COUNCIL OF THE CITY OF PHILADELPHIA

PUBLIC HEARING BEFORE JOINT COUNCIL COMMITTEES ON

PUBLIC SAFETY AND PUBLIC HEALTH AND HUMAN SERVICES

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Room 696, City Hall
Philadelphia, Pennsylvania
Wednesday, 5/8/02
1:14 p.m.

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RES. 010598 - Authorizing the City Council Committee on Public Health and Human Services and Public Safety to hold a joint committee hearing to continue monitoring and investigating the quality level of medical and mental-health care services that is provided or made accessible to prison inmates under the care of the Philadelphia prison system, and further authorizing the committee to issue subpoenas and such other process as may be appropriate to compel the attendance of witnesses and the production of documents in furtherance of the investigation to the full extent authorized by Section 2-401 of the Home Rule Charter.

PRESENT: Councilman Angel Ortiz, Chair
Councilman David Cohen
Councilwoman Blondell Reynolds Brown
Councilwoman Marion B. Tasco

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INDEX

WITNESS	PAGE
Thomas Costello, Prisons Commissioner.....	6
Margaret Minehart, Medical Director..... Phila. Mental Health, Mental Retardation Svcs.	21
James Duckworth, Esquire, Solicitor's Office...	21
Timothy Gill, Deputy Managing Director.....	24
Dan Winterstein, Policy Analyst..... Office of Mental Health	42
Asia Russell, ACT-UP Philadelphia.....	55
Patrick Scanlon..... Former Philadelphia Prison System Inmate	58
James Pritchard..... Former Philadelphia Prison System Inmate	65
Nina Gorman, Prisoner Health Advocacy Project	69
James Nelson..... Former Philadelphia Prison System Inmate	71
Anthony Hightower..... Former Philadelphia Prison System Inmate	73
PHS REPRESENTATIVES	
Bruce Teal, Chief Operating Officer.....	87
Dr. Richard Helender..... Regional Medical Director, Personnel	87
Dr. Cassandra Newkirk..... Regional Behavioral Health Medical Director	87
Robert Taylor..... Regional Manager for Prison Health Services	88

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

COUNCILMAN ORTIZ: A quorum has been established, hearings now will continue.

Would the clerk read the title of the resolution.

THE CLERK: Authorizing the City Council Committee on Public Health and Human Services and Public Safety to hold a joint committee hearing to continue monitoring and investigating the quality level of medical and mental-health care services that is provided or made accessible to prison inmates under the care of the Philadelphia prison system, and further authorizing the committee to issue subpoenas and such other process as may be appropriate to compel the attendance of witnesses and the production of documents in furtherance of the investigation to the full extent authorized by Section 2-401 of the Home Rule Charter.

COUNCILMAN ORTIZ: Thank you.

This investigation, these hearings, this resolution was begun because of the death of one individual, and officials may not care about that individual's life maybe. He was in jail, so people take a perception of people who are arrested. He had not yet been tried, found guilty of anything.

And a newspaper report about his death while in prison -- not because he was killed but because he was neglected.

Jose Santiago died needlessly. And I began to have hearings because I had questions. That raised questions about the level and quality of care that human beings in our prison systems got and were given.

And ever since we started those hearings, everything I have gotten from them the administration at the prison is that the administration has been stonewalling. No information was forthcoming; in fact, most of the information that we managed to get was through the newspapers.

Bogus excuses were created, one after the other. Privilege for this and privilege for that. Privilege for consultant reports that we paid for, that the taxpayers paid for that were public records. That we have to have a Commonwealth decision saying those are public records.

And, finally, in March, we begin getting the reports. And, finally, I don't know whether to be outraged, I don't know how many people should be

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

indicted, arrested, because a lot of criminal negligence has taken place. And I get this report not from you guys.

If something is happening in the prison system, it is your duty to report it, it is your duty to go after the individuals that neglected to do their job. You're costing us money because every time there's neglect, there's a lawsuit, and hundreds of thousands of dollars are being paid out.

Philadelphia Prison System Internal Affairs Division, to Walter P. Donley, the Warden, he should be fired. Captain Melvin Whitaker, Internal Affairs Division. March 14, 2001. Investigation Case No. 000-0116, alleged staff misconduct, death of inmate Jose Santiago, Prison No., I guess, is 876-63591600. In the medical treatment room at the Curran Fromhold correctional facility.

It's outrageous. I talked to the D.A., I wrote to the D.A., because one of the things that Mr. Whitaker ends up with in his report, he says: "Therefore, the allegation of staff misconduct is sustained. However, due to the complexity of this entire collection of evidence, the investigator has

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

recommend further review by the District Attorney's Office."

So I got this, and I figured Warden Dunlevy and Commissioner Costello got this report and immediately sent it over to the D.A.'s Office, and the D.A.'s Office obviously has not communicated because they're doing an investigation. So I wrote the D.A., and I got a phone call from the D.A.'s Office this morning, I got a call from Hillary Connor calling for Lynne Abraham.

The D.A.'s Office has not received the I.A.D. report as of this date, a report dated March 2001. We're in May 2002. It's a report that says allegations of misconduct are sustained. And we have asked for questions and answers on this.

The District Attorney has not received this. And all away get is, "We're privileged." I'm sorry, you're not privileged; you're negligent.

And then we finally get the report. The Brooming Group, a report by Dr. Robert Greifinger. In a letter dated March 20, 2002, he concludes in his last paragraph -- because I don't blame the contracting company; this is not a failure of the contracting company; they get paid. We should have

people that demand service for the money that the taxpayers are paying to the tune of 27, $28 million a year.

It's the report that we could not get. And he -- in the cover letter, he says, "The progress on a number of key contractual items... " Contractual items, that means the City administration is the overseer and has to be monitoring this contract.

"The progress is slow or stalled. As I mentioned in my previous report, PHS does not have sufficient administrative resources on site to accomplish their task. In addition to key vacancies, there are insufficient budgeted administrative positions."

And he says the company was very helpful in preparing the report. Well, why not, why not. We signed a contract in which if they don't meet the requirements that they're contracted for, there are really no penalties. We get -- the only thing we can say to them is, Can you please fix it. And if you try, you know, next year, we'll renew your $27 million again.

The same company has a contract with New

York. In New York, if the company doesn't perform or was performing given the way Dr. Greifinger reports in his report to the Administration, they would be -- there will be some penalties for it.

I'm telling you, I am -- I don't know -- I am so angry at this point because of the stalling tactics. We've been at this for over a year.

Commissioner Costello, please come to the mic.

(Witness comes forward.)

COMMISSIONER COSTELLO: I'm at the mic, Councilman.

COUNCILMAN ORTIZ: Go ahead, talk to me. Why is this not in the D.A.'s Office?

COMMISSIONER COSTELLO: I cannot discuss that case, Councilman.

COUNCILMAN ORTIZ: I know you cannot discuss this case. Why -- I didn't ask you to discuss it; I asked you, why wasn't it reported? Why is the D.A. saying to me today that they don't have this in their office? This is a year ago.

COMMISSIONER COSTELLO: And you're making the assumption that we did not contact the D.A.'s Office; is that true?

COUNCILMAN ORTIZ: I am not making the assumption. The D.A. said the D.A. has not received the report but will be investigating the matter now.

COMMISSIONER COSTELLO: Maybe I can enlighten you on our procedures, Councilman.

COUNCILMAN ORTIZ: Enlighten me on the procedures that take a year to go to the D.A.'s Office.

COMMISSIONER COSTELLO: Our procedures are -- our procedures are --

COUNCILMAN ORTIZ: And what happens to the staff that was neglectful?

COMMISSIONER COSTELLO: Our procedures are that we contact the District Attorney's Office, and they contact us back. That is the procedures.

COUNCILMAN ORTIZ: You contacted the D.A.'s Office. Your position is you contacted the D.A.'s Office.

COMMISSIONER COSTELLO: We did the D.A.'s Office.

COUNCILMAN ORTIZ: You wrote 'em a letter?

COMMISSIONER COSTELLO: We contacted the D.A.'s Office.

COUNCILMAN ORTIZ: You wrote them a letter, you sent them the report?

COMMISSIONER COSTELLO: We contacted the D.A.'s Office.

COUNCILMAN ORTIZ: What is the nature of the contact?

COMMISSIONER COSTELLO: It was a telephone call.

COUNCILMAN ORTIZ: A telephone call office, you leave a message. Was the machine on or was it the secretary?

COMMISSIONER COSTELLO: I have nothing more to comment on.

COUNCILMAN ORTIZ: Who did you contact? I'm not asking you to comment on the case. Who did you contact at the D.A.'s Office?

COMMISSIONER COSTELLO: The internal affairs contacted an individual at the D.A.'s Office.

COUNCILMAN ORTIZ: Who?

COMMISSIONER COSTELLO: I don't have a name on me.

COUNCILMAN ORTIZ: You got to have a name.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

COMMISSIONER COSTELLO: They were contacted.

COUNCILMAN ORTIZ: You got to have a name.

COMMISSIONER COSTELLO: They were contacted.

COUNCILMAN ORTIZ: You go back and you bring me that individual from the I.A.D. Office here, and you tell me who you contacted in the D.A.'s Office, because they say they have not received it. Why was this not sent? Why, instead of a phone call, do you not pick up a pen or a computer and write a letter and say, Captain Melvin Whitaker has concluded, has concluded, that the allegation of staff misconduct are sustained? Do you disagree with Captain Whitaker?

COMMISSIONER COSTELLO: (No immediate response.)

COUNCILMAN ORTIZ: Yes or no?

COMMISSIONER COSTELLO: (Addressing lawyer from City Solicitor's Office.) You want me to comment on this?

It's active litigation, Councilman, I cannot comment on it.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

COUNCILMAN ORTIZ: Do you disagree with Captain Whitaker?

COMMISSIONER COSTELLO: Councilman, I cannot --

COUNCILMAN ORTIZ: Why did you not send this to the D.A.? Why did you not write a letter? Why didn't you make a phone call when somebody dies? You make a phone call.

COMMISSIONER COSTELLO: I said that was the --

COUNCILMAN ORTIZ: You don't write a report and send it to the D.A. as (indiscernible) like this?

COMMISSIONER COSTELLO: That's the first step, Councilman.

COUNCILMAN ORTIZ: A year ago. You didn't call back, you didn't call back. You said, Hey, we contacted you. You didn't call Lynne Abraham, you don't have Lynne Abraham's phone number. You say, Lynn, my people have contacted your people, and we made a phone call and you have not returned my phone call.

I have this report, I have this report that, in essence, establishes criminal negligence on

the part of your staff. A year, more than a year. March. It's May.

A phone call?

COMMISSIONER COSTELLO: That's the first step, Councilman.

COUNCILMAN ORTIZ: But it's a year.

COMMISSIONER COSTELLO: The phone call took place --

COUNCILMAN ORTIZ: How long does it take to take the second step? When did you take the second step?

COMMISSIONER COSTELLO: The second step is on the part of the District Attorney's Office.

COUNCILMAN ORTIZ: Oh, she didn't answer your phone call, so you wait. You make one little phone call to somebody that you don't know who it is, and you don't get a return, and then you wait for over a year.

This is ridiculous. It's incompetent.

First step, first step. A person dies who was just merely arrested because of negligence of the staff, and you take the first step to the D.A.'s Office a year ago -- more than a year ago with a phone call? You don't put it down in writing

that you have a report from your staff?

COMMISSIONER COSTELLO: That was the first step, Councilman.

COUNCILMAN ORTIZ: You keep saying that. When are you taking the second? What is this, "Simon Says"?

I find you totally incredulous, disingenuous. And if you expect us to just sit here and say that is it...

Deaths are occurring in your system, sir. Somebody was killed just the other day. Deaths are occurring in your system; too many deaths are occurring in your system.

I want the name of the person that was contacted in the D.A.'s Office, I want to know who made the phone call. I don't want you to give me details about something in litigation. I know this is going to cost us a lot of money. You're costing the taxpayers of this City, besides having a system that's in place that Dr. Greifinger finds lacking, and after months and reports after reports, still does not come up to the quality that we should be paying -- that we are paying for, you have people that are dying, that haven't been convicted. Too

many of them.

You got a staff that just doesn't take care of business, and if they don't take care of business, there's no supervision.

And you say you took the first step, you made a phone call a year ago. That's ridiculous.

A person dies under your care, the family suffers. He vomits, he's forced to drink toilet water. He's neglected for over 24 hours. And you can only make a phone call to the D.A.

COMMISSIONER COSTELLO: We didn't just make a phone call, Councilman.

COUNCILMAN ORTIZ: Did you fire anybody, by the way?

COMMISSIONER COSTELLO: There was a complete investigation --

COUNCILMAN ORTIZ: There was, I know.

COMMISSIONER COSTELLO: -- into the matter --

COUNCILMAN ORTIZ: There was a complete investigation.

COMMISSIONER COSTELLO: -- including the police, the Medical Examiner's Office. It wasn't just a phone call; there was a lot of work on this

particular case.

COUNCILMAN ORTIZ: Was the investigation given over to the D.A.? Did you find that the nature of the investigation deserved to be sent over to the D.A.? Obviously, you didn't; you just made a phone call.

Was anyone suspended at least? Was anyone reprimanded? Was a letter written into the record?

(Commissioner Costello confers off the record with City Solicitor attorney.)

COMMISSIONER COSTELLO: I've been advised not to answer anything.

COUNCILMAN ORTIZ: Of course not, of course not, of course not, because let me tell you something, you're going to answer now or you're going to answer in court. And it's going to cost us money.

We can't afford to keep paying this type of money, not when the kids are out there picketing about the public school system, when we don't have enough money for books and so on.

I want the name. I want to know what

you did with this investigation, why the D.A. is not involved. Why do I receive a phone call this morning from the D.A.'s Office that says, We have not received that report? Why is this report not in her office?

You have an excuse for that: You made a phone call and you didn't get an answer back. But you didn't sit and down write her a letter saying, "I am forwarding this report, and my captain, my investigation unit has recommended that it be reviewed by the District Attorney's Office."

You didn't do that, did you? You made a phone call.

COMMISSIONER COSTELLO: The Captain contacted the District Attorney.

COUNCILMAN ORTIZ: You made a phone call; you didn't send the report over. You just made a phone call.

COMMISSIONER COSTELLO: They were contacted.

COUNCILMAN ORTIZ: They were contacted by phone, but you did not forward the report, did you?

COMMISSIONER COSTELLO: They were

contacted.

COUNCILMAN ORTIZ: You did not forward the report. That's not in litigation, by the way; you can answer that. You did not forward the report. That will not impact the litigation. You did not forward the report; you just -- in fact, you didn't make the phone call. Captain Whitaker was -- at least he recommended it to the warden; it's the warden that should have done it.

It's not the captain's duty to do this; he's recommending that the warden pass this on. It's not the captain's job; it's the warden and your job to make sure that this report got to the D.A.

COUNCILWOMAN REYNOLDS BROWN: Councilman Ortiz?

COUNCILMAN ORTIZ: Yes, ma'am, councilwoman Blondell Reynolds.

COUNCILWOMAN REYNOLDS BROWN: Good afternoon.

As a procedural matter, what happens procedurally when an employee, or one of your staff members, has not followed standard operating procedure? What happens under normal circumstances?

COMMISSIONER COSTELLO: Procedurally,

there's an investigation completed by the facilities. If there is a -- on certain matters, on certain reporting incidents, it's referred to the Internal Affairs Division by the warden. The warden refers it to I.A.D., I.A.D. conducts the investigation.

And they -- after completing their investigation, they bring charges against the individual, clear them, or they may contact the District Attorney's Office for any further action.

COUNCILWOMAN REYNOLDS BROWN: And you say under certain circumstances, they are referred to the internal investigative unit. Define "certain circumstances"; give me three examples.

COMMISSIONER COSTELLO: If there's a suicide a homicide, an escape, a major disturbance, excessive use of force. There are a number of incidents that are referred to the Internal Affairs Division for investigation.

And the results of that investigation may vary, depending on the circumstances, depending on the amount of negligence or even criminal misconduct on the part of the staff.

COUNCILWOMAN REYNOLDS BROWN: Okay. And

given the magnitude and tragedy of this circumstance, you're not at liberty to tell us if that procedure, as you have outlined it, was followed/

COMMISSIONER COSTELLO: I cannot comment on the Santiago case, Councilwoman.

COUNCILWOMAN REYNOLDS BROWN: Thank you very much.

Thank you.

COUNCILMAN ORTIZ: I'm not asking you to talk about that; I'm asking you only why wasn't it sent over to the D.A.?

COMMISSIONER COSTELLO: I can't comment, Councilman.

COUNCILMAN ORTIZ: Computers were not working?

COMMISSIONER COSTELLO: (No verbal response.)

COUNCILMAN ORTIZ: We have a meeting with the President at 1:30, an emergency meeting.

Could I have the offices of PHS who are here identify themselves, okay? Come up here, okay, and use the microphone.

(PHS reps come forward.)

MR. TEAL: Bruce Teal. I'm the Chief Operating Officer of PHS.

MR. HUNTER: My name is Jim Hunter, I'm the Director of Nursing.

DR. HELENDER: I'm Dr. Helender, the Regional Medical Director.

DR. NEWKIRK: I'm Dr. Cassandra Newkirk, I'm the chief psychiatrist here at Philadelphia.

MR. TAYLOR: My name's Robert Taylor, and I'm the Regional Manager for Prison Health here in Philadelphia.

COUNCILMAN ORTIZ: Thank you, Commissioner. You can get up now, and I'll call you back.

Could you two identify yourselves please.

DR. MINEHART: I'm Margaret Minehart, and I'm the Medical Director for the Philadelphia Office for Mental Health and Mental Retardation Services.

MR. DUCKWORTH: James Duckworth, Solicitor's Office.

COUNCILMAN ORTIZ: Councilwoman Tasco?

COUNCILWOMAN TASCO: Yes, good

afternoon.

I'm reading the report that was provided to us from Councilman Ortiz, and it's a summary of the report by Dr. Greifinger, and in it, he talks about the use by the health services of this medication, and that there's -- that they have staffing problems and that they're operating at a deficit. And some of it is attributed to the excessive -- I don't want to misuse the word...

That an overwhelming majority of inmates in the mental health caseload were dependent on psychotropic medications, and the provider had been cited by both consultants with excessive use of this medication, which, if reduced by one-third, according to this doctor, could save Philadelphia health services up to $500,000 a year.

Could these inmates qualify for services through the Mental Health Department since it's all City-related?

DR. MINEHART: I think I can answer this. They qualify for services that we contracted for while they're in the prison, which is Prison Health Services, which provides the behavioral health.

But in terms of, for instance, the Office of Mental Health, or CBH (Community Behavioral Health), they don't have benefits when they're in the prison.

COUNCILWOMAN TASCO: They don't have what?

DR. MINEHART: Benefits. They lose their Medicaid, Social Security -- they lose benefits when --

COUNCILWOMAN TASCO: So they don't have any access to any of the services they would --

DR. MINEHART: Exactly. So when they're in prison, we contracted with Prison Health Services to provide the care, and we're working with Prison Health Services, but that is the -- so the care they get is under the Prison Health Services.

COUNCILWOMAN TASCO: So what is your relationship with Prison Health Services? Do you monitor the contact?

DR. MINEHART: We have not been the formal monitor. There is a contract monitor, but the Office of Mental Health has not been the formal monitor of the contract.

We're working much more closely in the

past year to develop, actually, standards to do more monitoring, but we --

COUNCILWOMAN TASCO: So who is the monitoring contractor?

DR. MINEHART: It's really Tim Gill who is the contract monitor for the City.

COUNCILWOMAN TASCO: This deputy managing contract administrator?

DR. MINEHART: Yes, right here (indicating).

COUNCILWOMAN TASCO: What is his background?

DR. MINEHART: Can I have him speak for himself?

COUNCILWOMAN TASCO: Yes, okay.

(Witness comes forward.)

MR. GILL: Good afternoon. My name is Timothy Gill. I'm Deputy Managing Director and am currently assigned to major prison contracts.

COUNCILWOMAN TASCO: Assigned to what?

MR. GILL: I work with service contracts for the prison system.

COUNCILWOMAN TASCO: So what is your background, your educational background or

experience?

MR. GILL: I hold a master's degree in public administration from Temple University, and I've been with the City of Philadelphia for approximately 18 years, and the major bulk of my administrative work has been with contracts initiation, citywide contracts, and service contracts.

COUNCILWOMAN TASCO: So if Dr. Patterson and these doctors give you a report about this contract, one that may spell out the over-excessive use of a drug, are you capable of evaluating that situation? What would you do about it?

MR. GILL: The way that this particular contract is monitored, I draw on the resources of the professionals around the City that are at my disposal to help with the evaluation and the interpretation of the findings that monitors or evaluators would give us.

I do not have a medical background, which is not necessarily a requirement for overseeing the administration of the contract, and, therefore, resort to the advice and the consultation of other City officials that help me with that.

There is varying schools of thought and understanding of what the standards are for psychotropic medications and what are some of the therapies that are appropriate for inmates, or even in the community, for standards for treating behavioral-health issues, and that, in fact, we view the recommendations by the monitors as mainly that, recommendations.

We have a relationship with those monitors, that we utilize them more than just giving us a score card for how well we're doing; they also actually consult with us. They consult with the staff of PHS, the corrections staff, and the other officials of the City of Philadelphia that work with us in the monitoring of this.

In fact, just recently, we've had all-day sessions with the monitors that came and worked with us on identifying problems, working with us towards solutions, and not simply giving us recommendations for us to then implement; they kind of work with us based on their experience and other jails and prisons throughout the country on helping us resolve the issues.

COUNCILWOMAN TASCO: I'm somewhat at a

disadvantage 'cause I haven't been able to read this full report that's dated March 28, 2002. So -- but what -- as I understand it, this is a three-year contract with one-year renewals?

COUNCILMAN ORTIZ: It's a one-year contract with renewal, three renewals.

MR. GILL: That's correct.

COUNCILMAN ORTIZ: It's a way of getting around City Council hearings.

COUNCILWOMAN TASCO: How long has this company had this contract?

MR. GILL: Since 2000.

COUNCILWOMAN TASCO: Since 2000.

COUNCILMAN ORTIZ: I think PHS has been on board since before 2000, hasn't it?

DR. MINEHART: They were on board in providing the medical care and -- (inaudible, off-mic.)

COUNCILWOMAN TASCO: You have to speak into the microphone.

DR. MINEHART: It was a separate contracting period, yes. They used to provide medical care, but then they -- they now provide behavioral health as well as mental health.

COUNCILMAN ORTIZ: They've been with the prison system now since '96.

DR. MINEHART: Yeah, prison health, but not in different contracts, that's correct.

COUNCILMAN ORTIZ: Yes.

COUNCILWOMAN TASCO: So was this contract given out on a request for propose?

MR. GILL: I can give you a little bit of background on how the process works.

It is a one-year contract, just as -- I can't speak for every service contract, but most service contracts in the City of Philadelphia are for one-year periods.

However, in a large-scale contract, where there is a requirement to do a lot of capitalization, a lot of hiring of staff, that vendors cannot do an efficient job of preparing for the work, unless they have some level of understanding that it would be for a multi-year period. For them to ramp up for just 12 months and hire all of the staff needed -- doctors and nurses and equipment and supplies and medication and materials -- for just a 12-month period, it's not a lot of security for the worker bees that are a part

of that contract -- the nurses, the LPNs, and the regular staff that are a part of it.

Therefore, if performance is at a level that the City of Philadelphia feels is worthy for a renewal period, there is a process by which a contractor -- and this goes for grass-cutting contracts or medical contracts or even maintenance contracts, whereby a provider would have the option of a renewal period.

At the end of the renewal periods, then it must be rebid, it must go back to an RFP process, whereby all vendors that are qualified for this kind of work are invited back to participate in another go-around of bidding.

COUNCILWOMAN TASCO: So is the request out now for the year coming up?

MR. GILL: No. I think we have another year or two left on this contract.

COUNCILWOMAN TASCO: Before you go out to --

MR. GILL: To 2004, yes.

COUNCILWOMAN TASCO: Mm-hmm, mm-hmm, mm-hmm. Thank you.

COUNCILMAN ORTIZ: Dr. Greifinger begins

his report of March 20, 2002 saying: "PHA's management staff is functioning in a crisis mode. Recruitment of nurses remains a problem. There have been unanticipated illnesses and resignations of key supervisory staff. As a consequence, the regional vice president and medical director have been unable to mount coherent efforts to remedy deficiencies that have been reported before, that have been aberrant throughout term of the contract.

"PHS has not provided resources corporate resources to support the onsite management team. The plans to improve the support system have not been substantially realized."

What is being done? You're the monitor. You got this.

MR. GILL: Because of this -- the status of these reports, I'm not able to comment on them at this time.

COUNCILMAN ORTIZ: What?

MR. GILL: I'm not able to comment on the reports at this time.

COUNCILMAN ORTIZ: You're not able to comment on this report, as of that paragraph.

MR. DUCKWORTH: Councilman?

COUNCILMAN ORTIZ: What?

MR. DUCKWORTH: As the letter that was sent to you April 12th indicated --

COUNCILMAN ORTIZ: Uh-huh.

MR. DUCKWORTH: -- the City administration's position is that these documents are confidential.

COUNCILMAN ORTIZ: They're not confidential; this is public property.

MR. DUCKWORTH: And it also requested that Dr. Greifinger and Dr. Patterson be present today, but you were also informed that because of a scheduling confident, they would not be able.

Dr. Greifinger and Dr. Patterson can be here to present a briefing to this committee, and it would probably be much more beneficial that at that time, questions of this nature about the reports are addressed, and --

COUNCILMAN ORTIZ: And why is that little paragraph that I just said so controversial?

Let me tell you something: This is a government. This body appropriates money for reports that are supposed to be public documents, okay? I have -- the courts have said to you

constantly, you know, that this is not -- this is the legislative body. This is a report of a consultant that is paid with money that we appropriate.

We appropriate 27, $28 million for this contract. We have to be sure that that $28 million is being used effectively. If not, then this body should be able to say, No, we don't want to appropriate $28 million to that company.

I don't understand why the public cannot know whether a company that we hire is working effectively, efficiently or not. I understand that, obviously, because it has not been working effectively, efficiently, lawsuits have emerged, and it's costing us taxpayers money way and above and beyond what we're paying the company.

I think we need to know why we should continue to pay $28 million to a company that is probably costing us money. And if you cannot make the case that this company should be renewed, then we should have -- and we should have legislation that a contract of this magnitude should come to City Council for review. And as of now, these contracts do not come to City Council for review.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

Yes, Councilman Cohen?

COUNCILMAN COHEN: I have one question addressed to the representative of the City Solicitor's Office.

MR. DUCKWORTH: Yes, sir?

COUNCILMAN COHEN: You have case law that says that you can use the privilege against City Council? Is there any case which gives you the right? And I would request that you send to the Chairman of the committee your legal support.

I do not believe that anything is privileged. I would have to respectfully disagree with the superintendent who says he cannot answer it with your advice to him, because I do not understand how this can be privileged against the Council. And if necessary, I would like to be recommending to the City Council that we contest that issue in court.

I don't see how it is possible for us to conduct our business if the City administration at any time, under any circumstances, decides that something that City Council feels is necessary for the proper exercise of the appropriation powers the Chairman has just indicated is being denied to us.

MR. DUCKWORTH: Sir, if I may clarify.

The questions that were directed against Commissioner Costello are in the matter of Jose Santiago, which is in active litigation.

COUNCILMAN ORTIZ: Excuse me. The questions that I asked Mr. Costello is why this report has not been delivered to a year after the report was given --

MR. DUCKWORTH: The estate of Jose Santiago has filed suit against the PHS and against the City of Philadelphia and --

COUNCILMAN COHEN: Yes, but that cannot take away the power of City Council. Maybe you have privileges against the person or group filing the lawsuit, but I don't know how can interpret that as suddenly giving you the right to exclude City Council.

MR. DUCKWORTH: And the reports of Dr. Greifinger and Dr. Patterson have been turned over to this committee, which the chairman does have in his possession.

COUNCILMAN COHEN: Yeah, but how can we exercise our oversight judgment about the efficiency of the staffing of the prison system when we can't even find out if the District Attorney was notified

in person or who was notified about something in the District Attorney's Office?

MR. DUCKWORTH: Respectfully --

COUNCILMAN COHEN: How can there be a privilege to --

MR. DUCKWORTH: Respectfully, sir, those are two separate, independent issues.

COUNCILMAN COHEN: Excuse me. As a member of the committee speaks, I would ask that you respect that right of the member of the committee to ask the question before you try to answer it.

How can you possibly justify diminishing the power of this City Council and taking away its information-obtaining ability on the basis of some third party suing the City of Philadelphia?

And if you have any legal support, I'm asking that you submit it to the chairman; otherwise, I am going to be moving quickly in City Council to authorize the institutional lawsuit to deny the City administration of its alleged power to deny City Council information, 'cause I know of no basis in law that gives you that right. I've been listening quietly, expecting at some point that somebody would say, "In such-and-such a case, it was

so held."

But you don't have any such right; you're treating us as if we're outsiders. We're the people that budgeted, as the chairman said, your salaries. We have to know whether it's appropriate to budget that money.

Thank you, Mr. Chairman.

COUNCILMAN ORTIZ: Thank you.

COUNCILMAN COHEN: I don't see any purpose in continuing this until we get a resolution. I think the City administration is assuming it has a clear power to treat the City Council as if it were the public generally and to deny the City Council information that's absolutely necessary for us to have.

Everybody knows the reason for the one-year contract and the three-year options; it's to get around the provision of the Home Rule Charter, which requires City Council approval of all contracts of four years or longer. That's the reason why you do the --

It's not the reason you gave, sir, to give the City opportunity to test out something and to see whether it works and then authorize

year-by-year options. The purpose is to avoid having to come before City Council for approval. That by itself begins to raise very serious questions in our mind.

And then, on top of that, you try to use the privilege of saying this matter is privileged. Privileged against City Council? I don't understand that. So I think we'll be in court shortly on that issue.

Thank you.

COUNCILMAN ORTIZ: Mr. Gill, one last question, 'cause I'm not going to belabor this thing.

I made a comparison between the New York and -- because PHS is hired by the New York prison system and ours. And in New York, they have a series of penalty clauses and amounts of monies that the company is required to pay if they don't meet certain levels of services.

And as I go down ours and New York's, in women's health services, and we go down each one of the categories, New York has $5,000 of penalties for non-compliance on not meeting the specifications, and we have none.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

And we have reports, obviously, that for one reason or another, PHS is not meeting its contracting obligations, and we have that from Dr. Greifinger.

Why? Give me a -- you know, maybe you can explain that. Why do we not have penalties on a contract of this magnitude?

MR. GILL: Councilman, I'm not familiar with the New York contract; I haven't read it or --

COUNCILMAN ORTIZ: Well, you should before you enter into ours, then.

MR. GILL: That being said, not knowing the specifics of the New York contract and how they're structured --

COUNCILMAN ORTIZ: Why are there not penalties for nonperformance, for not meeting contractual obligations?

MR. GILL: Indeed, the contract that is held by the City of Philadelphia has the provision for the imposition of liquidated damages for any reason that the City of Philadelphia deems appropriate.

In fact, that is -- that could be even more of a burden on a contractor without the strict

schedule of penalties that may be common in other contracts. In fact, at the beginning of this contract, when it was --

COUNCILMAN ORTIZ: We went through our contract and New York, and we don't find that.

MR. GILL: I'm sorry, what don't you find?

COUNCILMAN ORTIZ: Could you send that to me in writing, the specific clauses in the contract that specifically say that?

MR. GILL: That identifies the City's right to impose liquidated damages?

COUNCILMAN ORTIZ: Yeah.

MR. GILL: I certainly can.

COUNCILMAN ORTIZ: Okay? And penalties for nonperformance of services.

MR. GILL: Yes, I can, tomorrow.

COUNCILMAN ORTIZ: Okay. We have a meeting with the -- Councilwoman Tasco.

COUNCILWOMAN TASCO: The two reports that are here, the one from Dr. Patterson that offers a number of recommendations for staffing and service delivery, will you look towards this recommendation as you review the contract, whether

or not to renew this contract coming up in July? Either one of you, do you just automatically renew the contract? On what basis do you renew the contract? 'Cause you don't have to renew it if they're not performing.

MR. GILL: There have been some recommendations on an ongoing basis with our dialogue with the consultant that we asked for some examples or some guidance on what had been successful staffing ratios in other municipalities or jurisdictions where they had experiences, and that could be where some of those recommendations came from for either, you know, psychiatrists or medical personnel per patient.

In an ongoing effort for us to improve the quality of our services, we do try to establish something as close as possible to either community standards of care or standards that are established by the National Commission on Correctional Health Care or the American Correctional Association whereby we're addressing the needs that are as current or as up to standard as possible.

Our ability to either fully fund or fully implement what their staffing recommendations

are things that we're looking at closely right now. If there are other ways or some alternatives to either systems changes or therapy changes or ways in which the staff are deployed, instead of just looking at total numbers, we do look at that on an ongoing basis through the contract year. And we are considering some of their recommendations for either the renewal periods or future contracts.

It's likely that many of the recommendations that the consultants give us, which we put a lot of stock in, will wind up in when we go in and totally revamp the scope of services for the RFP for the next go-around.

COUNCILWOMAN TASCO: Let me go back to the initial request or the RFP for this contract. When you issued the specifications for this contract, how did you determine what level of service that you wanted? And are they meeting that level of service?

DR. MINEHART: Actually, Tim wasn't there when the RFP went out, and I honestly --

COUNCILWOMAN TASCO: Tim has the initial contract?

DR. MINEHART: He picked up the initial

contract, but he wasn't there when we first contracted with PHS. When the RFP went out, there were certain specifications, and a group was put together, I think, from a variety of resources, and Dan Winterstein is from the Office of Mental Health. But there were a variety of people brought together -- nursing, social work, psychiatry, administration, prison -- to look at what services had been in place and what would need to be in place or what we thought would need to be in place.

And that's how the RFP was put together. And there were, I think, four vendors that bid on the RFP.

COUNCILWOMAN TASCO: So those people that put the RFP together, did they determine that the specifications were adequate enough to provide quality delivery service to the prisons? Could somebody answer the question?

DR. MINEHART: They thought that --

COUNCILWOMAN TASCO: Why don't you come to the table and identify yourself.

(Witness comes forward.)

MR. WINTERSTEIN: My name's Dan Winterstein, I'm a policy analyst at the Office of

Mental Health.

COUNCILWOMAN TASCO: So explain to me how you put the RFP together, explain to me why we are looking at recommendations from a consultant saying this company doesn't have enough staff people. Are they meeting the standards set forth in the original proposal?

MR. WINTERSTEIN: As Dr. Minehart mentioned, there was a committee, a fairly large committee, composed of both local and national experts that met over several months to try to formulate what really at that time was a major upgrade of services, particularly in behavioral health.

The prison population has been expanded at an exponential rate over the last five years, and I think there was a judgment three years ago, when the RFP was developed, that behavioral health services at that time really weren't adequate and that we needed to substantially upgrade them.

So A committee met, again, over several months, to kind of define what the nature of that upgrade should be. And those specifications found their way into the RFP.

DR. MINEHART: I could expand on that. I mean, I think Dan's statement about the expansion of the prison population too, because it has grown, and I think it was based on what we thought would meet the needs of the population.

COUNCILWOMAN TASCO: And so you look at the contract each year, and this company had the contract since when?

DR. MINEHART: 2000.

COUNCILWOMAN TASCO: So you reviewed the contract last year, and what did you see and what was the evaluation of the performance?

DR. MINEHART: We did not do a specific performance evaluation.

COUNCILWOMAN TASCO: So you just renewed the contract without an evaluation of the performance?

DR. MINEHART: The Office of Mental Health didn't do it. Tim can speak to that.

MR. GILL: The review and evaluation is on an ongoing and daily basis. I think that, basically, the assumption that a provider has met certain criteria for overall and comprehensive health care, that unless there are overwhelming and

compelling reasons for nonperformance, lack of performance, and non-responsiveness to areas that are identified as deficiencies, those are the justifications for not renewing.

This particular provider has been, what I consider in my experience with other contracts, one of the hallmarks of a provider that is cooperative and one that does not play a game of cat-and-mouse with the City of Philadelphia; whereby we're trying to constantly catch them doing something wrong, we take a more proactive approach, an approach that brings both members of the senior staff and the medical staff of the contractor with senior staff and monitoring staff with the City of Philadelphia to work problems through, identify them early, and head them off before they become major problems.

In a large situation and in a large institution where problems do occur, we are then in a position where we work together and we work proactively to resolve them. And having that cooperative relationship, we think, is one of the differences between having contracts with very specific and very rigid penalties built into the

structure of the contact.

And that I've been involved in other contracts with that kind of setting, and it usually turns into a situation where contractors are either trying to cover their tracks or avoid detection or leaving the onus on the City of Philadelphia to track them down and catch them doing something wrong.

In our scenario, whereby we work more proactively and more cooperatively before problems become big, we come to the table and we talk about them and try to resolve systems issues, administrative issues, staffing issues, or problems about interpretations of quality care or community standards of care together with the agencies of the City of Philadelphia, including the Office of Mental Health, the Health Department, or our other agencies in and outside of the City is where we feal as though we've got a good relationship, whereby problems are handled quickly, they're handled in a way that is not going to be in any way damaging to the comprehensive care of the inmates.

And the biggest piece of all of this is the integration of one provider caring for both the

behavioral-health issues and the medical issues. Previous to this existing contract, that was not the case. There was barriers just institutionally between the mental-health staff caregivers and the medical health-care givers.

Now those barriers are gone. There's integrated medical records for the patients, there's regular meetings between behavioral health and medical health staff. In addition to that, corrections included with those meetings. And it's more of a trinity of care whereby better communication and better cooperation amongst the players inside the jails, we believe, is resulting in better quality of health care on an overall basis for the patients at the jail.

COUNCILWOMAN TASCO: So when the RFP was distributed, it was based on a certain level of number of inmates, right? And as the population expanded, expanded to the point where it was difficult for the provider to provide the level of staffing it needed to based on the dollar amount of the contract?

MR. GILL: Um...

COUNCILWOMAN TASCO: Looking at the

recommendations -- just like I said, I have not read it, and so I may be taking things out of context, but just looking at the recommendations for increasing the staffing levels, is that probably what happened?

MR. GILL: I can state that one of the other contracts I oversee is the food provision contract as well, and that, like medical, not responding directly to what you're referring to, but they are both driven by population, yes. More patients to be seen certainly either stresses the services to be provided, increases the number and amount of staffing that would be required, medications, all down the line.

So there is -- certainly, population is a factor.

COUNCILWOMAN TASCO: Thank you.

COUNCILMAN ORTIZ: In his report, Dr. Patterson makes a point in terms of poor -- that poor management eventually translates into additional litigation-related costs. And the City -- and he makes the point also that recently, the City has found itself in a lot of new litigation for poor discharge of planning of inmates from the

prisons. And this is part and parcel of why these hearings are being held, because there has been poor administration, and the contract really has not been met.

And have you ever applied any penalties that you say there are? Have you ever done that?

MR. GILL: To my knowledge, no, penalties have not been assessed. Liquidated damages in terms of money have not been assessed.

COUNCILMAN ORTIZ: And this is not about a game of catching anyone or somebody, you know. I think -- I think Dr. Greifinger's report is very clear. I mean, he's been coming and his evaluations are quarterly, aren't they, right?

MR. GILL: Quarterly, yes.

COUNCILMAN ORTIZ: And so this latest one of March 20 of 2002, he's made these recommendations before; is that not true?

MR. GILL: There is some follow-up on the issues that he does make in previous reports, yes.

COUNCILMAN ORTIZ: And these have not been taken care of. I mean, he makes it very clear that PHA is functioning in a crisis mode without any

details, what staff is not there, and that the ratio of staff per patient is not adequate, does he not?

MR. GILL: I'm sorry. Was that in relation to staff --

COUNCILMAN ORTIZ: I'm saying that Dr. Greifinger has been establishing that PHA has been functioning in a crisis mode, that staffing is not available, that the ratio of staff to patient really is not adequate, and supervisory staff -- and this is not the first time he says this. Is that not so?

MR. GILL: I believe if that's related in any way to the shortages in medical staffing available, I think on a nationwide basis, then that --

COUNCILMAN ORTIZ: I'm talking about the contract. Look, you got a contract, you got to demand that individuals fill it up and fill out what they're supposed to do.

Don't tell me what nationwide basis is going on. You contract out for some services, and they either provide it or they don't provide it. And you have to demand that they provide it. They have to go out and get that, how ever they have to

get it.

Don't make excuses. I mean, you know, you've given me nationwide crises of nurses. I know there's a nationwide crisis in teachers, but we're not telling the Superintendent of School, Oh, we've got to forgive you, you can't hire enough teachers. No, you got to go out and find them.

DR. MINEHART: I do believe that PHS has really been making efforts to fill all of their staff positions, without question. The question of --

COUNCILMAN ORTIZ: But these problems have been ongoing.

DR. MINEHART: I understand that, Councilman.

COUNCILMAN ORTIZ: You see, everybody understands, but nobody takes care of the problems. It's costing us money.

DR. MINEHART: Well --

COUNCILMAN ORTIZ: In litigation, in medication, in every other way. I mean, $28 million should resolve problems. If not, find somebody who does. That's all I'm saying.

DR. MINEHART: I can't speak for --

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

COUNCILMAN ORTIZ: These problems are ongoing. Now we have the DePaul report from 1996 to 2002 that detail a whole series of problems in staffing levels, in management, in supervision. They're ongoing. Why are they not taken care of? Recommendations are made, they're ongoing recommendations.

I know being nice guys -- I'm not saying that they're not nice guys. And I think Dr. Greifinger explains that they really are cooperative. But medical services are not being provided. It is detailed here: They're not being provided.

At one point, the City administration has to make some decisions and come in here and say to us, You know all those problems, they've been resolved.

You haven't been able to do that. I've been doing this for a year, sitting across from you and not getting any answers. These problems have been ongoing for over a year, not now, not as of March. These problems have been ongoing since they got the contract. That's why there is litigation in court, that's why we're paying lawyers, that's why

we're paying other people. I don't want to pay lawyers. Don't give me this thing month after month. This has been going for over two years now. Actually more -- since '96.

What are you going to do? tell me. When is this going to be resolved? Mr. Gill, tell me. I mean, we're going to make this a part of the public report, and we've going to issue a report, and I'm going to put some legislation together, okay?

Tell me, when are we going to stop making excuses? Tell me.

MR. GILL: For the record, we will continue to work with the medical provider for the Philadelphia prison system to improve the quality of care that they provide to give them access to --

COUNCILMAN ORTIZ: When are they going to be meeting the contractual obligation --

(Unintelligible; parties talking over each other.)

COUNCILMAN ORTIZ: Hold on a second. When are they going to be meeting the contractual obligations? When are you going to come here? Do you have a timeline? So I can put a timeline, so I can say, Yes, Mr. Gill said that on such-and-such

date, we are going to come here and they have met the timeline and they are meeting and fulfilling the contractual obligations that they contracted with the citizens of Philadelphia.

DR. MINEHART: The timeline is that we'll work with them every day to make sure that the requirements of the contract are fulfilled, and that any deficiencies in the contract that are not being fulfilled, we'll take appropriate steps to either find solutions in a partnership with them or identify ways that they can be improved.

COUNCILMAN ORTIZ: Thank you. Thank you very much.

Asia Russell, Pat Scanlon, James Pritchard.

(Addressing previous witnesses.) I don't think you should leave, by the way.

Come to the table.

(Witness comes forward.)

COUNCILMAN ORTIZ: Asia Russell, Pat Scanlon.

By the way, I expect from the City Solicitor's Office, I expect to see the papers that Mr. Cohen requested. I don't think you'll find any.

Yes, sir -- ma'am, identify yourself for the record.

MS. RUSSELL: My name's Asia Russell and I'm a member of ACT-UP Philadelphia.

I'm going to speak briefly today about the consistent unaddressed problems community advocates in Philadelphia are aware of regarding health care in Philadelphia jails, the implications of these problems, and demands of the current care-provider at Prison Health Services as well as the City for their immediate reform.

First I'll remind Council that we have testified on this matter in the past several times. To be frank, AIDS activists, mental-health activists, legal excerpts, X-inmates, and their loved ones are frustrated that matters critical to the public health of our city are not being resolved by the Office of the Managing Director, Estelle Richman, or by PHS, despite ample documentation of these problems and of their etiology.

What are our concerns and what should be done to address them? First, contract overhaul. The contract between the City and PHS is troubled at best. Prison Health Services violates the

obligations set out in this contract with impunity. Obligations such as 100 percent screens among men and women for sexually-transmitted infections like gonorrhea and chlamydia on intake, next-day delivery of medications by subcontractees, or access to chronic-care clinic within 14 days of submission of an inmate request are not being up upheld by Prison Health Services with disastrous public-health results, and the City is not holding Prison Health Services accountable.

Furthermore, the contract itself does not set out clear and significant consequences for PHS if and when it fails to comply with its obligations. The City's inaction amounts to rewarding negligent behavior on the part of Prison Health Services.

1. The contract must be immediately and substantially revised this year with amendments, including daily fines, for example, for PHS's failure to comply.

2. PHS's understaffing. Prison Health Services does not have enough staff employed to do its job. This is a persistent problem documented well by the City as well as by independent medical

experts. Instead, the few health-care and administrative staff on State Road are spread thin, are cutting corners, and people are suffering.

Recruitment and retention of jail health-care providers is difficult, but PHS is contractually obligated, and is paid, to employ a certain number of clinicians. PHS is unwilling to adhere to this obligation, so it is the responsibility of the City to take action and to fine PHS for their violations. This problem will not and has not resolved on its own.

3. Ongoing oversight. There is no independent public entity responsible for ongoing monitoring of the administration of health care in jails and in the compliance, or lack of compliance, of Prison Health Services with its contract that makes its findings available to the public in a timely and transparent fashion.

Successful models for provision of jail mental and physical health care always include ongoing medical oversight with a component of public reporting and public evaluation. Philadelphia, therefore, must include this provision as well.

4. Coordinated discharge planning.

Inmates with chronic illnesses are discharged at a rapid clip from the Philadelphia prison system. PHS is paid, paid, to provide discharge planning for inmates to ensure some measure of continuity of care among inmates with serious medical. Medical discharge planning is spotty at best and chaotic at worst.

When inmates with HIV, hepatitis or serious mental illness are discharged without medications, without comprehensive treatment plans, their health is jeopardized, taxpayers are ripped off, and the public health of the community suffers.

5. Administration of medications. Inmates consistently report interruptions in their medicines. For inmates with illnesses like schizophrenia, missing mental-health medications carries unacceptable risk. Likewise for inmates with HIV disease, interruptions in therapy increase the development of HIV that's resistant to treatment and, thus, increases the chances among inmates of sickness and death.

Incarceration is punishment enough. The denial of basic, essential physical and mental-health care is inhumane and it is dangerous.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

Philadelphia jail health care is in a state of the crisis. I have listed only a few examples. There are many more that have been explicated before this Council in the past several months.

We demand change immediately. If the City chooses to disregard the legitimate, essential health-care needs of its inmates, it does so at its own peril. People with chronic illnesses who complete jail time return home to our communities, and the medical neglect they sustain while incarcerated affect the public health of the entire community while making the City vulnerable to protracted, costly lawsuits, and City taxpayers foot the bill again and again.

This unconscionable situation can, and must, be corrected.

Thank you.

COUNCILMAN ORTIZ: Continue.

MR. SCANLON: My name's Patrick Scanlon and I'm here today because I'm a former inmate of the Philadelphia prison system. I was an inmate from August 8th of 2000 until January 2nd of this year.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

Upon arriving at the Philadelphia prison system -- I do have AIDS -- it took me seven days to get my medicine. And as Asia just stated, any interruption in my medication, you run into drug resistant [sic]. I wasn't tested for three months for my viral load to see if my medicine was working, if that interruption did cause any damage. In the 18 months I was incarcerated, I was only tested three times for my viral load, which should have been tested every three months.

I wish I could give you dates and times and names of everything. I was afraid to keep records of these because I didn't know, I was scared. I was afraid that the prison system might keep me in my full sentence if they seen I was trying to do anything. And I believe that's why a lot of people don't come forward, 'cause they're scared, they're on parole, they're on probation. And chances are that many of us will go back to jail; it's a known fact that people that go through the prisons system will go back to the jail before the end of their life.

One night, I fell down 15 steps. I woke up at the bottom of the steps. I was unconscious

for a couple of minutes. Sergeant Griffin was there; she works 3 to 11 at the House of Correction. She called for medical. A nurse came down for me with four inmates with a stretcher. I had no feelings in my legs. My back -- my lower back hurt. I didn't know what was wrong with me.

The four inmates proceeded to put me on the stretcher and carry me up the steps without strapping me in and taking me to medical, where I was given two pain pills, and the doctor was then called.

Three hours later, I was taken to the Detention Center -- not on a stretcher, but shackled and handcuffed and forced to walk from one end of the House of Corrections to another, get in the van, and forced to walk from the van at the Detention Center all the way up to medical, where I was met by a lady in green scrubs that said, Well, he could walk up here, he's all right, take him back.

Thank God my injuries weren't that bad, but at the time, I didn't know what was wrong.

During my course at the stay of the House of Correction, they gave me a job as a center runner. While most inmates were running drugs and

cigarettes through the jail, I was watching everything that goes on. Every movement that goes through the House of Correction comes through the center.

I seen on one day a man being brought in from the yard. He had broken his leg. Most of our legs swing forward and backwards; his legs was swinging sideways from the knee. He was taken to medical, and at this time, it was around 8:00 o'clock. I worked till 11:00 o'clock and I didn't see him leave the jail on a stretcher or go to a hospital, so he was still upstairs.

The next day, I talked to an Officer Talbert, and he told me that he was taken to the Detention Center, given some morphine, and brought back. The next day, they took him to Temple University Hospital.

For two weeks, the man was put on a regular block with crutches, and every day, at night, when he went for medication, 'cause you have to go to the second tier in the House of Correction, I had to walk with him up the steps to make sure that he got up there.

Towards the end of my stay at the House

of Correction, I was on F-1. There was a man on my block continually having seizures every day, sometimes twice a day. I know from working at the jail that everything is documented in the jail. Anytime medical comes to a block, it's documented in the log book or put on the computer.

For two weeks straight, this man went through seizures. After a while, I asked a nurse -- his name was Bob. I said, Why is this man still having seizures? His answer was that he's faking it, that all's he wants is his 10-milligram intramuscular Valium.

One day, I had to hold him down on the floor. I rolled him on the side, he was having a seizure. He wasn't faking it. I had bruises all up and down my legs and arms from holding him.

Again, a stretcher was brought to take the person up to medical by four inmates. I was asked to help carry the stretcher. I told the guard I'm not doing that. I told the guard, "I think that's your job." He said, "We don't get involved with that, it's not in our contract. Prison Health Systems takes care of the health system."

I told the guard I wasn't going to do

it. He said, "Are you disobeying a direct order?" and I know what that means: That means maybe going to the hole. So I helped carry the man up to the...

After another week of seizures, he was taken to a hospital and, I guess, put on the right medicine 'cause he came back to the House of Corrections, was put on C-1, which is supposedly a mental-health block, and he seem all right.

A month later, I was transferred to ASD. My custody level had dropped. While I was at ASD, medication times were 5 in the morning if you worked and 8:00 o'clock at night. If you were on a regiment for HIV, you need to take your medicine every 12 hours.

When I was discharged, I was discharged with no medication, no after-plan. I was discharged to a drug program. When I got to the program, I had to go see my doctor the next day to get my own medication.

And I'm not here for myself; I'm here so that the health-care system can be improved in the prison health system. I realize that we are inmates, we did wrong, and jail is our punishment, but I find it an outrage that in this country that

we scream about civil rights all over the world, and people's civil rights are being violated in our own city.

Thank you.

COUNCILMAN ORTIZ: Identify yourself for the record.

MR. PRITCHARD: My name is James Pritchard.

In December of 2000, I was incarcerated for 60 days, but previously to that incarceration, I was in a car accident that year, and I was under therapy from a chiropractor three times a day -- three times a week.

And when I got into the system, all they asked me for was life-threatening medications that I needed. I also told them I needed therapy for my back, and they said they don't have that there. And every day that I was locked up, the pain kept getting worse and worse.

And the PA that was giving me medication said, All you're going to get is ibuprofen. That wasn't doing anything but putting holes in my stomach. I was starting to bleed after a while and I had to stop taking ibuprofen.

I seen a lot of abuse there of not having proper medication. There's a lot of days where seizure meds were not there, AIDS medication was not there. The gentlemen had to go back into their cell and wait till the next day to get their medication. I also had to wait a few days to get my blood pressure medicine 'cause they ran out.

I mean, I feel sorry for the prisoners stuck in there now. I mean, I know they're under contract. I asked the PA, did she have any medical knowledge? and she said no. And that's scary. She don't have no medical assistant degree, she's not a registered nurse or an LN. It scares me to think they're just putting people in there to take care of us if we get in jail.

I was only in jail for 60 days, and 50 days of it was a nightmare. I couldn't sleep at night, I was keeping the guards up all night, talking to them 'cause I couldn't sleep.

COUNCILMAN ORTIZ: It's a defense attorney's dream, I'm telling you.

MR. PRITCHARD: I was talking to the other inmates; they told me, you know, there's nothing you could do, just ride it out, 'cause I

didn't want to get in any more trouble. I did my time, I did something wrong, and I'm here to make things right, 'cause there's no chiropractic treatment in --

COUNCILMAN ORTIZ: Did you put in a sick-call request?

MR. PRITCHARD: Yes. I put in request after request.

COUNCILMAN ORTIZ: What happened?

MR. PRITCHARD: I was told I have to wait to go see a doctor. A month and a half later, I eventually seen a doctor.

COUNCILMAN ORTIZ: You put in a sick-call request and it took a month and a half for you to see a doctor?

MR. PRITCHARD: Correct.

I mean, I was even thinking about hitting a CO so I could get into the infirmary so the COs would beat me up so I could get some medication so I could sleep at night. I was starting to think about that; that's how bad the pain was.

Nobody understands back pain unless they've been through it, or knows somebody that has

been through back pain.

COUNCILMAN ORTIZ: You're not making this up, are you?

MR. PRITCHARD: No. I wish somebody, you know, that has gone through back pain can realize it's not easy to stand up in the middle of the night and there's no heat and --

COUNCILMAN ORTIZ: Does it comfort you that the City administration says that they're going to get into discussions about this? Do you have confidence that this will be fixed?

MR. PRITCHARD: I do not see anything being resolved at any time shortly because of the resistance to talk about it. I know it's not even in the contract for penalties; I heard that earlier.

COUNCILMAN ORTIZ: To me, it's surprising that we have City Solicitors and it seems like our City Solicitors, instead of protecting the taxpayer, are protecting the company that has contracted to provide services. Kind of odd, kind of odd.

MR. PRITCHARD: It is odd.

I hope and pray that all the inmates that are there get the medication they need, 'cause

I know when I was there, they were not always getting it.

COUNCILMAN ORTIZ: Thank you.

Ma'am?

MS. GORMAN: My name is Nina Gorman. I'm formerly a social worker with the Philadelphia Linkage Program, and I'm now with the Prisoner Health Advocacy Project.

I work as a social worker. About a year and a half ago, I quit my job in October of 2001 because of the medical neglect I witnessed at Philadelphia County prisons. I gave testimony previously and I'm mostly here to introduce two inmates -- or two ex-inmates, ex-prisoners: Anthony Hightower and also James Nelson, who experienced medical neglect.

But also, I work as a volunteer for an organization --

COUNCILMAN ORTIZ: That is being taken care of, by the way. There's very little medical neglect, I mean. Dr. Greifinger says that there is, but we're taking care of that.

MS. GORMAN: I know. I saw terrible things. In addition to the testimony to the

testimony I gave before about --

COUNCILMAN ORTIZ: Someday in the future, we'll have that resolved.

MS. GORMAN: I know, someday, someday we hope.

You know, I had one client that went without dialysis three times 'cause he had to pick between going to court or taking his dialysis 'cause there's no protocol for that.

I had several seizure patients who were not able to get seizure medications or assessments for their seizure disorder, one of which went two weeks with problems with recurring seizures, and they found out later that they had given them so much Dilantin that his system was toxic. I've seen several records of inmates where the only medication they received for severe beatings by guards was Tylenol. And I've also -- Anthony Hightower can tell you about both the mental health and the physical neglect medical neglect, as well as Mr. James Nelson.

COUNCILMAN ORTIZ: Let Mr. Hightower testify.

MS. GORMAN: Mr. James Nelson might be

able to testify quicker 'cause his case is quicker. And Anthony Hightower has much more detail.

COUNCILMAN ORTIZ: Go ahead.

MS. GORMAN: This is Mr. James Nelson.

MR. NELSON: My name is James Nelson.

And I was arrested July of 2001, and I was taken to 55th and Pine. They permitted me to make a phone call, but I did not receive anybody, so I was there for seven days without my medication. I was supposed to take it --

COUNCILMAN ORTIZ: Medication for what?

MR. NELSON: I have a bladder condition. I'm supposed to take my medicine three times a day, and if I don't take my medicine and if I fall asleep, I --

COUNCILMAN ORTIZ: Did you go to intake?

MR. NELSON: No, I didn't go to intake. I told them my problem, and nobody would listen.

COUNCILMAN ORTIZ: They didn't put you through intake?

MR. NELSON: No.

MS. GORMAN: Could I just clarify for a second. He's talking from the time of his arrest, and I understand from Miss Asia Russell from ACT-UP

that PHS is responsible for health care from the time of arrest through intake at CFCF, so Mr. Nelson may not be terminology of intake, which means, from the time he got into CFCF, I believe, right?

MR. NELSON: Yes.

Well, I was there, like I say, for seven days, and I told them that I needed my medicine three times a day and --

COUNCILMAN ORTIZ: When you got to Curran Fromhold, to the prison --

MR. NELSON: Oh, yeah. Well, they took me one day to get my medicine once I got there, but before there, I was at 55th and Pine for seven days, and I didn't receive no medicine.

COUNCILMAN ORTIZ: Did you tell the people of your condition?

MR. NELSON: Yes. On the seventh day, they took me -- up at 55th and Pine, they took me up to the emergency room at -- I've forgotten the hospital now. But, anyway, on the seventh day, they did give me some medicine, but that next day, they took me up to CFCF, and it took me one day to get medicine up there.

But for the seven days, anytime, I fell asleep, I urinated on myself. So for seven days, I didn't take a bath and, you know, I was smelling like urine.

And in addition to that, the place was crowded. I mean, it was standing room only, and the rest room with the commode, I mean, it has -- it's deplorable there, you know, and it's feces piled up around the bowl in there.

COUNCILMAN ORTIZ: And once you got into CFCF, what happened?

MR. NELSON: Well, in intake, they ask you whether you have any, you know, medical problems and so forth, and I told 'em, but it took one day before I got my medicine up there, and after one day, they gave it to me.

But, still, I urinated on myself that first night I was up there because they didn't give me my medicine. They gave it to me the next day, and like a couple days, I was out.

COUNCILMAN ORTIZ: Thank you.

Next, sir?

MR. HIGHTOWER: My name's Anthony Hightower.

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

I was arrested on December of 2000. Upon my entry into prison -- well, I'm just going to read from this because -- I had this drawn up because...

I have two serious terminal illnesses: AIDS and hepatitis C, which is chronic liver disease. I'm also a diabetic, and I take insulin. I have had a few serious bouts of depression.

I would like to address a number of problems I saw with medical care and mental-health care with Prison Health Care when I was incarcerated.

One of the first major problems was not enough staffing and poorly trained staff for intake and chronic care, for infectious disease clinic, for mental health. Poor staffing is obvious at intake. Must wait two to three days before a doctor examines you. Cannot get medication for serious disorders like diabetes, asthma, HIV/AIDS at intake, even if you have a file with them already.

Poor staffing also obvious at chronic care clinic. Must wait one to three days for sick call. Escort to medical is always available, even in emergencies or the CO will tell that you that

medical is too busy to see you, even in an emergency. I know asthmatic inmates who are refused access to medical. They cannot keep their inhalers with them, so if they can't get to medical, they can die.

Medical chronic care staff does not recognize major disorders of AIDS and HIV. Example: Dr. (indiscernible), chief medical officer of the House of Corrections, could not diagnose my rash, which, this rash is borne around the whole prison. I mean, I seen a guy that got this rash; it got so bad that it looked like his skin just came off his body. And I don't know, it's something, I believe, that has to do with the showers; they are old and mildewy; it's a fungus that is in them showers 'cause that's where I started getting it at on my body. It's all on my body and it --

COUNCILMAN ORTIZ: And the other prisoners had it too?

MR. HIGHTOWER: Yeah. And my cellmate, I had a cellmate, Fante McDade, who died from medical neglect. He went to medical from July the 4th to July the 13th, complaining over and over again of nausea, vomiting, and bad abdominal pain.

All PHS did was tell him to take a Tylenol or take a shower and drink water. After a week and a half and getting no treatment, he was dead. This was very upsetting to the inmates and me.

Infectious disease also has poor staffing. When infectious disease doctor is out, no one covers for her, has no replacement if sick or on vacation. She went away for four weeks, four weeks, and nobody could see her. You know, she told us that a Dr. Pepe would cover for her only in extreme emergencies, but who's to say what an emergency is?

I mean, that's -- nurses up there, I don't believe they know what an emergency is. Infectious -- infectious -- wait a minute. Even when she is in, I have to wait to see her for months. Even when I'm sick, I cannot get to see her for a month or more. And even Dr. (indiscernible) would not call her to consult her on me when he doesn't have the training to treat me.

This is a serious problem if you have HIV, because if fewer -- pneumonias could come on you quickly and can kill you without the right treatment.

When I do see Dr. D., she would not tell

me what my diagnosis is. I mean, I'm in -- like my stomach is blowing up, and after eight months, I had to discontinue all medications because my body had become all bloated with meds and stuff, and my liver is, like, real damaged. And she put me off for months and months for trying to go get a biopsy of my liver. You know, she just kept running me around in circles, telling me that, you know, we're going to stop this, we're going to do this test, we're going to do this test.

But in the end, I had over 12 months in the system, and she say, okay, well, I think you got a legitimate -- you can get the biopsy. And two weeks later, she reneged on me and said, no, you don't need a biopsy.

You know, all I would see is like, you know, it seemed like, you know, they're in it just for a profit. You know, I was a guy that, you know, I made a point to try to know who the other HIV and AIDS people were in the jail, and I kind of, like, you know, like, touched based with 'em, you know? A lot of 'em are scared, you know, because you know, a lot of 'em's not going to do a lot of time, and they don't want to make any waves.

You know, I got friends up there, who had HIV. You know, when someone gets sick, you know, they hire them over at D.C. You know, Dr. D. will tell them, oh, put 'em in the back over there. You know, I heard her tell 'em to put 'em in the back, you know, 'cause his condition had got so bad. They drag they feet on it so long that he was close to death.

You know, she -- she -- she lies to us, she don't tell you the truth about you diagnosis, you know. Prison Health Services, you know, they have her, you know, they tell her to handle certain cases, you know, and, you know, at all costs, cut costs, cut it, you know, because if you going to die or not.

And I have been trying for months to get a diagnosis biopsy for my hepatitis to see how bad my liver is damaged or if I could go back on my HIV meds. The doctor took me off them because my liver is bad. Now I have been afraid for months that I would die without my AIDS medicine. Medicine or without treatment or even a diagnosis of my liver, even though my labs showed my liver is bad and I have had bad stomach pains for months.

You know, I've had this rash nearly two weeks, and I have not been able to see her or get any diagnosis treatment, even though I went to sick call times -- how many times for a rash. I went around about four or five times. I was only recently --

Okay, delays in insured referrals and medication is a second major problem and common in cases that I noticed. Delays at intake during my incarceration and on discharge. Even though I was known to the prison system, I still had to wait to get my meds for over a week. Both times, I went through intake in the past two years. Even diabetics wait for they insulin at intake, and while incarcerated, get none at intake; get it later while incarcerated, about two or three hours.

(Indiscernible) red flag system. The system has some good points, in my opinion. Some folks get meds who need them, but are too tired or sick to wait in line for them. It's helpful for some HIV patients and those with serious disorders like diabetes, but if you get red-flagged, they will come back and take you up to medical and you can avoid the long lines, which is help when you feel

sick. That's why a lot of the guys, you know, they would rather be red-flagged because those lines, man, it's just -- those med lines, it's just terrible up there. You know, it's no control up there at all.

And another good point about (indiscernible) is that they have stopped giving as many write-ups refusing meds. Since they don't have enough space to lock inputs, they punished for refusing meds.

The system has bad points too. If you refuse your meds for whatever reason, you have to fill out a refusal form, and when you do, you can often get a write-up. You get a write-up, even if you have bad side effects. A write-up goes against your record, it keeps you from getting paroled. And If you are real sick from the meds, you have to take them anyway. I saw one guy with bad sweats who was really having a hard time.

Point two: If you refuse the meds because they make you sick with side effects, you can't get a referral to be able to be checked by the doctor about the meds. If you ask for a referral form, you are told the only way you'll get one is if

you go back to the end of the line. The line is so long -- about 150, 200 people -- that no one wants to bother, especially if you have HIV or are sick.

COUNCILMAN ORTIZ: That's the line at the prison?

MR. HIGHTOWER: Yeah. It is terrible, man.

The medication line also takes place because it is a security risk. I saw one mental health patient at HOC ask for his meds three times, and a seven-foot CO beat him down to the floor. Then it took -- then it takes you --

COUNCILMAN ORTIZ: (Addressing City personnel) I hope you are taking notes; you should investigate all these things.

MR. HIGHTOWER: Then it takes you a few days to see a doctor anyway, even if you do fill out the referral form or if you go on sick call. Sick call takes one to three days.

The red flags encourage many people to take meds who don't need them. Maybe some inmates depended on them and are not trying to improve themselves, especially the mental-health patients and drug addicts, who, in my opinion, should be

getting treatment, not just doped up and then thrown out there when they get released.

You know, it seems like these psychiatrists is working for the drug companies. He's dispensing all these Sinequans and all these mental-health drugs to people that don't need 'em. You know, it's a common thing now. They take the cigarettes out of the jail; now all they have to do to pass the time now is to take Sinequans and stay up all day and all night. And then when they want to crash, they take these Sinequans and stuff and it's, like, out of control. Half of the jail is on mental-health medications.

Some mental-health patients get stuck in there for months and years longer than they are sentenced because they are too doped up to know what's going on. You know, you got a guy in there for two or three years, man, who don't even know where they at, because the psych give them all this stuff that they want. Sometimes they are so tired of medications, when they are all doped up, which is illegal.

It's mostly guys who are on mental-health drugs when they go to court. They

don't know what's going on down there. All they do is take the deals and stuff that they offer them and, you know, they really don't know what's going on, and their attorney doesn't really, you know, consult with them, or they don't really, you know, advise them because they were in a state of, I don't know, you know, after a while, that medication just make you just happy-go-lucky.

All right, I'm going down here to when you first try to see a psychiatrist, you see someone, a clerical kind of a person -- I'm not sure of her credentials. She just takes down what you say and doesn't tell you anything or show that she cares. It's a lot different than when Hahnemann was there and bad social workers. They don't have the money for counseling, they say.

MS. GORMAN: He's going to wrap it up and tell you about his experience when he was on suicide watch.

MR. HIGHTOWER: Well, I was stripped of all my clothes, and I was put on this blue thing, like a straight jacket type, but it was real heavy, like a Velcro type of thing. And they take everything else from you, and they walked me

barefooted -- it was in December -- out to the van to take me to D.C. And then they walked me from D.C. receiving room all the way to the hospital the same way, and then they put me in a room with nothing in it -- no sheets, no nothing. And I was in there for three days.

COUNCILMAN ORTIZ: Suicide watch.

MR. HIGHTOWER: And I was freezing, freezing -- no clothes, no nothing but that Velcro thing. And --

COUNCILMAN ORTIZ: Was somebody watching you at all times?

MR. HIGHTOWER: I don't think so. You know, every now and then, I would see like a orderly type of guy; he would peep in there, you know, but that wasn't like an hour, an hour -- or it wasn't a CO or --

COUNCILMAN ORTIZ: They're supposed to have somebody in front of that cell 24 hours.

MR. HIGHTOWER: No, no, don't -- yeah, because, you know, I did some time in the Bucks County prison and --

COUNCILMAN ORTIZ: I visited the other day, and they told me they have somebody for 24

hours standing in front and looking at the inmate.

MR. HIGHTOWER: No. I did time in the Bucks County prison system, and that was my job, to sit at somebody's door. We had three shifts around the clock watching that person. They don't do that in this county, they don't do it here.

And you be lucky if they look in on you once. As long as you don't make no noise, they don't care. You don't make no noise, you could probably be dying in there.

COUNCILMAN ORTIZ: You might be dead.

MR. HIGHTOWER: Yeah. It was cold in there.

COUNCILMAN ORTIZ: Thank you. Thank you very much.

You heard the testimony of the City. I don't think you're very happy with that, right?

MS. RUSSELL: (Shakes head.)

COUNCILMAN ORTIZ: Thank you.

PHS representatives, will you come forward.

Frank Rizzo is here.

COUNCILMAN RIZZO: I apologize for being late -- there were a lot of things going on today.

But I know I had a conversation with you, and I apologize if it's been covered, but has the -- Mr. Chairman, has the issue about the valuables been dealt with on how they --

COUNCILMAN ORTIZ: No, that's going to be another hearing that they're going to have.

COUNCILMAN RIZZO: That's going to be another hearing?

COUNCILMAN ORTIZ: Yes.

COUNCILMAN RIZZO: Okay. I wanted to make sure that we eventually get to that.

But thank you for having these hearings, and --

COUNCILMAN ORTIZ: But, you know, we'll probably get as many answers when we hold the hearings on those as we're getting on these, okay?

COUNCILMAN RIZZO: Well, again, I appreciate the hearings, I think they're important, and I'll be waiting for the continuing hearing, the additional hearings. Thank you.

COUNCILMAN ORTIZ: Thank you, Frank.

Thank you, guys.

PHS.

(PHS witnesses come

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

forward.)

COUNCILMAN ORTIZ: Good afternoon and I apologize. I know that you came from Tennessee, right?

MR. TEAL: That's correct.

COUNCILMAN ORTIZ: The state that gave George Bush to us.

State your name, please, for the record.

MR. TEAL: Bruce Teal.

DR. HELLENDER: Dr. Richard Hellender.

DR. NEWKIRK: Dr. Cassandra Newkirk.

COUNCILMAN ORTIZ: Can you describe the positions you hold at PHS, please, each of you.

MR. TEAL: I'm based out of Brentwood, Tennessee, and I'm the Chief Operating Officer of PHS.

DR. HELLENDER: I'm the Regional Medical Director for Personnel Services at the Philadelphia prisons.

DR. NEWKIRK: I'm the Regional Behavioral Health Medical Director for the Philadelphia prison system.

COUNCILMAN ORTIZ: You're the regional director?

DR. NEWKIRK: The chief psychiatrist.

COUNCILMAN ORTIZ: Oh, the chief psychiatrist, okay.

MR. TAYLOR: I'm the Regional Manager for Prison Health Services in Philadelphia. My name's Robert Taylor.

COUNCILMAN ORTIZ: Robert Taylor.

MR. TAYLOR: Yes.

COUNCILMAN ORTIZ: Like the actor.

MR. TAYLOR: Regional manager.

COUNCILMAN ORTIZ: And you're the -- who's the director of the current program at our prison system, you are?

DR. HELLENDER: (Raises hand.)

COUNCILMAN ORTIZ: You are? Okay.

Can we talk about anything?

DR. HELLENDER: I'll answer any of your questions that I can.

COUNCILMAN ORTIZ: Okay. Dr. Greifinger says that PHS is functioning in a crisis mode. Can you tell me, what's your understanding of that in his report?

DR. HELLENDER: The City Solicitor tells me that I can answer generalities; however, to

5/8/02 PUB. HEALTH/PUB. SAFETY RES. 010598

comment specifically on --

COUNCILMAN ORTIZ: You know, this sounds like the mafia before the Congress here. The fifth, the fifth; it seems like we're taking the fifth here. It sounds like you have either something to hide or something not to report.

All I'm asking is, are you performing? He says -- Dr. Greifinger says: "The regional vice president and the medical director have been unable to mount coherent efforts to remedy deficiencies that have been aberrant throughout the term of this contract." Throughout the term of this contract.

What are those deficiencies that you have been unable to correct? State 'em for the record as you understand 'em. You refuse to answer on the grounds that it might intend to incriminate you?

DR. HELLENDER: Absolutely not. I refuse to answer on the advice of my attorney, who has told me that I'm not allowed to comment on specifics of the Greifinger report.

COUNCILMAN ORTIZ: Well, if you can't -- you know, I wish the City Solicitor -- you know, you represent us; you don't represent them.

MR. DUCKWORTH: That's correct.

COUNCILMAN ORTIZ: Okay? Remember that, okay?

You cannot testify as to -- why, why? Tell me why you think you cannot tell me what are your deficiencies to fulfill your contract. And if you cannot testify, tell us why we should give you another $28 million contract.

DR. HELLENDER: I can answer the first part of your question; I'm answering the question the way I am on the advice of my lawyer.

As to the second part of your question, I have no comment.

COUNCILMAN ORTIZ: So I guess if I ask you about the problems at intake, you will not be able to answer that either, right? 'Cause it's not -- I want some specifics, okay?

If I ask you about what are what are the current staffing, you know, vacancies that you have and give me the categories for those, can you answer that?

DR. HELLENDER: I can't answer that because I don't know.

COUNCILMAN ORTIZ: You don't know what

staffing -- you're running the program, but you don't know what staffing vacancies you have?

DR. HELLENDER: I don't know on a day-to-day basis; I would defer that to the regional manager.

COUNCILMAN ORTIZ: Okay, Regional Manager, do you know what staffing vacancies you have?

MR. TAYLOR: Yes, I do.

COUNCILMAN ORTIZ: What are they?

MR. TAYLOR: We are currently actively recruiting positions for six registered nurses region-wide and one licensed practical nurse region-wide, as well as three nurse managers across the entire complex.

COUNCILMAN ORTIZ: You don't have that now?

MR. TAYLOR: Correct.

COUNCILMAN ORTIZ: And any other categories of doctors, psychiatrists?

DR. NEWKIRK: The behavioral health staff vacancies are three master's-level social workers; they're being filled now with people working overtime. And one drug and alcohol

counselor.

COUNCILMAN ORTIZ: One of the problems that Dr. Greifinger had identified before in the previous report to this was about the suicide watch. A week ago, somebody committed suicide, and it seems that as of this day, we still don't have a comprehensive suicide prevention program.

Tell me, what does PHS provide in terms of suicide prevention program?

DR. NEWKIRK: We have a comprehensive suicide prevention program. Just because we have one does not mean that we are able to present one hundred percent of the completed suicides; unfortunately, that's going to happen.

COUNCILMAN ORTIZ: Give me the policy, give me the program, because Dr. Patterson seems to disagree with you that you have a comprehensive suicide-prevention program.

DR. NEWKIRK: Dr. Patterson or Dr. Greifinger?

COUNCILMAN ORTIZ: Dr. Patterson.

DR. NEWKIRK: Dr. Patterson -- and I have not seen his report; I have a synopsis of his report and I'm in the process of responding to that.

We do have a comprehensive suicide policy now. Anyone who says that they are thinking about suicide, they are evaluated as --

COUNCILMAN ORTIZ: Oh, they've got to tell you they're thinking about it.

DR. NEWKIRK: That's not the only way, sir; that's one of the ways.

COUNCILMAN ORTIZ: Like they're going to come to you and say, "Hey, I'm going to kill myself."

DR. NEWKIRK: Inmates do go and tell --

COUNCILMAN ORTIZ: And you'll immediately jump into action.

DR. NEWKIRK: They tell officers, who immediately notify Behavioral Health, and we either go see them or they are brought to the --

COUNCILMAN ORTIZ: Somebody committed suicide a week ago. What happened?

DR. NEWKIRK: I'm not at liberty to talk about that case because it's still under investigation.

COUNCILMAN ORTIZ: Well, I was over there not too long ago, and I took a little trip, and at that time, they talked to me about a

methadone program.

DR. NEWKIRK: Yes, sir. What would you like to know?

COUNCILMAN ORTIZ: Is there one?

DR. NEWKIRK: The methadone program is -- we are waiting on the final approval from the Center of Substance Abuse Treatment. All other provisional approvals have been given, so we're just waiting on the word from CSAT.

COUNCILMAN ORTIZ: When is it going to be in place?

DR. NEWKIRK: We do not know. The City's expert who has been working with us, Dr. John Carroll, is following up on that and has made personal contact with people that he knows at CSAT. We had a meeting on this with PPS officials as well as City officials and PHS Staff last week, and they were -- CSAT was still unable to give him a date for us to get up and running, but our part is done.

COUNCILMAN ORTIZ: Before it had been reported, one of the reports by Dr. Patterson, that over 95 percent of the inmates were taking psychotropic medications.

DR. NEWKIRK: 95 percent?

COUNCILMAN ORTIZ: At one point.

DR. NEWKIRK: No. I would --

COUNCILMAN ORTIZ: And now it is currently -- it says: "While this over-medication has been reviewed, Dr. Patterson still knows that it's currently approximately 15 percent higher than he would expect."

Why? What's the problem? Why the over-use of this? It says it's 50 percent higher, and this is a report of a month ago.

DR. NEWKIRK: I'm not familiar with what you're talking about, the statistics that you're talking about.

COUNCILMAN ORTIZ: Well, read the report.

DR. NEWKIRK: I don't have the report, sir.

COUNCILMAN ORTIZ: You don't have the report?

DR. NEWKIRK: No, sir.

COUNCILMAN ORTIZ: They come in and they evaluate your program, they write a report, and the City doesn't give you a report to tell you what you're doing wrong so you could correct it? You

don't have the report?

DR. NEWKIRK: I do not have the report. I've been given the recommendations and I am responding to those. And so what you're saying is --

COUNCILMAN ORTIZ: You should get the report so you can find out what it is so that you can actually -- what did you write in answer to the report?

DR. NEWKIRK: I am in the process of --

COUNCILMAN ORTIZ: Usually that's the way it's done, isn't it?

DR. NEWKIRK: We are in the process of responding because we must respond to what we are given by the City as a part of the monitoring process.

COUNCILMAN ORTIZ: I would like a copy of that, of your responses to the report.

DR. NEWKIRK: I will talk to the City Solicitor's Office about that, sir.

COUNCILMAN ORTIZ: City Solicitor, I would like a copy of those answers to the report, and I would like the answers to other reports that they have had.

City Solicitor, you hearing me?

MR. DUCKWORTH: Yes, sir.

COUNCILMAN ORTIZ: Okay.

In your contract, do you have any penalties for non-compliance and so on?

MR. TEAL: It's my belief that there is a clause in the contract that does state --

COUNCILMAN ORTIZ: What is that, can you tell me?

MR. TEAL: I don't have the contract in front of me, but --

COUNCILMAN ORTIZ: Can you tell me the penalties?

MR. TEAL: It's to be assessed and to be determined by the City of Philadelphia.

COUNCILMAN ORTIZ: Uh-huh. Have you ever been assessed for noncompliance.

MR. TEAL: Under the contract since 2000, I don't believe so.

COUNCILMAN ORTIZ: It seems that you have been -- according to this report, you have been in noncompliance in several areas for over -- for the -- according to Dr. Greifinger, for the duration of the contract.

Have you ever been given anything in writing, except these reports, from the administration that says that you are not complying with such-and-such, please fix it? Have you ever been given anything in writing by the administration of your noncompliance with the contract?

DR. HELLENDER: When you say "the administration," who do you mean?

COUNCILMAN ORTIZ: The City. I mean, you work for the City of Philadelphia.

DR. HELLENDER: Correct.

COUNCILMAN ORTIZ: Has anyone in the City of Philadelphia -- because, obviously, when somebody dies, they make a phone call to the D.A. Has anyone ever written to you a letter, other than the report that Dr. Greifinger gives you, you know, saying you're in noncompliance?

MR. TAYLOR: From Mr. Gill's office, we do receive letters of noncompliance.

COUNCILMAN ORTIZ: Could you please forward those letters to me? I'd like to see what monitoring is taking place.

MR. TAYLOR: And then based on the letters we forward, the action plans to Mr. Gill's

office for his --

COUNCILMAN ORTIZ: You send them to whoever it is, and I'd like to see what you have been told that you're non-complying and what you have done to take care of those issues.

You know, Dr. Greifinger -- and I'd like to go down Dr. Greifinger's report. It says that -- he reported -- he reported in '99 -- he reported in '99 that the contractual requirements for the screening of inmates for gonorrhoea and chlamydia were not being met. PHS, he says, began a system in October; however, as of this date, only 30 percent of men are being screened.

I mean, this is 1999. We're in the year 2002. You were made aware of something that is going on that is really a public-health issue and a public-policy one that has to be taken care of, because once they leave -- and only 30 percent, as of this date, are being done?

DR. HELLENDER: Do you have a question?

COUNCILMAN ORTIZ: Why? What's the problem?

DR. HELLENDER: I have testified before that I cannot, or will not, answer any questions

specific to those reports. However, I am told that Dr. Greifinger and Dr. Patterson will be here in the future, at which time we may discuss those.

COUNCILMAN ORTIZ: You can't tell me why you haven't been able to fulfill that contractual obligation? You can't say? And it has taken, you know, from '99 to this year?

DR. HELLENDER: Mr. Ortiz, I am advised by my attorney not to answer these questions.

COUNCILMAN ORTIZ: Have you been asked by Mr. Gill in writing, saying to you in a letter that you have a requirement to screen inmates for gonorrhoea and chlamydia, you are supposed to meet this requirement, I expect you to do it by such-and-such a timeline; have you gotten a letter on that issue?

(No immediate verbal response.)

COUNCILMAN ORTIZ: This is a contractual obligation that is not being met over a three-year period, and I want to know if there's any correspondence from the City telling you that you're not meeting this contractual obligation, what are you doing to fix it? Have you done that? Have you

received that sort of notice?

DR. HELLENDER: I think Mr. Taylor answered that question, that we have received --

COUNCILMAN ORTIZ: No, no, I'm asking very specifically about this obligation that has been brought to your attention by previous reports, reports as early as 1999, and the year 2002 of the day March 20th of this report, that contractual obligation still has not been taken care of.

Have you gotten notice as to why you have not met it and what you're doing to fix it?

DR. HELLENDER: You specifically asked if Tim Gill had communicated to me in writing --

COUNCILMAN ORTIZ: By contract, it should be a hundred percent of men being screened. Why is it only 30 percent when you were notified in 1999?

DR. HELLENDER: My attorney's asked that I be allowed five minutes to discuss this with him in private.

COUNCILMAN ORTIZ: You can have five minutes.

DR. HELLENDER: Thank you. I appreciate it.

(Break taken.)

(Proceedings resume.)

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COUNCILMAN ORTIZ: Yes.

DR. HELLENDER: The suggestion in the report that the Committee on Gonorrhoea Screening is less than 100 percent at one time was very true. Getting the program started was very difficult, we had difficulty with logistics and collection. However now, through a great deal of cooperation with Corrections, we now, at CFCF, for the male intake, collect 99.9 percent of the urines. I don't want to say 100 because nothing is absolute, but we are collecting as close to 100 percent as I anticipate we'll be able to.

We've had no refusals that I'm aware of. At PIC, where we do our female intake, that program runs at nearly 100 percent as well.

COUNCILMAN ORTIZ: I'm going to ask you some questions, I'm going to ask you whether you agree or not. In mental health care, it says that there's little progress on the implementation of quality management tools and programs for mental-health care. More than 20 percent of the

inmates at PPS have prescribed psychotropic medication. That is approximately 15 percent higher than expected. Considering the demographics of the inmates and epidemiology of serious mental illness among jail inmates, any excess prescription is harmful to the patients.

And in addition, there are cost implications. A one-third reduction in the use of psychotropic medication could save PHS more than $500,000.

Is that the current condition that is going on? Is that the way it's been implemented?

DR. NEWKIRK: The current statistics are that we have approximately 20 percent of our inmates on psychotropic medications. That 20 percent is about the national average for jails; it is less for prisons. And Dr. Greifinger and I disagree on the national standard for that.

But, yes, we do have approximately 20 percent.

Many of our inmates who initially come into our jail are also coming off of street drugs, and they are displaying psychiatric symptoms, which is why we have such a high proportion of people at

the front door, or at least within the first several weeks, on psychotropic medication.

As time goes on, some of those people are taken off because the symptoms go away, because the withdrawal from the substances go away, and of course, a lot of people do stay on the medications.

One of the things that we do is as much as we can, when inmates come in on certain psychotropic medications, we continue them on the same medications if we can verify. So we are practicing what is being practiced as the community standard of care here in the City of Philadelphia.

And one of the things that makes this system different than a lot of other jail systems is that some of the purest heroin in the country is here in the City of Philadelphia, so we have people coming in who are on a multiplicity of addictive substances along with their mental illnesses, and when we first see them, it takes us quite a while to figure out what we are looking at, and it is a very complex issue.

COUNCILMAN ORTIZ: So you don't agree that it's 50 percent higher than expected?

DR. NEWKIRK: 15 or 50 percent?

COUNCILMAN ORTIZ: 50.

DR. NEWKIRK: I don't agree that it's 50 percent higher than other jails because, as I said, in jail systems around the country, it runs between 15 and 20 percent to see people on psychotropic medications.

COUNCILMAN ORTIZ: Dr. Greifinger and Dr. Patterson, they both agree that the current screening in terms of suicide prevention, that the current screening tool is defective.

What are you doing about that? Do you agree with that?

DR. NEWKIRK: With the input of Dr. Greifinger and Dr. Patterson, a new medical intake screen that had several more mental health questions on it was implemented on April 23rd -- I'm sorry, on March 23rd, and so the new screen did go in with the input from both of the experts, along with PPS staff, the management information systems staff, and Prison Health Services staff.

So we have corrected that issue.

COUNCILMAN ORTIZ: You have corrected it?

DR. NEWKIRK: Right, with the input of

both experts.

COUNCILMAN ORTIZ: You corrected it a month ago, you say?

DR. NEWKIRK: Since the time that that -- that report was based on their reviews in early March.

COUNCILMAN ORTIZ: A suicide occurred a week ago.

DR. NEWKIRK: Yes.

COUNCILMAN ORTIZ: Something went wrong. Nothing went wrong? A person died and nothing went wrong?

You're shaking your head; nothing went wrong?

DR. NEWKIRK: I'm not shaking my head.

COUNCILMAN ORTIZ: No, he did. I said something went wrong.

DR. NEWKIRK: A person died.

COUNCILMAN ORTIZ: A person died.

DR. NEWKIRK: Yes, sir.

COUNCILMAN ORTIZ: Committed suicide.

DR. NEWKIRK: Yes, sir.

COUNCILMAN ORTIZ: Nothing went wrong.

DR. NEWKIRK: We are still investigating

that death.

COUNCILMAN ORTIZ: And you fixed the suicide prevention protocol?

DR. NEWKIRK: Those are two separate issues. We were talking about the medical intake screen, which included questions on suicide prevention, and the suicide prevention policy is a separate policy that includes the medical intake screen.

COUNCILMAN ORTIZ: At D.C. -- and I find this -- and I'd like you to tell me how this was done, just explain that to me, because when I read it before, I said this is...

At D.C., Dr. Greifinger had found that 40 percent of the (indiscernible) entries were undocumented and went back the next day and they were all filled in. How was it done?

MR. TAYLOR: Based on the briefing we had with Dr. Greifinger, that incident is still under investigation.

COUNCILMAN ORTIZ: Excuse me?

MR. TAYLOR: That incident is still under investigation.

COUNCILMAN ORTIZ: He said there are

problems of management and supervision in that unit, and that medication was documented greater than 95 percent at CFCF; is that true? That's what he says.

MR. TAYLOR: I don't understand the question.

COUNCILMAN ORTIZ: Well, he just goes on, you know, on the same issue here, that medication was greater there than 90 percent of CFCF.

(No immediate verbal response.)

COUNCILMAN ORTIZ: You haven't read the report? You guys don't read the report; is that it?

DR. HELLENDER: I'm not sure that you're reading the entire sentence. It's talking about medication documentation?

COUNCILMAN ORTIZ: Yeah.

DR. HELLENDER: What does it say?

COUNCILMAN ORTIZ: It says medication is documented greater than 95 percent at CFCF.

DR. HELLENDER: That's probably true. That suggests that greater than 95 percent of the doses ordered were given and documented as having

been given.

COUNCILMAN ORTIZ: He says you're revising the red-flag policy. What does that mean?

DR. HELLENDER: I don't know.

(PHS witnesses confer off the record.)

DR. NEWKIRK: Dr. Patterson and Dr. Greifinger have been working with all of us to come up with a better red-flag system. And during his last visit, Dr. Patterson actually recommended new wording for the red-flag policy.

And if you will give me a minute -- well, actually what it says, it revises it from three consecutive misdosages of medications to wording such that three missed dosages the same time of day, and they would be reported to the shift commander as well as the nurse, written down; and on the next day, those folks would be taken to the behavioral -- or put on the behavioral-health caseload, and they are prioritized to be seen that same day, if possible.

And that was in an attempt to -- red flag is basically dealing with medication noncompliance. I think you've even heard someone

talk -- several people talk about the necessity of medications being given in a timely manner, and we agree with that.

But given the numbers that we have, we have now established a system of tracking that and, as much as possible, getting them seen as soon as possible after that is --

COUNCILMAN ORTIZ: Dr. Greifinger says that there has been no significant progress in the focused study to analyze barriers to improve documentation of delivery of medication. This is due to insufficient PHS administrative resources.

He says that this repeat recommendation -- and it seems that these recommendations are repeated and they're not fixed. I mean, it seems like there's a lack -- again, a lack of compliance here with the contract. These things are not happening.

And, obviously, you're not taken to task because you don't pay no penalties for this lack of compliance.

DR. NEWKIRK: I think we are taken to task because we have regular meetings with Mr. Tim Gill in his office, and we are --

COUNCILMAN ORTIZ: But, obviously, these -- these recommendations and these problems are ongoing from the beginning of this contract, and obviously, they haven't been resolved.

DR. NEWKIRK: Many, many of those issues have been -- are improved and some of them have been resolved. And, yes, there are still problems. We are not perfect and we are taken to task.

The other part of your question, I think I'm not in a position to answer that part.

MR. TEAL: I would second what Dr. Newkirk says in that we do take it very seriously what Mr. Gill says. We have filled, I would say, at least 10 to 15 positions that aren't even required by the contract to better serve our patients.

An example of that would be a recruiter. That is what is necessary here because of the inordinate amount of turnover.

COUNCILMAN ORTIZ: I think the rest of the questions I have, you'll give me the fifth-amendment answer to. So, therefore, I want to thank you for coming from Tennessee. It took Commissioner Costello two hearings to come from Northeast

Philadelphia.

And I want to thank you because I really don't blame PHS that much. If you got a contract, it is up to us to make you fulfill it. If we're negligent in you not fulfilling it, that means that the City administration is not doing its job.

I know that Dr. Greifinger has said that you've been cooperative, and I imagine that you have been, but I do imagine that something is going on that is not -- or is preventing the full medical services to be provided to these inmates, and too many people really are dying in our jails.

So I want to thank you once again.

This committee stands in recess until June 5th, at 2:00 p.m.

(Proceedings end at 3:41 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the foregoing proceedings of the Council of the City of Philadelphia's meeting of the Committee on Public Safety and Health and Human Services of Wednesday, May 8, 2002, are contained fully and accurately in the stenographic notes taken by me, and that this is a true and correct transcript of same.

RE: Resolution No. 010528

_____,

Josephine Cardillo

Registered Professional Reporter and Notary Public

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