

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, November 20, 2018
10:20 a.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN DAVID OH
COUNCILWOMAN CHERELLE L. PARKER

BILLS 180741 and 180978

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2 COUNCILMAN JONES: Good
3 morning. This is a hearing now called to
4 order. This is a hearing from the
5 Committee on Public Safety to hear
6 testimony on Bill No. 180741 and Bill No.
7 180978.

8 I see the presence of a quorum.
9 To my right is Councilwoman Blackwell and
10 Councilman Green. To my left is
11 Councilman Johnson, Councilwoman Parker,
12 and Councilwoman Gym. I also see in the
13 seat Councilman David Oh. Thank you for
14 attending.

15 Will the Clerk please now read
16 the title of the bills being considered
17 today.

18 THE CLERK: Bill No. 180741, an
19 ordinance amending Section 10-840 of The
20 Philadelphia Code, entitled "Criminal and
21 Defiant Trespassers," to clarify and
22 modify applicable definitions, penalties,
23 and procedures, and to make certain
24 technical changes, all under certain
25 terms and conditions; and

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2 Bill No. 180978, an ordinance
3 amending Title 10 of The Philadelphia
4 Code, entitled "Regulation of Individual
5 Conduct and Activity," Chapter 10-800,
6 "Safety," by adding a new Section 10-841,
7 "Fraudulent Leasing of Residential
8 Property," prohibiting conduct related to
9 the fraudulent leasing of residential
10 property, all under certain terms and
11 conditions.

12 COUNCILMAN JONES: Thank you,
13 Ms. Williams.

14 I just want to say for the
15 record that this Council and Councils
16 before it have taken a hard look, a
17 deeper dive into criminal codes that have
18 the ability to impact people's lives for
19 the good or for the better over the long
20 term.

21 As we make these adjustments,
22 whether it's decriminalization of small
23 amounts of marijuana to some of the
24 nuisance codes that we deal with and then
25 to some more serious issues as it relates

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2 to property rights and people's ability
3 to safely hold title, we've heard some of
4 the horror stories about some of these
5 issues, whether it's a young man who was
6 selling a small amount of marijuana when
7 he was a kid, wind up 30 years later not
8 being able to work to his highest level
9 of proficiency as a professional, or
10 hearing about people who were in critical
11 care units come out of that, only to find
12 out that someone had adversely possessed
13 their home.

14 So this body is constantly
15 evaluating and reevaluating some of the
16 codes that we have authority over. We
17 recognize clearly that the federal
18 government is the big level. The medium
19 level is the Commonwealth of
20 Pennsylvania, and we are but small fries,
21 but we're going to make our mark known,
22 because we are the ones with boots on the
23 ground who have to deal with the citizens
24 that come to our office with these
25 issues.

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2 So with that, Ms. Williams --
3 oh, wait a minute. Are there any others
4 on the panel that would like to say a few
5 words?

6 Councilwoman.

7 COUNCILWOMAN GYM: Yes. Thank
8 you very much, Chairman Jones.

9 First of all, I want to
10 acknowledge and thank the work of my
11 tremendous colleague Councilwoman
12 Cherelle Parker for her leadership on
13 this issue. This is an extremely
14 complicated area of the law, and it
15 really matters that we all work together
16 to ensure that the law that we're putting
17 forward takes into account the
18 experiences and ensuring protections for
19 all victims of serious issues that can
20 happen, unintended or intended, and
21 Councilwoman Parker has done just a
22 tremendous job leading us and helping us
23 understand better all the nuances that
24 happen within complicated areas,
25 especially for some of our most

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2 vulnerable residents.

3 I also really want to extend a
4 note of gratitude to all the legal
5 service organizations who are in the
6 audience here. Thank you so much to our
7 good friends at CLS, PILCOP, SeniorLAW
8 Center, TURN, and others who have really
9 been invested in making sure that the law
10 represents a vast majority of citizens,
11 many of whom can't afford to have
12 lawyers, can't afford to understand all
13 the nuances of law. Thank you so much
14 for all the years of experience you've
15 devoted to making sure that we get this
16 right, that you work with us, hold us
17 accountable, and look forward to this
18 hearing.

19 COUNCILMAN JONES: Thank you,
20 Councilwoman.

21 Are there any others to --
22 Councilman Oh. The Chair recognizes
23 Councilman Oh.

24 COUNCILMAN OH: Thank you very
25 much, Chairman.

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2 My first question to everyone
3 is, how did this hearing end up before
4 this committee? What I mean is, the
5 issue was raised originally April 25th,
6 2017. It was introduced as a bill. It
7 was introduced as a resolution. My bill
8 actually to deal with criminal and
9 defiant trespassers was assigned to this
10 committee. Councilman Taubenberger's
11 resolution to have a hearing on the
12 totality of these circumstances was
13 assigned to Allan Domb's committee, the
14 Housing Committee.

15 Council President came to me
16 and said in order to consolidate this for
17 efficiency and effectiveness, I'd like to
18 move your bill from the Public Safety
19 Committee to the Housing Committee, and
20 Councilman Taubenberger asked that I do
21 the same, and I agreed, because we should
22 have it under one committee.

23 Since that date, we have had
24 numerous hearings in front of the Housing
25 Committee. We've had numerous meetings,

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2 including the Police Department, the
3 District Attorney's Office, the City
4 Solicitor's Office, Community Legal
5 Services, tenants' rights groups, and
6 other organizations. My bill was
7 defeated by a vote of four to one, and
8 then we had continuing conversations
9 under that committee under the leadership
10 of the Chairman, Allan Domb.

11 A new bill was introduced on
12 this very same topic by Councilman Al
13 Taubenberger, assigned to the Housing
14 Committee, and then I introduced the bill
15 that was assigned once again to the
16 Housing Committee. And so all
17 negotiations, conversations, discussions
18 have been held before the Housing
19 Committee. And until Thursday, I did not
20 know, Councilman Henon did not know,
21 Councilman Domb did not know that this
22 committee would be holding this hearing
23 and, therefore, we're unprepared.

24 What I will say is that in the
25 short time I've been here, I have read

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2 Mr. Gould's testimony. I think it is
3 consistent. He has said the same thing
4 all along. He has not changed any of his
5 points about people who may be harmed
6 prior to my bill and after my bill.

7 This is not a complicated topic
8 whatsoever. There are homeowners in
9 Philadelphia who come home to find
10 criminals in their home. I don't mean
11 strangers who were mistaken. Broken into
12 their home, keys taken, properties sold,
13 and the efforts of the champions of these
14 criminal and defiant trespassers has been
15 to make the homeowners unable to get in
16 front of a judge faster.

17 The bill that you're trying to
18 amend simply allows the person who is the
19 homeowner, who has the evidence to
20 contact the police -- and the police used
21 to not get the information -- and if the
22 police don't make an arrest, under the
23 directive they can have a detective look
24 at it. If the detective chooses not to
25 make an arrest, they have a procedure

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2 whereby they can get in front of a judge.

3 All of the questions that Mr. Gould

4 identifies, are you a victim, were you

5 scammed, all that, do you have a legal

6 right to be there, has to be determined

7 by a court of law, by a judge, not by a

8 police officer. Therefore, no police

9 officer is removing anybody under the

10 bill, under the ordinance. But under

11 this bill that is proposed, those rights

12 and those protections for homeowners are

13 being stripped away.

14 Let me give you some examples.

15 There are exemptions now for homeowners

16 who want to use the ordinance. A person

17 in their home simply has to say, I'm a

18 victim of domestic violence, sexual

19 harassment or stalking, not necessarily

20 by the homeowner but by someone who might

21 be a criminal and defiant trespasser as

22 well. And now instead of getting into

23 court within 30 days, as we try under our

24 ordinance, you'll have to go through the

25 same process of ejectment, which

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2 typically takes six months and in many
3 cases, based on our testimony, 12 to 14
4 months. What is the problem with getting
5 in front of a judge to have a judge make
6 the determination faster?

7 In addition, if the criminal
8 and defiant trespassers claim to have
9 fallen for a scam, then the amendments
10 say that the homeowner -- that the
11 criminal and defiant trespasser even if
12 they make a claim that they were a
13 victim, they have to have the trespasser
14 in their home for up to 15 days. Where
15 will the homeowner go? Most of the folks
16 that we have heard from are senior
17 citizens, they are poor, they don't have
18 another house to go to.

19 It also allows for a vague
20 standard that before the homeowner uses
21 or contacts the police or uses an
22 ordinance, they have to conduct a
23 reasonable investigation. The homeowner
24 calls the police. The police do the
25 investigation. Under this amendment, the

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2 homeowner now has to conduct a reasonable
3 investigation, and it creates a private
4 right of action against them. It exempts
5 individuals who unknowingly engage in
6 criminal and defiant trespass. I'm not
7 sure what that is, but it's an easy claim
8 to make. I thought I was supposed to be
9 in here, so I kicked in the door, I
10 changed the locks, but I did it
11 unknowingly. All of this is really to
12 make it more difficult for the homeowner,
13 who is already challenged in
14 Philadelphia.

15 And then, finally, we created
16 the deterrent because of the criminal and
17 defiant trespassers who we have found to
18 purposely break into people's home with
19 the idea of getting \$3,000 cash for keys,
20 except they're not leaving. They're
21 staying there a long time. And so we
22 have in our ordinance a \$300 fine per
23 day, up to the judge, and up to 90 days
24 in jail. This amendment gets rid of that
25 and creates a maximum fine of \$1,000.

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2 Listen, you can't even get these people
3 out of your house for \$2,000 or \$3,000.

4 What I would say is this: We
5 have spent numerous, numerous hours
6 meeting with the same people sitting
7 there, talking with them time and again,
8 getting their letters, having
9 conversations, trying to reach compromise
10 with them, but they're never satisfied
11 with the compromise. We have finally
12 passed an ordinance. The ordinance has
13 passed. Now we're going to hear this
14 testimony in front of a new committee,
15 because the Chairman of the Committee was
16 trying to get a level of conversation
17 between CLS, tenants' rights folks,
18 SeniorLAW Project, the homeowners, HAPCO,
19 and the victims.

20 So with that, I would urge you
21 to send this back to the committee that
22 has heard all of this testimony, dealt
23 with all of this, and otherwise to do
24 your best.

25 Thank you.

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2 COUNCILMAN JONES: Thank you,
3 Councilman. And all of that was recorded
4 on the record and some of your concerns,
5 questions, and objectives. I'm only
6 going to respond to one of them, which
7 was the very first one, how did it get to
8 my committee.

9 As you articulated, there is a
10 lot of criminal and possible legal action
11 that might be in the criminal area. So
12 in my opinion as Chair of Public Safety,
13 this is truly an appropriate place to
14 have those aspects here.

15 I also note that the Chair of
16 Housing is also on this committee, which
17 adds to the level of discussion because
18 of her expertise in the area.

19 Thirdly, you only have to look
20 at the news from a 24-hour news cycle in
21 Southwest Philadelphia. There were four
22 people found dead, shot to death in a
23 dwelling, and it may have been a result
24 of criminal trespassing.

25 So all of these things are

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2 reasons why, in my opinion, it is
3 appropriate to be here. Some of the
4 backroom discussions, I wasn't privy to.
5 I was at the same meeting you were at at
6 the caucus when it came up. And so
7 maybe -- and I can't speak for others --
8 that some of the amendments, some of the
9 concerns are more from a different lens
10 of public safety, and if that is the
11 case, then it is truly appropriate that
12 it is here.

13 With that, I'm going to
14 recognize Councilwoman Parker.

15 COUNCILWOMAN PARKER: Thank
16 you, Mr. Chairman and members of the
17 Committee.

18 Before I start with my
19 comments, I just want to note for the
20 record, one only needs to look at the
21 state of our great nation to value the
22 importance of fact versus fiction, fact
23 versus fiction and the absolute truth,
24 and the great thing about facts and
25 not -- and interpretation that is

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2 subjective are that facts don't change.

3 And so it's with that in mind that I want

4 to first -- I want to state the obvious

5 and, Mr. Chairman, I want to thank you in

6 advance for the leeway, because based on

7 the opening remarks that we just heard

8 from one of our colleagues, it is very

9 important that for the record I get the

10 information that I am about to state on

11 the record, because it will address much

12 of what I consider to be misinformation

13 that was just communicated.

14 With that being said, I want to

15 state the obvious. It has been,

16 currently is, and will remain illegal to

17 trespass or break into someone's home and

18 take up residence. There are no

19 squatters' rights, for the record.

20 Squatters' rights have not and do not

21 exist. It is illegal to squat.

22 First, squatting is illegal

23 under state law, and if arrested and

24 prosecuted, you will face penalties such

25 as fines and/or jail time.

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2 Second, under my Bill No.
3 180741, the bill that's being heard here
4 today, squatting is deemed a prohibited
5 conduct and can lead to both arrest and
6 municipal civil fines.

7 Unfortunately, significant
8 misinformation about Bill No. 180741 has
9 been distributed via social media through
10 various communication outlets, and the
11 misinformation has encouraged some to
12 come here today to testify against Bill
13 No. 180741. And if you are here to
14 testify against it, I hope you will
15 listen carefully to what I'm about to say
16 and then ask yourself whether or not
17 you're still opposed.

18 If you retain nothing else,
19 please listen to this sentence: Bill No.
20 180741 protects rightful home dwellers
21 and victims of fraud, while ensuring that
22 those who trespass or break into
23 someone's home will face arrest and fines
24 under the City Code and criminal
25 penalties under existing state law.

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2 There are three main
3 differences between my bill and the
4 current law on the books regarding
5 criminal and defiant trespassers. Now,
6 some people may want to -- and I'm not
7 sure if you'll be able to read it, but we
8 have actual copies of this for anyone who
9 is in the Chambers. Anyone who is at
10 home watching, you can request a copy
11 electronically, and this information has
12 been distributed well in advance to all
13 members of this committee.

14 The first difference, the bill
15 on the books currently states the
16 following types of individuals cannot be
17 deemed criminal and defiant trespassers:
18 An individual with title to the property;
19 an individual with permission of the
20 owner or authorized agent; an individual
21 who has any sort of interaction with the
22 owner that would indicate a
23 landlord-tenant relationship under state
24 law.

25 The difference, my bill, my

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2 bill states that the following types of
3 individuals cannot be deemed criminal and
4 defiant trespassers: An individual with
5 a title to a property; an individual with
6 permission of an owner, and not just the
7 owner, because if you live in some of our
8 neighborhoods and mom dies and the home
9 is being left to family members,
10 sometimes there are three owners instead
11 of one. That is not something that we
12 just created. There are multiple
13 instances, particularly in communities
14 where someone passes away and doesn't
15 have a will specifically identifying who
16 the owner is.

17 A prior owner who had legal
18 authority to grant such permission at the
19 time, a prior tenant who had the legal
20 authority to grant such permission at the
21 time, and/or an authorized agent of any
22 of these; an individual who has any sort
23 of interaction with an owner that would
24 indicate a landlord or tenant
25 relationship under state law. You heard

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2 it mentioned earlier, a victim of
3 domestic violence, sexual harassment or
4 stalking that has been perpetrated by an
5 owner or by another person who is
6 currently or has recently lived with the
7 victim.

8 Now, please note, this language
9 is specifically to protect victims living
10 in the same household as their abusers
11 who may have the deed in just their name.
12 This is to prevent abusers from turning
13 around and threatening their victims, get
14 out of the house now or else I'll call
15 the police and I'll say you're a squatter
16 so that they can come and arrest you.
17 Until you walked a mile in someone else's
18 shoes, don't claim what you know can and
19 cannot happen.

20 A victim of residential lease
21 fraud or someone else with a legal claim
22 to reside in the property, including, but
23 not limited to, someone with the right to
24 redeem their property after Sheriff Sale,
25 someone who is buying a property in an

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2 installment sales contract, also known as
3 rent to own. For those of us who
4 represent districts with a high rate of
5 homeownership where people are constantly
6 getting this, we'll buy your house for
7 cash, letters in the mail or we have a
8 rent-to-own program and you should come
9 and buy from us. These kind of scams run
10 rampant. And/or someone with a right to
11 reside in their property under the
12 federal Protecting Tenants and
13 Foreclosure Act.

14 The second main difference, my
15 legislation provides protections for
16 those who have been falsely accused of
17 being a criminal and defiant trespasser
18 as well as protections for victims of
19 residential lease fraud. For individuals
20 who have been falsely accused of being a
21 criminal and defiant trespasser, Bill No.
22 180741 puts in a fine of \$1,000, if
23 someone knowingly files a false affidavit
24 with the police or fails to correct a
25 material statement that they subsequently

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2 learned to be false.

3 Bill No. 180741 also includes
4 language that makes it easier for those
5 who have been falsely accused to seek
6 restitution in court.

7 For victims of residential
8 lease fraud, I want you to just bear with
9 me. Imagine that your mother has
10 recently become a widow. She decides
11 that she can no longer maintain the house
12 she was in and she wants to rent a
13 smaller house and she wants to be closer
14 to you. She finds a listing. She puts
15 down her first month and her last month's
16 rent and security deposit and she moves
17 in. A few months later, someone shows up
18 at her door and they tell her, you have
19 to get out immediately because you are a
20 squatter.

21 Now, under the law as it is
22 currently on the books, your mother will
23 have not only just lost a significant
24 amount of money to a scammer, but she
25 would also be subject to a \$300

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2 compounding daily fine for every day that
3 she remains in the property as well as
4 potential jail time.

5 Now, do you really think it's
6 fair to further penalize someone who has
7 just been defrauded, particularly with
8 jail time, particularly with all of you
9 MacArthur grant supporters who are in the
10 audience who said Philadelphia was on the
11 right path?

12 Now, I realize that when
13 someone is a victim of residential lease
14 fraud, what happened to them is not fair,
15 but they still have to vacate the
16 property. So I don't want anyone to
17 think that we are softening what is
18 considered to be a crime. We are saying
19 if you've been a victim, you know,
20 unfortunate, sad, but you still have to
21 leave, and that's why we have language
22 included in this bill that is not in the
23 current law that I should mention that
24 states that the police must notify the
25 victim in writing that such victim cannot

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2 legally remain in the residence and must
3 make arrangements to move out within 15
4 days. My office has developed this
5 15-day language after conversation with
6 various departments of the
7 Administration, including Police, Law,
8 the Office of Supportive Housing, as well
9 as the District Attorney's Office.

10 Finally, it is specifically
11 because I have seen an uptick in
12 residential lease fraud recently that I
13 introduced Bill No. 180978 as a companion
14 bill to 180741, because while it is
15 obviously already illegal at the state
16 level to create a fraudulent lease, my
17 bill imposes a civil penalty of \$1,000
18 per each violation. Additionally, Bill
19 No. 180978 also makes it easier for both
20 the actual owner of the property and the
21 victim of lease fraud to seek restitution
22 in court.

23 The third main difference, my
24 legislation changes the civil penalties
25 for criminal and defiant trespassing.

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2 The way the law is currently written, the
3 penalties for criminal and defiant
4 trespassing compound daily. What does
5 that mean? On day one, \$300 or a 90-day
6 jail stay. Day two, \$600, 180-day jail
7 stay. You get it. This means that for
8 every four days a squatter is in a house,
9 that's almost a year in jail. One month
10 is seven and a half years in jail. And
11 as you know, many of these squatting
12 cases have taken six months or more to
13 resolve. So six months, that will be a
14 total of 45 years in jail, MacArthur
15 supporters.

16 I think we all agree that these
17 squatters need to face consequences for
18 their actions, but 45 years in jail is,
19 quite frankly, you know, quite laughable,
20 especially when you're not the taxpayer
21 who has to foot this bill, especially in
22 this area when we're talking about
23 bipartisan criminal justice reform.

24 180741 removes the daily
25 compounding 90-day jail stay because

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2 those criminally prosecuted under state
3 law for trespassing, they already face a
4 potential jail sentence.

5 Additionally, the way the law
6 is currently written -- I want you to
7 think about this, and I want you to think
8 about our police districts -- it requires
9 the police to physically go out to the
10 property each day to issue the \$300 fine.
11 So that means every day the police, they
12 would have to go out to a particular
13 property and issue this fine. This not
14 only creates implementation challenges
15 but, quite frankly, our police force,
16 these four people in the basement in the
17 house found murdered, I want them
18 investigating at that house and not
19 telling me that they have to take someone
20 off of that assignment to go on a daily
21 visit to another property. I'd rather
22 them be spending their time stopping
23 violent crime than going back to the same
24 house each day to try to issue a fine.

25 Instead, this bill has a \$1,000

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2 fine for first-time squatters and a
3 \$2,000 fine for repeat offenders, meaning
4 they go back to the same house after
5 arrest or they go to a different house.
6 This fine will still serve as a deterrent
7 while also making it much easier for the
8 police to implement.

9 Finally, now that you've heard
10 me explain the bills, I hope it is clear
11 to everyone that it aims to protect
12 rightful home dwellers and victims of
13 fraud, while ensuring that those who
14 trespass or break into someone's home
15 will still face arrest, fines under the
16 City code, and criminal penalties under
17 state law.

18 I too want to join my Council
19 colleague Councilwoman Gym in saying a
20 special thank you to our legal aid
21 organizations, CLS, SeniorLAW, Public
22 Interest, and the Tenant Union
23 Representative Network. They are the
24 organizations who are on the front lines
25 every day protecting our city's most

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2 vulnerable and elderly. They are the
3 ones who have been consistently sounding
4 the alarm that the law on the books
5 confer to threaten our most vulnerable
6 constituency.

7 Next I want to say a special
8 thank you to our law enforcement agency,
9 particularly the Police and our District
10 Attorney's Office. I was incredibly
11 grateful that when the Police Department
12 released their new directive regarding
13 squatters on September the 28th of this
14 year, they showed that they got it. And
15 what I mean is that they understand that
16 not everything is black and white, that
17 there are numerous circumstances where
18 someone may have a legal right to reside
19 in the property, but for one reason or
20 another they don't have a deed in their
21 name. We didn't make that up. These are
22 cases that are quite common in many of
23 our neighborhoods.

24 With that being said, a police
25 procedure is just a procedure. It's not

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2 a law, and it can change under new
3 leadership, which is why I want to codify
4 protections for the most vulnerable while
5 also still ensuring that squatters will
6 face arrest, fines under the City Code,
7 and criminal penalties under existing
8 state law.

9 As for the DA's Office, they
10 have been a tireless partner in working
11 to enhance protections for the elderly,
12 the poor, victims of domestic violence,
13 and the vulnerable while still making
14 sure that they work to stop fraud and
15 corruption.

16 In closing, I want to leave you
17 with one more thing. I just mention that
18 while the new police procedure shows that
19 they get it, just imagine if they got it
20 wrong. Their procedure shows that they
21 understand the very intricate nuances,
22 but just imagine if something happened
23 and we got it wrong, meaning just imagine
24 if someone had a legal right to reside in
25 their property was arrested and they were

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2 put in jail. Can you imagine the lawsuit
3 and the multi-million-dollar payout that
4 the City would have to make? My Bill No.
5 180741 will protect the City against such
6 lawsuits.

7 Finally, for the record -- and
8 I've got to state this because this is on
9 my spirit. It is a joke for anyone to
10 contend that all of the stakeholders who
11 have a nickel in the quarter of putting
12 together this legislation that from the
13 very beginning they were at the table. I
14 would dare say that it was not until we
15 passed a resolution in this Council
16 calling for the creation of a task force
17 and we held our meeting right across this
18 hall in our Council Chambers with law
19 enforcement, along with our legal aid
20 organizations and anyone who would have a
21 role in this process, that was the first
22 time that they were all brought to the
23 table. So I don't know about any
24 individual meetings that occurred in
25 silos or using a secret way to

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2 communicate, but I would dare say to you
3 that every organization who has come in
4 to testify here today will tell you that
5 they never got together as a whole the
6 way that they should have in order to
7 develop this legislation, to hash out
8 details, responsibilities in a very real
9 way. I know it's the much more difficult
10 way. It takes a longer time to do it
11 that way, but fortunately for me, it is
12 the only way that I know how to get
13 things done and, that is, bringing
14 everyone to the table at the same time,
15 no whispering campaigns, but whether they
16 agree or disagree, to make sure
17 everyone's perspective is heard.

18 And for those who are watching
19 at home who are saying, Councilwoman
20 Parker, we feel that you're a tad bit
21 passionate and overly spirited right now,
22 if you knew the hell I went through and
23 the very diplomatic silence that I've had
24 to demonstrate while watching the
25 information be shopped to reporters, to

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2 be sent on social media, almost used as a
3 way to bully some of my colleagues who
4 know that this is a highly public and
5 charged and emotional issue and they've
6 taken this information to really powerful
7 community organizations as a way to say,
8 you know, we deal with this issue of
9 squatting and tough law and order that
10 doesn't make a damn bit of sense, we want
11 that to stand. Well, I'm not going to
12 let anybody bully me. The facts matter.
13 They could be in Washington or in
14 Harrisburg or in Philadelphia, but I
15 don't care who you are. You won't bully
16 me. You don't scare me, and I'm going to
17 speak my truth, no matter how difficult
18 it may be for you to swallow.

19 To my colleagues, I thank you
20 so very much and, Mr. Chairman, the
21 leeway that you just granted me, I am
22 very grateful and appreciative of it, but
23 I've gone through hell in just trying to
24 do this right.

25 Thank you.

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2 COUNCILMAN JONES: Thank you,
3 Councilwoman. Are you sure you don't
4 want to tell us how you really feel? You
5 did, and I appreciate it.

6 I appreciate my colleague.

7 Let me just say this: We are
8 not a monolithic body. We come from
9 different points of view looking at the
10 same subject. We can see things very
11 differently. But what I will say is that
12 all of us, I can safely say without fear
13 of contradiction, passionately represent
14 our constituents' voices. I want to say
15 that I've always enjoyed the back and
16 forth between different groups as well,
17 if you're talking about the Tenants Union
18 or Phil Lord and his decades worth of
19 advocacy or the HAPCO folk. I've had
20 them in my office on other issues, and
21 we've agreed on a great many things,
22 agreed to disagree on many things, but I
23 think at the end of the day, at the end
24 of this process, you will have a better,
25 well-thought-out public policy issue, and

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2 that's why we are here, to have hearings
3 like this. Not to always go along to get
4 along agree, but to have it on the record
5 in public discourse and come up with a
6 solution, because an inaction is an
7 action. If we do nothing, we've done
8 something and we've done something to
9 somebody.

10 So with that, I see your
11 counterpoint, but what I'm going to do is
12 allow the Clerk to bring up the first
13 group to testify and then you'll be
14 recognized.

15 THE CLERK: Inspector Francis
16 Healy, Mike Lee, and Kimberly Esack.

17 COUNCILMAN JONES: Thank you
18 all for your patience. Please approach
19 the witness table, have a seat, pull the
20 mics close to you, state your name and
21 title for the record and please begin
22 your testimony.

23 (Witnesses approached witness
24 table.)

25 MS. ESACK: Good morning.

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2 Kimberly Esack, Assistant District
3 Attorney, Economic and Cyber Crimes Unit,
4 District Attorney's Office, Philadelphia.

5 MR. LEE: Good morning. Mike
6 Lee, Director of Government Affairs,
7 District Attorney's Office of
8 Philadelphia, and I'll be reading some
9 prepared testimony and then collectively
10 we are available to answer any questions
11 this Committee may have.

12 Good morning and thank you,
13 Councilman Jones as Chairman of the
14 Public Safety Committee and other members
15 of the Public Safety Committee and
16 Councilmembers and public in attendance.
17 My name is Mike Lee, and joining me today
18 is Kimberly Esack, Assistant District
19 Attorney for the Economic Crimes Unit
20 from the District Attorney's Office.

21 Homeownership is one of the
22 greatest privileges of our society, and
23 it comes with some of the most
24 responsibilities. Determining the legal,
25 equitable, and title ownership of

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2 residential properties requires detailed
3 case-by-case investigation because of the
4 complex interrelationship of property
5 rights. This is why property rights are
6 often referred to as, quote, "a bundle of
7 rights."

8 The District Attorney's Office
9 supports the intention of Bills 180741
10 and 180978 because these bills add
11 clarity to the bundles of rights
12 surrounding residential property
13 ownership and the issues that arise from
14 there. The District Attorney's Office
15 will continue to support legislation that
16 strengthens the protection of property
17 owners and victims of criminal trespass,
18 while balancing the interests of tenants,
19 victims of fraudulent leases, domestic
20 abuse, and other vulnerable populations.
21 While the District Attorney's Office will
22 continue to rely upon and enforce Section
23 3503 of the Pennsylvania Crimes Code,
24 Criminal Trespass, these bills will
25 improve the District Attorney's Office

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2 response and consistency for residential
3 property controversies.

4 During the Fiscal Year 2019
5 budget hearing testimony, District
6 Attorney Krasner committed to addressing
7 economic crimes involving residential
8 properties. Subsequently, the District
9 Attorney has dedicated resources to
10 expanding the Economic and Cyber Crimes
11 Unit and improving practices surrounding
12 the unique challenges of economic and
13 cyber crime investigations. The District
14 Attorney's Office understands that making
15 the distinction between civil and
16 criminal activities surrounding
17 residential properties can be arduous,
18 and we are working with law enforcement
19 and community partners to improve
20 procedures to secure sufficient evidence
21 to determine if and when an arrest can be
22 made. The Economic Crimes Unit has
23 collaborated with and trained other
24 criminal justice stakeholders to improve
25 investigations, their techniques, and

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2 their outcomes. This unit, Economic
3 Crimes, will continue to work closely
4 with all stakeholders to help stabilize
5 the housing market and increase public
6 safety by prosecuting people who take
7 advantage of the elderly, the poor, and
8 current gaps in our legal system.

9 Thank you.

10 COUNCILMAN JONES: So hold that
11 thought. I have business to attend to in
12 my district, but before I leave, I would
13 like to record my vote and, therefore,
14 would like to recess the public hearing
15 and go into a public meeting.

16 I would now like to be recorded
17 as voting aye on any motions and approve
18 any amendments to these bills, and I
19 would also like to be recorded as voting
20 aye on any motions to report these bills
21 with a favorable recommendation and any
22 recommendation that the rules be
23 suspended to permit first reading at our
24 next session of Council.

25 We will now go back into our

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2 public meeting, and I will relinquish the
3 Chair to Councilman Johnson.

4 COUNCILMAN JOHNSON: Any
5 questions for members of the panel?

6 (No response.)

7 COUNCILMAN JOHNSON: Did
8 everybody get a chance to --

9 INSPECTOR HEALY: Would you
10 like me to read the testimony?

11 COUNCILMAN JOHNSON: Yes, sir.

12 INSPECTOR HEALY: Good morning,
13 Councilman Jones and other members of the
14 Committee on Public Safety. My name is
15 Francis Healy and I'm Special Advisor to
16 Commissioner Ross. First, on behalf of
17 the Commissioner, I'd like to thank you
18 for giving the Philadelphia Police
19 Department the opportunity to voice its
20 opinion regarding Bill No. 180741
21 regarding criminal and defiant
22 trespassers and Bill No. 180978 regarding
23 fraudulent leases.

24 As you know, the Philadelphia
25 Police Department supported the passage

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2 of Bill 180430, which amended Title 10 of
3 the City Code by adding a new section
4 entitled "Criminal and Defiant
5 Trespassers."

6 Due to a relatively new and
7 emerging crime whereby offenders
8 illegally occupy or fraudulently lease
9 residential properties to unsuspecting
10 renters, Commissioner Ross directed that
11 a policy be developed and implemented to
12 address the criminal activity, but also
13 to better serve the victims of these
14 crimes. The policy, which is known now
15 as Directive 5.31, provides clear
16 instructions for responding officers and
17 the assigned detectives when dealing with
18 this complicated financial crime.

19 To be very clear, these
20 criminals are not homeless individuals
21 squatting on vacant property to get out
22 of the elements. They are individuals
23 whose expressed intent is to deprive the
24 owner of his or her property and to use
25 this property to intentionally defraud

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2 unsuspecting victims.

3 Accordingly, the Police
4 Department supports Bill No. 180741 as is
5 proposed to be amended, and for this
6 reason, the Police Department also
7 supports Bill No. 180978 relating to
8 fraudulent leases. The Department views
9 Bill No. 180978, the fraudulent leases,
10 as a companion bill to the existing City
11 Code Section 10-840 and the proposed
12 amendment and the bill's discussion
13 today. As mentioned, the Department has
14 implemented and developed a comprehensive
15 policy on how to deal with both the
16 criminals and defiant trespassers as well
17 as the innocent victims that occur from
18 the fraudulent leases. This policy is
19 consistent with the City Code Section
20 10-840 and the amendments being made here
21 today under both bills. As such, the
22 Department fully supports both.

23 At this time, I'd be happy to
24 answer any questions.

25 COUNCILMAN JOHNSON: Any

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2 questions for members of the panel?

3 Councilwoman Cherelle Parker.

4 COUNCILWOMAN PARKER: Thank
5 you, Mr. Chairman.

6 And thank you all so very much
7 for your testimony.

8 Relative to the Police
9 Department, can you provide us with just
10 a general overview of the new police
11 procedure Directive 5.31 which went into
12 effect on the 28th, just almost like a
13 checklist for the benefit of those
14 watching.

15 INSPECTOR HEALY: Just so as
16 you know the background, what we did not
17 have in place prior to this directive was
18 specific instructions for responding
19 officers and then the follow-up by
20 detectives on how to deal with this
21 financial crime. It's a relatively new
22 crime. I say relatively new, but the
23 Philadelphia police officers that respond
24 were ill-equipped to deal with those type
25 of complicated issues.

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2 Much like we would handle any
3 other serious crime and aggravated
4 assault, something along those lines, the
5 victims need to have service. So we made
6 sure that what we did, we put in place
7 step-by-step instructions for the
8 responding officers basically to make
9 sure that the victims are either
10 transported to the detective divisions to
11 make sure that the service -- that they
12 get service, first and foremost. And the
13 next thing is instructions for the
14 detectives on how to investigate these
15 things in collaboration with the District
16 Attorney's Office. The District
17 Attorney's Office is obviously the expert
18 in weeding out a lot of these issues, but
19 they're working hand in hand together now
20 that they did not do before. So I think
21 it's in the right path and the right
22 direction.

23 COUNCILWOMAN PARKER: Right.

24 So I just want to be clear, the new
25 police procedure is mostly focused on

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2 enforcement of already existing state
3 law. Like, for example, it's already
4 illegal to trespass and break into
5 someone's home and take up residence; am
6 I accurate?

7 INSPECTOR HEALY: That's
8 correct.

9 COUNCILWOMAN PARKER: Is this
10 an accurate statement?

11 INSPECTOR HEALY: Yeah. Our
12 directive is not impacted by the City
13 Code ordinance.

14 COUNCILWOMAN PARKER: Great.
15 Okay. That was the next question.

16 Tell me, how has the rollout
17 gone so far? Like now at least we have a
18 point of entry. We have a place to tell
19 everyone, no matter what section of the
20 City that you are in, that this is what
21 you should do to get started with this
22 process. How has it been working?

23 INSPECTOR HEALY: It's slow and
24 steady. As with any new policy or new
25 change, it changes the culture. It's a

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2 cultural change. So it's a step-by-step
3 process, but to ensure that this process
4 gets hammered home to the detectives as
5 well as the officers and as well as the
6 detective unit supervisors, we regularly
7 put out a tele-type training announcement
8 to be read to the officers and detectives
9 on a three-day period. We'll do that at
10 least for the next three months one day a
11 month to make sure that this message is
12 constantly revisited, and that way,
13 they're -- like I said, it's a change in
14 culture. We want to make sure everybody
15 gets on board with it.

16 The officers responding on the
17 street really are the key to this. As
18 long as they get out there and they
19 understand this is something beyond me,
20 now they know what to do. They just
21 don't have to stand there and say, well,
22 I'm sorry, I can't help you. That's the
23 biggest thing and that was really the
24 biggest concern to Commissioner Ross,
25 that when we were out there and we had a

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2 legitimate victim, that we just don't
3 stand there and say, well, I don't know
4 what to do to help you. Now the officers
5 have clear instructions.

6 COUNCILWOMAN PARKER: And just
7 for the benefit of those who are in the
8 Chambers and those who are watching, I
9 want you to confirm for me whether or not
10 I would be accurate in noting that this
11 police procedure that you all have
12 established, this directive in the Police
13 Department, did you need legislation to
14 create it, the directive?

15 INSPECTOR HEALY: No. We
16 implemented or we had it drafted prior to
17 the implementation, yes. We did not need
18 legislation.

19 COUNCILWOMAN PARKER: So no
20 legislation was needed for this directive
21 that was developed by the Police
22 Department and is now a formal process,
23 standard operating procedure, did not
24 need legislation to be created; is that
25 accurate?

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2 INSPECTOR HEALY: That's
3 correct.

4 COUNCILWOMAN PARKER: And just
5 for the record, will this Police
6 Department's directive, will it be
7 changed by Bill No. 180741 that's before
8 us today?

9 INSPECTOR HEALY: One minor
10 tweak.

11 COUNCILWOMAN PARKER: One minor
12 tweak.

13 INSPECTOR HEALY: The issue is,
14 we have a provision in our policy when we
15 have an innocent victim renter. The
16 issue is that you mentioned correctly,
17 they have to leave. We put in my policy
18 as soon as possible. What I do is, I
19 have the victim assistance officer, it's
20 their responsibility to interject
21 themselves into these incidents to try to
22 transition the defrauded victim out of
23 the house as soon as possible. You put a
24 15-day window on it. So I'll have to
25 just tweak that and say as soon as

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2 possible. It will be within 15 days.

3 COUNCILWOMAN PARKER: Thank
4 you.

5 Overall I want to ask the DA's
6 Office, when you came to our meeting, the
7 first task force meeting that was held
8 across the hall in City Hall -- and I'll
9 also ask the Police Department to respond
10 to this -- was that the first time that
11 both the District Attorney's Office along
12 with the Police Department had ever come
13 together with Law, with all of our
14 Community Legal Services, with the
15 Sheriff's Office, with the Courts? Was
16 that the first time that all of those
17 entities who have a role some way, shape
18 or form in this process, was that the
19 first time you were all at the table
20 together meeting about this issue?

21 MR. LEE: To the best of our
22 knowledge, yes.

23 INSPECTOR HEALY: To the best
24 of my knowledge, that was the largest,
25 most comprehensive meeting, yes. I can't

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2 say for sure that the matter hadn't been
3 discussed prior, but in a much smaller
4 setting, I can say that.

5 COUNCILWOMAN PARKER: Thank you
6 very much, Mr. Chairman.

7 COUNCILMAN JOHNSON: Thank you,
8 Councilwoman.

9 Any other questions from
10 members of the panel?

11 (No response.)

12 COUNCILMAN JOHNSON: Thank you
13 very much for your testimony.

14 Will the Clerk please call the
15 next panel.

16 THE CLERK: George Gould,
17 Cateria McCabe, and George Donnelly.

18 (Witnesses approached witness
19 table.)

20 COUNCILMAN OH: Chairman,
21 before that, may I respond to the
22 statements made earlier?

23 COUNCILMAN JOHNSON: Sure.
24 Councilman David Oh.

25 COUNCILMAN OH: Thank you very

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2 much.

3 There is misinformation.

4 Unfortunately, I believe the
5 misinformation is from the lawyers at CLS
6 to members of this body. That's the
7 first thing.

8 Those same statements had been
9 made previously and have been fully
10 discussed. First of all, the
11 misinformation centers around the fact
12 that the ordinance that is now in place
13 needs to be amended, and the Police and
14 District Attorney's Office also testified
15 in support of the bill, which is now an
16 ordinance.

17 The only thing that the
18 ordinance does is, it allows a homeowner
19 after they have called the police because
20 of a criminal violation where the police
21 do not make an arrest, and unfortunately
22 in this city there have been many times
23 where people have reported doors kicked
24 in, windows broken into, numerous people,
25 five, six, seven people in their homes.

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2 They came and testified, and the police
3 did not arrest them, did not take action.
4 In fact, the Police and the District
5 Attorney's Office told them to file in
6 Landlord-Tenant Court, which is the wrong
7 court.

8 When a homeowner comes across a
9 criminal violation of their home and the
10 police do not make an arrest, that is the
11 only reason why we created this
12 ordinance. It is limited to those fact
13 circumstances. And so when the homeowner
14 cannot get the police to do their job or
15 when the fact scenario is complicated and
16 the police are not sure what they should
17 do, the problem has been it has taken six
18 to 14 months and sometimes longer to get
19 in front of a judge. The only thing the
20 ordinance does is, it accelerates the
21 time so a homeowner and the person who is
22 in the home, if they are a criminal
23 trespasser or if they are the legitimate
24 victim of a scam or if they have some
25 claims to be in the home, can get in

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2 front of a judge, because a judge will
3 have to make that determination. That is
4 why the first factual statement or
5 concern about who is not listed in the
6 ordinance is not accurate. Anyone who
7 has a claim can bring it when they get in
8 front of a judge. Let's say it's 30 days
9 and say, judge, I'm an heir, or any of
10 those type of things. However, you
11 cannot even use this ordinance without
12 first contacting the police and
13 describing and articulating and recording
14 a criminal violation.

15 The next thing is that for
16 persons who abuse the ordinance, they too
17 are subject to a \$300-per-day fine, which
18 does accumulate, and up to 90 days in
19 jail, which does accumulate, but all
20 civil ordinances are limited. You cannot
21 have more than a certain fine. You
22 cannot have more than a certain number of
23 days in jail. So they do not go on
24 forever. We are not allowed to do that
25 in the City of Philadelphia. Civil fines

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2 are limited. Civil jail time is limited.

3 They don't go on forever.

4 But both the criminal
5 trespasser, defiant trespasser, and
6 anyone who intentionally abuses this law
7 are subject to the same penalties of \$300
8 per day and up to 90 days in jail.

9 It is up to the homeowner. If
10 the homeowner needs a home, then as the
11 Captain said, the person, whoever they
12 are, should leave the home as soon as
13 possible. When the government says you
14 have up to 15 days to remain in
15 somebody's home, in many cases with their
16 food, their furniture, their clothing,
17 their jewelry, that is not for the
18 government to say. If the government
19 would like to provide shelter, money,
20 help, but that should not be put on the
21 homeowner, who may not be able to find
22 another home or place to live. Leave
23 that up to the homeowner, and the
24 government can certainly help people who
25 need help.

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2 And then, finally, the civil
3 penalties and all other things are
4 determined by a judge. We trust the
5 judges who hear these cases. The only
6 thing our ordinance does, which we passed
7 11 to 6, is to allow someone to get in
8 front of a judge that has the authority
9 to make these determinations.

10 In part, the amendments that
11 have been forwarded by CLS and the
12 tenants' rights folks simply create less
13 opportunities for homeowners to get into
14 a court. That's all.

15 Thank you.

16 COUNCILMAN JOHNSON: Thank you.

17 Can members of the panel please
18 state your name for the record and begin
19 your testimony.

20 MR. GOULD: My name is George
21 Gould. Good morning. I'm a Senior
22 Attorney at Community Legal Services
23 where I have worked in the area of
24 housing for almost 50 years. I thank the
25 Committee for giving me the opportunity

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2 to testify today on this important issue.

3 I have also been actively involved in
4 housing legislation at the local, state,
5 and national level. I am very grateful
6 to have worked with City Council for
7 decades to protect the rights of tenants
8 and to promote decent, safe, and
9 affordable housing.

10 First, I would like to discuss
11 Bill 180741 and its proposed amendments
12 which would make important changes to the
13 criminal trespass ordinance which was
14 passed by City Council and became law in
15 September 2018.

16 We recognize that Philadelphia
17 is facing a problem of criminal trespass
18 by those who have no legal right to
19 occupy a property. However, we submit,
20 with all due respect to Councilman Oh,
21 that the current criminal trespass
22 ordinance has serious problems, and that
23 ordinance does a lot more than simply
24 create an expedited hearing. It defines
25 who are criminal trespassers.

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2 The definition of criminal and
3 defiant trespasser in the ordinance is so
4 broad that it includes many people with
5 legitimate ownership or occupancy rights
6 to a property. Among them are property
7 owners who retain the right of possession
8 after tax sales during the statutory
9 redemption period; a tenant who has the
10 right to reside in the property after the
11 owner has lost it under federal law;
12 heirs to properties; victims of domestic
13 abuse, sexual abuse, and stalking; and
14 persons who have obtained title under the
15 Pennsylvania Adverse Possession law. The
16 ordinance oversimplifies who is or is not
17 a lawful occupant and does not adequately
18 protect legal and equitable owners.

19 There are more than 14,000
20 properties in Philadelphia titled in the
21 name of people who are deceased. Their
22 heirs have rights to the property. They
23 may just lack paperwork or stymied by
24 Philadelphia's tangled title epidemic.
25 There are also many situations, such as

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2 installment sales agreements, where an
3 agreement signed by a previous owner
4 remains valid even once that property is
5 transferred.

6 The limited carve-out in the
7 ordinance for occupants with a
8 landlord-tenant relationship with an
9 owner or prior owner do not adequately
10 protect occupants who have ownership
11 interests.

12 Moreover, the ordinance does
13 nothing to protect tenants who have been
14 scammed by fraudsters that rent out
15 properties which they do not own. Every
16 lawyer serving tenants in the City has
17 come across cases like these where a
18 person will say he or she owns an empty
19 property, rent the property to an
20 unsuspecting tenant who thinks the rental
21 is legitimate, and then disappear after
22 receiving a deposit and several months of
23 rent. The ordinance criminalizes people
24 who have been victims of this sort of
25 fraud by placing them squarely within the

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2 category of criminal and defiant
3 trespassers.

4 We strongly support Bill 180741
5 and the proposed amendments to it. They
6 would resolve many of the problems with
7 the current ordinance.

8 At the June 4th hearing, you
9 heard from several CLS clients, including
10 Morris Simpkins. Mr. Simpkins lived in
11 his family home for more than 60 years.
12 After the house was sold at Sheriff Sale
13 for property taxes, the purchaser
14 repeatedly called the police and reported
15 Mr. Simpkins as a squatter. Under the
16 City law as it currently exists,
17 Mr. Simpkins would be facing potential
18 fines or jail time simply for living in a
19 house he had a right to live in.

20 You also heard from Margaret
21 Green, who signed a lease and paid rent
22 for many months after the landlord
23 disappeared. After three years, a new
24 person came knocking on the door
25 demanding entrance to the property and

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2 claiming to be the owner, but his
3 ownership was a deed purportedly signed
4 by two women who had been dead for over a
5 decade.

6 The current bill and the
7 proposed amendments to it make it clear
8 there are other legitimate residents
9 residing in a property besides, quote,
10 the "tenant."

11 The bill and the amendment
12 specifies that a criminal and defiant
13 trespasser is not -- and I use the word
14 is not -- a person who, quote, "has a
15 claim to legal or equitable title of such
16 residential property; a victim of
17 domestic violence, sexual harassment or
18 stalking under Section 9-3201(8) of the
19 Code" -- and this is important -- "that
20 has been perpetrated by an owner of such
21 property or by another person who
22 recently lived with the victim in such
23 rental property," end of quote; a person,
24 quote, "who paid rent to an individual
25 whom such person believes in reasonable

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2 good faith is either the owner of the
3 residential property or has authority to
4 rent such property," end of quote. This
5 provision would protect innocent victims
6 like Margaret Green. The proposed
7 amended bill provides the victim has 15
8 days to move out or such time as provided
9 in police directive.

10 Quote, "the former owner of a
11 residential property sold at a tax sale
12 claiming a right to redeem before the end
13 of the redemption period of Pennsylvania
14 law," such as Mr. Simpkins who was
15 ultimately able to save his long-time
16 family home.

17 Quote, "an individual who is a
18 buyer of a residential property under an
19 installment sales contract"; quote, "an
20 individual to whom the property has been
21 conveyed pursuant to an unrecorded deed";
22 quote, "an individual with a right to
23 reside in the residential property under
24 the federal Protecting Tenants and
25 Foreclosure Act"; quote, "a person who

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2 has obtained title by adverse possession
3 under Pennsylvania law."

4 It's interesting to note that I
5 read the testimony of the three landlord
6 association realtor groups and they claim
7 these are all loopholes. These aren't
8 loopholes. These are rights that people
9 have to live in a property, and it's very
10 important they be spelled out.

11 The bill and amendments also
12 provide that the affidavit signed by the
13 owner to the best of the affiant's
14 knowledge, information, and belief after
15 such affiant's investigation does not
16 have a claim to reside in the property as
17 set forth above. We think this is very
18 important. Councilman Oh I think has
19 some issue, why require the person to do
20 a reasonable investigation. I think it's
21 critically important that as someone who
22 is accusing and going to the police that
23 they are a squatter, that they know what
24 the law is and what the exceptions are.

25 In addition, the bill addresses

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2 the issue of victims of fraudulent leases
3 and creates a private right of action for
4 persons wrongfully accused of criminal
5 trespass.

6 We also support Bill 180978
7 which addresses the serious problem of
8 scammers fraudulently leasing a property
9 they do not own. The bill would create a
10 fine up to \$1,000 and a private right of
11 action for the victim against the
12 scammers. We suggest that the proposed
13 fine be increased up to \$2,000 and that
14 damages be for each day the violation
15 exists.

16 I thank you very much for
17 giving me the opportunity to testify on
18 these important issues. I would also
19 like to thank Councilwoman Parker and her
20 staff, and in particular Rachel Meadows,
21 for all their great work on this. They
22 have persevered for many, many months,
23 and we really appreciate it. And I also
24 wanted to thank Frank Healy of the City
25 Police Department, the City District

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2 Attorney's Office, and the City Law
3 Department for all of the work they have
4 done on this important issue.

5 Thank you.

6 COUNCILMAN JOHNSON: Can the
7 next panelist please -- hey, Cateria
8 McCabe, how you doing? Can you please
9 state your name for the record.

10 MS. McCABE: Good morning. I
11 am Cateria McCabe, Director of Veterans,
12 Kinship Care and Tenant Rights at
13 SeniorLAW Center. Thank you, Acting
14 Council Chair Johnson and members of the
15 Committee on Public Safety, for the
16 opportunity to provide SeniorLAW Center's
17 response to the two proposed bills that
18 will increase protections for
19 Philadelphians at risk of displacement
20 from their homes and will provide a
21 remedy for residents who are victims of
22 fraudulent leases.

23 At SeniorLAW Center, we protect
24 the rights of older Pennsylvanians. We
25 are the only non-profit organization

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2 whose mission is dedicated to providing
3 legal protections to Pennsylvania senior
4 citizens. We provide free legal
5 assistance to thousands of seniors each
6 year, including victims of elder abuse
7 and financial exploitation, elders facing
8 housing crises and homelessness, and
9 grandparents raising grandchildren.

10 In our work, we assist seniors
11 whose homes have been invaded by
12 trespassers who refuse to leave. These
13 trespassers often pose dangerous and
14 threatening situations for seniors. We
15 also assist innocent homeowners and
16 tenants who face being improperly removed
17 from their homes despite having a legal
18 right to remain. We encourage the
19 creation of a process allowing those
20 trespassers to be removed more quickly,
21 but at the same time, we have emphasized
22 the need to carefully calibrate that
23 process to ensure that it is not used to
24 remove innocent seniors from their homes.

25 We support Bill 180741 because

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2 it meets two important goals. It ensures
3 that criminal and defiant trespassers can
4 be promptly removed from residential
5 properties and it protects legitimate
6 occupants, victims of abuse, and victims
7 of fraud against being improperly
8 penalized. Without the bill's
9 improvement, innocent Philadelphians risk
10 being removed from their homes or charged
11 criminally when they are rightfully in a
12 property.

13 The bill governing criminal and
14 defiant trespass enacted earlier this
15 year needs the changes and clarifying
16 definitions included in Bill 180741.

17 There are numerous circumstances where a
18 senior has a legal right to stay in their
19 home, but there is a danger that the
20 senior would be treated as a criminal
21 trespasser.

22 For example, seniors who lose
23 their homes as the result of tax
24 foreclosure may have a right of
25 redemption under the law, but without

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2 Bill 180741, a purchaser of the property
3 at Sheriff Sale could have a senior
4 removed from the home and potentially
5 arrested. Additionally, in the context
6 of a landlord-tenant relationship or
7 instances of domestic violence, there is
8 a danger that bad actors will make false
9 affidavits to force seniors out of their
10 homes quickly. SeniorLAW Center supports
11 the bill's penalty for false statements.

12 We also support the protections
13 for seniors who are victims of lease
14 fraud. There are times when a tenant
15 will lease a property and begin paying
16 rent. Months or even years later the
17 innocent senior learns that the person to
18 whom they paid rent did not actually own
19 the property. While the true owners do
20 have a right to remove victims of lease
21 fraud, the innocent victims should not be
22 treated as criminal and defiant
23 trespassers. This bill addresses that
24 problem.

25 Now, the problems of lease

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2 fraud is also addressed by the other bill
3 being considered today. Bill 180978
4 creates a way to sue the bad actors
5 responsible for fraudulent leases. We
6 support this bill as one of a broader
7 strategy to protect the innocent victims
8 of lease fraud. It supplements the
9 existing unfair trade practices and
10 consumer protection law, which provides a
11 similar right to sue the perpetrators of
12 consumer frauds.

13 We look forward to continued
14 work with you to make our city a safer
15 home for our senior population and
16 empowering them in their fight against
17 exploitation and abuse. We thank
18 Councilwoman Parker, her staff, as well
19 as the other stakeholders who have been
20 working in collaboration. We appreciate
21 your tireless leadership on this vital
22 issue.

23 Thank you.

24 COUNCILMAN JOHNSON: Thank you
25 very much.

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2 Sir, can you pronounce your
3 name for the record and please begin your
4 testimony.

5 MR. LORD: Hello. Yes. My
6 name is Phil Lord. I'm the Executive
7 Director of the Tenant Union
8 Representative Network, or TURN. We're a
9 tenant service and advocacy organization
10 that's been around for a long time, 15 to
11 40 years, depending upon the phase.

12 We see tenants all the time.
13 We see 2,000 to 3,000 tenants a year in
14 our classes, and so we're coming with
15 this issue from their experience.

16 We don't protect or intend to
17 protect people who are criminal
18 trespassers. We don't believe that they
19 should be protected. We think that they
20 should be prosecuted and pursued. That's
21 our intention. And I say that because
22 the people who come to us aren't really
23 the criminal trespassers. They're the
24 victims of criminal trespassers. They're
25 innocent people who have been tricked.

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2 And this is a business going on here.

3 This is not your normal, quote/unquote,

4 squatter. This is not the '80s when

5 people moved into buildings to protest a

6 lack of affordable housing and it's not

7 people just wandering in because they

8 want a place to stay. These are people

9 who are victims and move into vacant

10 properties, properties that are not

11 boarded up, properties that don't have

12 security systems, properties that are not

13 licensed to be vacant and empty. These

14 are people that move into these

15 properties because they got a name off of

16 Craigslist or somewhere else and they are

17 told it's okay by somebody who is a liar

18 and a scammer and a thief. And they're

19 victims of that, and they come to our

20 office and ask us what we can do.

21 I'll never forget a young

22 couple who were like in their 20's and

23 they had a double car seat for two little

24 twins, less than one years old, and they

25 had just moved out of one of the mother's

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2 properties -- they were a couple -- into
3 a property and had paid -- used their
4 money for a deposit, and after a couple
5 of months, someone knocks on their door
6 and they say they're from HUD and they
7 have to move. And they come to our
8 office saying what can we do, we have no
9 money, we just got started on our life,
10 what can we do. And we tell them, the
11 law says you're a squatter, you're going
12 to have to move out as soon as you can.
13 And it's tragic, but that's the way the
14 law is right now.

15 The bottom line is that these
16 people need to be protected, need to be
17 recognized that they are not criminals,
18 need to recognize they're the victims
19 that they are, and fortunately the law
20 that we have, the amendments that we are
21 talking about, do that.

22 I'm really grateful for
23 Councilwoman Parker's efforts to pull
24 people together. It was unique. It was
25 the way democracy ought to work. It

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2 wasn't these private consultations that
3 we had before. We got to hear from each
4 other. As a result of that, I believe
5 the police, who were dropping the ball
6 for a long time and not doing anything
7 with housing issues, stepped up, along
8 with the DA's Office, and decided to
9 create a process that's workable. And we
10 wanted to work with that, and we think
11 that's a positive step in the right
12 direction.

13 But we think it's very
14 important to do this. And we also are
15 concerned that this law, in spite of its
16 improvements, still is vulnerable to
17 people being used -- illegal lockouts
18 being committed as well as this affidavit
19 process. This affidavit process allows
20 owners to go up and fill out a form and
21 get police to come to someone's house.
22 That's not an eviction, but it feels like
23 an eviction if you're an immigrant or
24 somebody who is afraid of the police or a
25 returning citizen, and we're afraid it's

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2 going to be used in that way to get
3 people intimidated and terrorized and to
4 move out illegally. And we hope that
5 doesn't happen, but that certainly is a
6 real possibility.

7 So we're glad for these
8 amendments. We think they're critical.
9 We're glad for the additional Bill 180978
10 about fraudulent leases. The problem is,
11 the police have not been prosecuting the
12 real perpetrators. They disappear. No
13 one is tracking them down. No one is
14 finding out these people who are running
15 out, so they do it again. We have to
16 have a private right of action that will
17 help create some kind of accountability
18 for what they've done.

19 So we're glad to have this
20 opportunity to speak before you, and we
21 hope that this amendment gets passed.

22 COUNCILMAN JOHNSON: Thank you
23 very much.

24 Can you please state your name
25 for the record and you can begin.

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2 MR. DONNELLY: George Donnelly,
3 Public Interest Law Center. I first want
4 to thank Councilmember Parker for her
5 leadership on this issue and her strength
6 in the face of a misinformation campaign
7 that has happened, and she has been a
8 voice of reason and a protector of the
9 most vulnerable Philadelphians. So thank
10 you, Councilmember Parker.

11 In my practice, I represent
12 tenants fighting to assert their legal
13 rights under federal, state, and local
14 law. I'm here today to offer my support
15 for Bill No. 180741 and 180978.

16 Bill No. 180741 introduced by
17 Councilmember Parker is necessary to
18 protect the City's most vulnerable
19 tenants, including those with oral
20 leases, families in properties that were
21 recently sold, and innocent people, who
22 you've heard a lot about already today,
23 that are defrauded by third parties that
24 lease out properties they do not own and
25 then run off with illegally collected

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2 rent.

3 Crucially, this bill protects
4 tenants and other legitimate occupants
5 while still providing owners tools to
6 combat criminal trespassing. It does not
7 weaken the criminal trespassing bill
8 passed by Council earlier this year.
9 Instead, it clarifies who is and who is
10 not a lawful occupant of a property. It
11 doesn't create new loopholes. It
12 effectively closes them, the ones that
13 were in the original bill that would have
14 allowed unseemly landlords to illegally
15 remove tenants from their homes.

16 As an example of who this bill
17 would protect, I want to share a story
18 from my practice. Two of my clients, a
19 couple with young children, were living
20 in a house that was purchased by a new
21 owner. Their lease did not end for six
22 more months, yet the new owner claimed
23 that my clients were squatters and filed
24 an ejection action against them. So my
25 clients have legal counsel and were able

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2 to remain in their home for the duration
3 of their lease, but other Philadelphians
4 won't be so lucky if and when the City's
5 worst landlords use the new criminal
6 trespassers bill to bypass the lawful
7 eviction process and illegally remove
8 rightful occupants from their homes.

9 Relatedly, Bill No. 180978 will
10 protect both the vulnerable citizens that
11 we've all mentioned at this table and
12 property owners, both of whom are the
13 victims when third parties fraudulently
14 lease properties to unsuspecting tenants
15 without consent from the homeowner. Such
16 fraudulent leases are unfortunately quite
17 common in the private rental market as
18 empty properties, high poverty rates, and
19 a lack of affordable housing options
20 create the perfect storm for
21 sophisticated fraudsters to make a quick
22 buck through illegal rentals. As George
23 said, every tenant advocate in the City
24 has had someone walk through their door
25 with a lease from someone who is not the

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2 owner or manager of the property, and I
3 have had to explain to them the legal
4 limbo they found themselves in through no
5 fault of their own, and we tell them that
6 they have to leave the property.

7 These two bills together would
8 work in conjunction to fairly and
9 adequately protect the interests of
10 tenants and property owners throughout
11 the City from criminal trespassers and
12 fraudulent lessors. I urge the Committee
13 to vote in favor of both bills.

14 Thank you.

15 COUNCILMAN OH: I have a point
16 of order, Mr. Chairman.

17 COUNCILMAN JOHNSON: Councilman
18 David Oh.

19 COUNCILMAN OH: The examples
20 just given by George Donnelly and by
21 George Gould are not related to the
22 ordinance. Number one, he has just given
23 an example of a young couple who had a
24 lease. If you have a lease, you are not
25 a criminal. There's no criminal

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2 violation. Therefore, the ordinance as
3 it exists does not apply to that case.

4 And if you have a right of reclamation,
5 redemption, if you're an heir, you're not
6 a criminal. If there's been a Sheriff
7 Sale, you are in the property. You
8 didn't break into the property. There is
9 not someone living in the home.

10 Therefore, all those situations described
11 are not affected by our ordinance and,
12 again, that does not allow the police to
13 arrest or remove. It simply provides if
14 the homeowner provides an affidavit that
15 they're the owner, there was a criminal
16 break-in, they called the police, the
17 police record the violation, they can
18 then apply to get in front of a judge and
19 the judge will hear and determine. If
20 the judge finds that the people in the
21 house have a legitimate right to be
22 there, then they are not removed. They
23 can then go through a regular process.
24 If, however, they find that there is
25 evidence of a criminal violation, the

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2 judge will then issue an order that the
3 Sheriff will execute.

4 All this does, again, is get
5 the people and whoever they're dealing
6 with in front of a judge faster than the
7 six to 14 months the people have come
8 before us have complained about, and
9 these examples do not reflect on the
10 ordinance.

11 Thank you.

12 COUNCILMAN JOHNSON: Thank you.

13 Councilwoman Cherelle Parker.

14 COUNCILWOMAN PARKER: Thank
15 you. Point of information before my line
16 of questioning for this panel,
17 Mr. Chairman. And I just want to note
18 for the record, it was noted earlier that
19 we had a hearing, a prior hearing, and at
20 that time Margaret Green testified
21 against Councilman Oh's bill because she
22 was concerned that people in situations
23 like the one she was experiencing, the
24 examples that were just given by this
25 panel that my colleague just noted in

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2 effect would not be considered criminal
3 and defiant trespassers, and so she was
4 concerned that people in situations like
5 the one she was going through would be
6 deemed criminal and defiant trespassers
7 and thus subject to arrest, fines, and a
8 90-day jail stay. A copy of her
9 testimony is included in our packets.

10 After the hearing -- this is
11 the part that's important to get on the
12 record. After the hearing, my office
13 inquired with the Law Department about
14 Margaret Green's case and we asked them
15 whether or not, according to the bill
16 that was passed as it was written, could
17 they give us a formal legal opinion, and
18 they replied -- and I want to state this
19 for the record -- if Mr. Brown was not
20 the owner of the property, the matter is
21 less clear, and on the face of the bill,
22 Ms. Green could be considered a criminal
23 and defiant trespasser, as people like
24 that example.

25 So, you know, again, you talk

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2 about what's subjective. The Law
3 Department, that is the department that
4 the City of Philadelphia relies on to
5 provide us and give us legal opinions
6 about the legislation we put forth for
7 introduction and consideration in this
8 body and they have just told us that this
9 woman would have been considered a
10 criminal and defiant trespasser.

11 So I just wanted to note that
12 for the record. It's not about what
13 Cherelle Parker feels. That was the
14 response of our Law Department.

15 With that being said,
16 Mr. Chairman, I want to again say a
17 special thank you to the organizations
18 who just testified, and I just have one
19 question for you. The meeting that we
20 held as a result of the resolution that
21 we introduced regarding the task force
22 and we held the task force meeting across
23 the hall in our City Council Chambers
24 that was in essence a roundtable, it
25 included the District Attorney's Office,

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2 the Sheriff's Office, the Police
3 Department, all of your legal aid
4 organizations, the Courts, had you ever
5 at any time since this issue of squatting
6 had been on the table and a legislative
7 prescription was being proffered, was
8 that the first time you had ever been at
9 a roundtable of that magnitude to discuss
10 the issue at hand?

11 MR. GOULD: Yes. For Community
12 Legal Services, that was the first time
13 that we were able to meet, and quite
14 frankly, it was a very effective meeting
15 to have all the interested parties there.

16 MS. McCABE: Cateria McCabe,
17 SeniorLAW Center.

18 Emphatically, yes, and we
19 appreciate the collaboration to get the
20 job done properly.

21 MR. LORD: This is Phil Lord.
22 We were at meetings where it
23 was one on one and we thought we were
24 going to have a group meeting and we
25 never did until you decided to do that.

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2 So we were promised such a meeting by the
3 previous efforts to bring people
4 together, but it never happened.

5 MR. DONNELLY: George Donnelly,
6 Public Interest Law Center.

7 We were at previous small
8 meetings that weren't as holistic and in
9 depth as the one that you hosted,
10 Councilmember Parker. So that was the
11 first time that all of the stakeholders
12 involved were brought to the table
13 together at the same time.

14 COUNCILWOMAN PARKER: Thank
15 you, Mr. Chairman. No further questions.

16 COUNCILMAN JOHNSON: Thank you,
17 Councilwoman.

18 Councilman Derek Green.

19 COUNCILMAN GREEN: Thank you,
20 Mr. Chair.

21 This issue has been debated for
22 some time. I know from my experience
23 when I represented the Office of Housing
24 and Community Development, we had an
25 issue in reference to people squatting

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2 into City-owned properties, and we were
3 not able to move the police to take any
4 action because at that time generally the
5 police took the perspective that if they
6 saw items in a property that looked like
7 a person had been living there, they were
8 not going to remove that person and that
9 the Law Department would have to actually
10 do a civil ejectment action to remove
11 someone from a City-owned property.

12 So as I listened to the
13 conversation and debate, it definitely
14 causes a tension between those property
15 owners who, to no fault of their own,
16 have someone come into their property
17 that is squatting in their property
18 illegally and the property owner is now
19 in a situation where they now have to get
20 that person out of the property. Then
21 you also have situations where you have
22 people who, also no fault of their own,
23 have been duped into a situation thinking
24 they can be in a property and find out at
25 some point later that the person that

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2 gave them the lease had no real legal
3 interest in doing so.

4 So as I reflect on that, I just
5 had some questions.

6 In reference to the amendments
7 that were circulated by my colleague
8 Councilwoman Parker, there were some
9 changes that were made in reference to
10 the penalty phase. Now, considering that
11 some of the concerns have been raised and
12 there's been amendments that have been
13 put in for some of the issues that you
14 talked about, would you have any concerns
15 if the amendments to the bill were
16 increased in reference to penalties if
17 some of the exceptions that were put into
18 the bill were passed?

19 MR. GOULD: I'm sorry. You're
20 talking about the penalties?

21 COUNCILMAN GREEN: In the
22 amendments that were circulated by
23 Councilwoman Parker which provided some
24 of the definitions and changed the
25 definition of what is a criminal and

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2 defiant trespasser, if that amendment was
3 passed, would you be supportive of
4 additional amendments that increase the
5 penalties and fines under the bill?

6 MR. GOULD: It would increase
7 the fines for people who actually are
8 criminal trespassers.

9 COUNCILMAN GREEN: Right. If
10 the amendments were passed as presented
11 by Councilwoman Parker --

12 MR. GOULD: I don't think we
13 would have a problem with that.

14 COUNCILMAN GREEN: Because I
15 think one of the issues that I see is
16 that there's some concerns that we're not
17 deterring squatters, and I understand
18 your perspective in reference to you felt
19 that the definition of criminal and
20 defiant trespasser was too broad, but one
21 of the other counter-bounding issues is
22 that are we not deterring squatters
23 enough, and I wanted to get your
24 perspective on that.

25 MR. GOULD: No, I don't think

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2 there would be a problem. If the bill
3 was passed and makes it very clear who
4 was a criminal squatter and who was not,
5 I think there should be obviously a
6 significant penalty for people who
7 actually are squatters.

8 COUNCILMAN GREEN: Right, but
9 I'm talking about the penalties from the
10 original bill.

11 MR. GOULD: Yeah.

12 COUNCILMAN GREEN: You would be
13 okay with that?

14 MR. GOULD: Yeah.

15 MS. McCABE: And I would also
16 concur. There's no objection to increase
17 penalties. The concern is the innocent
18 victims. If someone is indeed a criminal
19 trespasser, certainly there's no
20 objection to them being penalized, but we
21 don't want innocent victims to be scooped
22 up in a wide net.

23 COUNCILMAN GREEN: Right. I
24 understand that.

25 MR. DONNELLY: Councilmember

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2 Green, no one up here, as you know, is
3 concerned about criminal trespassers in
4 terms of protecting their rights. They
5 don't have any rights. There are no
6 squatters' rights. So we would be okay
7 with the penalties in the original bill.

8 What I would say is, I question
9 whether or not increased fines are going
10 to deter illegal squatting. I question
11 whether or not that is actually an
12 effective deterrent, but to the extent it
13 would be in a final bill, we wouldn't
14 have a problem with it, because, again,
15 we're not here to protect squatters.
16 Squatters don't have any rights.

17 COUNCILMAN GREEN: I'm somewhat
18 confused by your statement. So you're
19 saying that you're not sure if any
20 increase in fines would be a deterrent.
21 Then why have criminal law then?

22 MR. DONNELLY: So I think it's
23 probably unlikely that a person who is a
24 criminal trespasser is going to know
25 exactly what the fine is per day and what

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2 the jail time is. They'll know it's
3 illegal. They know it's illegal. That's
4 why they do it. They know that they're
5 taking a property.

6 So, again, I don't want to
7 belabor this point too much. We would
8 support the original penalties, because,
9 again, the people up here are not here
10 supporting squatters' rights, because
11 there are no such thing as squatters'
12 rights.

13 MR. LORD: This is Phil Lord.

14 Let me just modify that a
15 little bit. I think those are not our
16 constituents, the people who are doing
17 the illegal squatting. So the penalties
18 you're talking about are not of great
19 concern to us. On the other hand,
20 they're basically human beings. We
21 wouldn't want someone in jail for 45
22 years for making a mistake like this. So
23 we have to make sure we balance that out.
24 But certainly we're not trying to protect
25 that constituency, and the protectors are

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2 not here. Maybe the Public Defender's
3 Office ought to be questioned about that.

4 Let me just make one more
5 comment, and that is that I don't know of
6 a way someone moving into a building
7 could determine whether or not the person
8 they're talking to is an agent for the
9 owner. There's no way that I know of
10 that I can invite somebody that can find
11 that out. There's no record. There's no
12 ID. There's no -- if the person is part
13 of Century 21 or a big real estate
14 company, that's one thing, but if a
15 stranger comes up and says, I'm the
16 owner's agent and can get in the property
17 with a key, there's no way you can tell
18 from a public record that they're not an
19 agent of the owner. That kind of record,
20 if it's part of a license, is very hard
21 to find and isn't even available to the
22 general public.

23 COUNCILMAN GREEN: And then in
24 reference to the other bill, Bill No.
25 180978, would you have any concerns if

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 there were increased penalties in that
3 bill? And that's the bill dealing with
4 actually fraudulent leasing of
5 residential property.

6 MR. DONNELLY: No.

7 MR. GOULD: The fraudulent
8 lease, I suggest that there be an
9 increased fine for that, and I think it
10 should be. I mean, unfortunately, that's
11 a real business in Philadelphia of people
12 breaking into homes and then leasing them
13 out, and I think there should be severe
14 penalties, and I think that bill is real
15 important and I suggest that there be an
16 increased fine for that.

17 MR. LORD: That's clear.

18 COUNCILMAN GREEN: Thank you,
19 Mr. Chair.

20 COUNCILMAN JOHNSON: Thank you,
21 Councilman.

22 Councilwoman Cherelle Parker.

23 COUNCILWOMAN PARKER: Thank
24 you, Mr. Chairman.

25 I just want to note for the

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 record in response to my colleague
3 Councilman Derek Green's questions
4 regarding fraudulent leases and the
5 criminality along with the fines that we
6 just introduced in the legislation that
7 we offer, and I just want to say for the
8 record, that's exactly why we introduced
9 the bill, because right now although we
10 know it is illegal to do, there was
11 nothing on the record of providing for
12 people who knowingly enter into that
13 business to have to be forced to pay.

14 So I just want to note that for
15 the -- again, sometimes people I think
16 develop legislation in search of a
17 problem, and I've tried my best not to
18 allow that be my modus operandi, but we
19 developed it in an effort to provide a
20 very tailored prescription that we
21 thought wasn't, again, too broad, for
22 example, again for the MacArthur grant
23 supporters. Forty-five years, the
24 45-year example, like I want you to tell
25 me how that -- forget moral sense, but

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 good economic sense, good economic sense
3 for the City.

4 Thank you very much,
5 Mr. Chairman.

6 COUNCILMAN JOHNSON: Thank you.

7 Are there any other questions
8 for members of the panel?

9 (No response.)

10 COUNCILMAN JOHNSON: Thank you
11 very much.

12 Can the Clerk please read the
13 next panel.

14 THE CLERK: Patrick Russell and
15 Helene Lazarus.

16 (Witness approached witness
17 table.)

18 COUNCILMAN JOHNSON: Please
19 state your name for the record and begin,
20 sir.

21 MR. RUSSELL: My name is
22 Patrick Russell. I just want to say good
23 morning to you, unless it's not afternoon
24 yet. Thank you for the opportunity to
25 speak on Bill 180741 and its amendments.

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2 I'm a senior citizen homeowner
3 in Tacony with limited resources, annual
4 income, limited annual income.

5 Now, because of the short
6 notice of this hearing and having to have
7 to wade through lawyer language, which
8 can be partially or mostly
9 incomprehensible to most of us, I hope
10 that I'll be coherent and cohesive in my
11 testimony.

12 A word that my testimony has is
13 "opposition," and because it's included
14 in my testimony, this is a particular
15 word that I'll be using. I hope that you
16 bear with me.

17 I oppose this bill for the
18 following reasons: Under 2(c), the word
19 "lived" is used. It is not clear as to
20 whether or not the alleged abused victim
21 actually had legal standing to occupy my
22 property if that were the case. Does the
23 word "lived" mean one day, two days, 30
24 days? Does it mean that if I go on
25 vacation for a month and allow someone to

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2 stay in my home while I'm away and,
3 without my permission, invites another
4 person into the property during my
5 absence and abuses that one who was
6 invited, is the abused person not
7 considered a trespasser if he or she
8 refuses to leave? Does it mean that if
9 the person claims to have lived in my
10 house under the above situation and
11 claims to have been a victim of sexual
12 harassment or domestic violence by the
13 person that watched my home while I was
14 on vacation is not -- is that person not
15 considered a trespasser if the person
16 refuses to leave? It seems to me that
17 this might hamper any kind of legitimate
18 investigation. It puts me at a
19 disadvantage. In the meantime, I need to
20 proceed with some kind of investigation,
21 and in the meantime, I'm homeless.

22 The second reason I oppose this
23 bill is that in 2-4, anyone can say that
24 they're renting a property from someone
25 who claimed to be the owner or agent in

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 good faith. What does reasonable good
3 faith mean? This situation puts me again
4 in jeopardy in that those who are
5 alleging renting in good faith has access
6 to all my personal information and
7 possible identity theft. I'm out in the
8 cold and the trespasser is living it up.

9 The third reason I oppose the
10 amendments of Bill 180741 is that what
11 appears to be in 2(e), owner or
12 authorized agent, there is a burden that
13 the homeowner has to shoulder some sort
14 of investigation which isn't spelled out.
15 In the meantime, I'm still homeless, with
16 a trespasser that has freedom of movement
17 and able to live in my property with all
18 of my belongings, without any kind of
19 hindrance. That person is able to come
20 and go while this so-called investigation
21 is occurring.

22 My fourth objection to the
23 amendments is 4(b), which states that the
24 owner or authorized agent has to initiate
25 investigations. Why has the word

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2 "investigation" gone from singular in
3 2(e) to plural in 4(b)? Also what is
4 considered an acceptable length of time
5 for an investigation? To say it will
6 take as long as necessary is not
7 acceptable.

8 My sixth objection -- or my
9 fifth objection is that 4(e), anyone can
10 claim to have been scammed. Homeowners
11 are still in jeopardy of becoming
12 homeless, and their properties and IDs
13 are also in jeopardy of being stolen.
14 Even if people are scammed, it still
15 presents the same problem for the
16 homeowners. Those people can or have
17 access to the homeowner's wealth and
18 personal information, which can also be
19 sold on the market.

20 My last objection is that of
21 reducing the penalty to try and deter
22 criminal and defiant trespassing. As
23 Council specified, 45 years may seem to
24 be incredulous. However, Councilman Oh
25 says that that is not necessarily the

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 case that that particular judgment would
3 be made. Nevertheless, it seems to me
4 that a \$1,000 or a \$2,000 fine is not
5 suitable for someone who claims to be in
6 the property legitimately and who
7 actually is not in that property. During
8 any kind of investigation if that person
9 is a trespasser, a criminal and defiant
10 trespasser, that person can leave that
11 property at any time without any
12 hindrance. This puts everything that I
13 have that's material in jeopardy of being
14 stolen. And then there's an
15 investigation where that particular
16 person has to be found. I have to file a
17 complaint, so forth like that. So
18 additional proceedings have to occur.

19 In summary, this bill, I
20 believe, will shift the problem from
21 those you are trying to protect onto
22 homeowners who could be potentially
23 harmed by becoming homeless for whatever
24 period of time, not to mention being
25 burglarized again and having our

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 identification stolen.

3 Therefore, I ask, even though
4 this panel has signed on to this
5 particular bill with its amendments, I
6 still ask that the amendments be
7 reconsidered, that the bill might be
8 considered for additional amendments to
9 make clarity so that everyone involved is
10 protected.

11 And I just want to give you
12 thanks for this time and opportunity to
13 present my concerns to this panel.

14 COUNCILMAN JOHNSON: Thank you
15 for your testimony.

16 Any other questions from
17 members of the panel?

18 Councilwoman Cherelle Parker.

19 COUNCILWOMAN PARKER: Thank
20 you, Mr. Chairman.

21 I want to thank you,
22 Mr. Russell, for your testimony.

23 I don't have any questions for
24 Mr. Russell, Mr. Chairman, but I do want
25 to note for the record that all of the

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2 fines that are listed in this
3 legislation, this is another layer
4 already on top of state fines, along with
5 potential jail time. So this is just
6 another layer. I want to note that for
7 the record.

8 In addition to that, I want to
9 note for the record that we must take
10 into consideration that there was no
11 standard police procedure in place.

12 There was no procedure in place. So if
13 someone said, I'm a victim of domestic
14 violence, what we are forgetting is that
15 the Police Department has to conduct an
16 investigation. There was no standard
17 operating procedure. You just can't say,
18 I'm a victim of domestic violence, I'm a
19 victim of stalking. We have a Police
20 Department who now has a procedure in
21 place where you take that information to
22 them, it will be investigated. Much like
23 if someone accuses someone of a crime and
24 you can say, someone assaulted me,
25 someone hurt me, the Police Department

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2 will conduct an investigation, and based
3 on the findings of their investigation,
4 they will determine whether or not that
5 they think the person is credible.

6 So that's the part that we are
7 not -- we are forgetting in much of our
8 discussion, that we did not have a system
9 in place that would ensure that each case
10 is investigated. And, again, I want to
11 thank the Police Department for
12 acknowledging on the record that the
13 procedure that they have in place is not
14 the result of legislation. It's not the
15 result of the bill that was passed. It's
16 not the result of this bill that is in
17 front of us. They instituted that police
18 procedure at the directive of our Police
19 Commissioner Ross, and I'm sure they
20 worked in consultation with our
21 Administration.

22 Thank you.

23 COUNCILMAN JOHNSON: Thank you
24 very much for your testimony.

25 Anyone else here to testify?

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 Come on, sir. State your name
3 for the record, please, and begin your
4 testimony.

5 (Witness approached witness
6 table.)

7 MR. BODE: Thank you. Thank
8 you for allowing me to testify. My name
9 is Charles Bode. I'm with the West
10 Powelton/Saunders Park RCO out in West
11 Philadelphia.

12 We recognize this is an
13 extremely complicated issue. Perhaps it
14 needs a little more thought. My first
15 point, I testified, I guess, earlier this
16 year on the previous bill, but I have
17 received no notice that there was any
18 kind of a comprehensive meeting for
19 anyone to come and present their
20 viewpoints and so forth.

21 My next question concerns the
22 homeowner is allowed to have an
23 investigation or supposed to have an
24 investigation. What constitutes an
25 investigation? How much do I have to pay

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2 as a homeowner to have an investigation?

3 And then if we have to wait for a judge,

4 if I go home this afternoon and discover

5 I can't get in my house, it's going to be

6 a long, cold wait for a judge. How long

7 do I have to wait to find a judge and I

8 can't get in my house?

9 And then we have the problem,

10 as the previous gentleman mentioned, of

11 our possessions. What happens if they

12 get thrown out? How would I file my

13 income taxes, my Pennsylvania taxes, my

14 state taxes if I have no financial

15 records because someone threw them out?

16 Who pays my penalties for failure to file

17 my taxes properly?

18 My wife is Chair of our RCO.

19 All the records for the RCO, the

20 computers with all the information, is in

21 our house. If we go home and can't get

22 in tonight, what happens to all our RCO,

23 to the cases we are supposed to take to

24 the ZBA tomorrow?

25 So I think we need to address

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 the property owner's rights to their
3 possessions. Perhaps we're talking about
4 theft of use here instead of squatting or
5 something. Maybe we need to rethink a
6 little bit.

7 So I thank you for your
8 consideration, and I realize you have
9 other things to do and you need to get
10 on, but thank you.

11 COUNCILMAN JOHNSON: Thank you
12 very much, sir.

13 Any questions?

14 Councilwoman Cherelle Parker.

15 COUNCILWOMAN PARKER: Thirty
16 seconds, Mr. Chairman.

17 I just want to note for the
18 record and thank everyone for their
19 testimony that no Philadelphian has to
20 pay a fee for an investigation. We now
21 have standard operating procedure in
22 existence in the City of Philadelphia to
23 address the illegal criminal and defiant
24 trespassing known as squatting. There is
25 no cost. There is no fee. There is a

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 standard point of entry to address this
3 issue now, and that point of entry is
4 with our Philadelphia Police Department
5 with the new procedure that they have
6 established that was not in existence.

7 So when Philadelphians who were victims
8 of criminal and defiant trespassing tell
9 us about these stories of going to the
10 Police Department and them saying they
11 don't know what to do, they couldn't
12 help, there was no -- because there was
13 no process established, there is one now,
14 and it is not a result of the legislation
15 that this Council passed or this
16 legislation before us. It was an
17 executive decision made by the Police
18 Department.

19 Thank you.

20 COUNCILMAN JOHNSON: This
21 concludes the public hearing. We will
22 now go into a public meeting to consider
23 the action to be taken on Bill No. 180741
24 and Bill No. 180978.

25 The Chair now recognizes

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 Councilwoman Cherelle Parker for a motion
3 on the amendment to Bill No. 180741.

4 COUNCILWOMAN PARKER: Thank
5 you, Mr. Chairman. I offer an amendment
6 to Bill No. 180741. A copy of this
7 amendment has been circulated to all
8 members of the Committee. I move that
9 the amendment be Bill No. 180741 be
10 approved.

11 (Duly seconded.)

12 COUNCILMAN JOHNSON: It has now
13 been moved and properly seconded that the
14 amendment to Bill No. 180741 be approved.

15 All those in favor of the
16 motion will signify by saying aye.

17 (Aye.)

18 COUNCILMAN JOHNSON: Those
19 opposed?

20 (No response.)

21 COUNCILMAN JOHNSON: The ayes
22 have it and the motion carries, and the
23 amendment to Bill No. 180741 has been
24 approved.

25 The Chair now recognizes

1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 Councilwoman Cherelle Parker for a motion
3 on Bill No. 180978 and Bill No. 180741,
4 as amended.

5 COUNCILWOMAN PARKER: Thank
6 you, Mr. Chairman. I move that Bill No.
7 180978 and Bill No. 180741, as amended,
8 be reported from this Committee with a
9 favorable recommendation and further move
10 that the rules of Council be suspended to
11 permit first reading of this bill at the
12 next session of Council.

13 (Duly seconded.)

14 COUNCILMAN JOHNSON: It has
15 been moved and properly seconded that
16 Bill No. 180978 and Bill No. 180741, as
17 amended, be reported from this Committee
18 with a favorable recommendation and
19 further moved that the rules of Council
20 be suspended to permit first reading of
21 this bill at the next session of Council.

22 All those in favor of the
23 motion will signify by saying aye.

24 (Aye.)

25 COUNCILMAN JOHNSON: Those

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1 11/20/18 - PUBLIC SAFETY - BILL 180741, ETC.

2 opposed?

3 (No response.)

4 COUNCILMAN JOHNSON: The ayes
5 have it and the motion carries.

6 This concludes the business of
7 this Committee on Public Safety for
8 today.

9 Thank you very much.

10 (Committee on Public Safety
11 concluded at 12:10 p.m.)

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CERTIFICATE

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

MICHELE L. MURPHY
RPR-Notary Public

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