

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, October 21, 2014
1:50 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN BOBBY HENON
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN JAMES KENNEY
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA

BILL 140637 - An ordinance amending Chapter 10-800 of The Philadelphia Code, entitled "Safety," by revising the penalties for the selling of any gun or implement...

BILL 140718 - An ordinance amending Chapter 10-800 of The Philadelphia Code, entitled "Safety," by prohibiting the sale, possession, or use of toy or imitation firearms...

BILL 140720 - An ordinance amending Title 10 of The Philadelphia Code, entitled "Regulation of Individual Conduct and Activity," to add a new Chapter 10-2100, entitled "Hate Crimes"...

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COUNCILMAN JONES: Good
afternoon, everyone. This is a Committee
on Public Safety hearing.

Will the Clerk please read the
title of the bills.

THE CLERK: Bill No. 140637, an
ordinance amending Chapter 10-800 of The
Philadelphia Code, entitled "Safety," by
revising the penalties for the selling of
any gun or implement, that is not a
firearm, which forcefully impels a pellet
of any kind, under certain terms and
conditions.

Bill No. 140718, an ordinance
amending Chapter 10-800 of The
Philadelphia Code, entitled "Safety," by
prohibiting the sale, possession, or use
of toy or imitation firearm which
substantially duplicates or can be
reasonably perceived to be an actual
firearm, under certain terms and
conditions.

COUNCILMAN JONES: I note that
a quorum is present. Joining me at the

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 table are Councilman Henon, Councilman
3 O'Brien, Councilman Johnson, Councilman
4 Kenney, Councilwoman Blackwell, and
5 Councilman Squilla.

6 I want to thank the authors of
7 the bills that we are about to hear on
8 these very important issues. As Chair of
9 Public Safety, it is important that we
10 take every effort to safeguard every
11 population and sometimes from themselves,
12 whether we deal with plastic toys or
13 whether we deal with hooligans riding
14 through our streets and picking on people
15 for no apparent reasons.

16 So with that, we're going to do
17 Councilman Johnson's bill first, and I'd
18 like to find out if he has any opening
19 statements, and then we will have --
20 we're going to do the video first? Okay.
21 I'll follow instructions. We have a
22 brief video presentation first.

23 (Video played.)

24 COUNCILMAN JONES: The Chair
25 recognizes Councilman Johnson.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 COUNCILMAN JOHNSON: Thank you,
3 Chairman Jones. I want to thank you for
4 providing the opportunity to address an
5 issue which I believe is critical in
6 making sure our young people are safe,
7 critical as it relates to making sure
8 that not only the Point Breeze community
9 in South Philadelphia but in all
10 neighborhoods in Philadelphia we are
11 addressing the issue of public safety.
12 And I don't want to minimize the issue.
13 Oftentimes we look at one of the key
14 issues that we face in the City, which is
15 gun violence, particularly amongst
16 African American young men, and I've been
17 working on that issue for more than close
18 to 20 years, primarily making sure our
19 young people are safe, our residents are
20 safe. But when I took a look at this
21 issue and it was purely organized by
22 community residents who were outraged
23 that a business in the Point Breeze
24 community was primarily exploiting a
25 culture of crime, exploiting a culture of

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 violence by selling these BB guns, which
3 are prohibited under the City Charter, to
4 young people. And so members of the
5 community came out, they organized, and
6 they said, Councilman, how can we address
7 this issue? How can we make sure that
8 these stores aren't taking advantage of
9 our young people by selling these illegal
10 BB guns?

11 As elected officials, we're
12 often held accountable after the fact
13 when something happens. As elected
14 officials, we are often held accountable
15 and often criticized after the fact when
16 something happens. We're here today to
17 be preventive and proactive to making
18 sure that no young person is shot down or
19 murdered in the streets of Philadelphia
20 as a result of them carrying one of these
21 illegal BB guns that look like an actual
22 real BB gun.

23 We've had conversations with
24 members of the 17th Police District, who
25 have actually had to either detain a

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 young man as a result of them carrying
3 one of these illegal BB guns, but we want
4 to be proactive to make sure that when it
5 comes to keeping our young people safe,
6 we are not allowing businesses to take
7 advantage of a culture of crime and a
8 culture of violence. And so my primary
9 advocacy has always been addressing the
10 issue of real guns, but this issue is no
11 less, because I have a couple examples
12 where there have been the opposite side,
13 where young men might have used an
14 illegal BB gun to actually try to stick
15 up someone else and wind up being
16 murdered. So it goes both ways.

17 So we want to make sure that
18 the African American community,
19 communities throughout the City of
20 Philadelphia in general aren't exploited
21 by these businesses that sell illegal BB
22 guns that are prohibited.

23 And so I want to thank you,
24 Mr. Chairman, for allowing me to bring
25 this bill to Committee, but I also just

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 want to touch on one key component in
3 terms of how we operate as a city.

4 It was quite disheartening and
5 somewhat embarrassing addressing this
6 issue in the community level, the
7 community in which I grew up in, because
8 at the end of the day, no City agency had
9 the answer on whose responsibility it was
10 to enforce the ordinance, was it the
11 Philadelphia Police Department or L&I.
12 No one had the answer, and at the end of
13 the day, you still had stores who were
14 taking advantage of these young people.
15 So hopefully today we'll get some answers
16 as we move forward in addressing this
17 issue.

18 Thank you very much,
19 Mr. Chairman.

20 COUNCILMAN JONES: Thank you,
21 Councilman, and that's why we're here.

22 Well, Ms. Graham, will you
23 please read the names of the first
24 panelists.

25 THE CLERK: Commissioner

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 Carlton Williams, Director Rebecca
3 Swanson, and Ralph DiPietro.

4 (Witnesses approached witness
5 table.)

6 COUNCILMAN JONES: Thank you,
7 and welcome. Good afternoon.

8 MS. SWANSON: Good afternoon.

9 DEPUTY COMMISSIONER DiPIETRO:
10 Good afternoon.

11 COUNCILMAN JONES: Please state
12 your name for the record and begin your
13 testimony.

14 MS. SWANSON: My name is
15 Rebecca Swanson. I'm the Director of
16 Policy and Legislative Affairs for the
17 Department of Licenses and Inspections.

18 Good afternoon, Chairman Jones,
19 Council President Clarke, sponsor
20 Councilman Kenyatta Johnson, and the
21 members of the Committee on Public
22 Safety. Today I'm here to provide
23 testimony on Bill No. 140637, which, if
24 enacted, will amend Chapter 10-800,
25 entitled "Safety," to add additional

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 penalties for the retail sale of pellet
3 guns.

4 The Department of Licenses and
5 Inspections supports this bill. The
6 Department will conduct commercial
7 activity license revocation proceedings
8 for offenders upon reference from the
9 Philadelphia Police Department. We are
10 prepared to undertake this role.

11 Thank you for the opportunity
12 to provide the Department's testimony on
13 Bill No. 140637. We will be happy to
14 answer any questions at this time.

15 COUNCILMAN JONES: Thank you.

16 You're not testifying? Okay.

17 Are there any questions for
18 this witness?

19 The Chair recognizes Councilman
20 Johnson.

21 COUNCILMAN JOHNSON: No.

22 COUNCILMAN JONES: The Chair
23 recognizes Councilman Kenney.

24 COUNCILMAN KENNEY: Thank you,
25 Mr. Chairman, and thank you for allowing

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 me to sit at the table. I appreciate
3 your courtesy.

4 With L&I -- and this is not a
5 complaint about L&I, because I recognize
6 the things we task you to do are multiple
7 and burdensome sometimes. But the
8 enforcement process going forward when a
9 store is continuing to sell the item, are
10 we able to confiscate the item
11 immediately or do we have to go through
12 this laborious court process of giving
13 them 30 days and then they go back for a
14 status hearing and they get another 30
15 days? We do this a lot of times with
16 illegal construction projects and stuff
17 and scaffolding that's up and things of
18 that nature that are not addressed by the
19 owner of the building.

20 So will we have the ability to
21 go in as we do down at the sports complex
22 when people are selling illegal
23 unlicensed sportswear, we take that stuff
24 off of them and put them in a van and
25 take them to a warehouse. Will our

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2 people be able to take the items out of
3 the store and confiscate them as they
4 would an unlicensed Eagles jersey?

5 MS. SWANSON: This is a
6 somewhat different process. We would not
7 be doing any confiscation or
8 investigation on this. The Philadelphia
9 Police Department, if they become aware
10 that a store is selling these guns, they
11 would refer that store to us. We would
12 begin proceeding to suspend the
13 commercial activity license. As laid out
14 in the bill, it would be a suspension of
15 anywhere between six months and one year.
16 So we would have an administrative
17 hearing type for the store owner. They
18 would obviously have their legal
19 proceedings. They would be able to
20 appeal, but we would then suspend that
21 commercial activity license, which would,
22 in essence, not allow them to operate as
23 a business.

24 COUNCILMAN KENNEY: But that
25 could take as much time as -- up to a

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 year in some cases.

3 MS. SWANSON: Not necessarily.
4 I mean, I can't put an exact timeframe on
5 it, but as soon as we receive the
6 reference from the Police Department, we
7 would immediately begin those
8 proceedings.

9 COUNCILMAN KENNEY: Why then
10 are we able to confiscate an unlicensed
11 Phillies hat or a jersey or a shirt at
12 the stadium complex and not able to take
13 this off of the shelf immediately?

14 DEPUTY COMMISSIONER DiPIETRO:
15 So, Councilman, my name is Ralph
16 DiPietro. I'm Deputy Commissioner of
17 License and Inspection.

18 There is a distinction between
19 the vending enforcement that we take in
20 the stadium area, mostly because those
21 items are on the public way, and being on
22 the public way, they're subject to
23 confiscation as called out for in the
24 ordinance. And so we do that not
25 necessarily because they're illegal and

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2 unlicensed. It's because vending is
3 prohibited in that area and it's items on
4 the public way, which subjects them to
5 the confiscation.

6 When we're talking about the BB
7 gun enforcement, one of the things that
8 comes along with the revocation of the
9 CAL is the possibility to do a cease
10 operations. Rather than confiscate the
11 BB guns in question, we would actually --
12 because the business had a CAL
13 revocation, we would go to a cease
14 operations order for the entire business.

15 COUNCILMAN KENNEY:

16 Immediately?

17 DEPUTY COMMISSIONER DiPIETRO:

18 Without a CAL, they can't operate.

19 COUNCILMAN KENNEY: Is that an
20 immediate process or is that something
21 that again -- is the guy able to sell the
22 BB gun for the next 45 to 60 days before
23 we actually shut him down?

24 DEPUTY COMMISSIONER DiPIETRO:

25 Typically they'll get a 30-day window

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2 before they're ceased. The 30-day -- and
3 the reason for the 30-day is whenever we
4 revoke a license, we have to give them an
5 opportunity to appeal, and if they have
6 not successfully appealed within the 30
7 days, we can initiate a cease --

8 COUNCILMAN KENNEY: You can
9 understand the frustration that the very
10 lucrative sports teams get immediate
11 attention because the items that are
12 being sold they didn't get a piece of,
13 which is one thing, but this thing is a
14 public safety issue and we can't move as
15 quickly as we can on an Eagles hat. It
16 doesn't really make that much sense.

17 DEPUTY COMMISSIONER DiPIETRO:
18 That distinction between private and
19 public property becomes an important one.

20 COUNCILMAN KENNEY: Maybe
21 there's something we can look at from
22 that perspective that would allow us to
23 cease the sale of it immediately. I
24 mean, if they were selling whiskey or
25 beer unlicensed, we would stop them,

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2 wouldn't we? We wouldn't give them 30
3 days to stop.

4 DEPUTY COMMISSIONER DiPIETRO:
5 We would not. Liquor Control. That
6 would go to the state.

7 COUNCILMAN KENNEY: Right.
8 Okay.

9 COUNCILMAN JONES: Just real
10 quick. So if I understood his question,
11 what level of discretion do you have by
12 way of confiscation, cease and desist,
13 shut them down or is there -- do you have
14 discretion?

15 DEPUTY COMMISSIONER DiPIETRO:
16 The way the Department approaches cease
17 operations for businesses is public
18 safety comes first. So if there's a
19 specific hazard, fire safety, structural,
20 those are immediate ceases. Inspectors
21 do that routinely. We do those several
22 times a month.

23 When it comes to a cease as a
24 result of a revocation, by law we have to
25 give them time to appeal, particularly

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2 since we're revoking their license. So
3 inherent in that revocation is an
4 opportunity to appeal the revocation. So
5 when you tie an enforcement action to the
6 revocation of a license, you inure that
7 appeal timeframe. It's part and parcel.

8 COUNCILMAN JONES: To
9 Councilman Kenney's point, it has been my
10 experience whether it is something not
11 quite imminently dangerous, that
12 timeframe can be as long as six months.
13 So on a good day it might be 60 days.

14 Has that been your experience,
15 Councilman?

16 On a bad day it can be six
17 months. Am I within that timeframe?

18 DEPUTY COMMISSIONER DiPIETRO:
19 Very much so. And in reality, so what
20 we'll do is, for an example, when the
21 inspector cites a store for not having a
22 particular license, there's two paths
23 we'll take. If it's a renewal process,
24 they just failed to renew a license,
25 we'll give them the time necessary to

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2 renew. Now, a couple things could happen
3 there. The renewal could be held up for
4 tax reasons or it could be simply a
5 matter of they forgot.

6 When we cite a property for not
7 having a specific license or not having a
8 zoning, then we step back and do a little
9 bit more aggressive in terms of a cease.
10 Now, this is not always the same for
11 residential properties, because we don't
12 want to put residents on the street. So
13 for a business in this example, we would
14 go out there, we would get the
15 information from PPD. We would go out
16 and we would notify the owner that we're
17 going to revoke their license, giving
18 them that 35 days that we have to.
19 Within that time, if they don't appeal,
20 then the next inspection we do is the
21 intent to cease letter and the cease for
22 the entire business.

23 COUNCILMAN JONES: On the
24 issue -- I got the license part. On the
25 issue of the illegal item being sold, do

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 you have the ability to confiscate on the
3 spot?

4 DEPUTY COMMISSIONER DiPIETRO:
5 From within private property, no.

6 COUNCILMAN JONES: So if that
7 individual is selling BB guns -- and
8 there are a number of products. I think
9 spray paint in a can might be another
10 one. Do you have a list of those kinds
11 of commodities?

12 DEPUTY COMMISSIONER DiPIETRO:
13 There's lots of those that have
14 regulation around them, but generally
15 there's -- for example, spray paint has
16 to be locked up. There's lots of those
17 kinds of restrictions, in which case we
18 cite them. For occurrence-based
19 violations, we typically will give a
20 ticket. Hey, you didn't do this, you
21 need to, here's a ticket. For things
22 that need to be corrected, like you had
23 to lock up spray paint, we would cite
24 them. I mean, we haven't. I don't think
25 we've ever gotten a complaint on spray

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2 paint sales. I suspect that's possible,
3 but there's no confiscation as part of
4 any of that.

5 COUNCILMAN JONES: All right.

6 Thank you.

7 Councilman Johnson.

8 COUNCILMAN JOHNSON: Thank you,
9 Mr. Chair.

10 Ralph, can you answer this
11 question for me. I think the community
12 raised this loud and clearly at the
13 meeting that we had in the neighborhood,
14 and we all were there. We were all
15 trying to answer the community to the
16 best of our ability representing various
17 City agencies and myself being a
18 Councilperson.

19 So currently it's prohibited on
20 the book to sell these air guns, these BB
21 guns to minors. Whose job is it to
22 enforce the ordinance for stores that are
23 continuously still selling what's
24 prohibited to sell in the Charter?

25 DEPUTY COMMISSIONER DiPIETRO:

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2 Well, under the current section of the
3 code, it does spell out the Police
4 Department has certain responsibilities,
5 and anyone that enforces ordinances has
6 other responsibilities. And so
7 ticketing, for example, is one of those
8 things that anyone who enforces an
9 ordinance can do. I can't speak, of
10 course, to the Police Department and what
11 their constraints are in terms of
12 confiscation. That's not something that
13 I am prepared to do, but for us, we're
14 not particularly tasked with that
15 function and we don't do it anywhere
16 else.

17 COUNCILMAN JOHNSON: So
18 specifically L&I isn't tasked to address
19 stores who are selling items that's
20 prohibited to sell in the City Charter.
21 You're saying it wouldn't be an L&I
22 responsibility?

23 DEPUTY COMMISSIONER DiPIETRO:
24 Right. So there's two ways to kind of
25 have the Department -- one is to give the

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 Department specific enforcement authority
3 through the ordinance. L&I will do this
4 or that. The other way is to spell out
5 things that say anyone permitted to
6 enforce ordinances could do these things.
7 So particularly in the BB gun ordinance,
8 the Section 10-800, it says anyone that
9 can enforce ordinances can issue
10 basically a ticket, but there is a
11 section in there specific about
12 confiscation, naming specifically the
13 Police Department. Now, whether or not
14 that's possible, again, I can't claim to
15 that. So at best in the current
16 environment, the only thing we would do
17 is issue a ticket, which is why I think
18 the proposed bill is far better in terms
19 of a solution, because few things bring
20 folks into compliance other than stopping
21 their business. Simply taking items off
22 the shelf won't necessarily stop them
23 from refilling the shelf. Stopping the
24 business, ceasing the business in terms
25 of a cease operation order is much more

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 effective.

3 COUNCILMAN JOHNSON: Since
4 we've had the meeting, how is L&I,
5 Philadelphia Police Department going to
6 begin working with the community from
7 your perspective to address such issues?
8 Because I think even beyond South
9 Philadelphia, the next week there was the
10 same incident where it actually became a
11 federal issue where a postal worker was
12 shot several different times with a BB
13 gun. So like how is L&I, Police
14 Department beginning to take a look at
15 trying to address the issue?

16 DEPUTY COMMISSIONER DiPIETRO:
17 Well, certainly, I mean, we work
18 cooperatively with the Police Department
19 on a daily basis. And so pretty much in
20 terms of complaints about BB gun sales
21 are generally that, they're complaints.

22 When it comes to a particular
23 activity, a particular person, those are
24 things that the Department -- really
25 there's not much we can do about that.

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2 There would be no way for us to know
3 where that BB gun came from, who used it.
4 And so I'd have to defer to the Police
5 Department about if there's any
6 investigation or charges or what happens
7 in that realm.

8 For L&I's purposes, in the
9 proposed bill it seems very clear if the
10 police were to find the sales, they would
11 contact us, as we do, and we would begin
12 the revocation and cease operations
13 process, which is very typical with what
14 we do with some other licenses, as an
15 example.

16 COUNCILMAN JOHNSON: Thank you,
17 Ralph.

18 DEPUTY COMMISSIONER DiPIETRO:
19 You're welcome, sir.

20 COUNCILMAN JONES: As you can
21 see, we get frustrated, those of us who
22 represent districts, those of us at large
23 as well, when we see something, know it's
24 wrong, bring L&I in and you have to
25 follow due process. And to some degree,

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2 we have to bring the courts, whether it's
3 broken windows or this or that or the
4 other, L&I violations, to do it quicker,
5 because at some point in their minds it's
6 worth it to them to just ignore it for as
7 long as they can and then settle it when
8 they have to and then be right back at it
9 again, because they know the meter starts
10 running all over again and the clock
11 starts ticking. If we could confiscate
12 those things, there is immediate, swift
13 action done to stop the problem. And I
14 think BB guns, when you start to use them
15 in illegal ways where you're assaulting
16 public servants delivering the mail, you
17 know, I mean, it rises to the point where
18 what other nuisance products that --
19 where is the threshold that L&I would
20 step in if they saw something that was a
21 product that's dangerous? So no matter
22 what the product is, you can't take those
23 kinds of initiatives and actions?

24 DEPUTY COMMISSIONER DiPIETRO:
25 Typically when we're stepping in in terms

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 of something more immediate like a cease
3 operation, it's for a building safety
4 issue, whether it's a structural defect,
5 a defect in one of the mechanical or fire
6 alarms.

7 COUNCILMAN JONES: Let me ask
8 this: If someone is selling dynamite,
9 you couldn't stop that?

10 DEPUTY COMMISSIONER DiPIETRO:
11 Well, in a way, yeah. For example, so in
12 order to sell explosives, they're
13 regulated under the Fire Code Hazardous
14 Materials section. They're also
15 regulated at the state and federal level.
16 So it would very rarely get to us.

17 But in terms to your point
18 about the cease operations for the BB gun
19 sales, one of the things that we can
20 do -- and it's kind of early on here in
21 the process, but one of the options that
22 we have available is because they can't
23 legalize the sale, the option of the
24 cease operation is, what we typically
25 will do is, we'll say, Well, you can do

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 one of two things. You can stop selling
3 them or we will move forward with the
4 cease operation of your business. And
5 then the way to get it back open is
6 through a court order and they'd have to
7 go to court, agree and come into an
8 agreement. The thing to do, though,
9 is -- that cease operation gives them two
10 options. Cease the sales, but we also
11 need them to stipulate they won't resell.
12 So we'll need to get them in some kind of
13 legal agreement. And if they don't, then
14 the entire business is ceased, which
15 would require a court order to open up,
16 because then we're going to insist that
17 they come into an agreement with the City
18 that they'll no longer sell, and that has
19 to happen at the court level.

20 COUNCILMAN JONES: Thank you.

21 Are there any other questions
22 for this panel?

23 (No response.)

24 COUNCILMAN JONES: Seeing none,
25 thank you for your testimony.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 MS. SWANSON: Thank you.

3 COUNCILMAN JONES: Ms. Graham,
4 could you read the next panel to testify.

5 THE CLERK: Tracy Lomax,
6 Captain Fran Healy, Anton Moore, Nakia
7 Carr.

8 (Witnesses approached witness
9 table.)

10 COUNCILMAN JONES: Captain
11 Healy, thank you for your testimony.
12 Thank you both. Why don't you begin.
13 State your name for the record and begin
14 your testimony, please.

15 CAPTAIN HEALY: Thank you, sir.

16 Good afternoon, Chairman Jones
17 and other members of the Committee on
18 Public Safety. My name is Captain Healy
19 and I am Special Advisor to Commissioner
20 Ramsey. I am here on behalf of the
21 Commissioner and he has asked that I
22 extend his gratitude for allowing the
23 Police Department to voice its opinion on
24 this piece of legislation.

25 Bill No. 140637 amends the

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 existing Philadelphia Code Section 10-810
3 by amending Subsection 6 dealing with
4 penalties. The prohibition on selling
5 pellet or BB guns has been in place for
6 many years, and the Department is not
7 aware of any retailers regularly and
8 openly selling the items. The retailer
9 recently identified as selling these
10 items is more the exception than the
11 norm. Philadelphia police officers most
12 often come across individuals possessing
13 these items rather than selling them.

14 That aside, the Philadelphia
15 Police Department has no objections to
16 increasing the fines associated with
17 selling these items. Ignorance of the
18 law is not an excuse, and the attention
19 that this hearing has created will ensure
20 the proper message is delivered to all
21 retailers. Because the Philadelphia
22 Police Department does not regulate
23 business activities, we will take the
24 appropriate actions and coordinate with
25 License and Inspections when complaints

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 are received.

3 This concludes my testimony.
4 I'd be happy to answer any questions.

5 COUNCILMAN JONES: Thank you so
6 much. A quick question. Are you aware
7 of any statistics that show how many
8 crimes are committed with these false
9 weapons, imitation weapons, BB guns in
10 particular?

11 CAPTAIN HEALY: Not BB guns per
12 se. The term that we would be using
13 would be a simulated weapon. That would
14 also encounter somebody putting their
15 finger under a jacket or something like
16 that. That would also be considered a
17 simulated weapon.

18 So I don't have actual
19 statistics on BB guns being used in
20 crimes as opposed to that. I could
21 probably research simulated weapons
22 versus actual weapons.

23 COUNCILMAN JONES: Has there
24 ever been a case where someone was shot
25 because they thought that -- an officer

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2 thought it was an actual weapon?

3 CAPTAIN HEALY: Well, we're
4 talking two different things. A BB gun
5 is a weapon. So BB guns can cause
6 injuries.

7 COUNCILMAN JONES: I stand
8 corrected. When they thought it was a
9 firearm.

10 CAPTAIN HEALY: I'm not
11 personally aware of, but if an individual
12 pulled a BB gun out on me and I had to
13 use deadly force, I would use it myself.

14 COUNCILMAN JONES: Understood.
15 Enough said.

16 COUNCILMAN JOHNSON: Can you
17 say that again for the record.

18 CAPTAIN HEALY: I think you
19 need a new microphone.

20 COUNCILMAN JOHNSON: I didn't
21 hear you. Say it again for the record.

22 CAPTAIN HEALY: If I were
23 approached with somebody with a BB gun
24 and he turned it on me, it is a weapon.
25 I would use the appropriate force

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2 necessary if I thought needed.

3 COUNCILMAN JOHNSON: My
4 microphone is working very well. I
5 wanted to make sure I heard you loud and
6 clear, because that's the sole purpose of
7 why we're here today.

8 Thank you.

9 COUNCILMAN JONES: Thank you,
10 Captain.

11 Please. Thank you for your
12 patience and please begin your testimony.
13 State your name for the record.

14 MS. CARR: My name is Nakia
15 Carr. I am a committee person and a
16 community activist in South Philadelphia.
17 I was one of the organizers that
18 initially organized this effort, and the
19 reason why is because if you look at this
20 gun, this is not just safety for a child.
21 We're talking about safety of our police
22 officers. How would a police woman or
23 man feel coming at home after a child
24 pointed this at them or an individual
25 pointed this at them and they had to take

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2 their lives? And it's clear what the
3 officer said. They will not hesitate to
4 take a child's life or anyone who points
5 this gun at them. But also this is a
6 safety issue and it should be urgent.

7 I'm listening to L&I's
8 testimony, and it should be removed
9 immediate, not six months down the line,
10 not two months, three months down the
11 line. It should be moved immediately
12 because it's a safety issue and it's a
13 danger and a threat to all of us.

14 You know, if this was pointed
15 at one of you guys and you're licensed to
16 carry, you're going to use force. We
17 have people out there getting robbed. We
18 have children as young as 12 years old
19 assaulting people with these guns and we
20 have people being arrested and charged
21 with felonies, and there's no
22 accountability for these store owners.
23 And according to the state regulation, it
24 states that it's illegal and it should be
25 confiscated or fine or imprisonment. So

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2 if we can lock up the young children for
3 doing it -- and I don't agree with anyone
4 committing any type of crime, but if we
5 can lock them up, if we can impose fines
6 and if we can hold them accountable, why
7 aren't we holding these store owners
8 accountable? It's unfair and it's
9 unjust. And, you know, we're asking as a
10 community that Councilmembers really
11 support us in this effort, because this
12 is the safety of schools, this is the
13 safety of police officers and the
14 community as a whole.

15 Thank you.

16 COUNCILMAN JONES: That was
17 graphic. You holding that, I couldn't
18 tell the difference from this distance
19 between that and a real firearm, and I
20 wouldn't even venture to try at night to
21 distinguish that between that and a real
22 firearm.

23 Thank you so much for your
24 testimony.

25 MS. CARR: You're welcome,

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 Councilman Jones.

3 MR. MOORE: My name is Anton
4 Moore, Unity in the Community. I'd like
5 to thank Mr. Chairman, Councilman
6 Johnson, the entire Public Safety
7 Committee for taking the lead on this
8 issue. As mentioned by Nakia Carr, this
9 is definitely a crazy issue in our
10 community. When you have kids running
11 around our neighborhood with toy guns
12 that actually look like real guns, that's
13 a problem.

14 I was just reading today --
15 well, I read this about a couple weeks
16 ago. In San Francisco, an eighth grader
17 walking down the street with his
18 classmate at night with his friend with a
19 BB gun. An officer thought it was a real
20 gun and killed that eighth grader.
21 That's a problem in our community, and I
22 feel like with this issue in
23 Philadelphia, I think we're stuck in park
24 right now, because I don't see a sense of
25 urgency from L&I or the Philadelphia

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2 Police Department or the Administration
3 to deal with this issue head on. What is
4 it going to take, for a person in our
5 community to be murdered? Then you have
6 a press conference, then you have, you
7 know, releasing statements. This is an
8 issue we must deal with.

9 Just paint the picture. I'm
10 sure you have a nephew, you have young
11 cousins, kids that you see every day.
12 Just imagine if you found out that a
13 store owner sold your son a BB gun and he
14 was walking on the street and an officer
15 from the Philadelphia Police Department
16 killed your nephew or your son. How
17 would you feel? You want justice. Not
18 only with the City of Philadelphia but
19 with that store owner.

20 So we have to put ourselves in
21 the shoes of the mother whose son went
22 into a neighborhood on 20th and Johnson
23 Street in South Philadelphia and shot the
24 BB gun. She asked her son, Where did you
25 get it from?

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2 I bought it from a store in
3 Point Breeze.

4 She didn't even know, because
5 what kids are doing is, they're hiding
6 these toy guns outside in plants, under
7 cars, away from their parents and
8 committing these acts.

9 If kids are able to go to the
10 store and purchase these weapons, then we
11 must do something about that, because
12 that's too easy. Then we talk about the
13 issue of real guns in our community. If
14 kids don't get no excitement -- once the
15 kids' excitement run out with playing
16 with fake guns, they're going to turn to
17 the real guns. Then we're going to have
18 blood on our hands as a city, and I don't
19 think we want that as a community, as
20 City Council members, as leaders,
21 Philadelphia Police Department, Mayor
22 Nutter, L&I. We have to deal with this
23 problem and deal with it fast before we
24 bury someone in West Philadelphia or
25 wherever that may be.

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2 Thank you.

3 COUNCILMAN JONES: Thank you so
4 much for your testimony.

5 Are there any questions?

6 Councilman Squilla.

7 COUNCILMAN SQUILLA: Thank you,
8 Mr. Chair.

9 Captain Healy, on the, I guess,
10 guise of L&I calling the police, they go
11 into the store that's selling the illegal
12 guns, BB guns. The police officer is
13 going to go in and tell them they cannot
14 sell those items?

15 CAPTAIN HEALY: That would be
16 the general consensus from my
17 understanding of the ordinance. We're
18 complaint driven. If we received a
19 complaint, we go in, we would
20 coordinate -- I coordinate very regularly
21 with Ralph DiPietro. So, I mean, we
22 would coordinate if we come across the
23 location. Like I've said in my
24 testimony, we have not -- it's not like a
25 rash of stores. If there's a handful in

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2 the City, I'd be surprised. But I'm not
3 saying that that handful doesn't cause a
4 problem for the community. But it's not
5 like they're selling them out of Walmart.
6 The problem, what you have to understand
7 also, is Philadelphia is not an island.
8 All you need to do is go across the City
9 border and buy any one of these fire --
10 not firearms, I apologize; BB guns, air
11 rifles --

12 COUNCILMAN JOHNSON: But we
13 ain't talking about across --

14 CAPTAIN HEALY: You go outside
15 Philadelphia and you can purchase.

16 COUNCILMAN JOHNSON: We're
17 talking about in the neighborhood where
18 it started at, to be quite frank with
19 you.

20 CAPTAIN HEALY: As I was
21 saying, you could go to Walmart and
22 purchase any one of these. You can buy
23 things that look like compact rifles and
24 they're air rifles and BB guns.

25 So I applaud what's going on

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2 here, because BB guns, number one, should
3 not be misconstrued as toys. They're not
4 toys. They are weapons that produce
5 injuries. They can produce injuries.
6 They need to be treated with respect.
7 But from a policing perspective, if you
8 pull this on me, just because you're
9 possessing a BB gun does not mean a
10 Philadelphia police officer is going to
11 shoot you dead in the street. We need
12 basic probable cause that that officer is
13 in threat or in danger. So the mere fact
14 that a 10-year-old is carrying one of
15 these is not going to be the cause of his
16 death. If he turns around and points it
17 at a police officer, yes, without a
18 doubt. And the problem is with a lot of
19 children, they don't understand reality
20 from play, but that is problematic.

21 But I don't think you should --
22 you should distinguish BB gun issues from
23 toy issues, because the toy issue is
24 actually a separate issue altogether.
25 But the Philadelphia Police Department,

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2 like I said, this is a big issue for us,
3 but like I said, from our perspective,
4 from what I've dealt with on the street
5 personally, it's not so much the
6 individual selling them. It's the
7 individuals possessing them on the
8 street. And the law that's on the books
9 now, the Philadelphia police officers
10 would give the individuals a non -- I'm
11 sorry; a city code violation and seize
12 the pellet or BB gun. That's what we do
13 now.

14 COUNCILMAN SQUILLA: Okay. So
15 L&I would call you. Police would go to
16 the store. They would tell the person
17 that you can't sell these items. At that
18 point, do they tell them we're coming
19 back in two weeks or they just report it
20 to L&I, get rid of those guns?

21 CAPTAIN HEALY: Most likely
22 they would reach out to me personally,
23 I'll be honest with you, and I would
24 reach out with L&I so we would initiate
25 action immediately.

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2 The goal, I think, of this
3 legislation, I think of this hearing,
4 which is the best part of this hearing,
5 is awareness. I think what a lot of
6 people don't understand is, the
7 provisions in this bill are rather
8 draconian. You can turn around and have
9 one store -- I'm sorry. Let me back up.

10 Many businesses in this city
11 have multiple businesses under one
12 business license. So if you revoke one
13 license, any and all businesses
14 associated with that business go down as
15 well. That's a very, very draconian
16 measure, and I think it's absolutely
17 necessary.

18 So, I mean, the goal here is to
19 change behavior. It's not to clean
20 shelves out. It's not to take product
21 away from people. It's to make sure they
22 don't sell them in Philadelphia, and I
23 think that's what the purpose of this
24 legislation will accomplish.

25 COUNCILMAN SQUILLA: I agree

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2 there, and I think that we want to
3 eliminate that sale, but if the authority
4 was written into the legislation to say
5 that the proper authority or the police
6 would then be able to confiscate those
7 items at that location and then have L&I
8 start the process of the business
9 license, wouldn't that be something that
10 the police could do, saying they have the
11 authority to do that written in the law
12 by Council?

13 CAPTAIN HEALY: I'm not going
14 to say we can't. If you put it in the
15 law that Philadelphia Police Department
16 shall seize, we shall seize. The
17 question is what do we do with all these
18 things? It is inventory and it's
19 property.

20 COUNCILMAN SQUILLA: We keep it
21 and we store it and then we can burn it.
22 We could have a --

23 CAPTAIN HEALY: I understand.
24 We also do that with a whole lot of other
25 evidence and contraband that we deal with

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2 on a day-to-day basis. The goal here is
3 not to bring these things into the City
4 in the first place.

5 COUNCILMAN SQUILLA: Right.

6 CAPTAIN HEALY: So that avoids
7 a lot of the things. I think that's the
8 purpose of this hearing. But if you put
9 in a seizure provision in there, I would
10 honestly have to coordinate with L&I,
11 because I don't regulate business. I
12 don't have the lawful authority to
13 regulate business. We coordinate
14 obviously with L&I and we don't -- we're
15 not going to point fingers at each other.
16 If there's an issue to be solved, we'll
17 solve it as a team. But, nonetheless, I
18 think the goal here is to ensure that
19 people don't bring these things in to
20 sell them into these communities, because
21 half the people in the community might be
22 ignorant of the fact that it's illegal.
23 This is illegal. That's what this
24 hearing is about. And so I think after
25 today, if you turn around and sell

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2 these -- if this gets passed, if you sell
3 these things in Philadelphia, you're
4 risking your entire business privilege
5 license. That's your opportunity to sell
6 and do any business in the City of
7 Philadelphia. That's a very, very severe
8 penalty, much more serious penalty than
9 actually fining somebody a penalty. They
10 can write that off as the cost of
11 business. Without a license, they can't
12 do business, and I think that's a very
13 good provision in this statute -- or this
14 ordinance.

15 COUNCILMAN SQUILLA: Thank you.

16 COUNCILMAN JONES: The Chair
17 recognizes Councilman Kenney.

18 COUNCILMAN KENNEY: Thank you,
19 Mr. Chairman.

20 I mean, I think we do both. I
21 think we can take their business license
22 away and take the product away if we --
23 now, the talented Mr. Murken, who always
24 comes through with some ideas from the
25 legal side, is going to be looking at the

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2 opportunity between now and next week to
3 potentially amend it on the floor and see
4 if we can't come to some -- look, we all
5 agree it's illegal, correct?

6 CAPTAIN HEALY: Yes.

7 COUNCILMAN KENNEY: So if the
8 proprietor is selling it to the kid,
9 that's an illegal act too. I mean,
10 cigarettes, for example, are legal. Sad
11 to say, but they're legal. If you sell
12 it to a minor, the proprietor gets fined,
13 but he's selling a legal product. This
14 is an illegal product, so there's no
15 right, I don't think, that they have to
16 continue to possess it when it's illegal.

17 So, I mean, as I said, I know
18 the Police Department is always trying to
19 cooperate as best they can with what we
20 come up with legislatively and we've had
21 a great track record working together, so
22 I think --

23 CAPTAIN HEALY: I'm not
24 disagreeing with seizing, but our job is
25 not to take a tractor-trailer and back up

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2 to a store and clean out the shelves.

3 COUNCILMAN KENNEY: But you
4 could also understand, as I said earlier,
5 the frustration as to why sports teams,
6 with as much money and power as they
7 have, get immediate action on unlicensed
8 material that gets taken and put in the
9 tractor-trailer and taken to a warehouse
10 and stored and then eventually -- because
11 they're paying for L&I overtime and
12 they're paying for police overtime. So
13 they get immediate action on something
14 that couldn't hurt anybody.

15 CAPTAIN HEALY: Well, quite
16 frankly, the Deputy Commissioner is clear
17 on that. That's on a public
18 thoroughfare.

19 COUNCILMAN KENNEY: No; I
20 understand.

21 CAPTAIN HEALY: But what I'm
22 saying is, if this would occur on private
23 property, we would get a warrant.

24 COUNCILMAN KENNEY: I
25 understand, but a knockoff Phillies hat

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2 is not going to kill anybody, but we go
3 crazy or we chase -- I've seen officers
4 chasing people through the parking lot at
5 Citizens Bank Park to get their stash. I
6 mean, if that's the case, then at least
7 we can give these folks in this community
8 the same level of attention when it comes
9 to this thing that could actually, as you
10 know, ruin a child's life, ruin a family,
11 and ruin a police officer's life. I
12 can't imagine being a police officer
13 having that on my conscience after I knew
14 what really happened after the light of
15 day was clear, that I took a child's life
16 because some idiot sold a pistol to him
17 in a corner store. I mean --

18 CAPTAIN HEALY: I don't
19 disagree.

20 COUNCILMAN KENNEY: I know you
21 don't.

22 CAPTAIN HEALY: Seizure of
23 property is an issue for the Police
24 Department. We seize contraband and
25 evidence, I mean, under the confines of

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 the law and --

3 COUNCILMAN KENNEY: Well,
4 perhaps the contraband we seize with the
5 BB gun is the evidence to shut the guy
6 down.

7 CAPTAIN HEALY: We'll work with
8 whatever legislation is obviously passed.

9 COUNCILMAN KENNEY: Thanks.

10 COUNCILMAN JONES: Thank you,
11 Councilman.

12 Are there any other questions
13 for this panel?

14 (No response.)

15 COUNCILMAN JONES: Parents,
16 we're going to move on this, and we
17 understand what you're saying. A bootleg
18 movie never killed me. A bootleg fitted
19 cap never killed me. Those BB guns can
20 cause death and cause great harm in our
21 communities, and we're going to
22 prioritize.

23 COUNCILMAN JOHNSON: Just one
24 last part.

25 COUNCILMAN JONES: Councilman.

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2 COUNCILMAN JOHNSON: I think
3 for me probably what I take exception
4 with, just to be frank with you, and the
5 statement was made, you know, it's the
6 child that has the actual BB gun is the
7 issue separate from the actual store, but
8 clearly -- and I'm going to be frank --
9 you can't go in any neighborhood in the
10 City of Philadelphia and buy a BB gun. A
11 lot of these stores are exploiting
12 specifically low-income African American
13 communities where the people come to
14 these corner stores, the kids buy these
15 illegal BB guns, which they shouldn't be
16 selling at all. Like for me, separate
17 from keeping a young person safe, the
18 biggest insult is that I know that the
19 neighborhood is being exploited, and
20 that's why the tone has to be aggressive,
21 because at the end of the day, I know for
22 a fact just from my little small 41 years
23 of being on this earth there are other
24 places that you can go in the City of
25 Philadelphia this will not even be

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2 tolerated, let alone truthfully you
3 probably can't even open up the shop.

4 So this is purely exploitation
5 of a culture of a particular segment of
6 people, and that's why specifically --
7 I'm not about putting any business out of
8 business, but it's holding them
9 accountable for exploitation type of
10 behavior. And I just wanted to put that
11 out there for the record, because some
12 people will say, Well, it should be the
13 parents' responsibility and they should
14 know what their child is doing. I get
15 that part, but I'm also dealing with a
16 community in which I grew up in where
17 other people will come in and exploit
18 low-income type community based upon how
19 people live.

20 CAPTAIN HEALY: And I'll be
21 very honest. I think the measures you
22 put into this for revocation is
23 actually -- I think it's deserving.
24 Because of exactly what you just said is
25 why the Philadelphia Police Department

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 would support that provision in your
3 bill.

4 COUNCILMAN JOHNSON: Thank you,
5 Captain.

6 MR. MOORE: Can I leave you
7 with something real quick, Chairman?
8 When we asked a business owner would you
9 allow your kids to play with these
10 instruments, he said, No, of course not,
11 and smiled and laughed in our faces. So
12 that goes to show you the type of
13 attitude they have towards our community
14 and the kids that play in our
15 communities.

16 COUNCILMAN JONES: So this goes
17 down in my mind with loosie cigarettes,
18 drug paraphernalia, and these BB guns and
19 40's. It's an insult.

20 (Applause.)

21 COUNCILMAN JONES: It's an
22 insult.

23 Are there any other questions
24 for this panel?

25 (No response.)

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2 COUNCILMAN JONES: Seeing none,
3 thank you for your testimony and it is
4 duly noted.

5 MS. CARR: Thank you for having
6 us.

7 COUNCILMAN JONES: Will the
8 Clerk please read the third panel to
9 testify.

10 THE CLERK: Captain Healy.

11 COUNCILMAN JONES: Oh, Captain
12 Healy, one other thing. Are you
13 testifying on Bill No. 140718 as well?
14 Should we include that?

15 CAPTAIN HEALY: On all three of
16 them I am.

17 COUNCILMAN JONES: Say it
18 again.

19 CAPTAIN HEALY: All three bills
20 today I'm testifying.

21 COUNCILMAN JONES: So are you
22 going to submit your testimony for the
23 second bill?

24 CAPTAIN HEALY: Sure. Are we
25 talking about the toy guns or the hate

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 crime?

3 COUNCILMAN JONES: Toy guns.
4 You can abbreviate it or you can submit
5 it in writing.

6 CAPTAIN HEALY: Are you ready
7 for -- I'll read it off.

8 COUNCILMAN JONES: Go ahead.

9 CAPTAIN HEALY: I'll do the
10 intro again just so it's on the record.

11 Good afternoon, Chairman Jones
12 and members of the Committee on Public
13 Safety. Again, my name is Captain Healy.
14 I am Special Advisor to Commissioner
15 Ramsey, and on behalf of the
16 Commissioner, thank you for letting us
17 voice our opinion.

18 Bill No. 140718 amends the
19 existing Philadelphia Code Section 10-810
20 by adding a new section, entitled "Toys
21 or Imitation Firearms." The Philadelphia
22 Police Department is keenly aware of the
23 issues facing police officers when toys
24 can be produced that look strikingly
25 similar to actual firearms. Toy guns,

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2 laser tag guns and the like have caused
3 tragedies in this country. When these
4 occur, there are two victims, one the
5 innocent and unsuspecting child, the
6 other the police officer who is forced to
7 live with the tragedy.

8 For this reason, the
9 Philadelphia Police Department fully
10 supports and appreciates the intent of
11 this legislation. Nonetheless, the
12 Department has reservations regarding the
13 practicality of enforcement. While this
14 ordinance is intended to regulate
15 individual conduct and activity, the
16 ordinance also intends to regulate
17 business activity. While the Police
18 Department cannot involve itself in
19 regulation of sales and other business
20 activities, we believe the prohibition on
21 individual possession and the use is
22 salutary. This has historically been a
23 problem for the Philadelphia Police
24 Department. The mission of the Police
25 Department is not to regulate business

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 activity. Placing such language in Title
3 10 of The Philadelphia Code creates a
4 false impression that the Police
5 Department will be an active enforcement
6 agent for this ordinance. While the
7 intent behind the legislation is
8 admirable and appreciated, the
9 Philadelphia Police Department cannot and
10 should not be the primary enforcer of
11 business regulations.

12 On a final note, I must point
13 out on a current trend in the firearm
14 industry that could run contrary to this
15 bill. If you're not aware, many gun
16 manufacturers are now mass producing
17 functioning firearms in a wide array of
18 colors. This is entirely possible. So
19 basically the NRA and a whole lot of
20 other groups -- pink guns, all kinds of
21 guns. This is entirely possible to see a
22 pink or purple firearm on the street.
23 While the Police Department believes
24 these actions of manufacturers are ill
25 conceived, the color alone, regrettably,

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 can no longer be relied upon to verify
3 that the firearm is in fact a toy.

4 This concludes my testimony.
5 I'd be happy to answer any questions.

6 COUNCILMAN JONES: Are there
7 any other questions for the Captain?

8 (No response.)

9 COUNCILMAN JONES: Seeing none,
10 thank you for your testimony.

11 COUNCILMAN JOHNSON: I have a
12 question.

13 COUNCILMAN JONES: Councilman
14 Johnson.

15 COUNCILMAN JOHNSON: Thank you,
16 Captain, for your testimony as well.
17 Just elaborate on the enforcement
18 component. And I'm clear with you in
19 terms of Philadelphia Police Department
20 not doing the actual enforcement of
21 business regulations. And, again, we
22 dealt with the same issue regarding
23 what's already on the books in terms of
24 the Charter prohibiting the selling of BB
25 guns, and that was like the major issue

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2 that took place when we had the actual
3 protest in front of the store. The
4 officer -- is it correct you have to have
5 a warrant before you go into the store to
6 either confiscate or investigate the
7 selling of the actual BB guns?

8 CAPTAIN HEALY: To seize
9 evidence I would need a search warrant,
10 yes.

11 COUNCILMAN JOHNSON: You would
12 need a search warrant?

13 CAPTAIN HEALY: Yeah. For a
14 criminal act, yes.

15 COUNCILMAN JOHNSON: The second
16 component was, so Philadelphia Police
17 Department wouldn't be enforcing it. So
18 that would go back to what organization?
19 Same concept would be similar to L&I?

20 CAPTAIN HEALY: The way I would
21 see it, this is a much broader concept
22 than actually BB guns. There's only a
23 handful of stores that would even attempt
24 to sell. Toys are sold everywhere. So
25 the issue would be is -- what I don't

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2 want you to expect when I leave here
3 today is the Philadelphia Police
4 Department will go and inspect toy
5 stores.

6 COUNCILMAN JOHNSON: We
7 understand that.

8 CAPTAIN HEALY: Obviously if
9 the issue came up and we were called to
10 it, like I said, I would work with the
11 Deputy Commissioner from L&I and we would
12 do what we needed to do to enforce the
13 statute. As a team, we like to work
14 together. I mean, these issues pop up,
15 and they're few and far between
16 oftentimes, but the ones that do impact
17 the City have a dramatic impact.

18 COUNCILMAN JOHNSON: How do we
19 get to the same goal with this bill
20 similar to the recent one that we just
21 passed regarding the actual realistic
22 toy-looking gun similar to the one we
23 just saw?

24 CAPTAIN HEALY: Well, like I
25 said, I think you need to distinguish BB

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 guns and air guns are not toys. They are
3 weapons that can actually hurt and kill
4 people. Toys are toys, plastic toys
5 where little kids play Army and that kind
6 of stuff. That's an issue. For years
7 I've seen that they've been plugged with
8 the orange caps, and actually I believe
9 in the video you saw, the children that
10 had the actual -- their soft pellet BBs
11 is the one they were shooting.

12 COUNCILMAN JOHNSON: That's
13 correct.

14 CAPTAIN HEALY: And they had
15 the orange plug on the end of the barrels
16 for the safety reasons.

17 COUNCILMAN JOHNSON: And you
18 color the orange black.

19 CAPTAIN HEALY: And we fully
20 support that, like I said, but the
21 toys -- we've never seen, to my
22 knowledge, where a child has been shot
23 for a toy. I mean, the BB guns are more
24 of an issue, to be honest with you,
25 because kids are playing with them, you

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 know, juveniles, young adults are playing
3 with BB guns. They're fun to play with,
4 quite honestly. It's what it is. When
5 they start and pull those type of weapons
6 on police officers and instinctively do
7 things that they see on TV, carry things,
8 I mean, their behavior is what gets them
9 into trouble in addition to the firearm.
10 That's problematic. Most children that
11 I've seen -- I mean, I've seen some
12 AR15-looking type of toys that are -- I
13 mean, I kind of know my guns a little
14 bit. I mean, I have to look twice to see
15 what they are.

16 If we see an issue and we
17 receive a complaint from yourself or the
18 community groups, we'll investigate and
19 we'll do the best we can to coordinate to
20 do action on the City ordinance. Like I
21 said, L&I is very receptive to the police
22 when we call. We have a little task
23 force together and we deal with a lot of
24 issues. Like I said, when we receive
25 complaints, we'll be happy to

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 investigate, because I know the
3 consequences. I know what can happen.
4 And so I appreciate your efforts, and
5 like I said, we're not disagreeing about
6 anything there, but --

7 COUNCILMAN JOHNSON: We
8 understand, Captain. Thank you very
9 much.

10 CAPTAIN HEALY: Thank you.

11 COUNCILMAN JONES: Any other
12 questions for the Captain?

13 (No response.)

14 COUNCILMAN JONES: Seeing none,
15 once again, thank you for your testimony.

16 Ms. Graham, can you read the
17 name of the third and final panel for
18 these bills.

19 THE CLERK: Tyrique Glasgow,
20 Ella Best, Terry Carpenter, and Kevin
21 Williams.

22 (Witnesses approached witness
23 table.)

24 COUNCILMAN JONES: Thank you.
25 Please bring the mic close to you and

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 state your name for the record and begin
3 your testimony.

4 MR. CARPENTER: My name is
5 Terrence Carpenter. I came here today --
6 first, let me just thank you for having
7 me here. I've been a community activist
8 for a long time, and it behooves me that
9 I can't find any redeeming quality or
10 good qualities of having a BB gun for
11 inner city youth.

12 I just heard the police officer
13 say they're fun to play with. They only
14 hurt. They only maim and can blind. I
15 don't know how much fun that is.

16 Speaking with some other police
17 officers, I found out that real persons
18 in commissions of crimes with real guns
19 are taking the orange tips and putting
20 them onto their real firearms. So the
21 snap judgment that a police officer has
22 to make now comes into question whether
23 this is real or not, as well as the kids
24 are painting their front orange tips all
25 black to emulate real guns.

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2 In this day and time within our
3 communities with so many children being
4 murdered from each other and comes into
5 question when police officers come to
6 work, will I kill that child, will I have
7 to kill that child, what is that rippling
8 effect for that police officer, for his
9 family, for the Police Department, for
10 the child's family, for that child?

11 If we can do with this bill
12 what needs to be done and eradicate the
13 nonsense of having these guns sold and at
14 the hand of these children and if they
15 are illegal, as I see the sale of alcohol
16 is illegal and I see L&I march in the
17 bars with the Philadelphia Police
18 Department and with the State Police and
19 take everything inside of there and walk
20 out that night, if the state law says
21 they're illegal and the City law says
22 they're illegal, what keeps L&I and the
23 State Police and the Philadelphia Police
24 from walking inside of that store and
25 taking them out and walking out?

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2 You don't want to carry -- the
3 deputy guy from the Police Department
4 does not want to carry a whole
5 tractor-trailer load of toy guns to
6 storage. Well, I sure enough don't want
7 to take a whole tractor-trailer load of
8 caskets to the graveyard either.

9 So this needs to be dealt with
10 expeditiously and should be done with
11 every department willing to help save the
12 lives of the children of this great City
13 of Philadelphia.

14 I thank you for my time.

15 COUNCILMAN JONES: Thank you
16 for your testimony, sir.

17 MS. CORMIER: Good afternoon.
18 My name is Pat Cormier and I agree
19 wholeheartedly with what Terry just said.
20 In listening and observing today, it
21 appears that certain people just want
22 they way. They're not thinking about the
23 children that's in our area, but if the
24 shoe was on the other foot, then
25 everybody would be out grabbing up these

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2 illegal guns, because they do look real
3 and a BB gun could do a lot of damage.
4 These little kids are emulating, and
5 these stores, you need to shut them down
6 if they keep selling them to our
7 children, because it's going to spread
8 out. It is going to be a rippling
9 effect. Because it's all Point Breeze
10 now, but you best believe it's going to
11 grow further and it's going to go
12 further, but then when it happens and
13 maybe when it happens in an area that may
14 be a little higher class than some areas,
15 then everybody is going to be on the
16 bandwagon to get these illegal guns out
17 of the area.
18 We're talking about children.
19 It's not about race. It's not about
20 religion. It's about children, period,
21 and anything that has to be done to get
22 this bill passed, I'm going to do
23 everything I can. I'm a senior. I've
24 been in South Philly all my life, and
25 we're not going to let this happen. I

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2 hope you don't let it happen.

3 Thank you very much.

4 COUNCILMAN JONES: I just want
5 to correct you that there's no higher
6 class than Point Breeze. Mamie Nichols
7 would take exception to that. There
8 might be higher incomes, but ain't no
9 higher class.

10 MS. CORMIER: Right. Thank
11 you, my brother. You're absolutely
12 right.

13 COUNCILMAN JONES: And South
14 Philly.

15 MS. CORMIER: Children are
16 children. And I observed some things in
17 here today and it's not about the
18 children with certain people. It's about
19 having their way. But they're not going
20 to have their way. We're going to have
21 our way, because we're not going to stand
22 for it.

23 Thank you.

24 COUNCILMAN JONES: Thank you
25 for your testimony.

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2 MR. GLASGOW: Terry Glasgow,
3 Founder and Executive Director of Young
4 Chances Foundation.

5 I'm here today to speak on
6 behalf of the children that we deal with
7 in this community, from Point Breeze,
8 Grays Ferry, the whole South Philadelphia
9 area. And to go back a little bit, the
10 reason why I started Young Chances was to
11 give kids a second chance, and the reason
12 why I wanted to give them a second
13 chance, because I got one myself. And
14 one of the chances and the problems that
15 I had growing up was playing with BB
16 guns, and the BB guns that I played with
17 was on Front and Christian. It wasn't in
18 Point Breeze. It wasn't in Grays Ferry.
19 But I practiced that on Front and
20 Christian.

21 So when I went up in Grays
22 Ferry and Point Breeze, I thought it was
23 good. I thought it was the way to go,
24 and I was arrested. Two days after I was
25 arrested, Family Court adjudicated me and

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 charged me as an adult for this BB gun.
3 It didn't take 60 days. It didn't take a
4 petition. It didn't take a hearing. It
5 didn't take anything. I was 15 years old
6 at the time, and that felony is still on
7 my record to this day. The business
8 owner can't apply for a job for me. My
9 daughter is going to have -- I'm going to
10 have to talk to her about this, because
11 it affected my life forever. And the
12 kids that we all represent here started
13 like me.

14 They need to have a clean
15 slate, and if we don't stop the -- it's
16 crazy that it's picks on what we want to
17 get done. It's a crime for me to carry
18 it, but it's not a crime for the store to
19 sell it. It needs to be some checks and
20 balances going on in the City of
21 Philadelphia, and it doesn't start with
22 just the business. It really starts with
23 what we believe in. If we believe in our
24 kids, if we believe in our community, we
25 have to do the right thing.

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2 L&I, the Police Department, do
3 what's right. Our kids are no different
4 than like I was growing up on Front and
5 Christian, and it's nice supposedly down
6 there, but look what I learned down
7 there.

8 Unity in the Community, Don't
9 Shoot, all these people provide chances
10 after it's done. The City needs to step
11 in before the effects happen. Yeah, I
12 have a chance to talk to the kids, but
13 what about the kid that walks into Family
14 Court and his whole life is done? What
15 about the kid who is going to go and rob
16 somebody with that gun and he don't make
17 it out the robbery? Yeah, he was wrong
18 for doing it, but he thought it was
19 right. And it's no pointing the finger
20 at no agency, because as we hearing,
21 nobody has the answer, but we all know
22 what's right. We just need to seriously
23 sit down and figure it out as a whole,
24 because Councilman Johnson, he puts his
25 neck out on the line, but it's not just

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 his issue. It's not just Point Breeze.
3 It's not just Grays Ferry. It can happen
4 in the Northeast. It can happen on
5 Penn's Landing. It can happen at a game
6 where somebody think they getting robbed
7 for a fake Phillies hat and pull out a
8 knife and stab the kid. So who would get
9 it first, the Phillie hat or this little
10 kid that wanted the Phillie hat?

11 It's our responsibility as a
12 whole to get it done. That's all I have
13 to say.

14 COUNCILMAN JONES: Terry, I
15 just want you to know that we hear you
16 and we want you to know we appreciate --
17 we're going to do our part. We
18 appreciate you doing your part down in
19 that rec center. You got supporters you
20 don't even know. So I want you to know,
21 keep on doing what you're doing, and
22 thank you for helping us to do what we
23 need to do. And Benny Swans would be
24 proud of you. All right?

25 MR. CARPENTER: May I have one

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 more word?

3 COUNCILMAN JONES: Yeah. Sure.

4 MR. CARPENTER: And I will
5 paraphrase Albert Einstein. The world
6 will not be destroyed by those who do
7 evil, but by those who watch and simply
8 do nothing.

9 Thank you.

10 COUNCILMAN JONES: Amen.

11 Thank you for your testimony.

12 Is there anyone else here to
13 testify on these two bills?

14 (No response.)

15 COUNCILMAN JONES: No one?

16 With that, thank you for your testimony.

17 Ms. Graham, will you read the
18 number and title of the next bill to be
19 heard.

20 Councilman Johnson, would you
21 like to say anything?

22 COUNCILMAN JOHNSON: I just
23 want to thank my colleagues just for
24 their input and their insight to really
25 also bring another level of clarity on

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 how we can address this issue and
3 actually put some additional muster
4 behind these two pieces of legislation.
5 So thank you very much.

6 COUNCILMAN JONES: They were
7 right. It's not just a Point Breeze
8 issue.

9 COUNCILMAN JOHNSON: It's
10 citywide.

11 COUNCILMAN JONES: Ms. Graham.

12 THE CLERK: Bill No. 140720, an
13 ordinance amending Title 10 of The
14 Philadelphia Code, entitled "Regulation
15 of Individual Conduct and Activity," to
16 add a new Chapter 10-2100, entitled "Hate
17 Crimes," to provide for additional
18 penalties for criminal conduct motivated
19 by hatred towards certain characteristics
20 of other persons, under certain terms and
21 conditions.

22 COUNCILMAN JONES: I understand
23 we have a brief video to start this
24 hearing.

25 (Video played.)

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2 COUNCILMAN JONES: Since that
3 time, we've apprehended individuals
4 accused of this crime.

5 I'd like to hear from the
6 authors of the bill. I begin with
7 Councilman Kenney and then Councilwoman
8 Reynolds Brown.

9 COUNCILMAN KENNEY: Thank you,
10 Mr. Chairman. First, I'd like to thank
11 Councilwoman Reynolds Brown for allowing
12 me to sign onto the bill, which was her
13 original idea, and I thought before, if
14 it's okay with you, before we started our
15 testimony, we were all saddened recently
16 to learn of the passing of Gloria
17 Casarez, who is the first Director of the
18 Mayor's Office of LGBT Affairs, who I can
19 tell you countless times has helped me
20 move legislation, make legislation
21 better, give me a better insight in what
22 we're doing legislatively as it relates
23 to the LGBT community and the community
24 as a whole, and I think that if it would
25 be okay with you, I think it would be

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 appropriate before our testimony that we
3 stand for a moment of silence and
4 remember.

5 COUNCILMAN JONES: I think it's
6 very appropriate, Councilman.

7 (Moment of silence.)

8 COUNCILMAN KENNEY: Thank you.
9 Councilwoman Brown.

10 COUNCILMAN JONES: Thank you,
11 Councilman.

12 Councilwoman Reynolds Brown.

13 COUNCILWOMAN BROWN: Thank you
14 very, very much, Mr. Chairman, and let me
15 thank you also for providing the video
16 footage, which really puts in context
17 again for us why looking at this matters.
18 And it was without hesitation I
19 approached Councilman James Kenney to be
20 a partner in this effort because of his
21 longstanding loud and strong voice on
22 behalf of this community. So a chance to
23 raise like a laser beam on this issue,
24 again, matters.

25 On September the 25th,

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 Councilman James Kenney and I introduced
3 a bill to close a hate crime loophole.

4 The bill adds a new chapter to The
5 Philadelphia Code to provide for
6 additional penalties for criminal conduct
7 motivated by hatred regarding sexual
8 orientation, gender identity, and
9 disabilities as defined in the City's
10 Fair Practices Ordinance, all of which
11 are not covered by existing state hate
12 crime laws.

13 Parenthetically, too many of
14 our kids who suffer from autism get beat
15 up and bullied because of their
16 disability. It's unacceptable.

17 The bill is in response to the
18 September 11th, 2014 assault of a
19 same-sex couple in Center City where the
20 assailants allegedly hurled anti-gay
21 slurs. It was later reported by the
22 District Attorney that the District
23 Attorney could not prosecute the attack
24 as a hate crime because no such
25 protections currently exist.

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2 What we know is that

3 Philadelphia is known worldwide as a city
4 that celebrates and values diversity, and
5 I'm of the view that we will not allow a
6 few thugs to tarnish that reputation. As
7 Councilman Kenney said, it's shameful
8 that this legislation is still necessary
9 in 2014, but as we've demonstrated in the
10 past, we're proud to submit it.

11 And, finally, I'll say on a
12 personal note as a mother, no child comes
13 into the world 18, 19 years old with hate
14 in their heart. They don't enter this
15 world with hate. That's learned behavior
16 from those who say they care about them.
17 And so now this learned behavior in the
18 City of Philadelphia will be dealt with
19 in ways that will be articulated during
20 this hearing.

21 Thank you, Mr. Chairman.

22 COUNCILMAN JONES: Thank both
23 of you for bringing this to prominence in
24 this Council. And with that, Ms. Graham,
25 can you read the first panel to testify

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 on this bill.

3 THE CLERK: Rue Landau,
4 Commission on Human Relations; Captain
5 Francis Healy, Philadelphia Police
6 Department.

7 (Witnesses approached witness
8 table.)

9 COUNCILMAN JONES: Thank you
10 for your patience. We wanted to bring
11 this bill last because of the possibility
12 of a lot of witnesses. So with that,
13 once again, you know the drill. State
14 your name and begin your testimony.

15 MS. LANDAU: Okay. I might
16 have to take some pauses today. Okay?

17 COUNCILMAN JONES: That's quite
18 all right.

19 MS. LANDAU: Good afternoon,
20 Chairman Jones and members of the
21 Committee on Public Safety. I am Rue
22 Landau, Executive Director of the
23 Philadelphia Commission on Human
24 Relations, and I am here today to offer
25 my strongest support for this bill, which

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 seeks to protect people from violence and
3 other crimes for their sexual
4 orientation, gender identity, gender or
5 physical or intellectual ability.

6 I'd like to offer special
7 appreciation to Councilwoman Blondell
8 Reynolds Brown and Councilman Jim Kenney
9 for co-sponsoring and advancing this
10 legislation.

11 This would not be the first
12 time Philadelphia is taking a leadership
13 role to address issues of inequality, but
14 with any hope, what is proposed here soon
15 will be mirrored and enacted on the state
16 level. Still, I am convinced that
17 regardless of the outcomes in Harrisburg,
18 Philadelphia must continue its historic
19 role of building and assuring tolerance
20 for each and every resident and visitor
21 here, and detail consequences for those
22 who violate our shared values.

23 This issue is integral to our
24 work. Since 1951, the Philadelphia
25 Commission on Human Relations has been a

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 consistent and active voice for fair and
3 equal treatment, enforcing and educating
4 about the City's civil rights laws. We
5 ensure fair dealings in employment,
6 housing, public accommodations, and real
7 estate as outlined in the City's Fair
8 Practices Ordinance. The Fair Practices
9 Ordinance details some 16 categories
10 where discrimination is expressly
11 prohibited, from race and ethnicity to
12 marital status, to religion, to physical
13 or intellectual ability, to gender
14 identify and sexual orientation. This
15 bill further enhances the City's
16 legislative and cultural alignment.

17 It's a bill that our late
18 friend and colleague Gloria Casarez would
19 have fought ferociously to see enacted,
20 and she wanted and planned to be here
21 today. While she may be gone, it is our
22 duty to continue the spirit of the work
23 she so passionately undertook on behalf
24 of marginalized people throughout the
25 City.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 Just last year, you enacted
3 Councilman Kenney's LGBT equality bill,
4 which requires gender-neutral bathrooms
5 for all City-owned buildings, requires
6 transgender inclusive health benefits for
7 City employees, offers tax credits for
8 City businesses that allow families of
9 LGBT employees into their health coverage
10 plans and more. This legislation made
11 Philadelphia the largest American city to
12 provide these sorts of benefits.

13 In fact, our expansive
14 protections for these historically and
15 too often mistreated in society have
16 earned this city praise, ranging from the
17 Human Rights Campaign to the American
18 Society for Public Administration.

19 But even in a city as
20 progressive as ours, hate can and does
21 arise.

22 The September 11th violent
23 incident against a gay couple in the
24 streets of Center City is just a more
25 blatant and public example. It was

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 violent, and it was scary. It was
3 heartwarming to see that the aftermath
4 showcased what is best about our city as
5 neighbors and strangers alike rallied to
6 not only condemn the crime but also to
7 assist in the arrest of the alleged
8 assailants. Still, that doesn't make for
9 a fairytale ending to this story. The
10 truth is, we know that those accused of
11 these crimes cannot be held fully
12 accountable for the crimes they
13 committed. As currently constructed,
14 there is no hate crime statute covering
15 LGBT individuals or those with physical
16 and intellectual disabilities. None.
17 That's not because of some agreed-upon
18 philosophy, but due to a technicality
19 that stripped this commonsense language
20 from our state crime code in 2008. By
21 that action, people in municipalities
22 large and small have been left
23 vulnerable, and local governments
24 statewide feared proactive measures on
25 their part would be challenged and

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 overridden by Harrisburg.

3 Well, we here in Philadelphia
4 don't shirk from a fight when the cause
5 is just. It's past time to get justice
6 on behalf of these most recent victims
7 and the countless others whose names must
8 not be mere entries in a police blotter,
9 if they are reported at all. We cannot
10 afford to wait, nor should we, not when
11 we have a means of protecting our own.
12 This bill offers us that avenue, and by
13 all means, we should take it.

14 By most common definitions, a
15 hate crime is established when a person
16 commits, harasses or brutalizes someone
17 else with a criminal offense of malicious
18 intention based solely on how the
19 assailant perceives the target. Such
20 brutal acts are far from anecdotal here
21 or elsewhere.

22 The latest FBI statistics,
23 which many acknowledge are not complete,
24 hold that hate crimes based on race,
25 specifically against people of distant or

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 direct African descent, leads all
3 categories. But following a close second
4 are hate crimes against people based
5 solely on their perceived or actual
6 sexual orientation.

7 And as these hearings
8 ultimately will show, those who live with
9 physical and intellectual disabilities
10 also suffer disproportionately from
11 horrible acts. My colleagues, including
12 the Chair of the Philadelphia Commission
13 on Human Relations, will provide more
14 details about this type of violence.
15 Unfortunately, people with physical and
16 mental disabilities are not immune to or
17 protected from hate crimes, as we have
18 witnessed. We need this law to be
19 updated for them as well. Our outrage
20 over what we witnessed on September 11th
21 should equal that of the atrocious acts
22 committed against people with
23 disabilities.

24 We are designated a "city of
25 the first class" legally by the

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 Commonwealth of Pennsylvania based on our
3 population, but we designate ourselves a
4 first-class city based on our ongoing
5 commitment to our highest ideals of
6 equality. This effort should prove that
7 point.

8 In many parts of Pennsylvania,
9 for many reasons, this city is held as a
10 beacon of hope, but if something as
11 horrible as what happened on September
12 11th can happen here in a cosmopolitan
13 and progressive city and without
14 appropriately applied justice, it can
15 dash hopes for those living in less
16 tolerant places elsewhere in the state.

17 Amending this law again affirms
18 our role as leaders in this Commonwealth.
19 In the vein of a first-class city, let's
20 continue to lead the fight to ensure that
21 Philadelphia and eventually Pennsylvania
22 will no longer be associated with LGBT
23 hate crime or disability hate crime in a
24 Google search. Let's help assure that
25 people here don't need to fear for their

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 lives or livelihood simply for being who
3 they are.

4 Thank you for your time.

5 COUNCILMAN JONES: Thank you.
6 Thank you for your testimony, and we all
7 grieve and mourn your loss.

8 MS. LANDAU: Thank you.

9 COUNCILMAN JONES: Captain.

10 CAPTAIN HEALY: Thank you.

11 Good afternoon again, Chairman Jones and
12 other members of the Committee on Public
13 Safety. My name is Captain Healy and I
14 am, as I mentioned before, Special
15 Advisor to Commissioner Ramsey, and once
16 again on behalf of the Commissioner,
17 thank you for letting us have the
18 opportunity to voice our opinion on this
19 bill.

20 Bill No. 140720 amends the
21 existing Title 10 of The Philadelphia
22 Code by adding a new chapter, entitled
23 "Hate Crimes." This legislation is to
24 fulfill the obvious void in the
25 Pennsylvania Crimes Code Section 2710,

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 Ethnic Intimidation, which does not
3 include hatred towards actual or
4 perceived sexual orientation, gender
5 identity or disability of another
6 individual or group of individuals.

7 The Philadelphia Police
8 Department has a long history of
9 supporting the rights and interests of
10 the lesbian, gay, bisexual, and
11 transgender community. In fact, Deputy
12 Commissioner Bethel was assigned by
13 Commissioner Ramsey to be the
14 Department's liaison with this community
15 to demonstrate the importance of
16 connecting with these citizens in a
17 direct and substantial manner.

18 That said, the Philadelphia
19 Police Department fully supports the
20 intent behind this legislation. No
21 person should be victimized or attacked
22 based upon hatred of race, color, sexual
23 orientation or gender identity or
24 disability. The Philadelphia Police
25 Department's mantra is to serve all

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 people. Whether you're gay or lesbian or
3 disabled makes no difference. However,
4 the Police Department -- and I say this
5 from a legal perspective, not a
6 theoretical perspective -- does have some
7 reservations with the ordinance, and I
8 say that because we don't want to
9 compromise criminal cases. Let me
10 explain.

11 As I'm sure you would agree,
12 the General Assembly should follow your
13 obvious lead and enact the same
14 legislation at the state level. In fact,
15 as mentioned earlier, previous versions
16 of Section 2710 of the Crimes Code
17 actually included hatred towards physical
18 disability, sexual orientation, and
19 gender or gender identity. Regrettably,
20 the method in which the Pennsylvania
21 State Legislature made these amendments
22 was determined to be improper and,
23 therefore, they were stripped back out of
24 the code. Nonetheless, there is nothing
25 prohibiting the Pennsylvania Legislature

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 from reintroducing these amendments in
3 the proper form, which is really actually
4 where this should be done. And I'll
5 explain why it's more important.

6 We need to work with the
7 District Attorney's Office and the
8 Philadelphia courts in any case where
9 this code provision could be charged or
10 would be charged to ensure that technical
11 issues such as double jeopardy do not
12 compromise the District Attorney's
13 ability to seek the maximum measures of
14 justice under the applicable law.

15 The Philadelphia Police
16 Department fully supports this bill.
17 Nevertheless, the Department strongly
18 believes that similar changes at the
19 state level are probably the most suited
20 location or actually venue for these
21 types of amendments. This will best
22 protect our LGBT community in
23 Philadelphia, but also protect LGBT
24 citizens across the state.

25 Next, it is imperative to work

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2 out all technical issues with the
3 Philadelphia courts and the DA's Office
4 in charging under this bill. And I say
5 that -- the reservation, quite frankly,
6 is the fact that the last thing we want
7 to do is compromise or somehow lose a
8 conviction of some thug who has beaten up
9 a gay or lesbian couple on some
10 technicality. So we just need to iron
11 those out and make sure that we don't
12 compromise those type of convictions, and
13 that's my only reservation or the
14 Department's only reservation with this
15 bill, that when we charge somebody, we
16 want to make sure that those charges
17 stick and they're not going to be
18 precluded from being prosecuted later on
19 based upon us also charging a city code
20 ordinance violation. That's my only
21 concern.

22 COUNCILMAN JONES: I'm sure one
23 of the authors may have some questions.

24 COUNCILMAN KENNEY: And, again,
25 as a police captain and an attorney, we

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2 always respect your view and you give us
3 good guidance on every issue that we deal
4 with. So I have confidence in both the
5 Law Department and the DA's Office that
6 what needs to be figured out will be
7 figured out.

8 CAPTAIN HEALY: Absolutely.
9 It's just what we don't want to do is
10 have a perfunctory charging. If we have
11 a very serious case of some type of hate,
12 we're going to make sure we dot the I's
13 and cross the T's.

14 For those who may not be aware,
15 there could be a potential double
16 jeopardy issue. What happens is, if you
17 charge all incidents of a crime or
18 certain incidents that have to be charged
19 at one time in the same forum. Basically
20 you have a criminal code here -- I'm
21 sorry. It's an offense of a 90-day
22 imprisonment, which kind of muddies the
23 water a little bit. What we don't want
24 to do is have somebody go have a code
25 violation issue addressed or adjudicated

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2 prior to the more serious aggravated
3 assaults or simple assaults being
4 litigated or prosecuted. If that should
5 occur, the District Attorney's Office
6 may, regrettably, be precluded from going
7 forward. So we just want to make sure
8 those serious cases we are going to
9 coordinate. But we fully support this.
10 If this does anything, hopefully this
11 makes the state act so we don't have to
12 worry about this nonsense.

13 COUNCILMAN KENNEY: I think the
14 other issue too is -- I don't know what
15 the double jeopardy situation is if you
16 go after the more serious charges first,
17 adjudicate them and then file the
18 additional penalties, if in fact there's
19 no state law covering it.

20 CAPTAIN HEALY: Well, the issue
21 there, it's the same incident and they're
22 being handled in the same jurisdiction.
23 So on the flip side, either way there
24 could be.

25 COUNCILMAN KENNEY: But if we

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 don't file the charges on the City code
3 stuff prior to the adjudication of the
4 state crime, then we probably won't be in
5 double jeopardy.

6 CAPTAIN HEALY: No, it wouldn't
7 be, but we may be precluded then to go in
8 later with the City ordinance. But I
9 think the message this sends needs to be
10 sent.

11 COUNCILMAN KENNEY: They may
12 have to hire a lawyer and go to court and
13 be inconvenienced, which is --

14 CAPTAIN HEALY: Listen, we
15 support this wholeheartedly.

16 COUNCILMAN KENNEY: Which is
17 fine too.

18 Thank you.

19 COUNCILMAN JONES: I have a --

20 COUNCILWOMAN BROWN: Please,
21 Mr. Chairman.

22 COUNCILMAN JONES: No;
23 Councilwoman, please.

24 COUNCILWOMAN BROWN: Thank you
25 for sharing with us the nuance that

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2 matters given the world that you work in.
3 I don't know that I fully understand it,
4 but I will concur with Councilman Kenney
5 that the professionals, the experts will
6 figure it out.

7 CAPTAIN HEALY: What I'm
8 telling you right now is, if we have a
9 serious incident, we are not going to
10 compromise, we are not going to allow
11 somebody to get off on a technicality.
12 That I can assure you now, that the
13 District Attorney's Office and the Police
14 Department will work together, whether
15 this is in place or not, to ensure that
16 justice is served. But we are also
17 going -- the Police Department and the
18 City is going to also continue to
19 pressure Harrisburg to put back in place
20 what was rightfully in place in the
21 crimes code. It belongs there. It
22 deserves to be there. And the fact that
23 it was stripped out just needs to be
24 remedied, and that's an easy fix.

25 COUNCILWOMAN BROWN: And so

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2 that goes to my second question to Rue
3 Landau. Do you know if there is any
4 pending or anticipated or talked about
5 state action around this particular
6 issue?

7 MS. LANDAU: They moved it as
8 far as it could go. I'm not sure I have
9 a full update on it, but they moved it as
10 far as it could go this session and it
11 will have to be reintroduced next
12 session, I believe.

13 COUNCILWOMAN BROWN: For the
14 record, who introduced that bill? Just
15 curious. An urban, rural? I'm just
16 curious.

17 MS. LANDAU: Representative
18 Brendan Boyle. I'm sorry. My brain has
19 been elsewhere.

20 COUNCILWOMAN BROWN: So the
21 update on that again for the record is?

22 MS. LANDAU: I just want to
23 make sure I didn't miss anything in the
24 past day or so in Harrisburg.

25 It was voted out of committee

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2 19 to 4.

3 I think the important message
4 of what was said, including the message
5 that's coming from the Police Department
6 today, is that this is a great step for
7 Philadelphia, but absolutely Pennsylvania
8 has to right their wrong and fix that law
9 for the entire Commonwealth. We don't
10 want to be -- we don't want to have
11 anybody worried about what they're
12 charging people with, how they're
13 arresting people or how we're prosecuting
14 cases here in Philadelphia. We in
15 Philadelphia always know we want to do
16 the right thing that is equal and that is
17 just, and the state has to follow our
18 lead. They absolutely must enact this
19 law.

20 COUNCILWOMAN BROWN: Okay.
21 Lastly, prior to this incident, does the
22 Police Department or has the Human
23 Relations Commission kept records, kept
24 data about these type of incidents?

25 CAPTAIN HEALY: Yeah. We

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2 capture quite a bit of data on the coding
3 and how things are coded. So how things
4 are charged and coded I could probably --
5 I don't have the data right now.

6 COUNCILWOMAN BROWN: I wouldn't
7 expect you to have it today. I was just
8 curious.

9 CAPTAIN HEALY: I'm sure I
10 could research it.

11 COUNCILWOMAN BROWN: Okay. To
12 know what the current world looks like
13 and what we hope to see differently going
14 forward.

15 CAPTAIN HEALY: Well, one
16 caveat, we haven't charged it because
17 it's not on the books, so it's hard to
18 measure something that we haven't
19 captured yet.

20 COUNCILWOMAN BROWN: Sure.

21 CAPTAIN HEALY: But this is
22 absolutely -- I fully believe in this. I
23 support it 100 percent. Regrettably, it
24 shouldn't -- no disrespect to this
25 Council. This should not be an issue for

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2 you to have to address. This should have
3 been done and should have stayed on the
4 books in Harrisburg, because this covers
5 not just the gay, lesbian, and
6 transgender community, it also covers
7 disabilities. And I have a personal
8 issue with the disabilities as well as
9 people being victimized because they're
10 gay or lesbian. So this is something
11 very personal, like I said, but it should
12 be done at the proper forum so not just
13 Philadelphia gay, lesbians, and
14 transgenders are protected, but across
15 the state, I believe, and support that as
16 well.

17 COUNCILWOMAN BROWN: Agreed.
18 And the good news is that when for
19 whatever reason the Commonwealth does not
20 act in a way that we believe they could
21 for protection of citizens in
22 Philadelphia, we'll act.

23 CAPTAIN HEALY: Right.

24 COUNCILWOMAN BROWN: Thank you
25 for your testimony.

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2 Thank you, Mr. Chairman.

3 COUNCILMAN JONES: Thank you
4 for your comments.

5 Councilman Squilla.

6 COUNCILMAN SQUILLA: Thank you,
7 Mr. Chairman.

8 One last thing to follow up.

9 Obviously I believe from this incident --
10 and sometimes an unfortunate incident
11 will lead to a positive resolution, and I
12 think Harrisburg, even though it takes
13 them a long time to do things, I think
14 they will do the right thing here and
15 actually pass the hate crimes bill for
16 this case.

17 But when we actually now --
18 once hopefully this is passed and you
19 guys figure out the details of how to
20 charge and arrest a person who commits
21 this type of crime, is it then at that
22 point where the courts will take over and
23 then be able to assess this as a hate
24 crime?

25 CAPTAIN HEALY: Well, the facts

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2 and circumstances -- we would present
3 probable cause of the underlying offense,
4 the assault, homicide, or whatever it may
5 be, and then the probable cause
6 associated, whether or not it was a
7 hate-related crime, and submit that
8 information to the DA's Office for
9 charging. So they would be charged with
10 the additional crime of -- I forget the
11 actual definition or the title in the
12 state code, but they would be charged in
13 addition to the assault and homicide, the
14 simple assault with that crime as well,
15 and then it would have a corresponding
16 additional penalty in addition to the
17 simple assault. If it's a simple assault
18 predicated upon hate, then you have
19 the -- I'm just making this up at this
20 point. You'd have a misdemeanor for the
21 assault and then you have a
22 corresponding, usually one grade higher,
23 of a misdemeanor for the hate crime. So
24 they'd be serving potentially more jail
25 time or more penalties.

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2 COUNCILMAN SQUILLA: Okay.

3 Great. I think that's the intent and I
4 think that's what we want to do here on
5 Council. So I appreciate your help on
6 this matter and obviously Rue and Gloria
7 and everybody else who helped. It's
8 something that -- it's a shame we do have
9 to do it this time and day, but we all
10 are here together to stand together for
11 it.

12 CAPTAIN HEALY: Just one final
13 comment. The State Legislature did the
14 right thing. They put it in. It was
15 passed. It was a technical mistake on
16 how it was passed. So the State
17 Legislature has acted on this, so I don't
18 believe they're adverse to this issue or
19 the subject matter. It was a technical
20 error on how it was actually approved,
21 and I don't see -- like I said, we'll
22 push as hard as we can from the Police
23 Department's perspective, but this is
24 something that just needs to be there,
25 period.

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2 COUNCILMAN JONES: Councilman.

3 COUNCILMAN KENNEY: It was
4 stripped out by a judge, right?

5 CAPTAIN HEALY: Yeah. Because
6 the way it was initially introduced, it
7 was attached to another piece of
8 legislation, which was later ruled that's
9 not the proper format.

10 COUNCILMAN KENNEY: But a judge
11 made the determination, not anyone in the
12 Legislature?

13 CAPTAIN HEALY: Right. No, no,
14 no. The Legislature passed it and it was
15 law and a certain individual sued and
16 said it was passed inappropriately and
17 the courts sided with him.

18 COUNCILMAN O'BRIEN: Probably
19 the single-subject rule.

20 COUNCILMAN JONES: So in plain
21 speak, in plain speak, your concern at
22 this level is that we don't supersede
23 what the state's criminal code does.

24 CAPTAIN HEALY: Well, in a
25 nutshell, I don't want to charge the

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2 person for the same incident in two
3 different forums. If he's going to go to
4 court here on the right-hand side, I
5 don't want to then somehow give him a
6 code violation notice on the left side,
7 because they have to be merged. If you
8 do them separately, once it's tried in
9 one forum, you're barred from trying it
10 in a second. So if -- I can talk about
11 attorneys, because I am one. A smart
12 attorney would rush that accused
13 individual and have the City code
14 adjudicated. The sooner you get that
15 adjudicated, you could potentially bar
16 the prosecution for the more serious
17 offenses. So we're not going to let that
18 happen, I'm going to tell you that right
19 now.

20 COUNCILMAN JONES: I don't want
21 to get too deep in the weeds, but the
22 burden of proof in other hate crimes --
23 and I don't know the legalities of it --
24 when does a simple robbery then become a
25 hate crime?

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2 CAPTAIN HEALY: The burden of
3 proof is upon the Commonwealth to prove
4 beyond a reasonable doubt that the
5 individual that was involved was premised
6 upon hatred or other. There's evidence.
7 We do the investigation based on
8 statements made, graffiti made. So it's
9 a whole --

10 COUNCILMAN JONES: So there is
11 a burden of proof that --

12 CAPTAIN HEALY: We have the
13 burden of proof to prove guilt, yes.

14 COUNCILMAN JONES: You have to
15 prove intent. I got it. All right.

16 Are there any other questions
17 for this panel?

18 (No response.)

19 COUNCILMAN JONES: Thank you so
20 much for your testimony.

21 MS. LANDAU: Thank you. Thanks
22 for having us.

23 COUNCILMAN JONES: Ms. Graham.

24 THE CLERK: Jordan Gwendolyn
25 Davis, Michael Hinson, Thomas Earle.

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2 (Witnesses approached witness
3 table.)

4 COUNCILMAN JONES: Thank you
5 for your patience. Please be seated,
6 pull the microphone to you, and if you
7 would state your name for the record, in
8 whatever order you're comfortable, and
9 begin your testimony.

10 MS. DAVIS: Jordan Gwendolyn
11 Davis, transgender activist and former
12 Philadelphia city resident.

13 I kind of am the trifecta here,
14 because I am lesbian, disabled, and
15 transgender. And I would like to thank
16 City Council for being proactive once
17 again when our Commonwealth decides to
18 say no to us, this time with Bill 140720.

19 Just recently I moved to
20 Montgomery County after three years of
21 living in Philadelphia. I had been doing
22 a lot of legislative policy activism
23 around transgender rights, as you all
24 know, but the hate violence I've
25 experienced throughout my time living

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2 here have made me have to pull up the
3 stakes and move to the suburbs.

4 While I was living in
5 Philadelphia, I've been punched, kicked,
6 choked, body slammed, chased, dragged,
7 sexually harassed, and beaten while my
8 attackers screamed epithets like faggot,
9 dike, tranny, and retard. These
10 incidents were so common, it would take a
11 long time to describe them all, but here
12 are a few examples.

13 My first Saturday in the City
14 back in early 2011, I was walking past
15 the west face of City Hall and was chased
16 by youth screaming faggot at me, which
17 led to one of them punching me in the
18 face. This was the culmination of a half
19 a week of continued verbal harassment
20 that I had never experienced anywhere
21 else in my life. But the one incident
22 that made me decide to leave was back in
23 July of this year when I was homeless. I
24 was riding SEPTA's 17 bus through South
25 Philly and Center City late at night when

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2 one woman took issue with me riding the
3 bus. She then started screaming at me to
4 get off, saying we don't want people like
5 you around here, and although she wasn't
6 specific, I knew in my heart it was
7 because I was transgender.

8 When the bus was near the west
9 face of City Hall where I was attacked
10 three years before, she tried to forcibly
11 drag me off the bus. This resulted in a
12 tense and sleep-deprived conversation
13 with SEPTA police and has affected my
14 mental health so much that I almost
15 became mute, started feeling physically
16 ill, and even almost ended it all a few
17 days later.

18 I couldn't take it anymore, so
19 I decided to move to Montgomery County,
20 where I haven't experienced nearly as
21 much hate violence and am slowly putting
22 my life back together. I want to not
23 feel endangered when walking through the
24 City, and although we can't always change
25 what happens as people do bad things, we

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2 can change what happens next when a hate
3 crime occurs, and this legislation will
4 change what happens next and be a
5 deterrent.

6 I would just like to state in
7 closing that if such state legislators as
8 Mike Turzai, Sam Smith, Stewart
9 Greenleaf, Dominic Pileggi, and Joe
10 Scarnati had to walk even a quarter of a
11 mile in my flats, things would get done
12 in a second when it comes to LGBT rights
13 at the state level and we wouldn't have
14 to have this conversation in City Hall.
15 But I thank Jim Kenney and Blondell
16 Reynolds Brown, two people who I've had a
17 good working relationship with, for
18 pushing this legislation, and thanks to
19 the Public Safety Committee for accepting
20 this testimony.

21 COUNCILMAN JONES: Thank you,
22 and on behalf of our city, I hope you,
23 after we get done this legislation,
24 decide to move back.

25 MS. DAVIS: Thank you.

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2 COUNCILMAN JONES: All right?

3 Thank you, sir.

4 MR. EARLE: Good afternoon,
5 members of City Council, Councilman and
6 Committee Chair Curtis Jones and the rest
7 of the members of the Council Public
8 Safety Committee. My name is Thomas
9 Earle. I am the current Chairperson of
10 the Philadelphia Commission on Human
11 Relations and also the President and CEO
12 of Liberty Resources, which is the Center
13 for Independent Living, that serves and
14 works with people with disabilities of
15 all age and disability throughout
16 Philadelphia County.

17 We are one of several
18 organizations focused on empowering
19 people with disabilities and advocating
20 for and promoting independent living. We
21 work to ensure civil rights and equal
22 access for all aspects of life for people
23 with disabilities to live in the
24 community.

25 I'd like to highlight our

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2 current disappointment that a committee
3 hearing like this that involves an
4 ordinance that impacts people with
5 disabilities was not prepared to have a
6 sign language interpreter present. There
7 are folks in the audience who are deaf,
8 as well as the reality, sadly, that some
9 deaf people are in fact the victims of
10 violence and harassment that is the
11 subject of this hearing. And I thank, I
12 believe, one of the staff people for
13 pinch-hitting on the spot and serving
14 that function for Mr. Harry Barnum.

15 Chief among our goals as the
16 Center for Independent Living is to
17 protect people with disabilities from
18 acts of bullying, harassment,
19 intimidation, and violence. For these
20 reasons, the Philadelphia Commission on
21 Human Relations, Liberty Resources, and
22 Disabled in Action of Pennsylvania
23 strongly support the amendment of the
24 City ethnic intimidation ordinance to add
25 protections for lesbian, gay, and

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2 bisexual, transgender populations, as
3 well as gender identity and people with
4 disabilities.

5 Nationwide, people with
6 disabilities fell victim to some 1.3
7 million non-fatal acts of violence in
8 2012, according to the U.S. Department of
9 Justice. Scarier still, the rate of
10 violent crimes against people with
11 disabilities is almost three times higher
12 than that of those without disabilities.

13 And just briefly pausing to
14 Councilwoman Blondell Reynolds Brown's
15 question about statistics, we are
16 beginning to track some statistics in the
17 City of Philadelphia. The Bureau of
18 Autism Services has for the past several
19 months been doing a correlation between
20 people who are victims of crimes and
21 whether those victims receive autism
22 services through the Bureau to sort of
23 reconcile who might be a person with an
24 autism who has been victimized. Also,
25 the Temple University Institute on

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2 Disabilities has a program director that
3 has been tracking some of the acts of
4 violence against people with disabilities
5 as well. So these could be two future
6 resources for our city.

7 For serious violent crimes such
8 as sexual assault, robbery, and
9 aggravated assault, the rate is nearly
10 four times higher than among those
11 without disabilities. These are people
12 with hearing, vision, cognitive, and
13 ambulatory conditions and deafness and
14 hard of hearing, and they are not a small
15 population. Some one in seven people
16 living in this country age 12 or older
17 has one or more disabilities, according
18 to the U.S. Census Bureau.

19 In Pennsylvania and in
20 Philadelphia, some one in three
21 households has a member with a
22 disability. While still a fraction of
23 all hate crimes reported in the U.S., the
24 Leadership Council on Civil and Human
25 Rights rightly noted a steady and

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2 unfortunate uptick in attacks against the
3 disabled this past decade.

4 Disability-based hate crimes reporting
5 remains under-collected for a variety of
6 reasons, whether due to reliance on the
7 assailant or failure by a caregiver or
8 third party to report the crime. There
9 is a difference between abuse and a hate
10 crime, but without a solid law, whether
11 it be a City ordinance or a parallel
12 state law legislation, as previously
13 mentioned by the prior panel, on the
14 books to give someone some reason to
15 pursue just remedies, many in an already
16 vulnerable population fall through the
17 cracks and shadows. This is wrong and
18 could easily be corrected.

19 Without a doubt, much like we
20 rally to seek justice for Nizah Morris, a
21 transgender woman and 2002 homicide
22 victim, we are also equally appalled by
23 last spring's rape and murder of
24 Christina Sankey, a 37-year-old autistic
25 woman, and most recently the stabbing of

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2 Amarilis Morales, a woman with multiple
3 sclerosis who uses a wheelchair and is a
4 consumer of Liberty Resources. She was
5 going to be here today to visit with the
6 Committee, but unfortunately she's
7 hospitalized right now with an illness.
8 Likely they were targeted for who they
9 were and brutally attacked as a result.
10 Should we ever apprehend those
11 responsible for these evil deeds,
12 amplifying the charges with a hate crime
13 charge would only seem just. The hate
14 crimes provision is a means of
15 deterrence, and certainly we want to
16 deter anyone from suffering in such a
17 heartless manner.

18 Earlier this month, Jarrod
19 Tutko, a nine-year-old boy, was neglected
20 and starved to death by his own parents.
21 These tragedies resonate with us for a
22 number of reasons. Perhaps one is that
23 people with disabilities may be easy
24 targets for criminals, but in reality,
25 another reason may be the historic

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2 attitudinal and stereotypical beliefs of
3 many that somehow children and adults
4 with disabilities are less valuable to
5 society than their able-bodied
6 counterparts. These children and adults
7 are our neighbors, our friends, and our
8 family, and together we all make up the
9 diverse fabric of our society in this
10 great City of Philadelphia.

11 We should do all we can to
12 remediate this problem, including this
13 ordinance and, most importantly, pressure
14 our State Legislature to amend the state
15 law.

16 I am not that confident that
17 that's as eminent as it may seem. For
18 years the state Human Relations Act still
19 does not apply to people with
20 transgender, lesbian, bisexual or gay
21 status. This is a shortcoming. It's
22 been -- there have been attempts to amend
23 it, but in Pennsylvania it's currently
24 still allowed to allow employment
25 discrimination, for example, against

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2 people with disabilities under the state
3 Human Relations Act. Fortunately, our
4 city with the Fair Practices Ordinance
5 and enforcement by the Philadelphia
6 Commission on Human Relations is light
7 years ahead of that state statute, and
8 we're proud of that, but we really need
9 to work hard to get that amended.

10 Lastly, although I did not know
11 Gloria Casarez personally, I think she
12 would be here with all of us in spirit
13 and her leadership and supporting the
14 wonderful efforts of Councilwoman
15 Blondell Reynolds Brown and Councilman
16 Kenney, and I hope we continue to see
17 some success here with this ordinance.

18 Thank you very much.

19 COUNCILMAN JONES: Thank you
20 for your testimony, and forgive us for
21 our oversight for not being adequately
22 prepared, but fortunately we have a
23 multi-purpose talented staff that's here
24 to volunteer at a moment's notice.

25 MR. EARLE: Thank you.

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2 COUNCILMAN JONES: Thank you,
3 sir.

4 MR. HINSON: Good afternoon,
5 Chairman Jones and members of the
6 Committee on Public Safety. I would like
7 to offer my testimony in honor of my
8 friend and colleague of 25-plus years,
9 Gloria Casarez.

10 My name is Michael Hinson. I
11 am a former Assistant Managing Director
12 for the City of Philadelphia and the
13 former liaison to LGBT communities in the
14 Street Administration. I am the Founder
15 and former Executive Director of the
16 Colours Organization, a
17 Philadelphia-based social service
18 advocacy organization founded in 1991
19 with a focus on lesbian, gay, bisexual,
20 and transgender people of color. I
21 currently serve as the Director of Policy
22 and Programs for the Center for Black
23 Equity in Washington, DC. Today I am
24 here as a city resident living in the
25 Overbrook section of the City.

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2 I want to thank Councilwoman
3 Blondell Reynolds Brown and Councilman
4 James Kenney for your sponsorship of this
5 very important bill and for the
6 invitation to speak with members of this
7 Committee today.

8 I want to share two brief
9 personal stories with you that reflect my
10 reason for supporting this hearing, this
11 bill, and hopefully soon a law covering
12 hate crimes committed in Philadelphia
13 based on both sexual orientation and
14 gender identity.

15 In 1999, Anthony "Alphy"
16 McCullough, a gifted young dancer who I
17 had an opportunity to mentor while
18 serving as the Executive Director of
19 Colours, was brutally murdered in Center
20 City, and witnesses at the time recalled
21 that the two men responsible were calling
22 Alphy and his friend derogatory names
23 just before one pulled out a gun killing
24 him. Alphy's murder was never solved and
25 it, like others that followed, left

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 gaping holes in our community's faith in
3 public safety and in the hearts of many
4 loved ones.

5 When I served in government, I
6 experienced many high points, but some of
7 them were also very challenging. One of
8 the challenging points came when I was
9 living in the Fairmount section of the
10 City. I was harassed by a group of young
11 neighborhood men insisting on calling me
12 derogatory names after seeing me on
13 television speaking about LGBT issues
14 related to my job. After one of these
15 incidents, a neighbor witnessed the young
16 men setting a flame to my door while
17 filming it to music. At the time, I had
18 parental rights for my teenage niece, who
19 came to live with me from South Carolina.
20 I remember questioning myself about
21 whether I should send her back to South
22 Carolina because I didn't want anything
23 to happen to her. But I decided to
24 continue my authentic self and hold true
25 to my values as they had been taught to

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 me and as I now had the responsibility to
3 teach to her. Luckily for me and my
4 niece, we were both physically unharmed
5 and the damage to the door was minimal.

6 I spoke with the parents of one
7 of the young men and I spoke directly
8 with the other young man. We were able
9 to resolve the issue, but the incident
10 could have easily been a headline in the
11 news like that of the two young men who
12 were recently beaten in Center City
13 because of their sexual orientation and
14 questions would have lingered about
15 whether or not it was a hate crime.

16 One of the high points of my
17 public service was in 2002 working with
18 members of Council to draft and pass
19 legislation that changed the Fair
20 Practices Ordinance to offer protections
21 against discrimination for transgender
22 communities based on gender identity and
23 expression. At the time, there were only
24 two states, eight counties, and 34 cities
25 in the United States with laws

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 prohibiting discrimination on the basis
3 of gender identity or expression. Today,
4 16 states and the District of Columbia
5 and 143 cities across the nation have
6 laws covering gender identity. I mention
7 this because at the time, there were some
8 who thought that our priorities were
9 straight. There were some who questioned
10 legalities. But Council, in partnership
11 with its constituents, led the region on
12 this issue and indeed our country.

13 Once again, like you did in
14 1982 when you added sexual orientation to
15 the Fair Practices Ordinance, like you
16 did in 2002 adding gender identity
17 protections, and like you did in 2013
18 further expanding protections and
19 opportunities for members of our LGBT
20 communities, you are once again called to
21 lead the region, the state, and the state
22 of mind of many in our communities, and I
23 urge you to speak definitively that such
24 crimes cannot and will not be tolerated
25 in Philadelphia and that our public

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 safety systems will have the
3 comprehensive policies and resources it
4 needs to deter such crimes and protect
5 all Philadelphians.

6 Thank you.

7 COUNCILMAN JONES: Thank you so
8 much for your testimony.

9 Are there any questions for
10 this panel?

11 (No response.)

12 COUNCILMAN JONES: Well, let me
13 say on behalf of the City, again, I
14 apologize for the mistreatment that you
15 faced and you and your niece. I am glad
16 that you moved to Overbrook, however,
17 which is in my district. So you are
18 welcomed there.

19 We're going to get you back in
20 the City too, God willing.

21 Thank you for your testimony.

22 (Thank you.)

23 COUNCILMAN JONES: Ms. Graham.

24 THE CLERK: Charles Horton and
25 Joseph LaPenta.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 (Witnesses approached witness
3 table.)

4 MR. HORTON: Good afternoon,
5 Councilman Jones, Councilman Squilla,
6 Councilman Kenney, Councilman Johnson,
7 Councilman O'Brien, Councilwoman Reynolds
8 Brown. My name is Charles Horton. I'm
9 the Executive Director for the Mayor's
10 Commission on People with Disabilities
11 for the City of Philadelphia, and let me
12 start off by thanking you for this
13 opportunity to be here to testify in
14 support of Bill No. 140720 as it is known
15 as the Hate Crimes Ordinance.

16 As you may know, the Mayor's
17 Commission on People with Disabilities
18 was formally established by City Council
19 to provide a forum for the community of
20 people with disabilities to express its
21 interest and opinions on City programs
22 and services. It seeks to bring positive
23 visibility to people with disabilities.
24 The Mayor's Commission on People with
25 Disabilities partners with all City

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 departments to ensure City compliance
3 with the Americans with Disabilities Act
4 and the Fair Housing Act and other City
5 laws that govern the relationship of
6 people with disabilities.

7 The Commission strives to make
8 sure that Philadelphia's citizens with
9 disabilities are afforded the same rights
10 as all other citizens. It is in this
11 vein that I come before you today.

12 The events back on September
13 11th have shed a light on the fact that
14 hate crimes exist. In many of these
15 incidents, ignorance has gone hand in
16 hand with hate, creating a public menace.
17 The Hate Crime Ordinance will help
18 reinforce the rights of citizens with
19 disabilities, individuals in the LGBT
20 community, and all citizens in the City
21 of Philadelphia.

22 There are three key points that
23 I really want to talk about today, and,
24 that is, the community of people with
25 disabilities are in all communities. We

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 are a part of the LGBT community. We are
3 all races, all religions, and all
4 genders. So it is very important that
5 we -- when thinking about our community,
6 that you incorporate everything and make
7 sure that you include the community of
8 people with disabilities.

9 Also, there is a vulnerability
10 aspect, that people with disabilities are
11 more vulnerable and can be more subjected
12 and focused on to be victimized by an
13 abuser. So it is very key that when
14 creating bills and things like that, that
15 you think about the vulnerability of our
16 community.

17 Also, we have to increase
18 inclusion, and that is in programs and
19 services and communication; that when
20 bills are created, when programs and
21 services are created, to make sure that
22 you open the line of communication; that
23 it touches the different communities as
24 the deaf and hard-of-hearing community,
25 as the blind community so that you create

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 services and forms of communication that
3 you include and that we know what's going
4 on.

5 So it's in that reason that --
6 there is a reason that Philadelphia is
7 called the City of Brotherly Love and
8 Sisterly Love. All are welcome and all
9 are loved equally, legislatively as equal
10 under the eyes of the law and should be
11 treated as such by all citizens and
12 visitors to our great city.

13 I thank you for this
14 opportunity to testify in front of you.
15 Thank you.

16 COUNCILMAN JONES: Well said,
17 sir. Well said.

18 Thank you and please begin your
19 testimony. State your name for the
20 record.

21 MR. LaPENTA: Good afternoon.
22 My name is Joseph LaPenta. I am a proud
23 lifelong Philadelphian.

24 When Baptist Minister Francis
25 Bellamy wrote the original Pledge of

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 Allegiance in August 1892, his concluding
3 phrase was, quote, "with liberty and
4 justice for all," end quote. Though it
5 has undergone a couple revisions since
6 then, these words have stood the test of
7 time by remaining in it to this day.

8 Who would be audacious enough
9 to challenge these words? Yet, 122 years
10 later, lesbians, gays, bisexuals, and
11 transgenders are denied this tenet. It
12 is unconscionable that in the status quo,
13 lawmakers vacillate in passing the LGBT
14 Hate Crimes Law despite being better
15 educated than ever on this issue.

16 Too many of us have lived from
17 childhood well into our adult years by
18 suppressing our self-identity for fear of
19 becoming targets by the actions of
20 hatemongers.

21 Too many of our LGBT youth are
22 harming themselves, including suicide,
23 because they are unable to cope with the
24 pressures that living this lifestyle
25 brings. Passing the LGBT Hate Crimes Law

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 to protect them from such horrifying
3 consequences is an available tool we
4 cannot disregard.

5 It is unfortunate that a
6 significant segment of today's society
7 continues and will continue in the future
8 to taunt and to bring harm to LGBTs, as
9 we have witnessed as recently as several
10 weeks ago, and that this law is necessary
11 to protect us.

12 I urge every lawmaker to
13 support the passing of the LGBT Hate
14 Crimes Law. It is way overdue.

15 To City Council members
16 Blondell Reynolds Brown and James Kenney,
17 I salute you. By enacting this
18 legislation, carrying out your civil duty
19 and working to bring fruition to the will
20 of your constituency, you exemplify
21 humanity and integrity.

22 I am grateful for the
23 opportunity to have expressed my feelings
24 in this esteemed forum.

25 COUNCILMAN JONES: Thank you so

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 much.

3 Are there any questions at this
4 time?

5 COUNCILWOMAN BROWN: Just a
6 comment.

7 COUNCILMAN JONES:
8 Councilwoman.

9 COUNCILWOMAN BROWN: Let me
10 seize the moment to thank everyone for
11 their testimony. One thing about this
12 process is that, A, it never gets old
13 and, B, there are always teachable
14 moments. So to the members of the
15 disability community, as much as we --
16 well, let me speak for Blondell. As much
17 as I think that I've remained not only
18 enlightened but sensitive to the
19 challenges faced by this community, I've
20 learned another lesson today, and one
21 thing is for certain and two for sure,
22 there are not too many mistakes I make
23 twice. So know going forward we will be
24 more sensitive to that very issue that
25 was raised by the members of the

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 disability community. Thank you very
3 much.

4 Thank you, Mr. Chairman.

5 COUNCILMAN JONES: And thank
6 you.

7 Councilman Johnson.

8 COUNCILMAN JOHNSON: I just
9 want to thank my two colleagues,
10 Councilwoman Blondell Reynolds Brown and
11 Councilman Jim Kenney, for bringing this
12 legislation to the body and really taking
13 action on a most critical and serious
14 issue. And so I just thank both of you
15 for your leadership, and definitely we're
16 going to move forward progressively as a
17 city. Any acts of discrimination should
18 never be tolerated, period. And so thank
19 the two of you for bringing this issue to
20 the forefront.

21 COUNCILMAN JONES: Well said,
22 and that reflects the feelings of the
23 Chair.

24 So are there any other
25 questions for this panel?

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 (No response.)

3 COUNCILMAN JONES: Seeing none,
4 thank you for your testimony.

5 Are there any other witnesses
6 to testify on this bill?

7 (No response.)

8 COUNCILMAN JONES: Seeing none,
9 this now concludes our public hearing and
10 we will now begin our public meeting.

11 I'm going to call on my Vice
12 Chair, Councilman Henon, for a motion to
13 amend Bill No. 140637.

14 COUNCILMAN HENON: Thank you,
15 Mr. Chairman. I offer an amendment to
16 Bill No. 140637. A copy of the
17 amendments have been circulated to all
18 members of this Committee. I move that
19 the amendment of Bill No. 140637 be
20 approved.

21 (Duly seconded.)

22 COUNCILMAN JONES: It has been
23 moved and properly seconded that the
24 amendments to Bill No. 140637 be
25 approved.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 All those in favor will motion
3 by signifying by saying aye.

4 (Aye.)

5 COUNCILMAN JONES: All those
6 opposed?

7 (No response.)

8 COUNCILMAN JONES: The ayes
9 have it, and the amendment to Bill No.
10 140637 has been approved.

11 The Chair again recognizes
12 Councilman Henon for a motion on Bill No.
13 140637.

14 COUNCILMAN HENON: Thank you,
15 Mr. Chairman. I move that Bill No.
16 140637, as amended, be reported from this
17 Committee with a favorable recommendation
18 and further move that the rules of
19 Council be suspended to permit first
20 reading of this bill at the next Council
21 session.

22 COUNCILMAN JONES: Is there a
23 second?

24 (Duly seconded.)

25 COUNCILMAN JONES: It has been

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 moved and properly seconded that Bill No.
3 140637, as amended, be reported from this
4 Committee with a favorable recommendation
5 and further moved that the rules of
6 Council be suspended to permit first
7 reading of this bill at our next session
8 of Council.

9 All those in favor will motion
10 by saying aye.

11 (Aye.)

12 COUNCILMAN JONES: All those
13 opposed?

14 (No response.)

15 COUNCILMAN JONES: The ayes
16 have it. The motion carries. Bill No.
17 140637 has been amended and reported from
18 this Committee with a favorable
19 recommendation with a request that the
20 rules of Council be suspended to permit
21 first reading at our next session of
22 Council.

23 The Chair again recognizes
24 Councilman Henon for a motion to amend
25 Bill No. 140718.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 COUNCILMAN HENON: Thank you,
3 Mr. Chairman. I offer an amendment to
4 Bill No. 140718. A copy of the amendment
5 has been circulated to all members of the
6 Committee and I move that the amendment
7 to Bill No. 140718 be approved.

8 (Duly seconded.)

9 COUNCILMAN JONES: It has been
10 moved and properly seconded that the
11 amendment to Bill No. 140718 be approved.

12 All those in favor will signify
13 by saying aye.

14 (Aye.)

15 COUNCILMAN JONES: All those
16 opposed?

17 (No response.)

18 COUNCILMAN JONES: The ayes
19 have it and the motion carries, and the
20 amendment to Bill No. 140718 has been
21 approved.

22 The Chair again recognizes
23 Councilmember Henon for a motion on Bill
24 No. 140718, as amended.

25 COUNCILMAN HENON: Thank you,

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 Mr. Chairman. I move that Bill No.
3 140718, as amended, be reported from this
4 Committee with a favorable recommendation
5 and further move that the rules of
6 Council be suspended to permit first
7 reading of this bill at our next Council
8 session.

9 (Duly seconded.)

10 COUNCILMAN JONES: It has been
11 moved and properly seconded that Bill No.
12 140718, as amended, be reported from this
13 Committee with a favorable recommendation
14 and further moved that the rules of
15 Council be suspended to permit first
16 reading of this bill at our next session
17 of Council.

18 All those in favor will say
19 aye.

20 (Aye.)

21 COUNCILMAN JONES: All those
22 opposed?

23 (No response.)

24 COUNCILMAN JONES: The ayes
25 have it, the motion carries, and Bill No.

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 140718, as amended, will be reported from
3 this Committee with a favorable
4 recommendation with a further
5 recommendation requested that the rules
6 of Council be suspended to permit first
7 reading at our next session of Council.

8 The Chair again recognizes
9 Councilman Henon for a motion on Bill No.
10 140720.

11 COUNCILMAN HENON: Thank you,
12 Mr. Chairman. I offer an amendment to
13 Bill No. 140720. A copy of the amendment
14 has been circulated to all members of the
15 Committee and I move that the amendment
16 to Bill No. 140720 be approved.

17 (Duly seconded.)

18 COUNCILMAN JONES: It has been
19 moved and properly seconded that the
20 amendment to Bill No. 140720 be approved.

21 All those in favor will signify
22 by saying aye.

23 (Aye.)

24 COUNCILMAN JONES: All those
25 opposed?

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.

2 (No response.)

3 COUNCILMAN JONES: The ayes
4 have it and the motion carries, and the
5 amendment to Bill No. 140720 has been
6 approved.

7 The Chair again recognizes
8 Councilman Henon for a motion on Bill No.
9 140720, as amended.

10 COUNCILMAN HENON: Thank you,
11 Mr. Chairman. I move that Bill No.
12 140720, as amended, be reported from this
13 Committee with a favorable recommendation
14 and further move that the rules of
15 Council be suspended to permit first
16 reading of this bill at our next City
17 Council session.

18 (Duly seconded.)

19 COUNCILMAN JONES: It has been
20 moved and properly seconded that Bill No.
21 140720, as amended, be reported from this
22 Committee with a favorable recommendation
23 and further moved that the rules of
24 Council be suspended to permit first
25 reading of this bill at our next session

1 10/21/14 - PUBLIC SAFETY - BILL 140637, etc.
2 of Council.

3 All those in favor say aye.

4 (Aye.)

5 COUNCILMAN JONES: All those
6 opposed?

7 (No response.)

8 COUNCILMAN JONES: The ayes
9 have it and the motion carries. Bill No.
10 140720, as amended, will be reported from
11 this Committee with a favorable
12 recommendation and with a request that
13 the rules of Council be suspended to
14 permit first reading at our next session
15 of Council.

16 This concludes the business of
17 this Committee for today. Thank you all
18 so very much.

19 (Committee on Public Safety
20 concluded at 3:55 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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

A abbreviate 53:4 ability 10:20 18:2 19:16 78:5 79:13 88:13 able 10:10 11:2 11:19 12:10,12 13:21 36:9 42:6 98:23 119:8 able-bodied 114:5 absolutely 41:16 66:11 90:8 95:7 95:18 96:22 abuse 112:9 abuser 124:13 accepting 107:19 access 108:22 accommodations 79:6 accomplish 41:24 accountability 32:22 accountable 5:12 5:14 33:6,8 50:9 81:12 accurately 138:5 accused 73:4 81:10 102:12 acknowledge 82:23 act 45:9 57:14 91:11 97:20,22 114:18 115:3 123:3,4 acted 100:17 action 16:5 24:13 40:25 46:7,13 60:20 81:21 94:5 109:22 129:13 actions 24:23 28:24 55:24 126:19 active 55:5 79:2 activism 104:22 activist 31:16 62:7 104:11	activities 28:23 54:20 activity 1:21 9:7 11:13,21 22:23 54:15,17 55:2 72:15 acts 36:8 82:20 83:11,21 109:18 110:7 111:3 129:17 actual 2:21 5:21 29:18,22 30:2 49:6,7 53:25 56:20 57:2,7 58:21 59:10 83:5 86:3 99:11 add 1:21 8:25 72:16 109:24 added 120:14 adding 53:20 85:22 120:16 addition 60:9 99:13,16 additional 8:25 72:3,17 75:6 91:18 99:10,16 address 4:4 5:6 20:18 22:7,15 72:2 78:13 97:2 addressed 10:18 90:25 addressing 4:11 6:9 7:5,16 adds 75:4 adequately 115:21 adjudicate 91:17 adjudicated 67:25 90:25 102:14,15 adjudication 92:3 Administration 35:2 80:18 116:14 administrative 11:16 admirable 55:8	adult 68:2 126:17 adults 60:2 114:3 114:6 advancing 78:9 advantage 5:8 6:7 7:14 adverse 100:18 Advisor 27:19 53:14 85:15 advocacy 6:9 116:18 advocating 108:19 Affairs 8:16 73:18 affirms 84:17 afford 82:10 afforded 123:9 African 4:16 6:18 49:12 83:2 aftermath 81:3 afternoon 2:3 8:7 8:8,10,18 27:16 53:11 64:17 77:19 85:11 108:4 116:4 122:4 125:21 age 108:15 111:16 agencies 19:17 agency 7:8 69:20 agent 55:6 aggravated 91:2 111:9 aggressive 17:9 49:20 ago 34:16 127:10 agree 26:7 33:3 41:25 45:5 64:18 87:11 Agreed 97:17 agreed-upon 81:17 agreement 26:8 26:13,17 ahead 53:8 115:7 ain't 38:13 66:8 air 19:20 38:10,24 59:2	alarms 25:6 Albert 71:5 alcohol 63:15 alignment 79:16 alike 81:5 alleged 81:7 allegedly 75:20 Allegiance 126:2 allow 11:22 14:22 51:9 76:5 80:8 93:10 114:24 allowed 114:24 allowing 6:6,24 9:25 27:22 73:11 Alphy 117:15,22 Alphy's 117:24 altogether 39:24 Amarilis 113:2 ambulatory 111:13 Amen 71:10 amend 8:24 45:3 114:14,22 130:13 132:24 amended 115:9 131:16 132:3,17 133:24 134:3,12 135:2 136:9,12 136:21 137:10 amending 1:15,18 1:20 2:8,16 28:3 72:13 84:17 amendment 109:23 130:15 130:19 131:9 133:3,4,6,11,20 135:12,13,15,20 136:5 amendments 87:21 88:2,21 130:17,24 amends 27:25 53:18 85:20 American 4:16 6:18 49:12 80:11,17	Americans 123:3 amplifying 113:12 and/or 138:22 anecdotal 82:20 answer 7:9,12 9:14 19:10,15 29:4 56:5 69:21 answers 7:15 Anthony 117:15 anticipated 94:4 anti-gay 75:20 Anton 27:6 34:3 anybody 46:14 47:2 95:11 anymore 106:18 apologize 38:10 121:14 appalled 112:22 apparent 3:15 appeal 11:20 14:5 15:25 16:4,7 17:19 appealed 14:6 appears 64:21 applaud 38:25 Applause 51:20 applicable 88:14 applied 84:14 apply 68:8 114:19 138:20 appreciate 10:2 61:4 70:16,18 100:5 appreciated 55:8 appreciates 54:10 appreciation 78:7 apprehend 113:10 apprehended 73:3 approached 8:4 27:8 30:23 61:22 74:19 77:7 104:2 122:2 approaches 15:16
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