
3 the monies to start an operation so that all the
4 monies can go to the City of Philadelphia, as the
5 excellent program that the Parking Authority has
6 does send the revenue to the city.

7 An RFP was distributed to secure
8 towing services on October 30, and a bidder's
9 conference is scheduled for tomorrow.

10 This is how the law -- it is very
11 clear how it is going to work.

12 The police officer will identify a
13 car. He will check the information in Harrisburg.
14 If necessary, the car will be immobilized.

15 We're not going to immobilize the
16 car. What we are going to try to do is take the car
17 in custody immediately, as you said earlier, for the
18 safety of the car, for the safety of the property,
19 so that the court isn't left with lawsuits for cars
20 that are damaged or stolen off the streets.

21 The police officer identifies the
22 car. The police officer will call the police
23 headquarters. Police headquarters will notify the
24 Court.

25 The Court, who has to keep record of

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2 where these cars are, but, more important, where
3 they are going, will then notify a tower.

4 All this, we hope, will be done
5 within 20 to 30 minutes for the safety of the
6 vehicle, for the safety of the tower.

7 How are they going to be paid? They
8 are going to be paid by charging the same figures
9 that the Parking Authority charges, \$75 for towing
10 fee, storage fee 575 for the first five days, first
11 24 hours free, and then \$17.25 thereafter.

12 If the car can be redeemed, and if
13 the person comes into Traffic Court and does
14 whatever is necessary to get the car back, to either
15 pay their fines, get on a payment plan, whatever,
16 show insurance, show proper registration, whatever,
17 the car will be released.

18 If the car isn't released, then the
19 car will be held to sale.

20 The law says 30 days. But,
21 realistically, it is going to take 40 or 45 days for
22 those cars to be sold. Because the owners have to
23 be notified, temporary court titles have to be
24 prepared, that sort of work.

25 There were many policies in areas

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2 needed to support implementation.

3 CHAIRMAN ORTIZ: Judge, can we
4 summarize? I think the Councilpeople have some
5 questions to ask you.

6 JUDGE DeANGELIS: Okay. At any time
7 they can jump in.

8 But I want you to understand the
9 enormity of why this isn't on the street, all the
10 areas that we had to address.

11 And the summary is, we had to change
12 our entire computer base. And our operating
13 procedures for the Traffic Court had to be
14 reprogrammed.

15 Communication links had to be put
16 between the streets, the police, and the Court.

17 For the public benefit, we have to
18 try to provide an advertising campaign for them to
19 understand what's going to happen.

20 Pennsylvania Department of
21 Transportation had to be worked with, to be sure
22 that the integrity of the information that they gave
23 us to the police officer was correct.

24 We had to enlarge security systems.
25 I already gave you the number of cars.

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2 What we envision is a pilot program
3 on a daytime basis, to see how many cars we get and
4 how they can be disposed of 9:00 to 5:00 in the
5 morning, when the Court and when the police
6 department is fully operational.

7 It is a safer time for those people
8 that will be asked to leave their vehicles. There
9 may be some innocent passengers in those vehicles.

10 After the bidder's conference, we
11 feel we have addressed all the areas and the issues,
12 and we are ready to go January 1.

13 Maybe your questions would be -- if
14 you think the testimony is long, then you can
15 appreciate the enormity of putting this into
16 effect.

17 And I would like to make this last
18 statement: The citizens of this city do have the
19 right to be protected from uninsured and
20 unregistered and unlicensed drivers. They should
21 not be their victims.

22 But they also have the right to be
23 protected from frivolous lawsuits if the Court moved
24 in less than a deliberate manner.

25 Because we would be taking people's

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2 properties, and we don't want to seize the wrong
3 cars.

4 CHAIRMAN ORTIZ: Any questions from
5 the Council?

6 Councilman Kenney.

7 COUNCILMAN KENNEY: Thank you,
8 Mr. Chairman.

9 Judge, how many companies have bid
10 for the right to do the private towing work part of
11 this program?

12 JUDGE DeANGELIS: We will know that
13 tomorrow. The bidders' conference, I believe, is
14 tomorrow at 10 o'clock. I am sure anyone is welcome
15 to go.

16 COUNCILMAN KENNEY: How is it
17 envisioned that the bidder will bid?

18 What is the territory the bidder is
19 bidding on? Is he or she bidding on the whole
20 city? Is he or she bidding on a police division or
21 a section of the city? How is it broken down?

22 JUDGE DeANGELIS: Mark Flood is the
23 expert, and he is the gentleman that wrote, actually
24 wrote, the RFP.

25 COUNCILMAN KENNEY: You have to use

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2 the microphone and identify yourself for the
3 record.

4 MR. MARK FLOOD: My name is Mark
5 Flood. I work for the Administrative Offices of the
6 --

7 COUNCILWOMAN KRAJEWSKI: Speak into
8 the mike.

9 MR. FLOOD: In answer to your first
10 question, Councilman, it appears what we did was, we
11 sent out 276 RFPs to individual towers in the City
12 of Philadelphia that we knew were licensed with the
13 City of Philadelphia.

14 So at this point in time, how many
15 respond to that RFP we won't know until tomorrow.
16 But we sent out 276. We published it in the
17 Inquirer and the Daily News.

18 So everyone knows about it. It is a
19 question of how many towers can respond to that
20 article.

21 COUNCILMAN KENNEY: As part of the
22 RFP, are there specific levels of insurance, numbers
23 of vehicles, minimum number of vehicles, size of the
24 impoundment lot that they possess? Are there all
25 minimum requirements?

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2 MR. FLOOD: For every idea that you
3 just put forth, there is some requirement in the
4 RFP, in terms of how many vehicles they have, in
5 terms of how large their lot should be.

6 COUNCILMAN KENNEY: What's the level
7 of insurance that's required?

8 MR. FLOOD: It is, I believe, \$5
9 million total, \$2 million per occurrence. And,
10 again, it is based on information, or figures, we
11 used with the City of Philadelphia previously.

12 COUNCILWOMAN KRAJEWSKI: Would you
13 address your answers and questions to the Chair, as
14 well.

15 COUNCILMAN KENNEY: I'm sorry.

16 MR. FLOOD: It depends on the police
17 division itself.

18 The division itself may have, we have
19 estimated, a thousand for some, 800 for others.

20 We don't know, again, until we
21 actually have some figures that are more
22 legitimate.

23 What we have right now are estimates
24 of tickets, not vehicles.

25 COUNCILMAN KENNEY: You are talking

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2 about the number of spaces in the impoundment lot?

3 MR. FLOOD: Correct.

4 We have based our number of spaces
5 per impoundment lot on the number of the actual
6 police division, how many spaces in the division we
7 think would be necessary.

8 So we are going to try to divide up
9 the actual area of the city based on the police
10 division and the lots within those divisions.

11 COUNCILMAN KENNEY: And the minimum
12 number of tow trucks that a company needs to have?

13 MR. FLOOD: Eight, at this point in
14 time.

15 COUNCILMAN KENNEY: It will be
16 broken --

17 MR. FLOOD: It is five trucks, and
18 eight years of experience.

19 COUNCILMAN KENNEY: And the bid will
20 be awarded based on the division, police divisions?

21 MR. FLOOD: Yes, we hope to award the
22 bid based on police divisions.

23 Now, again we are very concerned
24 about the storage areas themselves, how big they
25 need to be.

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2 We may come up with another idea of
3 actually centralizing the storage area. But we have
4 not made that final determination at this point in
5 time, until we get responses.

6 COUNCILMAN KENNEY: Can a successful
7 bidder successfully bid on more than one police
8 division?

9 MR. FLOOD: Yes, it is possible at
10 this point in time.

11 COUNCILMAN KENNEY: Is there a limit
12 on the number of divisions?

13 MR. FLOOD: No, we haven't set one at
14 this point in time.

15 COUNCILMAN KENNEY: Just for the
16 procedure sake, it is envisioned that an officer
17 makes a car stop, checks the appropriate paperwork,
18 runs the tag, runs the VIN, and for some reason or
19 another, based on the existing law, we need to tow
20 that vehicle, to impound it, take it into custody.

21 That officer would call back to the
22 radio room and request a duty tow to come out?

23 JUDGE DeANGELIS: No.

24 COUNCILMAN KENNEY: No?

25 JUDGE DeANGELIS: The police officer

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2 will call the radio room. The radio room will call
3 the Court. The Court will call the tower, so that
4 we can put in our database the information that such
5 and such a car was towed, by who, where it is
6 stored, and keep records.

7 COUNCILMAN KENNEY: And you estimate
8 a time for that is between 20 and 30 minutes?

9 JUDGE DeANGELIS: Between 15 and 20
10 minutes.

11 COUNCILMAN KENNEY: Which is not
12 unlike the average car stop.

13 JUDGE DeANGELIS: Well, the 15 to 20
14 minutes for the tower to get there.

15 These were estimates that actual
16 towers in the business gave us when we sought
17 guidance from them when we wrote the RFP.

18 COUNCILMAN KENNEY: And have we asked
19 for information or sought guidance from surrounding
20 counties and municipalities?

21 JUDGE DeANGELIS: There are none.
22 This law is not implemented, as far as I know, in
23 any first-class cities. There is no place. We are
24 making history with this law.

25 COUNCILMAN KENNEY: January 1, 1998,

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2 you are anticipating to be ready to go.

3 Is that for every area of the city?

4 JUDGE DeANGELIS: The entire area of
5 the city, on a pilot program. That would be between
6 9:00 to 5:00 in the morning, 9:00 to 5:00 in the
7 daytime. 9:00 in the morning until 5:00 in the
8 afternoon.

9 Because it is impossible to bite off
10 the entire city for 24 hours. We have no idea of
11 volume. We have no idea how our operating
12 procedures will actually work.

13 So we feel, while the court is in
14 full operation, full staff, the police agreed with
15 us that this would be the best time to start and
16 then to see how it goes.

17 We will be living the first
18 experience.

19 COUNCILMAN KENNEY: Thank you.

20 Thank you, Madam Chair.

21 COUNCILWOMAN KRAJEWSKI: Thank you.

22 Councilman Rizzo.

23 COUNCILMAN RIZZO: I am not sure who
24 I am addressing this comment to.

25 But I have gotten calls from --

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2 possibly the police department can step forward on
3 this.

4 I have gotten calls from towers that
5 have indicated that this new licensing process that
6 we require tow trucks to have, the sticker, that
7 there is no enforcement of that.

8 There is supposedly a requirement to
9 have the name of the tower on the tow truck, and in
10 many cases that is not occurring.

11 I would like someone to tell me,
12 before we move forward, apparently the impression is
13 that there is no enforcement. And I have had towers
14 tell me that they are not going to renew the tow
15 license, since there is no enforcement.

16 JUDGE DeANGELIS: As far as our
17 standards, the tower that will receive any of these
18 contracts must have all licensure as directed by the
19 City of Philadelphia.

20 I can give you -- I don't have it
21 with me, and memory doesn't serve me -- the
22 gentleman that is responsible for that program.

23 And I think, Councilman, if you speak
24 with him directly, he can explain to you what is and
25 what is not being done.

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2 COUNCILMAN RIZZO: Judge -- and,
3 Commissioner Nestell, thank you for coming forward.

4 I am speaking on the perspective of
5 the tow operators that, basically, tell me that they
6 have complied with this requirement, but apparently
7 the enforcement to go after the noncompliance isn't
8 there.

9 JUDGE CERMELE: Councilman, that is a
10 function of the Department of License & Inspection.
11 They do those inspections, they put the yellow
12 stickers on, and they do the enforcement.

13 COUNCILMAN RIZZO: But, Judge, what I
14 am talking about is, if a tow truck shows up at the
15 scene, a wreck chaser, at an accident, and he is not
16 properly licensed, or he has a license but doesn't
17 have the name of the company that he represents on
18 the vehicle, he is not in compliance.

19 JUDGE CERMELE: Right. But the
20 issuance --

21 COUNCILMAN RIZZO: L & I is not going
22 to be out on the scene of the wreck. It is going to
23 be the police department.

24 JUDGE CERMELE: It is a matter that
25 the police would see, if they are at the scene.

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2 But the actual enforcement of that
3 program lies with License & Inspection.

4 COUNCILMAN RIZZO: It is like any
5 other program. It seems as though the police
6 department always gets the responsibility of
7 enforcing these creative programs.

8 Again, I have towers that have called
9 me to tell me that they are unlikely to renew their
10 L & I registration sticker because it doesn't matter
11 whether you have it or you don't. Commissioner?

12 DEPUTY COMMISSIONER NESTELL: Tom
13 Nestell, Deputy Police Commissioner.

14 I will go back and look into that
15 issue. And I will guarantee you that there will be
16 enforcement on that.

17 I believe that there is enforcement
18 now, but I will ensure that -- I will look into
19 that. If there is not, there will be.

20 And if we need to work with L & I or
21 with whomever, we will do that.

22 COUNCILMAN RIZZO: Commissioner, I
23 have one further comment. It has to do with the
24 monitoring of police radio for gain.

25 There is an Ordinance on the record,

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2 on the books right now -- I have a copy of it --
3 that prohibits anyone other than authorized people,
4 news media, from monitoring police radio.

5 I have been at the scene of accidents
6 where three tow trucks are there before the first
7 police cars arrive.

8 Is the monitoring of police radio
9 being enforced by the Philadelphia Police
10 Department, by unauthorized people?

11 DEPUTY COMMISSIONER NESTELL:
12 Councilman, I believe that the ordinance prohibits
13 broadcasting, but does not prohibit monitoring.

14 COUNCILMAN RIZZO: Monitoring. It
15 does, sir.

16 DEPUTY COMMISSIONER NESTELL: Okay.
17 I have to look at that.

18 COUNCILMAN RIZZO: Just Councilman
19 Mariano, he has an exception.

20 But my point being that, many cases
21 when you are busy, there are tow trucks on the
22 scene, in most cases, before the police department
23 is there.

24 And the folks are confused,
25 sometimes, when shortly after an accident they hear

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2 a police radio in the background. They don't
3 understand. And I have had, especially some
4 seniors, very concerned about that.

5 So, in this ordinance, is there any
6 consideration to give the tow truck drivers that
7 ability, the people that are successfully awarded
8 this contract, to legalize this?

9 Because almost every tow truck
10 operator that I know has a police scanner, and they
11 are listening to police radio.

12 Has there ever been any further
13 discussion about that?

14 DEPUTY COMMISSIONER NESTELL: There
15 will be.

16 COUNCILMAN RIZZO: Thank you, sir.

17 JUDGE DeANGELIS: As far as our
18 program, Councilman, the tow truck that's identified
19 by the Court will be the only tow truck that can
20 take the vehicle from that stop, regardless of who
21 else may come.

22 And we will have procedures in place
23 to ensure the police officer knows exactly which tow
24 truck is coming in his district.

25 So first one, first served is not the

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2 issue. The one the Court is sending will be the
3 issue, will be the tower.

4 COUNCILMAN MARIANO: Thank you,
5 Judge. I have another question. Councilman
6 Mariano.

7 Let's go through a scenario.
8 Kensington Avenue, we're driving up there, we get
9 stopped -- whoever can answer, I think it is best
10 you do. And if anybody else, the Commissioner might
11 have to jump in.

12 We are driving up Kensington Avenue.
13 A policeman makes a stop of a car. And he runs the
14 car, and the car is bad. The tags are bad.

15 Insurance we can't do anything about,
16 right, because they got out of that?

17 JUDGE DeANGELIS: Not really.
18 Because if you don't have insurance, you can't get
19 registration. So we will nab them on no
20 registration.

21 And they probably don't have
22 insurance because they don't have a license. We can
23 nab them on that one, too.

24 COUNCILMAN MARIANO: The car is bad
25 for whatever reason. Now the cop says, "This is a

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2 bad car. We are going to take care of this."

3 He gets the people to get out of the
4 car, and they stand next to the car. And he calls
5 your people at Traffic Court, correct, through the
6 police radio.

7 He will call Traffic Court, and you
8 will send out whoever you assign. And if he is not
9 available, the next person will go, if you do the
10 private tower.

11 JUDGE DeANGELIS: Exactly.

12 COUNCILMAN MARIANO: All right. Now,
13 this takes 20 to 30 minutes?

14 JUDGE DeANGELIS: Perhaps the entire
15 police stop.

16 COUNCILMAN MARIANO: What I am afraid
17 of is that this is a policeman who may have to
18 respond to a rape down the street, might have to
19 leave that car there.

20 And can he take the keys? Can he
21 immobilize it?

22 DEPUTY COMMISSIONER NESTELL: What we
23 are looking at, Councilman, is letting the air out
24 of the front tires to immobilize the vehicle.

25 We will let the air out of both front

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2 tires so the vehicle will be immobilized in the
3 event that we have to leave.

4 COUNCILMAN MARIANO: You could still
5 drive it with air out of the tires. You can't drive
6 it if you take the coil wire, right?

7 What's easier, the coil wire? I am
8 just saying.

9 So we do this, we call them, they
10 come out, the cop is still there, maybe 10, 15
11 minutes.

12 The tower takes the car, whoever it
13 is. And he takes it to his own lot, or a big lot?
14 We haven't figured that out yet.

15 I just want for the record to know
16 what we are going to do.

17 So they take it to a lot. And then
18 the person can somehow get from Kensington Avenue to
19 Traffic Court?

20 Will he be able to come right down to
21 ask for the car back, or to at least pay the fine?

22 JUDGE DeANGELIS: And you remember
23 that when we ask for funding for 24-hour employees,
24 and 7 days a week. You remember that.

25 COUNCILMAN MARIANO: As long as you

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2 hire everybody from my ward, that's fine.

3 JUDGE DeANGELIS: You got it. I hear
4 you.

5 COUNCILMAN DiCICCO: I would like to
6 follow up on that question.

7 CHAIRMAN ORTIZ: Councilman DiCicco.

8 COUNCILMAN DiCICCO: I would like to
9 follow up on that same line of questioning.

10 Has any consideration been given -- I
11 know cost is a factor, as it always is -- has any
12 consideration been given to Club, using the Club, in
13 that kind of scenario?

14 And/or if the person who is stopped,
15 more than likely, in most instances, it will be an
16 uninsured, unlicensed operator, who probably is a
17 scofflaw, so an arrest, in most cases.

18 I would assume from my experience,
19 that 90-something percent of the time that will
20 occur.

21 So it is not a question of just
22 stopping somebody and have to leave them there
23 because the police officer has to go on another
24 call.

25 The police officer, in his or her

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2 duties, will be making the arrest of the individual
3 as a scofflaw.

4 Is that correct?

5 DEPUTY COMMISSIONER NESTELL: That
6 could be.

7 But we also have situations where the
8 individual is not a scofflaw, where the vehicle was
9 not properly registered, or the individual does not
10 have a license.

11 In those cases, we will give the
12 individual an opportunity to -- we will get that
13 person to a public phone or to a location where
14 public transportation is available.

15 COUNCILMAN DiCICCO: And the other
16 part of my question is, has any consideration been
17 given to the ability to use a Club or purchasing of
18 Clubs for the purposes of immobilizing it, if we
19 don't want the police officer to hang around there
20 for 30 minutes or longer?

21 DEPUTY COMMISSIONER NESTELL: We did
22 look at several alternatives.

23 However, some of the logistical
24 issues with issuing a Club, or some type device like
25 that, to each officer on the street, recovering

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2 those items, seem to be much too complex for the
3 implementation of this.

4 And at this point the most expedient
5 way to deal with this, to us, appears to be letting
6 air out of the tires.

7 COUNCILMAN MARIANO: I have to go on
8 record.

9 It makes me nervous to see cops
10 bending over to let air out of tires in the areas I
11 represent, because who knows what's going on there.
12 That really makes me nervous.

13 I would think the FOP would love to
14 get ahold of that one.

15 DEPUTY COMMISSIONER NESTELL:
16 Councilman, with our vehicle investigations, we do
17 provide backup to the officer.

18 We're not going to have the officer
19 bending down and exposing himself. I am very
20 concerned about the safety of my officers, also.

21 COUNCILMAN MARIANO: Let me ask this
22 scenario here. Because I know as soon as this
23 happens, it is going to happen.

24 My son Vincent is 13 years old. He
25 takes DiCicco's private car, and he takes it out of

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2 Frank's house. Frank is in Italy. He takes Frank's
3 car and goes for a ride and gets stopped.

4 Now, Frank's car is clean, there are
5 no warrants, but, Vincent is 13 years old.

6 Now, Vincent gets stopped by a cop.
7 It is obvious that he is 13 years old. He doesn't
8 touch Frank's car, right? They just arrest Vince
9 for driving underage and not having a license? Or
10 if he is 18 and has a suspended license, where
11 Frank's car is good, the car doesn't get touched;
12 correct?

13 DEPUTY COMMISSIONER NESTELL: Under
14 this act, the car does get towed.

15 COUNCILMAN MARIANO: Now, what do we
16 do in a case where mommy and daddy are crying to
17 us -- because it is going to happen, and everybody
18 here as a Councilperson knows that -- what do we
19 do?

20 The car is not wrong, and they took
21 the car.

22 JUDGE DeANGELIS: Councilman, this
23 law, the second part, the live stop, says that
24 anyone operating any car, if the operator is not
25 licensed, that car is impounded.

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2 Which means, if you lent me your car,
3 you have a perfect driving record, you are licensed,
4 you are registered, you are inspected, you were
5 good, I show you a piece of paper that looks like a
6 license, and you believe me --

7 COUNCILMAN MARIANO: I am going down
8 a different avenue, Judge.

9 DiCicco's car is clean. Vincent
10 takes Frank's car because he stole it. But Frank's
11 car is still getting impounded? Now, Frank is not
12 going to have to pay because his car was stolen;
13 right?

14 JUDGE DeANGELIS: Let me tell you,
15 not only -- the issue of stolen and minor, let me
16 make this point. If a person is driving a car, the
17 person isn't licensed, the car will go.

18 And not only will it be impounded,
19 but it will be held until my fines are paid by the
20 Court.

21 And if I don't come pay my fines,
22 then your car will be sold for my fines.

23 That's not the Court's idea; that's
24 the law. And that's how the law will be implemented
25 and enforced.

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2 COUNCILMAN MARIANO: I understand
3 that. We implement the laws, but we also deal with
4 the phone calls that come after the law.

5 Now, it is not DiCicco's car, and it
6 is not my son. He steals somebody's car, but the
7 car is clean. You are going to impound somebody's
8 car?

9 And this is a rhetorical question,
10 because I know you are going to do that.

11 But they are going to come down, your
12 car gets stolen, you have to go down there on Monday
13 and Tuesday and say, "This kid stole my car. I am
14 not paying any fines, Judge."

15 And they are going to say, "Okay.
16 You don't have to. We understand they stole your
17 car, sir."

18 But you are still going to have to go
19 down there. And I understand all that. But is he
20 still going to have to pay any fines for holding his
21 car as a victim?

22 DEPUTY COMMISSIONER NESTELL:
23 Councilman, I think there are two answers to that
24 question.

25 Number one is, if the vehicle has

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2 already been reported stolen, we are certainly not
3 impounding it under this act. We are making an
4 arrest, we are taking that in as property that we
5 have seized.

6 If the vehicle has not been reported
7 as stolen, but it is the scenario that you just
8 said, then you have 24 hours to get to Traffic Court
9 to make that explanation.

10 If Traffic Court agrees with what you
11 are saying and makes a ruling, the vehicle gets
12 released with no charges to the owner.

13 JUDGE DeANGELIS: The law is
14 specific. And the law says that the car cannot be
15 released until all fines are paid.

16 If that car doesn't belong to you,
17 but belongs to a bank, belongs to a rental agency,
18 belongs to an employer, belongs to you, Councilman,
19 the law tells me, all fines have to be paid of the
20 driver.

21 That's the way you are going to --
22 forget the tags, whether they are T tags, they
23 belong to that car, they don't belong to that car,
24 you are right, that's a terrible problem.

25 But the way this law is written, it

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2 doesn't matter whose the tag is or who the car
3 belongs to.

4 If you lend your car to someone that
5 isn't licensed, your car, under the law, cannot be
6 released until all fines are paid.

7 And that will not only cover the
8 innocent folks that, unfortunately, lent their car
9 to the wrong person, but the folks that put seven
10 tags on a car, don't transfer titles, drive around
11 with those T tags and say, "Hey, it is not my car,
12 you can't enforce because I am not the owner." That
13 will get that entire problem.

14 COUNCILMAN MARIANO: When the
15 Commissioner answered, I just didn't want victims --
16 and I trust Traffic Court's judges' judgment. They
17 have to make some calls right from the bench. And
18 in that situation, they would.

19 I just have a couple more questions.

20 When you confiscate a car and say the
21 car is worth \$1,000, and you sell it and you don't
22 get quite \$1,000 for it, say you get \$500 for a car,
23 the city, all the city is going to get out of it is
24 \$75?

25 JUDGE DeANGELIS: At this point,

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2 yes.

3 If we had the operations the Parking
4 Authority has, because they have their own
5 impoundment lots, and the folks are employees of, I
6 guess -- that money goes directly to the General
7 Fund.

8 But in this case, it is only right
9 that the person that's going to be doing the towing,
10 hiring the people to be available, giving up his
11 precious space on the lot, you know, they have to be
12 paid something.

13 COUNCILMAN MARIANO: Judge, this is a
14 pilot program.

15 JUDGE DeANGELIS: That's right.

16 COUNCILMAN MARIANO: How long do we
17 have to go with this thing before that could happen,
18 that second scenario? Two years, three years?

19 JUDGE DeANGELIS: Oh, no. We are
20 going to have a six-month pilot program.

21 Because it takes 30 to 40 days to
22 sell the first group of cars. Then we have to see
23 if there is going to be -- how many cars up front,
24 whether the numbers will lower. Yes.

25 COUNCILMAN MARIANO: And I think the

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2 important thing here is, now we get it going and it
3 happens.

4 JUDGE DeANGELIS: Absolutely.

5 COUNCILMAN MARIANO: We get these
6 cars off the street.

7 JUDGE DeANGELIS: And I apologize for
8 the length of the testimony. But that's how much
9 had to be accomplished before you could actually
10 take that car.

11 What are you going to do with it when
12 you get it, Councilman?

13 COUNCILMAN MARIANO: Thank you, Mr.
14 Chairman.

15 CHAIRMAN ORTIZ: Any other
16 questions?

17 Thank you very much to the panel.
18 Thank you very much.

19 Anne Cohen.

20 MS. COHEN: Thank you.

21 COUNCILWOMAN KRAJEWSKI: Please state
22 your name for the record.

23 MS. ANN COHEN: Thank you. My name
24 is Ann Cohen. I am President of AFSCME Local 1637.
25 And with me today is our Business Agent, Fred

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2 Cummings.

3 We are here today because we share
4 with you concern about the implementation of H.B.
5 2360. And I guess it is City Council Ordinance
6 940631.

7 We are here also because our members
8 are involved in exactly the kind of work that is
9 required for the full implementation of this law.

10 We represent employees, over 1600
11 city and Philadelphia Parking Authority employees.
12 They include civilian employees from the District
13 Attorney's Office, the Police Department, the Fire
14 Department, the Office of Fleet Management, and,
15 most importantly, the Philadelphia Parking
16 Authority.

17 Our members, our dispatchers, they
18 dispatch for the Police Department, for the Fire
19 Department, for municipal radio, and for the
20 Philadelphia Parking Authority.

21 And our members also at the
22 Philadelphia Parking Authority are responsible for
23 the ticketing, booting, towing, and impounding of
24 vehicles.

25 And already our members are involved

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2 in the first and second phases of the implementation
3 of House Bill 2360.

4 In December of 1996, as you heard
5 from Judge Cermele earlier, our members were the
6 ones who were not -- were holding vehicles at the
7 Philadelphia Parking Authority impoundment lot for
8 lack of registration, lack of insurance.

9 And, as you heard, thousands of tags
10 will be added to a list for which our members scan
11 every day. They will be booting and towing
12 vehicles, I guess, by the very beginning of
13 December.

14 And we believe that it is logical for
15 the next step in the implementation of these laws to
16 occur in the same manner.

17 The Philadelphia Parking Authority
18 has the expertise and the internal structures
19 already in place to perform the towing and
20 impounding functions which were required for full
21 implementation of these laws.

22 Enforcement of these laws are
23 extremely important for the citizens of
24 Philadelphia.

25 Uninsured, unlicensed, unregistered,

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2 and dangerous drivers shouldn't be on the streets.

3 However, we must understand that these laws have

4 extraordinary punitive measures.

5 Every effort must be made to ensure

6 that the rights of citizens are protected, while the

7 law is enforced.

8 Losing a car, for many, is tantamount

9 to losing the ability to earn a living. The last

10 thing anyone wants to see is the wrong car towed and

11 impounded.

12 The PPA already has sophisticated

13 dispatching, towing, and impounding systems in

14 place. I don't think we need to reinvent the

15 wheel.

16 They have the capacity to verify

17 registration, traffic violations, and insurance

18 information. And over the last 14 years, they have

19 developed and implemented an impounding release and

20 auction system that is fair and free of corruption.

21 When a public entity has a large

22 measure of control over the lives and livelihoods of

23 many people, as will be the case when this

24 legislation is fully implemented, it should not

25 relinquish its control over the operation. It

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2 should maintain the highest degree of
3 accountability.

4 Contracting out towing and impounding
5 to hundreds, or I guess might be just scores, of
6 individual contractors, we believe, will inevitably
7 lead to abuse.

8 Let us cite just one current example
9 from a pending grievance we are processing. A
10 private contractor tows illegally parked cars from
11 the roadways at the Philadelphia International
12 Airport.

13 This contractor charges those towed
14 in excess of the amount permitted by law. Multiply
15 this example by 2 dozen or 300, and imagine the
16 chaos that will ensue.

17 Other accountability questions come
18 to mind to us as the city prepares to enforce these
19 laws. Here are just a few.

20 How will we be assured that the fines
21 and fees are collected? How will we will assured
22 that the fines and fees are remitted back to the
23 proper authorities?

24 How will all of these independent
25 contractors verify insurance, registration,

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2 licensing, and violation information when owners
3 report to get their vehicles?

4 How will we be assured that
5 contractors won't inflate the towing and impoundment
6 cost, as is currently happening?

7 How will we be assured that
8 contractors won't release vehicles to owners for
9 under-the-table payments, thereby putting the same
10 scofflaws back on the streets?

11 How will vehicle damage claims be
12 adjusted? Who will be liable?

13 Who will assure that individual tow
14 operators are experienced, safe, and properly
15 licensed?

16 What happens if, on appeal, a vehicle
17 is ordered released by the Court, after it has been
18 towed and impounded? How will the contractor be
19 paid in such a situation? How will the contractor
20 interact with a vehicle owner in such a situation?

21 And, most importantly, would you, the
22 City Council of Philadelphia, prefer these matters
23 to be resolved by one experienced and responsible
24 entity, with an excellent track record, or by, you
25 know, scores of unproven private contractors?

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2 We know that both the Traffic Court's
3 Administrative Judge, the Honorable Bernice
4 DeAngelis, and the Parking Authority's Executive
5 Director, Rina Cutler, have both raised concerns
6 with the Parking Authority's capacity to perform
7 this work.

8 While we acknowledge this is an
9 issue, we believe it should be viewed as a
10 challenge, not as an insurmountable obstacle.

11 We would like to remind City Council
12 that the Philadelphia Parking Authority recently
13 offered to the Philadelphia Police Department their
14 services for towing and impounding of stolen cars.

15 They offered to perform these
16 services in the entire Center City area 24 hours a
17 day, 7 days a week, with a maximum 20-minute
18 response time.

19 Inasmuch as the implementation of
20 both H.B. 2360 and City Ordinance 940631 has been by
21 phase-in, doesn't it make sense to begin the next
22 phase-in under the terms that the PPA has already
23 offered to the police department?

24 We believe that their offer is ample
25 evidence of their current capacity.

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2 These are important and complicated
3 laws. Let's take it one step at a time. Let's
4 leave the work to the proven professionals. We
5 already do the work. We can do more.

6 Finally, we believe there is
7 significant contractual issue between the union and
8 the Philadelphia Parking Authority if this work is
9 contracted out.

10 It is our intent to see that the
11 contract is enforced through all avenues available
12 to us.

13 At the same time, we will seek to
14 assure that the interests of the citizens and
15 taxpayers of the city are best served.

16 Thank you very much.

17 COUNCILWOMAN KRAJEWSKI: Thank you
18 very much.

19 Are there any questions?

20 Councilman Rizzo.

21 COUNCILMAN RIZZO: Earlier today, Ann
22 Cohen, you heard that tomorrow, I believe, there is
23 going to be a conference for the award.

24 Were you present when that was --

25 COUNCILMAN COHEN: I heard that there

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2 is going to be a bidder's conference tomorrow.

3 COUNCILMAN RIZZO: So where does that
4 leave you?

5 MS. COHEN: I don't know.

6 We certainly didn't receive a copy of
7 the RFP. When we talked to the Parking Authority, I
8 guess, two weeks ago, they had not yet seen the
9 RFP.

10 I don't know if it was ever forwarded
11 to them or if they intend to appear and submit a
12 bid. I don't know.

13 COUNCILMAN RIZZO: From experience,
14 is there any action you can take to stop this
15 conference from occurring? Or what does the
16 conference mean to the scenario, since you have an
17 interest in this?

18 MS. COHEN: I don't believe that the
19 conference is what we would seek to stop. We would
20 seek to stop the awarding of contracts.

21 We think that -- you know, by the
22 way, the contract language between the Philadelphia
23 Parking Authority and District Council 33 is
24 different from the master contract language between
25 the city and District Council 33.

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2 And we have very strong contracting
3 outlines, which we think that this work is clearly
4 our bargaining unit work. And we will seek to do
5 whatever we need to do with our attorneys to enforce
6 the contract.

7 But beyond that, it is the right
8 thing to do. It is the logical thing to do.

9 I mean, the reputation of the Parking
10 Authority is that they are aggressive, they are
11 effective. I mean, I don't think there is any
12 question that they are honest, you know, and all the
13 systems are in place. You don't have to hire
14 dispatchers.

15 COUNCILMAN RIZZO: To leave it with
16 this, we expect -- or at least I expect -- you to do
17 whatever is necessary to maintain your work.

18 MS. COHEN: Yes.

19 COUNCILMAN RIZZO: Thank you.

20 MS. COHEN: Thank you.

21 CHAIRMAN ORTIZ: Any other
22 questions?

23 Councilman Mariano.

24 COUNCILMAN MARIANO: As a former
25 business agent from a labor union, I know what it is

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2 you need to do. That's your job to do that. And
3 you should do that. And I can't tell you what to
4 do.

5 You have to do that, and do it
6 quickly, before this gets out. If this thing gets
7 subbed out, and it probably will -- and I am not an
8 expert on this, but I can see what's happening
9 here -- and Frank looks like he is going to say
10 something here.

11 MS. COHEN: Okay. We will.

12 COUNCILMAN MARIANO: You do it, and
13 then it stops.

14 But if it gets subbed out, then maybe
15 after this pilot program -- is it six months we are
16 talking about here?

17 MS. COHEN: They said six months.

18 It just seems to me that the logical
19 thing to do is to have the pilot program want to be
20 with the Parking Authority.

21 If you want to try it for six months,
22 you say you -- there is this debate, do you have the
23 capacity, don't you have the capacity.

24 If you had the capacity to do it for
25 the police department, why is it that you don't have

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2 the capacity to do it --

3 COUNCILMAN MARIANO: My problem is,
4 it takes me two years to get a new couch in my
5 office. So I can imagine how long it would take to
6 get some new tow trucks. That's my concern.

7 Because this has to be done now. I
8 would like to see the union do it starting tomorrow,
9 because I think that's right. But it has to be done
10 now. We can't wait.

11 MS. COHEN: Okay.

12 CHAIRMAN ORTIZ: Councilman DiCicco.

13 COUNCILMAN DiCICCO: Thank you,
14 Mr. Chairman. Just a point of clarification.

15 The RFP conference that will take
16 place tomorrow -- and correct me if I am wrong -- is
17 going to be the RFP that was put out by the First
18 Judicial District in relationship to towing moving
19 violations; is that correct?

20 MS. COHEN: You are asking the wrong
21 person.

22 COUNCILMAN DiCICCO: Okay. To the
23 best of my knowledge, the RFP that goes out -- and
24 this goes to Councilman Rizzo's question -- the RFP
25 that will be out tomorrow, the conference that takes

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2 place, deals specifically with the implementation of
3 booting and towing of vehicles that will be stopped
4 by Philadelphia police officers, and their
5 cooperation with the Philadelphia Traffic Court.

6 This will not impact in any way,
7 shape, or form on what the business of the Parking
8 Authority has been doing and will continue to do in
9 relationship to towing vehicles that are illegally
10 parked, and may fall under the category of being
11 vehicles that are not properly insured or
12 registered.

13 MS. COHEN: I think the best
14 definition I heard was from Judge DeAngelis. And,
15 in fact, beginning in December, we will be booting
16 and towing vehicles that are not moving that have
17 moving violations.

18 And the second, you are right --

19 COUNCILMAN DiCICCO: I was getting to
20 that point.

21 There will be at some point a
22 combination of the way this process all works.
23 There will be some cars that will be parked against
24 the curb that will be towed for having moving
25 violations, but not necessarily having to accumulate

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2 the three or four parking tickets.

3 But, primarily, in the law, as it has
4 been written and enacted, will deal with moving
5 violations.

6 I guess the point I am trying to make
7 is, I don't see where this will have any impact on
8 the Philadelphia Parking Authority employees who are
9 now currently towing vehicles. I don't see it
10 taking any work away from them.

11 I understand your position, as a
12 labor leader, looking to enhance the work that is
13 already being done by the Authority, and possibly
14 increasing the work force that will be needed to do
15 that. But they are really two separate entities.

16 And I think if there is any fear that
17 the towing operation, if it is contracted out to
18 private towing services, will in any way jeopardize
19 the employees that currently are under your local, I
20 would be very hard-pressed to think that anybody in
21 Council would look to do that.

22 We are not looking to hurt your
23 membership, take any members away. And, again, I
24 respect your position as a labor leader to try and
25 increase the membership and see if you can bring

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2 more work in.

3 So I think we really need to see how
4 this thing plays out. I mean, I have my own opinion
5 as to what benefits it may have to privatize it. I
6 may be proven wrong.

7 But I will assure you that as far as
8 this Councilperson is concerned, I will do
9 everything I can to protect the integrity of your
10 local and its members, so that any privatization
11 will not cut into what you are already doing and
12 what your membership is all about.

13 MS. COHEN: Thank you.

14 I mean, there is no question in my
15 mind that no one is seeking to diminish the work
16 that we are doing. And we are, quite frankly,
17 looking at new work.

18 But we think that it is in fact
19 bargaining unit work. It is in fact bargaining unit
20 work by its definition. And it is bargaining unit
21 work by the way that the law has already been
22 implemented.

23 And you have assigned this work, this
24 related work, to other members of the bargaining
25 unit over the last year.

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2 COUNCILMAN DiCICCO: I am not an
3 attorney -- and I am not being argumentative -- I
4 don't know if your bargaining agreement is or has
5 any weight to it, because you are now dealing with a
6 new entity, that being the First Judicial District.

7 And, again, I am not an attorney, so
8 I don't know what the answer to that is. There are
9 actually two separate entities here.

10 MS. COHEN: I am sure it will be a
11 very interesting --

12 COUNCILMAN DiCICCO: Court case.

13 MS. COHEN: Yes.

14 CHAIRMAN ORTIZ: Nothing should be
15 privatized. Nothing should be privatized, period.

16 If we can do it, we should be able to
17 do it through government and through the people that
18 are working right now.

19 And if we need more folks, we should
20 be able to do that, and go out and get them.

21 Any more questions? No.

22 MS. COHEN: Thank you very much.

23 CHAIRMAN ORTIZ: Thank you. Lance
24 Haver.

25 MR. LANCE HAVER: My name is Lance

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2 Haver. I am the Educational Director of CEPA, the
3 Consumers Education and Protection Association, a
4 32-year-old grass-root consumer group founded by the
5 late Max Weiner.

6 I am unequivocally opposed to this
7 Council and the City of Philadelphia helping
8 insurance companies overcharge and discriminate
9 against city residents.

10 And that is exactly what the car
11 seizure bill does. It turns Philadelphia's police
12 force into collection agents for the insurance
13 industry.

14 It is easy to understand that many
15 insured motorists are mad and frustrated. Those
16 paying the exorbitant rates know they are being
17 cheated.

18 Almost to a person they want to end
19 the discriminatory rating practices of the insurance
20 companies that charge city residents two and three
21 times as much for car and home insurance as people
22 who live in the suburbs.

23 What is hard to understand is why
24 insured drivers are more angry at the people who are
25 cheating the insurance companies than they are at

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2 the insurance companies that are cheating them.

3 Make no mistake about it. Even if
4 every uninsured car is removed, every uninsured
5 driver jailed, there is no guarantee that insurance
6 rates will come down.

7 Just look at what happened to
8 insurance rates when District Attorney Lynne Abraham
9 conducted her war against people who registered
10 their car outside of the city.

11 With spokespeople from the insurance
12 industry at her side, the D.A. said that one of the
13 reasons why the insurance rates were so high in
14 Philadelphia was that so many people registered
15 their cars outside the city.

16 According to the D.A., thousands of
17 people changed their registration back to the city,
18 paying thousands of dollars more for the very same
19 insurance.

20 As a result of that campaign, not a
21 single insurance company lowered their insurance
22 rates.

23 And no matter how many cars the city
24 seizes, no insurance company will voluntarily lower
25 its rates.

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2 What seizing cars will do is to take
3 police off the streets, lessen the police protection
4 available to neighborhoods, put police officers at
5 greater risk, all so the insurance companies can
6 continue to discriminate and overcharge.

7 In addition, seizing cars will make
8 the roads more dangerous, not less. If uninsured
9 drivers know that they will lose their cars if
10 stopped, they will take more risks to run away from
11 police, creating more danger, not less.

12 Other uninsured motorists will buy
13 cheaper and more dangerous cars that will break down
14 more often, creating traffic jams and bigger
15 problems.

16 Yes, insured motorists are mad,
17 especially when they are hit by an uninsured
18 driver. The solution, however, is not to seize
19 cars, but, instead, reform the insurance laws so
20 that car insurance is affordable, bought at the pump
21 with every gallon of gasoline, so that there are no
22 uninsured motorists.

23 Until that is done, the wealthy
24 insurance companies that benefit from overcharging
25 us should be forced to create a pool of money to

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2 compensate drivers who are hit by uninsured
3 motorists.

4 And I wish that everyone who was mad
5 at the uninsured motorists would focus their anger
6 at the real cheaters, the insurance companies that
7 are discriminating against city residents, and stop
8 focusing on the victims of discrimination.

9 COUNCILMAN DiCICCO: I would just
10 like to make a comment.

11 As a former court administrator of
12 Philadelphia Traffic Court, when I left in March of
13 1995, there were somewhere around \$15 million in
14 uncollected moving violations from the three-county
15 suburban region.

16 So it is not that just Philadelphians
17 will be getting their cars impounded or towed.
18 Primarily, obviously, it would be the majority of
19 it, because that is, in fact, where we are enforcing
20 this law.

21 But there are thousands of other
22 individuals who drive through the streets of
23 Philadelphia, who don't live in this city, who are
24 scofflaws and who are not licensed, and uninsured,
25 and unregistered.

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2 So there is a whole group of people
3 out there, in addition to Philadelphians.

4 And I understand what you are saying,
5 that this may not -- that the insurance company may
6 not voluntarily decide to lower rates.

7 But I believe if we are successful,
8 and we can get the tens of thousands of vehicles off
9 the streets in the City of Philadelphia that are
10 being driven today, as we speak, by unlicensed,
11 uninsured motorists, I think that gives us a good
12 argument.

13 And I would like to join with you in
14 going back to the insurance industry and see what we
15 can do about, if not even getting the rates down, at
16 least stabilizing them.

17 Because I do agree with you, they are
18 using these instances as a tool to keep the rates as
19 high as they are and, in some instances, force
20 people to have to pay more money than they should.

21 So I think that you and I probably
22 aren't really far apart, but we may disagree on the
23 solution to the problem.

24 I think at some point you and I may
25 want to sit down and discuss that.

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2 COUNCILMAN MARIANO: Mr. Haver, just
3 let me warn you. You have been hanging out with a
4 lot of Italian politicians lately. This one, be
5 careful.

6 For the record, just kidding.

7 MR. HAVER: I understand the intent
8 is not to help the insurance companies. But I would
9 urge you to look at what happened when District
10 Attorney Lynne Abraham said the same thing. It just
11 doesn't follow.

12 The second thing is, there is a law
13 of unintended consequences, and it is unfortunate.
14 But when people recognize that they are going to
15 lose their cars, their action is not going to be to
16 open the car door, get out of the door, and give
17 their keys to the police officer.

18 They will do one of three things:
19 Some will buy insurance, some will stop driving,
20 some will drive at high speeds to avoid losing their
21 cars, and some will buy cheaper cars.

22 How that makes us all better off is
23 beyond me.

24 COUNCILMAN DiCICCO: I don't know if
25 the question is who will buy cheaper cars and if

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2 they are going to speed up. I don't know if that's
3 going to happen.

4 All I can tell you is that, we have
5 almost \$300 million of uncollected moving violations
6 in the City of Philadelphia.

7 Realistically, probably, 20 to 30
8 million is collectable.

9 I remember when I was leaving, there
10 were about 6,000 entities in the system. An entity
11 in the computer system in Traffic Court represents a
12 stop.

13 Now, at that stop, you may be issued
14 one or more tickets. So it is not the number of
15 citations; it is the stop.

16 At that time, in 1995, there were
17 approximately 6,000 entities that had 20 or more
18 moving violations issued to them, those entities.
19 So that's over 100,000 tickets were accumulated by
20 maybe 6,000 people.

21 I don't think we, as a civilized
22 society, can allow that to happen. Because the
23 burden is being passed on to the law-abiding
24 consumer, rich, poor, middle class, lower class,
25 upper class. It is across the board. We are being

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2 penalized.

3 When we get our insurance premium
4 notice in the mail, and for those of us who own
5 cars, we see that line item that says, "Uninsured
6 Motorist." We are paying to allow somebody to drive
7 through the streets of Philadelphia uninsured.

8 So I don't think it is fair to the
9 vast majority of people. And I think if any
10 neighborhood or any class of people are affected by
11 this, it is probably the poor and moderate-income
12 people who are most adversely affected by the
13 unenforced way that we have handled unlicensed
14 drivers in the City of Philadelphia to date.

15 Because those people are really
16 forced out of the market to be able to afford
17 insurance.

18 And they may own a home or have a
19 little business or a property, and they can't afford
20 either to have a car, because they can't afford the
21 rates, or they are financially burdened by the
22 premiums they have to pay, because they have no
23 choice but to have insurance or else lose whatever
24 it is that they have worked for, more than likely
25 their home.

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2 So we really, I think, need to
3 protect that consumer. And, in my opinion,
4 Mr. Haver, there are many, many more good citizens
5 in this city. We are only talking about a small
6 group of people who are causing the rates to go up,
7 creating a situation which is very dangerous on our
8 streets today because they have no responsibility.

9 COUNCILMAN MARIANO: Thank you,
10 Councilman.

11 Any other questions? Seeing none.
12 Next witness. Thank you, Mr. Haver.

13 Identify yourself for the record.

14 MR. JOHN DOUBMAN: I am John Doubman,
15 Secretary and Counsel of the Insurance Federation of
16 Pennsylvania.

17 COUNCILMAN MARIANO: Let's summarize
18 this, since you have a great, great written
19 testimony. How about you summarize it.

20 MR. DOUBMAN: Councilman Mariano and
21 honorable members of Philadelphia City Council, I am
22 appearing this afternoon at the invitation of
23 Councilman Mariano to present the views of insurers
24 on the city's plans to begin enforcing Act 93 of
25 1996, which authorizes the city to impound and sell

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2 vehicles found to be operating with an invalid or
3 suspended registration.

4 We have been asked to comment
5 specifically on the possible impact of this program
6 on automobile insurance rates in Philadelphia.

7 I know it is late. My testimony is
8 carefully prepared. I will read two paragraphs.
9 You got questions, I will probably wind up turning
10 to the section of my presentation which addresses
11 that topic.

12 Insurers support compliance with all
13 of the laws of the Commonwealth, and particularly
14 those affecting the safety and security of the
15 driving public.

16 Consequently, our industry supports
17 state and local government efforts to get tough with
18 those who flaunt or violate the Vehicle Code,
19 including its financial responsibility provisions.

20 Moreover, costs imposed by uninsured
21 drivers is one of the costs that keeps auto rates
22 high in Southeastern Pennsylvania.

23 A reduction in the number of
24 uninsured motorists should improve the lost cost
25 experience of insurers in this area. If that

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2 happens, all other things being equal, it will help
3 reduce rates.

4 Unfortunately, however, while
5 insurers hate to be nay-sayers, the Council and the
6 public should realize that the potential for this
7 program to reduce insurance rates is very limited.

8 The reasons for that are found in the
9 law itself, the structure of this program, and the
10 part which uninsured and underinsured motorists'
11 loss experience plays in the formulation of the auto
12 insurance rates.

13 Thank you very much for the
14 opportunity to testify. If you have any questions,
15 or would like me to address any particular issues, I
16 will be happy to do that.

17 COUNCILMAN MARIANO: Any questions
18 from any Council members for this witness? Seeing
19 none. Thank you. Thank you for your help.

20 MR. DOUBMAN: You are welcome.

21 COUNCILMAN MARIANO: Is there another
22 witness?

23 MR. GERALD LAMPARTER: Gerald
24 Lamparter. I live at 3217 Holyoke Road in Northeast
25 Philadelphia.

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2 I haven't heard anybody make any
3 arguments against the impoundment law; is that
4 correct?

5 COUNCILMAN MARIANO: Not yet. A
6 little bit.

7 MR. LAMPARTER: But I understand
8 there are still some Council members who are not in
9 favor of impounding?

10 COUNCILMAN MARIANO: You might find
11 one or possibly two or three that are concerned it
12 is going to affect a certain economic group and keep
13 them from, you know, having vehicles, and not being
14 able to go to work, or send their kids to the
15 schools of their choice.

16 It is already a law. We just want to
17 find out why they're not doing it. It is a law that
18 hasn't been enacted. It is a law.

19 MR. LAMPARTER: Most of my testimony
20 was going to be in favor of having the impoundment.

21 COUNCILMAN MARIANO: It is a law.
22 The judges you saw here today were just telling us
23 why it isn't done yet. And they told us they will
24 start January 1, 1998. So it is a law.

25 MR. LAMPARTER: Okay. One thing I

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2 would like to bring up here is, I was talking to the
3 school district the other day.

4 And they did a survey, as they
5 periodically do. On October 23, they asked their
6 bus drivers to write down the number of motor
7 vehicles who illegally passed the school buses.

8 In one day, it was 917. 73 of which,
9 which represents 8 percent of that total, 73 drivers
10 passed on the right side of the bus, many of them
11 going up on the sidewalk to do it.

12 They are the kind of people we have
13 to get off the road.

14 COUNCILMAN MARIANO: Do you remember
15 when you went for your driver's test? I remember
16 when I was 15 getting on 16, that was the number one
17 question my father used to ring in my head, do not
18 pass a bus, especially a school bus, with the signs
19 out, unless it is a divided highway. That was a
20 question they asked me. Nobody knows anymore.

21 I saw your card here, Advocates for
22 Safer Driving and Safer Highways. The Daily News
23 has been running some stories for the aggressive
24 driving. Councilwoman Fernandez has been having
25 hearings under Transportation -- in fact, I think

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2 she had one yesterday, I am pretty sure. It is a
3 problem.

4 We see this as a way -- it is a law
5 already. We want to find out why it isn't being
6 done. It has to be done. We just want it done at
7 this point, and we will deal with whoever doesn't.
8 We would like to see it done a certain way.

9 And if the insurance companies don't
10 lower the rates, eventually when we take these cars
11 off the street, we will get our friends in the
12 legislature to do it.

13 We agree with you, and we thank you
14 for coming.

15 MR. LAMPARTER: One point I would
16 like to make. Because I did some investigation, I
17 found out -- let me back up.

18 PennDOT had no way of knowing, when
19 someone came in to submit an application for the
20 learner's permit, who that person really was. There
21 is no photo I.D. required.

22 COUNCILMAN MARIANO: My son just went
23 through it. I guess not.

24 MR. LAMPARTER: It is not required.
25 I have met people who were having their friends take

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2 the question-and-answer test for them. I met people
3 who were taking the driver test for their friends.

4 COUNCILMAN MARIANO: Do you have your
5 picture on it by the point when you take your
6 driver's test?

7 MR. LAMPARTER: No. There is no
8 picture ID required.

9 I want them to make it law so that
10 when you submit an application for a learner's
11 permit, you must give them a passport-type
12 photograph, and you don't get it back. You can't
13 switch it.

14 COUNCILMAN MARIANO: I know I had to
15 go up there with him to Mayfair and swear that I was
16 his father and he was of age.

17 I mean, they are trying to do
18 something. I could have been lying, too.

19 MR. LAMPARTER: When I pressed
20 PennDOT, Rebecca Bickley, who is in charge of that,
21 when I pressed her on the issue, she admitted they
22 had a loophole. So they are going to relook at the
23 whole thing.

24 COUNCILMAN MARIANO: Great. That's a
25 good issue. Thank you.

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2 Any questions for this witness?

3 Okay.

4 We are going to recess this Committee
5 to the call of the Chair.

6 Thank you for staying with us this
7 long time. Thanks to the stenographer for putting
8 up with Council DiCicco's long-winded questions.

9 Thank you.

10 (Public Hearing adjourned at 5:10
11 p.m.)

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

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Thursday, November 13, 1997, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COMMITTEE ON PUBLIC SAFETY

DEBRA A. WHITEHEAD, RPR