

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, October 24, 2013
2:25 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILMAN BOBBY HENON
COUNCILMAN KENYATTA JOHNSON
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA
COUNCILWOMAN MARIAN B. TASCO

BILL 130693 - An ordinance amending Title 9 of
The Philadelphia Code, entitled "Regulation of
Businesses, Trades and Professions," by
prohibiting the use of automated purchasing
machines for the purchase of personal
property...

- - -

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COUNCILMAN JONES: Good

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afternoon. This is the City Council

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Committee on Public Safety.

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Will the Clerk please read the

6

title of the resolution -- or the bill.

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THE CLERK: Ordinance No.

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130693, amending Title 9 of The

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Philadelphia Code, entitled "Regulation

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of Businesses, Trades and Professions,"

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by prohibiting the use of automated

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purchasing machines for the purchase of

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personal property; providing for the

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seizure and forfeiture of the machines

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used in violation; establishing certain

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exceptions; and imposing fines and

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penalties; all under certain terms and

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conditions.

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COUNCILMAN JONES: Thank you.

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I am joined on the panel by

21

Councilman Henon, Councilwoman Tasco, and

22

the author of the legislation,

23

Councilwoman Brown.

24

Councilwoman, would you like to

25

have some opening remarks?

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2 COUNCILWOMAN BROWN: Please,
3 Mr. Chairman. Thank you very much.

4 To my colleagues and to all
5 those who care deeply about this issue,
6 thank you very, very much, the members of
7 the Public Safety Committee. I thank you
8 for the interest expressed and shown in
9 Bill No. 130693, which calls to ban the
10 use of automatic purchasing machines in
11 the City of Philadelphia.

12 Like most members of City
13 Council, I too follow news accounts that
14 are about and/or related to any and all
15 matters around public safety. Given the
16 nature of this bill, I feel it important
17 to state for the record, and for those
18 not familiar with the mission of the
19 Public Safety Committee, the mission of
20 the Public Safety Committee.

21 All matters related to the
22 Police Department, civilian defense and
23 otherwise; any matters to the illegal use
24 and possession of narcotics and drugs;
25 cooperation with law enforcement

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2 agencies, courts, Department of Public
3 Health and Department of Public Welfare;
4 and educational and research
5 organizations designed to control and
6 prevent the illegal traffic and the use
7 of narcotics, drugs, and other items, end
8 quote from our City Charter.

9 I wish to thank and acknowledge
10 members of the tech staff and the Law
11 Department, who already have worked very,
12 very closely with Katherine Gilmore on my
13 team, in seeking to craft what will be a
14 better bill.

15 This bill is not perfect. Let
16 me repeat that. This bill is not
17 perfect. Seldom when we introduce
18 legislation do we start off with a
19 perfect bill. For that reason, be
20 advised that I am and I remain available
21 and willing and open to working with all
22 stakeholders who authentically are
23 committed to finding some common ground
24 with this issue, no matter how long it
25 takes.

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2 Those who worked with me on
3 other legislative matters know that we
4 have the patience of Job, be it the Parks
5 merger, which took then Councilman
6 Darrell Clarke and I eight years to get
7 to a better ground, or on my menu
8 labeling bill, which took two years. We
9 stand ready to be a partner with any and
10 all those who are serious about reducing
11 the number of incidents and robberies,
12 period, and particularly in the incidents
13 involving the theft of phones.

14 During this hearing through the
15 presentation of facts and statistics from
16 our local transit authority, educational
17 institutions, and others, it is my hope
18 that members and viewers of this hearing
19 see the value of this measure and will
20 support it moving out of committee with a
21 favorable recommendation.

22 The record should reflect that
23 I have had a first round of meetings with
24 our Police Commissioner and his designees
25 and other officials and with companies in

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2 this business industry. We are looking
3 at the pawnshop legislation as well, and
4 those meetings, I should add, have been
5 quite informative but, beyond that, quite
6 enlightening just in terms of my own
7 learning more about this industry.
8 Today's hearing is a first step, and I
9 repeat, first step in a broader
10 conversation about how we solve
11 Philadelphia's number one crime.

12 And so with that, I look
13 forward to the hearing, I look forward to
14 the testimony and the questions and the
15 continuing information sharing that has
16 to take place as we go down this road.

17 Thank you, Mr. Chairman.

18 COUNCILMAN JONES: Thank you,
19 Councilwoman.

20 Are there any comments from any
21 other members of the Committee?

22 (No response.)

23 COUNCILMAN JONES: Seeing none,
24 will the Clerk please read the panelists
25 for the first panel, of which there will

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2 be three. When your name is called,
3 please join each other at the testimony
4 table. Thank you.

5 THE CLERK: Francis Healy,
6 Thomas Nestel, Greg Rowe.

7 COUNCILMAN JONES:
8 Councilwoman.

9 COUNCILWOMAN BROWN: While we
10 are waiting for the first panel of
11 witnesses, the record should reflect also
12 that we have amendments that we will
13 speak in greater detail about at the back
14 end of this hearing.

15 COUNCILMAN JONES: Thank you,
16 Councilwoman.

17 (Witnesses approached witness
18 table.)

19 COUNCILMAN JONES: Good
20 afternoon, gentlemen.

21 (Good afternoon.)

22 COUNCILMAN JONES: Thank you
23 for coming, and please state your name
24 for the record and your title and then
25 begin your testimony.

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2 MR. HEALY: Sure. Good

3 afternoon, Chairman Jones, Councilwoman
4 Brown, members of the Committee of Public
5 Safety. My name is Francis Healy and I'm
6 Special Advisor to Police Commissioner
7 Ramsey. On his behalf, I would first
8 like to thank you for giving the Police
9 Department the opportunity to voice its
10 opinion on Bill No. 130693, which would
11 prohibit the use of automated purchasing
12 machines in Philadelphia.

13 As background, the automated
14 purchasing machines or kiosks at issue
15 allow people to sell their cell phones,
16 MP3 players, and tablets in exchange for
17 immediate cash. These machines use
18 specialized technology to assess the
19 value of the devices based upon model,
20 condition, and the value in the secondary
21 market.

22 These machines require the
23 seller to swipe a valid government-issued
24 ID, provide a valid fingerprint, and
25 allow the machine to take their

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2 photograph. Additionally, when
3 technically possibly, these machines can
4 also log the serial number, including the
5 seller's identification information,
6 fingerprint, photograph -- I'm sorry. I
7 misspoke. These machines can also create
8 and send reports to local law
9 enforcement, including the seller's
10 identification information, fingerprint,
11 photograph, serial number of the devices
12 sold. They also have the technology to
13 check local law enforcement databases for
14 stolen phones before validating the
15 transactions.

16 Despite these very impressive
17 features, these machines have been proven
18 problematic for law enforcement.
19 Consequently, other jurisdictions have
20 stepped in and prohibited these machines.
21 While the security technology in this
22 field may be evolving, it is currently
23 unclear whether these machines have the
24 technology to verify whether the ID,
25 fingerprint, and photograph belong to the

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2 person completing the transaction and
3 whether the person is the true owner of
4 the device being sold. This lack of
5 verification ability includes the
6 inability to employ facial recognition
7 software to match the seller's
8 government-issued ID with the photographs
9 taken on the day of transaction. The
10 machines cannot match the seller's
11 fingerprint with the valid-issued
12 government identification. There are no
13 security devices that can catch thieves
14 which use third parties or middlemen to
15 complete the transactions. The machines
16 cannot log a device's serial number to
17 check for or return stolen phones if the
18 thief has made a serial number
19 unreadable. And further, these machines
20 cannot detect if a device is stolen in
21 one area and sold in another, because
22 these machines can only verify the serial
23 numbers of the phones against the local
24 enforcement databases.

25 Cell phone thefts and robberies

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2 are on the rise generally across the City
3 of Philadelphia, as my counterparts will
4 clearly tell you. As such, any
5 equipment, business or operation that
6 could even unintentionally fuel or
7 increase this trend must be met with
8 great skepticism and restraint. While
9 the technology may have improved from
10 earlier generations, the positive impact
11 these machines could have for law
12 enforcement, crime victims, and the
13 community as a whole remains uncertain.

14 So for this reason, the
15 Philadelphia Police Department and
16 Commissioner Ramsey believes that more
17 time is needed to fully evaluate these
18 machines to determine whether an outright
19 ban or some other form of regulation is
20 the most appropriate for the City of
21 Philadelphia and for local law
22 enforcement.

23 The Police Commissioner and the
24 City of Philadelphia -- I'm sorry; the
25 Police Commissioner and the City of

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2 Philadelphia Police Department applauds
3 the effort that Councilwoman Brown has
4 taken to aid law enforcement and to
5 protect the citizens and visitors of
6 Philadelphia, and we fully look forward
7 to working with the Councilwoman and the
8 Committee on Public Safety to fully
9 evaluate these devices and to develop an
10 informed and comprehensive plan that is
11 in the best interest of Philadelphia.

12 This concludes my testimony.
13 At this time, I'm seated with Chief
14 Nestel from SEPTA Police as well as the
15 Legislative Affairs Director for the
16 District Attorney's Office, and we'll be
17 happy to answer any questions from a law
18 enforcement perspective that you may
19 have.

20 COUNCILMAN JONES: What I'd
21 like to do, if it is okay with the other
22 members of the Committee, is allow each
23 of the panelists to complete their
24 testimony and then we'll engage in
25 questions.

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2 CHIEF NESTEL: Councilman, my
3 name is Thomas J. Nestel, III. I'm the
4 Chief of the Transit Police.

5 I concur with the Police
6 Commissioner's position on this matter.
7 I have no additional testimony, but I'm
8 available to answer any questions.

9 COUNCILMAN JONES: Thank you
10 for your comments, and we'll invite you
11 to stay. We'll ask questions
12 unilaterally.

13 MR. ROWE: And good afternoon.
14 I'm Greg Rowe, Chief of the Legislation
15 Unit in the Philadelphia District
16 Attorney's Office. And we agree with the
17 position of the Commissioner. And I just
18 wanted to add as a parenthetical that
19 it's always a good day when we're
20 together to try to prevent crime before
21 it happens and when we see some steps
22 that other jurisdictions have taken and
23 we try to replicate them, but before we
24 actually do that, we take the time to see
25 what's going to work and what's not going

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2 to work. So I think, as has been said
3 during opening statements, this is really
4 a very positive step in having us here
5 and having the companies that do this
6 here.

7 We know there's a problem. We
8 know there's a solution. Obviously we're
9 going to work together to figure that
10 out. And I would just end by saying not
11 only do you have our dedication to
12 working on this issue, but as we look at
13 it, let's remember that there are some
14 good companies that are going to be
15 represented here and talk about it. We
16 also have to think about the sort of
17 fly-by-night groups that might come out
18 and try to do something nefarious. So we
19 have to look at it from both their
20 perspectives and come up with a right
21 balance to address it.

22 COUNCILMAN JONES:

23 Councilwoman, if I could on background --

24 COUNCILWOMAN BROWN: Please.

25 COUNCILMAN JONES: -- for these

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2 gentlemen before you go into your
3 questions.

4 Just by way of helping me to
5 understand, what percentage of robberies
6 involve cell phones? And we'll go from
7 the District Attorney's perspective, and
8 if you don't have it, please provide that
9 information to the Chair. But by way of
10 SEPTA, maybe you can give us some insight
11 and the Police Department as well.

12 CHIEF NESTEL: Councilman, I
13 don't have the percentage for you. What
14 I have are raw numbers regarding how many
15 thefts and robberies, aggregate number.
16 For the year of 2010, there were 193. In
17 2010, SEPTA teamed with AT&T to provide
18 mobile service on the system. So
19 although we provided a wonderful
20 convenience, we also provided a wonderful
21 opportunity for the criminal element,
22 because in 2011, that number increased to
23 344. In 2012, it was 467, and to date in
24 2013, it is at 316.

25 COUNCILMAN JONES: Thank you.

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2 MR. HEALY: Like the Chief
3 mentioned, our numbers, I have raw
4 numbers. They're not broken down by
5 percentage of robberies or thefts. I
6 have raw numbers that included robbery or
7 a theft. A total number for 2013 to date
8 of 5,853 phones or smartphones being
9 taken.

10 COUNCILMAN JONES: Repeat that
11 for the stenographer and my ears.

12 MR. HEALY: Total to date for
13 the City of Philadelphia, 2013, for
14 thefts -- and this is the title -- Cell
15 Phones Stolen During the Commission of a
16 Crime, Robbery or Theft between January
17 and September 30th of this year, 2013,
18 would be 5,853.

19 MR. ROWE: And in terms of the
20 DA's Office, I'm not aware of the numbers
21 of cases that we handle that involve
22 that. I'll certainly try to provide
23 that. I don't know if we capture that.
24 But then we can certainly check to see if
25 there are any trends or any sort of

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2 relevant information that might add to
3 the sort of compelling numbers that have
4 been provided here.

5 COUNCILMAN JONES: The nature
6 of my inquiry does not -- the industry is
7 separate from the problem we face as a
8 municipality by way of cell phone thefts.
9 Similarly, some years ago, a series of
10 chain snatching and earring snatching for
11 the gold was of epidemic, I believe, and
12 it happened a great deal on our mass
13 transportation systems, but we have -- so
14 pawnshops and others were kind of brought
15 into the fray, notified that this is our
16 problem, but you have to be a part of the
17 solution. And I just wanted to on the
18 record give some context to how prolific
19 this is by way of people's use of cell
20 phones and I would even say risky use.

21 What is the average value of a
22 handheld cell phone by way of property
23 value?

24 MR. HEALY: I don't have
25 that -- I mean, anecdotally I can say

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2 probably between \$200 and \$300. That's
3 my guess as a personal guess.

4 COUNCILMAN JONES: I guess the
5 industry may have some better idea what
6 these devices are worth. But I want to
7 put in context that these things, crime
8 ebb and flows, we come up and discover
9 trends that become problems and then we
10 try to craft solutions to them, and this
11 is an evolution of that, in my mind.

12 So, Councilwoman, I'm sure you
13 have questions and I turn it over to you.

14 COUNCILWOMAN BROWN: Thank you
15 very much.

16 Good afternoon, gentlemen.

17 (Good afternoon.)

18 COUNCILWOMAN BROWN: I
19 completely appreciate SEPTA providing the
20 context of data which shows the uptick in
21 cell phone thefts from 2010. So to make
22 sure that our -- or at least make an
23 effort to compare similar data on an even
24 playing field, I would ask that the
25 Police Department submit to the Chair

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2 cell phone thefts as well starting with
3 year 2010, and that way, we can see any
4 similarity or trends, to use the word of
5 the DA's Office. And then we'll be
6 asking the same thing of the University
7 of Pennsylvania, because my homework also
8 tells me that cell phone theft tend to be
9 most prevalent on college campuses and
10 mass transit. So we need to do what we
11 can to make sure that the data we're
12 looking at is consistent across the
13 board.

14 Secondly, to the DA's comments,
15 I agree completely. We're trying to find
16 the fragile balance between those
17 companies who are doing it in a way that
18 is responsible, if you will, and the
19 fly-by-night companies that are doing it
20 because they see whatever they see and
21 that new -- taking advantage of that new
22 technology. So the goal is indeed to
23 find the right balance.

24 To the Police Department, when
25 cell phone thefts are reported, might you

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2 keep a record of those that come from
3 constituents versus cell phones from
4 companies? Do you get instances where
5 companies have reported batches of cell
6 phone theft?

7 MR. HEALY: Each theft is
8 reported individually by the complainant
9 or robbery. So it's not the industry
10 reporting to us. We report -- we accept
11 the police report and investigate it
12 accordingly. It's actually incumbent
13 more upon the victim to notify the
14 carrier that the phone has been stolen.

15 COUNCILWOMAN BROWN: Okay.

16 MR. HEALY: Or lost.

17 COUNCILWOMAN BROWN: All right,
18 then.

19 Please.

20 COUNCILMAN JONES: One of the
21 other -- and I know we're here for the
22 kiosk issue, but are there suggestions --
23 I overheard that it is way too easy to
24 transfer the use of one handheld item and
25 then go to the next.

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2 Other than the kiosks, are
3 there things that we could look to the
4 industry to make requests that they make
5 it a little more difficult? I understand
6 there are technologies beginning to be
7 explored, but what would you recommend
8 for the record?

9 MR. HEALY: Personally I would
10 recommend a review of the secondary
11 market in general. The ability for
12 somebody to go into a store and sell
13 these without any identification and then
14 requiring an automatic kiosk to provide
15 all this other kind of security
16 information, there is a dichotomy there.
17 So I think if you look at this entire
18 picture, you need to look at that market,
19 because that's the market that's fueling
20 the thefts. So it's not just the kiosks
21 obviously. They're not intentionally
22 creating this issue, but nonetheless,
23 it's a consequence. But I think if you
24 reevaluate the entire statute on
25 secondary stores accepting cell phones

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2 and probably merge them into the
3 requirements for the Pawn and Precious
4 Metal Act, which was recently amended to
5 include automated upgrades to Leads
6 Online so they can be automatically
7 tracked and stuff like that, that is
8 something that I think as a whole I think
9 we would work with the Councilwoman when
10 developing an overall comprehensive plan,
11 that I think maybe this entire issue
12 needs to be revisited to make sure that
13 we're doing a comprehensive plan so it's
14 capturing the entire problem, not just
15 one part of the problem.

16 COUNCILMAN JONES: So on that
17 same trend, the carriers, the AT&Ts of
18 the world, is there anything we should be
19 suggesting to them as well?

20 MR. HEALY: Personally they
21 should be following the same rules and
22 guidelines that the pawnshops and
23 precious metal dealers are now currently
24 required to follow. So that way, their
25 law enforcement could intervene when in

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2 fact they are dealing with stolen
3 property. As it stands now, we would
4 have no indication, no way to track it
5 once it goes into their possession. If
6 you put it into the Leads Online, which
7 if you're not aware, that's the database
8 required under the City statute now for
9 the pawnshops and precious metals
10 dealers, things taken in now need to be
11 uploaded on a daily basis so law
12 enforcement; namely, our Major Crimes
13 Unit, can review all the incoming
14 property to review whether or not it's
15 been stolen property.

16 MR. ROWE: And I would add two
17 things. One is a factual addition. Just
18 this past week in Harrisburg,
19 Representative Vanessa Lowery Brown had a
20 bill that passed the House almost
21 unanimously that statewide would impose
22 some standards on the pawnshops to
23 require identification, either photos or
24 some form of government-issued ID, before
25 the transaction could take place. What

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2 happens from there, I don't know, but
3 directly relevant to what Mr. Healy said
4 in terms of what is a best practice and
5 what he'd like to see I think throughout
6 the Commonwealth.

7 On the cell phone issue, this
8 is a little bit of a tangent, but one
9 issue in law enforcement that's been
10 around for a while unfortunately are the
11 so-called burner phones.

12 COUNCILWOMAN BROWN: So-called
13 what?

14 MR. ROWE: Burner phones. In
15 other words, you may buy what's really a
16 disposable cell phone and pay in cash and
17 use it. And these are bad guys -- not
18 everyone, but there are a lot of bad guys
19 who use these phones. They buy them.
20 There's really no record of them, and
21 they dispose of them when they're done.

22 It's a tough issue. Do you
23 require registration of these phones? In
24 that case, then you require everyone to
25 go through the process, and industry

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2 would have to take some substantial steps
3 and incur some costs. But certainly as
4 we're identifying issues here, I think
5 that is related to, as Mr. Healy said,
6 requiring sort of everyone in the process
7 to play by the same rules, that might be
8 something to at least consider. I don't
9 know where federal regs may come in, but,
10 again, in terms of issue spotting, I
11 think it's something to keep in mind.

12 COUNCILMAN JONES: I just
13 wanted, Councilwoman, to look at we're
14 narrowly tailoring this issue, but it
15 speaks to a larger issue and broader
16 issue as well.

17 So any other comments?

18 CHIEF NESTEL: Councilman, I
19 think that one helpful addition might be
20 delayed payment to the person selling the
21 phone. If the phone was being placed
22 into a registry and the police were then
23 able to review that registry, within a
24 couple of days the victim can provide
25 information from the cell phone carrier

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2 on serial numbers and other identifiable
3 facts, and if the person who is
4 attempting to be paid for that is not
5 paid immediately, we're able to not only
6 recover the phone, but the potential
7 exists that we could make an arrest
8 because that person is coming back. It's
9 going to discourage the cell phone thief
10 from going through the legitimate course
11 of business at our stores and anybody
12 that's going to buy a used cell phone.

13 COUNCILMAN JONES: Thank you.

14 Councilwoman, you want to
15 continue and then we'll go to
16 Councilwoman Tasco, and recognize that
17 Councilman Squilla has joined us.

18 COUNCILWOMAN BROWN: Thank you.

19 To understand police jargon,
20 "secondary market" means what? Define
21 that so that we all understand what that
22 is.

23 MR. HEALY: Once you have a
24 cell phone, you've acquired a cell phone
25 legally or however and it's no longer

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2 valid, like you have a new service, you
3 upgraded, you have a new phone, the
4 secondary market is where you would sell
5 that used phone. So you own the phone so
6 you could go to different stores and sell
7 that phone. It does have a value. On
8 the secondary market, I'm not sure what
9 it does. I know there's an industry --
10 and actually I'm sure the counterparts
11 that testify behind me will tell you what
12 the secondary market is. These phones
13 are actually, I believe, shipped offshore
14 and used in a whole lot of different
15 ways.

16 So there's a legitimate market
17 for old, unused phones, and that's what
18 they are. That's the secondary market.

19 COUNCILWOMAN BROWN: Okay.

20 That's how you define it. Then we're on
21 the same page, because, again, my
22 homework told me that there's a whole
23 other underground industry where these
24 phones go overseas and are sold
25 exponentially more than what they cost

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2 here onshore.

3 My last question is -- so I'll
4 hold my remaining questions and allow us
5 to get through the other panels. Thank
6 you very much for your testimony.

7 COUNCILMAN JONES: Thank you,
8 Councilwoman.

9 Councilwoman Tasco.

10 COUNCILWOMAN TASCO: You
11 probably -- I have a question.

12 CHIEF NESTEL: I'm sorry.

13 COUNCILWOMAN TASCO: You
14 probably might not have this information.
15 If you, Captain Nestel, say that -- I
16 know Nestel, but I wasn't sure of the
17 captain.

18 CHIEF NESTEL: I'm the Chief of
19 Transit Police, ma'am.

20 COUNCILWOMAN TASCO: Okay. We
21 have about 2,000 thefts in Philadelphia,
22 and I noticed in the testimony coming up
23 there are these kiosks in suburban
24 shopping malls. Do you have any idea
25 what might be the rate of arrest for

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2 thefts of phones out in those
3 communities?

4 CHIEF NESTEL: I would just be
5 venturing a guess without having the
6 actual information in front of me. I
7 would guess that we are probably at the
8 20 to 30 percent clearance rate on thefts
9 and robberies. Now, that's on SEPTA
10 where we have video. I doubt that it's
11 nearly as high on a city street.

12 COUNCILWOMAN TASC0: Maybe I
13 wasn't clear. In the suburban areas, do
14 you have any idea how many telephones
15 that are deposited into the kiosks there
16 may be or have been reported stolen?

17 CHIEF NESTEL: I do not have
18 that information.

19 COUNCILMAN JONES: The industry
20 people believe they have that
21 information, so we'll hold that for them.

22 MR. HEALY: If I could just
23 follow up to your question, ma'am.
24 Anecdotaly we've received information
25 from other jurisdictions, and that's why

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2 the Police Commissioner is right now not
3 a hundred percent certain whether or not
4 we should do an outright ban. There is
5 anecdotal evidence that these machines
6 have been used or misused in other
7 jurisdictions by certain criminals and
8 certain criminal organizations, but
9 apparently the different technology is
10 constantly evolving. So the way the
11 criminals were able to circumvent
12 security features in different
13 jurisdictions, they may have been
14 remedied by now.

15 So we don't have any good data
16 on this issue, and that's the reason why
17 we kind of need more time. We need more
18 time to make sure that -- like I said,
19 this may be a bigger picture that we need
20 to regulate a whole different industry,
21 not just a small little fraction of it,
22 and that's why we believe that we just
23 need more time, because we don't have any
24 data in Philadelphia and we'd like to
25 provide it for you, but we just don't

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2 have it. All we have is anecdotal data
3 from law enforcement from other parts of
4 the country.

5 COUNCILWOMAN TASC0: Okay.
6 Thank you. I met with my captain from
7 the 14th District about a month ago. He
8 brought this issue up. I was not aware
9 of it. Councilwoman Brown got it first.
10 But he mentioned that in my 14th District
11 where he is the captain, that that is one
12 of the increasing crimes in that
13 community, and he cited it as --

14 MR. HEALY: That's correct,
15 ma'am. There's been an increase --

16 COUNCILWOMAN TASC0: Fourteenth
17 District and 35th, but he's not 35th,
18 he's 14th.

19 MR. HEALY: That's correct,
20 ma'am. There's been a 27 percent
21 increase since 2011 to 2013 in the 14th
22 District alone.

23 CHIEF NESTEL: Councilwoman, as
24 far as mass transit, the overwhelming
25 number of our Part I crimes are related

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2 to cell phone thefts or robberies.

3 COUNCILWOMAN TASC0: Thank you.

4 COUNCILMAN JONES: Recognizing
5 Councilman Kenyatta Johnson as well has
6 joined us.

7 The Chair now recognizes again
8 Councilwoman Brown.

9 COUNCILWOMAN BROWN: Yes. So
10 to the Police Department, you have given
11 us another opportunity here. If you
12 could provide to the Chair some mapping
13 of cell phone thefts that show either the
14 uptick or downtick of cell phone thefts,
15 that would be useful as well in terms of
16 having as much factual information and
17 data as possible. That then guides us to
18 what you've recommended and what I
19 support us further examining how the
20 possible use of this new technology can
21 aid us in the theft of cell phones.

22 MR. HEALY: Yes, ma'am. I'll
23 provide you with the statistics that I
24 have today that you had asked for. I
25 have them with me today. I didn't map

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2 it, but I'll go back and ask that they
3 map it as well.

4 COUNCILWOMAN BROWN: And it's
5 understood why. I mean, we want to get
6 this moving quickly, and I understand it
7 takes a minute to gather data, so I
8 certainly understand that.

9 SEPTA has the reputation, I
10 believe, of seeing an issue and then
11 figuring out internally strategies or
12 methodologies to tackle it. So given the
13 uptick of cell phone theft, has SEPTA
14 leadership had a chance to examine how to
15 tackle or deal with this in a way that
16 police officers would?

17 CHIEF NESTEL: Yes, ma'am. My
18 recommendation of terminating the
19 convenience so you can't use the phone,
20 that was denied.

21 We've gotten much more involved
22 in ridership awareness. I can tell you
23 that our victim demographics are female.

24 COUNCILWOMAN BROWN: That's
25 important information.

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2 CHIEF NESTEL: Usually on a
3 subway or El shortly after that El or
4 subway enters a station and the phone is
5 snatched and the person runs out. We
6 have identified several different groups
7 that are repeat offenders. So now not
8 only are we pursuing that through the
9 criminal justice system, but we're also
10 looking at the possibility of prohibiting
11 access to mass transit for repeat
12 offenders. So now instead of that person
13 being arrested again and again for cell
14 phone theft, when we see that person on
15 our platforms, the officers will be able
16 to bring up the picture. They know these
17 folks, and they'll be able to arrest them
18 for defiant trespass and eject them
19 before they commit that theft. We're
20 also running decoy operations. We are
21 very aggressively chasing the cell phone
22 theft and robbery problem on the system.

23 COUNCILWOMAN BROWN: So you
24 have now provided some new information
25 that speaks to what one of these two

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2 gentlemen spoke about, and, that is,
3 having a comprehensive look-see at the
4 preventive measures where they might be
5 as well as solution measures on the back
6 end.

7 CHIEF NESTEL: Yes, ma'am.

8 COUNCILWOMAN BROWN: So I would
9 ask that you would provide to the Chair
10 and ultimately maybe to a subsequent
11 smaller committee that convenes for us to
12 really dissect this problem in an
13 intelligent way that information as well.

14 CHIEF NESTEL: Yes, ma'am.

15 COUNCILWOMAN BROWN: It's very
16 useful.

17 Thank you, gentlemen.

18 COUNCILMAN JONES: Are you
19 done, Councilwoman?

20 COUNCILWOMAN BROWN: Yes.

21 COUNCILMAN JONES: Councilman
22 Johnson.

23 COUNCILMAN JOHNSON: Yes.

24 Sure. I'm just arriving a little late.

25 I just want to get an idea -- you might

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2 have already mentioned some of this
3 information prior to me getting here.

4 One, the strategy that the Police
5 Department, District Attorney's Office
6 has been using to address the issue of
7 cell phone theft. I think I came on the
8 tail end when you talked about the rise
9 in cell phone theft. I know in South
10 Philadelphia there was a movement started
11 called Taking Back South Philadelphia
12 Streets, and this all revolved around the
13 issue of cell phone theft along the
14 Oregon Avenue corridor, to the point
15 where some people even look at it as a
16 fencing ring in that particular area. At
17 least that's what was mentioned at the
18 community rally that I went to.

19 And so I just want to get an
20 idea from your perspective what you're
21 doing to address the issue, how prevalent
22 the issue is from a law enforcement
23 perspective just for the record.

24 MR. HEALY: Well, from the
25 Police Department's perspective, every

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2 commanding officer is really challenged
3 to come up with his own different
4 objectives, because how it's done in each
5 different jurisdiction or each different
6 location is, I believe, somewhat
7 different. But very much similar to what
8 SEPTA is doing is its public awareness
9 campaign. Most of the thefts are
10 happening because people are completely
11 unaware. They're either listening to
12 music on their phone or they're just too
13 involved in it and the phone is taken
14 right out of their hands before they even
15 know it's there and they're gone.

16 So it's really a public
17 awareness campaign, but there's also
18 decoy operations being done by different
19 commanding officers. They're left to
20 their own devices. They're held
21 accountable for the thefts in their
22 geographical areas. There's a wide range
23 of different strategies that I would
24 rather not say in a public hearing, quite
25 honestly, but nonetheless, there's

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2 different strategies by every commanding
3 officer on how to each address the
4 problem. It is a growing problem, and
5 the biggest way to address it is to cut
6 off the supply source. And I think where
7 these phones are being -- where they're
8 making the money, if the criminals aren't
9 making money off of stealing these
10 things, then there's no need to steal
11 them.

12 COUNCILMAN JOHNSON: And that
13 supply source is what?

14 MR. HEALY: Well, the money
15 they're getting from selling these phones
16 in the secondary market. So if we can
17 cut that flow or if we can regulate the
18 other industries that are profiting from
19 this -- I'm not saying they're doing it
20 intentionally, but they are fueling the
21 problem. And the fact that if you can
22 easily turn over a phone to a legitimate
23 provider or a legitimate business and
24 there's no regulations on that business,
25 then that's unintentionally fueling the

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2 problem of cell phone thefts, because the
3 value of these phones are going up, like
4 I said, on the secondary market. So
5 they're becoming more valuable. They're
6 becoming a commodity, and it's our job to
7 try to regulate that the best we can.

8 COUNCILMAN JOHNSON: Thank you.

9 COUNCILMAN JONES: Thank you,
10 Councilman.

11 One of the members of my staff
12 talked about a story of their cell phone
13 being stolen, and then the technology to
14 trace it was invoked and it actually
15 found the individual who had his cell
16 phone, and there was a shrilling sound
17 that was emitted from the phone
18 because -- you know, it just made it
19 inconvenient for the new operator of the
20 cell phone, because it started chirping
21 in a very loud way. And so they were
22 able to connect back with the person who
23 had the phone, who said a second party
24 sold it to him, and then he had to ransom
25 buy his phone back.

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2 So these hearings are
3 important. It's unfortunate that an
4 industry has to be the lead blocker on a
5 bigger industry that we have.

6 I was sharing -- Councilman
7 Squilla shared with me that some of the
8 big-box stores actually allow you to walk
9 up and sell electronics right in their
10 stores. Is that a problem as well?

11 MR. HEALY: Well, that, I
12 think, is part of the overall larger
13 problem, yes. I think that needs to be
14 regulated. I think it would be unfair to
15 regulate a very small portion of this
16 industry and completely forget about
17 another. So that's the reason why I
18 think we need to take a step and really
19 evaluate this. I think it's a great
20 opportunity that the Councilwoman brought
21 this to the floor that we can look at it
22 from a comprehensive approach. It's a
23 great opportunity to get this done right.

24 COUNCILMAN JONES: But I'm
25 seeing at this level above and below we

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2 have some strategizing to do to determine
3 how to deter this. So it can be as high
4 up as the big Verizons and AT&Ts taking
5 some responsibility for this, but also
6 the smaller pawnshops or individual
7 kiosks also have a role to play.

8 Councilwoman.

9 COUNCILWOMAN BROWN: Agreed.

10 COUNCILMAN JONES: All right.

11 So are there any other
12 questions for this panel?

13 (No response.)

14 COUNCILMAN JONES: Seeing
15 none --

16 COUNCILMAN SQUILLA: Hold on a
17 second.

18 COUNCILMAN JONES: Councilman
19 Squilla.

20 COUNCILMAN SQUILLA: I'm sorry.
21 Real quick, and I know everybody asked
22 the questions already. Do you think it's
23 possible to use some of this technology,
24 if we come up with a system or a strategy
25 that we could use some of this technology

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2 for anybody that sells a device that
3 would have to maybe either scan the card,
4 take a picture, scan a thumbprint?

5 MR. HEALY: Yes, sir. What I
6 believe is right now -- about a year and
7 a half, two years ago, the pawnshop and
8 precious metal ordinances were amended to
9 require automatic up-linking to Leads
10 Online, which is a database management
11 firm that collects this data. I believe
12 this secondary market in the cell phone
13 should also be included in that type of
14 pawn. Therefore, everything is being
15 collected so we could track stolen cell
16 phones. So, yes, I do believe that would
17 be a good idea.

18 COUNCILMAN JONES: Councilman,
19 thank you.

20 Councilwoman Tasco.

21 CHIEF NESTEL: Councilman, I'm
22 sorry. Just one cautionary step that I
23 would ask is that there be some
24 consideration in delayed payment.
25 Putting it on Leads, the person has

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2 already received payment for that item.
3 So if there was delayed payment, giving
4 the police the opportunity to verify that
5 that object is not a stolen item, then
6 the person that has stolen it really is
7 not going to benefit. It's going to be
8 much more difficult for the average cell
9 phone thief to get paid for that stolen
10 property.

11 COUNCILMAN JONES: Thank you.
12 Councilwoman Tasco.

13 COUNCILWOMAN TASCO: To the
14 gentleman from the Police Department, do
15 you still have a Pawnbrokers Division in
16 the Police Department where items that
17 are pawned -- or descriptions are sent to
18 that department and to the Police
19 Department?

20 MR. HEALY: Our Major Crimes
21 Unit oversees the pawnshops in
22 Philadelphia. They review -- they used
23 to review the pawn slips. Now they
24 review the uploaded links from Leads
25 Online on a regular basis looking for

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2 crime property.

3 COUNCILWOMAN TASCO: That was
4 my first job here, the Police Department
5 in the Pawnbrokers Division. That's how
6 I remember that.

7 COUNCILMAN JONES: Thank you,
8 Councilwoman.

9 Are there any other questions
10 for this panel?

11 (No response.)

12 COUNCILMAN JONES: Seeing none,
13 thank you very much for your input,
14 testimony, and wisdom on this matter.

15 MR. HEALY: Thank you.

16 COUNCILMAN JONES: Will the
17 Clerk please read the next panel of
18 witnesses.

19 THE CLERK: David Mersten, Max
20 Santiago.

21 COUNCILMAN JONES: When you
22 approach the table, can you state your
23 name, your company affiliation for the
24 record, please.

25 (Witnesses approached witness

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2 table.)

3 COUNCILMAN JONES: Good
4 afternoon.

5 MR. SANTIAGO: Good afternoon.
6 My name is Max Santiago. I am the
7 Director of Law Enforcement Relations for
8 ecoATM.

9 MR. MERSTEN: My name is David
10 Mersten. I'm the Chief Legal Officer for
11 ecoATM.

12 COUNCILMAN JONES: Thank you,
13 gentlemen. Thank you for coming, and
14 please begin your testimony.

15 MR. SANTIAGO: Good afternoon.
16 My name is Max Santiago. I am the
17 retired Deputy Commissioner of the
18 California Highway Patrol where I
19 honorably served for 30 years and oversaw
20 11,500 personnel. Under my watch, the
21 CHP earned international accreditation by
22 the Commission on Accreditation of Law
23 Enforcement Agencies. And I'm also a
24 graduate of the FBI National Academy
25 located at Quantico, Virginia, and I have

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2 a solid working knowledge of
3 evidence-based policing. I am here today
4 in my capacity as the Director of Law
5 Enforcement Relations for ecoATM. We are
6 the nation's leading operator of
7 interactive kiosks, and they provide
8 safe, efficient, and an environmentally
9 friendly way to sell your used cell
10 phone, MP3 player or tablet. My job is
11 to work with police on ways that ecoATM
12 can be used as a law enforcement tool and
13 a source of evidence for their
14 investigations.

15 At the start, I'd like to thank
16 the Committee and its Chairman,
17 Councilman Curtis Jones, for the
18 opportunity to address the issue of cell
19 phone theft. I'd especially like to
20 thank Councilwoman Blondell Reynolds
21 Brown for bringing this very real issue
22 to the forefront of people's attention.
23 As you've heard from my distinguished
24 colleagues, law enforcement theft is a
25 national problem. Cities nationwide are

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2 experiencing increased crime and all too
3 frequently, the thief is after your
4 phone. We recognize and acknowledge that
5 Philadelphia is not immune to this trend
6 and that it is a very real problem facing
7 the City.

8 Let me be very clear about our
9 intentions. Cell phone theft is bad for
10 our business at ecoATM, and we want to
11 prevent it as much as the members of this
12 City Council. What's more, we are doing
13 something about it, as I will explain in
14 a moment. We want to do more. Our
15 objective today is to represent to you
16 that ecoATM wants to work with the Police
17 Department and the members of this
18 Council to develop real solutions to
19 combat phone theft in Philadelphia.

20 For a little background, we
21 placed our first ecoATM in Philadelphia
22 at the Franklin Mills Mall in August of
23 2012. We added a second kiosk there in
24 July of this year. These are the only
25 two kiosks that we have in the City of

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2 Philadelphia. Including these two
3 kiosks, there are a total a 17 kiosks in
4 13 malls within a 25-mile radius of
5 Philadelphia. All of the others are
6 located in suburban shopping malls, with
7 the closest being the Cheltenham Square
8 Mall just across the border in Montgomery
9 County. We are very pleased to report
10 that ecoATM has successfully recycled
11 over 35,000 devices in the greater
12 Philadelphia region.

13 I want to make a point that I
14 heard Captain Healy say about Leads
15 Online. I want you to know that each and
16 every one of those transactions that we
17 did at the kiosk was reported to local
18 law enforcement via Leads Online. That
19 is a national database that anyone can
20 access in law enforcement to ascertain
21 whether a device has been stolen or who
22 has actually sold a device in the
23 secondary market.

24 Whether it's in Philadelphia or
25 in any other of our locations around the

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2 nation, our kiosks operate in ways that
3 make it tougher for cell phone thieves to
4 use our machines. First, our
5 state-of-the-art technology requires the
6 user to present a valid form of
7 government identification, without which
8 the transaction will not continue.

9 Second, our machine takes
10 multiple images of the seller in every
11 case as well as a thumbprint of the
12 seller. All of this is verified in
13 realtime by our command center in San
14 Diego by our people who work there. If
15 there's a problem, the transaction will
16 not continue. If, and only if, the
17 identification is valid and the images
18 match the seller in front of the kiosk
19 and the thumbprint is verified as having
20 come from that particular buyer, the
21 kiosk analyzes the phone to determine its
22 value. At the same time, we leverage
23 available stolen phone databases to check
24 if the phones are stolen.

25 It's interesting to note that

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2 after a transaction is completed, that a
3 record of that transaction, which
4 includes multiple photographs of the
5 seller, a digital image of the seller's
6 government-issued identification card, a
7 digital image of the seller's thumbprint,
8 their identifying information and the
9 device's identifying information and
10 digital images of the device, are always
11 provided to the police. We are not aware
12 of any other business, legitimate or
13 otherwise, which records as much
14 documentation as we do and reports these
15 transactions to the police.

16 We also voluntarily hold all of
17 our phones we purchase for 30 days, and
18 if we are informed by anyone in law
19 enforcement that a phone we bought is
20 reported lost or stolen, we return it to
21 the police so that they can return it to
22 the rightful owner at our cost.

23 In reality, this policy
24 provides a very strong disincentive for
25 ecoATM to buy stolen phones. Stolen

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2 phones are bad for our business. For
3 this reason, ecoATM works with the police
4 departments in all of our locations
5 researching any transactions upon
6 request. We don't require a search
7 warrant or subpoena, and we provide
8 critically important information about
9 the seller, including the photo, the ID,
10 and the thumbprint. If an officer has
11 questions about a transaction and that
12 phone is still in our kiosk upon their
13 request, we will open that kiosk remotely
14 and have the officer retrieve the phone
15 immediately.

16 Frankly, the response we've had
17 from our police colleagues with whom we
18 work regularly across the country and
19 here in Philadelphia too has been
20 consistently positive. When police
21 officials see what we can do in terms of
22 assisting in the investigation of cell
23 phone theft, the general reaction is, We
24 wish everyone who buys used cell phones
25 did it in a way that ecoATM does it.

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2 You heard from Captain Healy.

3 You heard from the Chief. You heard from
4 the District Attorney about the thousands
5 of persons who have been victims of cell
6 phone theft in the City of Philadelphia.
7 I heard Captain Healy, I think he said
8 that to date in this year, that they have
9 investigated or received reports of 5,823
10 stolen cell phones in the City. I just
11 want to point out that the City or the
12 Philadelphia Police Department has
13 located only 15 of those stolen phones in
14 our kiosks that are located in the mall
15 at Franklin Mills. Now, during the same
16 timeframe, we've worked with local law
17 enforcement here to identify in totality
18 the entire region a total of 43 phones
19 which were possibly stolen. The reason
20 why I say "possibly stolen" is we're
21 never always told by law enforcement of
22 whether or not the phone did turn out to
23 be stolen.

24 COUNCILWOMAN BROWN: Repeat
25 that last statement.

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2 MR. SANTIAGO: We in working in
3 cooperation with law enforcement, when
4 you contrast it to the 5,823 phones that
5 are reported stolen so far, we've been in
6 operation for over a year in the greater
7 Philadelphia metropolitan area, and law
8 enforcement has identified 43 phones that
9 we have recycled as possibly being
10 stolen. In other words, less than
11 two-tenths of 1 percent of the phones
12 that consumers recycled at ecoATM in the
13 Philadelphia metropolitan area were later
14 identified by law enforcement as possibly
15 being stolen. I want to reiterate that
16 each of these phone were immediately
17 returned to law enforcement so that they
18 could return them to the rightful owner
19 at no cost to them.

20 Through the cooperation with
21 local police, our data has led to the
22 identification of suspects and arrests
23 which have taken criminals off the
24 streets.

25 We appreciate the opportunity

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2 to address this committee as well as the
3 time that each of you and the command
4 staff of the Philadelphia Police
5 Department has spent learning about how
6 ecoATM works. We applaud the City
7 Council's decision to investigate this
8 issue, and we think that there are ways
9 that we can work together to attack this
10 problem.

11 Ladies and gentlemen, on the
12 issue of combatting cell phone theft, we
13 want what you want. We are totally
14 committed on this issue, and we pledge to
15 provide our assistance, our expertise,
16 our technology and time to working with
17 the Police Department and all of you to
18 help combat cell phone theft in
19 Philadelphia.

20 I'd be happy to take any
21 questions, along with my colleague David
22 Mersten.

23 COUNCILMAN JONES: Is your
24 colleague -- I'm sorry. Is your
25 colleague going to testify as well?

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2 MR. MERSTEN: No.

3 COUNCILMAN JONES: Okay.

4 Councilwoman Brown.

5 COUNCILWOMAN BROWN: Thank you.

6 Good afternoon, gentlemen.

7 MR. SANTIAGO: Good afternoon.

8 COUNCILWOMAN BROWN: Thank you
9 very much, and thank you for the initial
10 sit-down we were able to get done with
11 the assertive but gracious work of Molly
12 McAteer.

13 So we heard from the Police
14 Department, I believe it was, SEPTA
15 Police, his request multiple times
16 wherein he said is it possible to have
17 delayed payment. So if not now, could it
18 be technology that actually does that,
19 delays payment for phones that might be
20 stolen?

21 MR. MERSTEN: Let me answer
22 that question. So the purpose of this
23 hearing is to discuss public safety, and
24 we understand that both the environmental
25 and the consumer benefits are a

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2 discussion that should be held for
3 another time. There is, of course,
4 significant value to people to be able to
5 recover the value of their investment.
6 There's significant value to the
7 environment. I think we all understand
8 that.

9 Our belief is that our
10 mechanism today is akin to what has been
11 proposed. Today we hold every phone for
12 30 days. The request was we want the
13 ability to investigate the transaction.
14 We hold every phone for a minimum of 30
15 days to give the police the ability to
16 investigate the transaction. If they
17 find that the phone has been potentially
18 stolen, they recover the phone, they take
19 the phone, and the person gets it back at
20 no charge. It's our risk and it's at our
21 expense.

22 So we believe we accomplish the
23 same and, at the same time, give
24 consumers the ability to get the
25 incentive they need in order to go ahead

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2 and recycle their phone.

3 COUNCILWOMAN BROWN: So the
4 direct answer to the question is that you
5 pay on site, but you hold the phone for
6 30 days, and if found to be stolen, then
7 you take the loss?

8 MR. MERSTEN: That's exactly
9 right.

10 COUNCILWOMAN BROWN: How do you
11 validate the person's fingerprint matches
12 with the ID provided during the
13 transaction? Is there a cross-reference
14 with law enforcement agency databases?

15 MR. SANTIAGO: Let me answer
16 that, ma'am. I did see that in Captain
17 Healy's testimony. I've been in law
18 enforcement for 32 years. I've worked in
19 many locations, had a lot of training.
20 I'm not aware of any law enforcement
21 agency that has that present capability
22 where you can take a thumbprint and run
23 it through a driver's license or
24 identification card database. That
25 system that most Department of Motor

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2 Vehicles utilize is normally not
3 connected to the FBI or the state's
4 automated fingerprint information system.
5 So those are two disparate systems.

6 So having said that, no, we
7 don't have the ability of tying that
8 person's thumbprint to the identification
9 that's presented to us, but I'm not aware
10 of anyone in the nation that has that
11 capability.

12 COUNCILMAN JONES: So similar
13 to what you would do at a bank when they
14 roll your thumb on a check, it is there
15 just to verify that that person was --

16 MR. SANTIAGO: Yes. I guess to
17 clarify, Chairman, we specifically mount
18 a camera in the vicinity of the
19 thumbprint reader so that you can't -- if
20 Mr. Mersten is doing a transaction, I
21 can't put my thumb on there. Our monitor
22 at the command center is observing the
23 individual's arm and placing the thumb on
24 the thumbprint. So we can verify that
25 the individual that we're taking

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2 photographs of is related to the
3 thumbprint or fingerprint that we're
4 capturing.

5 MR. MERSTEN: We believe it's a
6 deterrent and an aid to prosecution. I
7 think that's how a lot of people use
8 that. That's how we use it.

9 COUNCILWOMAN BROWN: So as a
10 followup to Mr. Chairman's question, on
11 Page 2 of your testimony, you say if, and
12 only if, the ID is valid. What does that
13 mean?

14 MR. MERSTEN: Sure. So we use
15 technology that essentially looks at the
16 ID and verifies it against several DMV
17 databases, and what they essentially do
18 is they distinguish a fake ID from a
19 validly issued ID, right? So there's
20 holographic marks. There are other
21 identifying marks in a valid ID that
22 distinguish it from a fake ID, and that's
23 what we do to determine whether an ID is
24 valid or whether they're trying to give
25 us something that is not a validly issued

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2 government ID.

3 COUNCILWOMAN BROWN: Or whether
4 that person, Blondell Reynolds Brown, is
5 indeed Blondell Reynolds Brown. That's
6 all it basically does.

7 MR. MERSTEN: So there's two
8 things going on. One is the proprietary
9 software goes ahead and assesses the ID
10 itself to make sure that it was validly
11 issued to Ms. Brown, and then what we do,
12 we have people looking at multiple images
13 of the seller to compare it to the ID to
14 verify that it is Ms. Brown.

15 COUNCILWOMAN BROWN: So back to
16 my initial question. So yes or no, you
17 can develop technology to delay payment
18 or you cannot?

19 MR. MERSTEN: I don't know
20 whether we can. Again, we believe it
21 would be a significant deterrent to
22 middle America to recycle. Today we
23 believe we're accomplishing the same
24 thing.

25 COUNCILWOMAN BROWN: Some might

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2 argue that's debatable, but we won't do
3 that here.

4 Over the summer, was your
5 company acquired by a larger company?

6 MR. MERSTEN: Yes, it was. It
7 was acquired by a public company named
8 Outerwall.

9 COUNCILWOMAN BROWN: Named?

10 MR. MERSTEN: Outerwall.

11 COUNCILWOMAN BROWN: And is it
12 true that your company was acquired by
13 the same company that owns Coinstar and
14 Redbox Machines?

15 MR. MERSTEN: Very good. Yes.

16 COUNCILWOMAN BROWN: So with
17 this acquisition, is it fair to say that
18 you plan to expand in various locations
19 in the City like Coinstar and Redbox
20 Machines, which are typically found at
21 supermarkets, gas stations, convenience
22 stores, et cetera?

23 MR. MERSTEN: I don't know
24 whether we're going to expand to those
25 particular locations. It's obviously our

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2 intent to expand.

3 COUNCILWOMAN BROWN: To grow as
4 a business.

5 MR. MERSTEN: Absolutely.

6 COUNCILWOMAN BROWN: You stated
7 in your testimony that ecoATM worked with
8 local law enforcement to identify a total
9 of 43 phones that were possibly stolen.
10 And we know they were stolen because why?
11 Finish the sentence for me.

12 MR. SANTIAGO: Well, they were
13 possibly stolen in that law enforcement
14 requested to recover the phones. We
15 don't require a search warrant nor do we
16 require a subpoena. We don't really
17 question law enforcement why they need
18 this specific phone. Sometimes they call
19 us back and return the phone. Sometimes
20 they tell us this person was a person of
21 interest in another crime. Sometimes
22 they tell us it's stolen.

23 I do know -- I've been in
24 Philadelphia since Saturday. We had the
25 International Association of Chiefs of

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2 Police, had to meet some friends, which
3 was great, and there are folks within the
4 Philadelphia Police Department, the
5 Director of Bensalem Township
6 complimented our folks for the
7 cooperation and the identification of
8 suspects in a few of their cell phone
9 thefts. So we are providing them the
10 information they need in order to solve
11 crimes.

12 COUNCILWOMAN BROWN: Sure. And
13 a number of members of this committee
14 have implied that fairness across the
15 board with others who sell cell phones is
16 needed. So then do you currently
17 interface with cell phone providers to
18 cross-reference their list of stolen
19 phones?

20 MR. MERSTEN: We -- the problem
21 is that there is no database that is
22 shared with us by cell phone providers.
23 If any such -- if there were any
24 databases that were to exist, we would
25 love to use it. We are at a trial period

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2 with certain third-party database
3 providers that have some access to
4 databases, but from our standpoint -- and
5 we're also working with other folks to
6 try to lead the effort to create a
7 database. Today that doesn't yet exist.

8 COUNCILWOMAN BROWN: How
9 optimistic are you?

10 MR. MERSTEN: There's certainly
11 a lot of good intent out there. It
12 certainly requires a lot of people to get
13 together and agree to share proprietary
14 data.

15 COUNCILWOMAN BROWN: Indeed.
16 Just a couple more questions. If a
17 serial number is scratched off the phone
18 or does not power up due to a charging
19 port malfunction, can a citizen still
20 move forward in the process to sell the
21 phone to these systems?

22 MR. MERSTEN: So there are
23 phones that a cell phone -- that a number
24 is not recoverable. Sometimes we can't
25 recover it all. Over 90-plus percent of

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2 the time we generally recover serial
3 numbers. At the end of the day, if there
4 is any transaction where a citizen
5 believes he has lost his cell phone and
6 the police -- he fills out a police
7 report, we will return that phone to
8 them.

9 COUNCILWOMAN BROWN: And that
10 goes to my very last question. What are
11 your protocols for getting phones that
12 you recover back to the owner?

13 MR. MERSTEN: If the consumer
14 calls the police, reports their cell
15 phone is stolen, we will return the phone
16 to them free of charge at our expense.

17 COUNCILWOMAN BROWN: And then
18 lastly, I've learned through meetings
19 that your company, some might argue
20 fairly, that in many ways you're a
21 five-star standard compared to others who
22 have other standards. So help us
23 understand why that is viewed as such and
24 where other companies in the same
25 business do not stack up as tall.

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2 MR. MERSTEN: Sure. So today I
3 as the Chief Legal Officer, Max as a
4 person with many decades of experience in
5 law enforcement, and dozens of other
6 people in our company spend every day,
7 every morning and every evening with job
8 one; that is, to make our kiosks the
9 worst place for a thief to sell a stolen
10 phone. We don't believe anyone dedicates
11 the efforts, the resources, and the
12 thought leadership that we do to this
13 problem. We report -- we call the police
14 and have a discussion with them whether
15 any law applies to us.

16 COUNCILWOMAN BROWN: In all of
17 the areas where you're located?

18 MR. MERSTEN: In any area that
19 we're located. Before we locate
20 ourselves in an area, we call the police.
21 We explain to them what we do. We
22 explain to them how we do it. We tell
23 them how we report and what we report,
24 ask them what format they'd like us to
25 report, whether it's Leads Online,

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2 whether it's other third-party providers,
3 whether it's e-mail, whether it's fax.
4 Whatever methodology they're comfortable
5 with, that's what we make it our job to
6 provide.

7 We provide not only the
8 image -- we not only verify the driver's
9 license, but we actually provide the
10 police with a picture of the driver's
11 license. So they can go ahead and look
12 at our transaction after it's completed.
13 Nobody else does that, not pawnshops, not
14 secondhand dealers elsewhere. Nobody
15 else does that. Again, we dedicate
16 significant time, significant thought to
17 trying to understand what is the best way
18 to prevent, to deter, to deal with the
19 phone theft problem, and that's why we
20 believe that we are the gold standard
21 today.

22 COUNCILWOMAN BROWN: How old
23 are you again? How old is the company?

24 MR. MERSTEN: The company is
25 five years old.

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2 COUNCILWOMAN BROWN: And how
3 many other like companies are there
4 across the country, a general number,
5 five, ten, 15, just to have a picture.

6 MR. MERSTEN: There are
7 numerous companies that collect cell
8 phones.

9 COUNCILWOMAN BROWN: "Numerous"
10 means what, a dozen, less than a dozen,
11 what?

12 MR. MERSTEN: I would say it's
13 much more than a dozen.

14 COUNCILWOMAN BROWN: All right,
15 then. Well, thank you both for your
16 testimony.

17 MR. MERSTEN: Thank you very
18 much.

19 COUNCILMAN JONES: Thank you
20 for those questions, Councilwoman.

21 One of the things we find on
22 this side of the table as elected
23 officials is that the reputable companies
24 take the blows for the non-reputable
25 companies, and because you are standard

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2 bearers, it draws into question some of
3 the bad actors, whether it's demolition
4 or whether it's cell phones, and our job
5 is to try to filter in what those best
6 practices should be, and it comes at your
7 expense sometimes, but our intention is
8 to try to make it an even playing field
9 for everybody to hold to a standard like
10 yours.

11 Are there any other questions
12 for this group?

13 (No response.)

14 COUNCILMAN JONES: Thank you,
15 gentlemen, for bringing us enlightenment.

16 MR. MERSTEN: Thank you very
17 much.

18 MR. SANTIAGO: Thank you for
19 your time.

20 COUNCILMAN JONES: Will the
21 Clerk please read the final panel.

22 THE CLERK: Maureen Rush, Jenny
23 Robinson.

24 COUNCILMAN JONES: And can you
25 say where they're from.

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2 THE CLERK: Maureen Rush from
3 the University of Pennsylvania, Jenny
4 Robinson from AAA Midatlantic.

5 (Witnesses approached witness
6 table.)

7 COUNCILMAN JONES: Ladies,
8 thank you for your patience. Please have
9 a seat at the table, state your name
10 officially in the mike for the record,
11 and please begin your testimony.

12 MS. ROBINSON: Good afternoon.
13 I'm Jenny Robinson and I'm the Public and
14 Government Affairs Manager for AAA
15 Midatlantic in Philadelphia. AAA is the
16 nation's largest leisure travel
17 organization with about 700,000 members
18 in the Philadelphia region, and we have
19 provided theft prevention tips to
20 travelers for more than a century.

21 Before I continue, did you want
22 us both to be introduced first?

23 COUNCILMAN JONES: Whichever
24 order, read your testimony, then we'll
25 ask questions.

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2 MS. ROBINSON: I want to thank
3 Councilwoman Blondell Reynolds Brown for
4 inviting us to speak on this bill and
5 thank you to the Committee.

6 We've all heard very clearly
7 that smartphones are at risk of being
8 lost or stolen certainly in any major
9 metropolitan area, but surprisingly, the
10 City of Brotherly Love is the worst
11 offender. Philadelphia is the top theft
12 and loss hotspot for smartphones in the
13 country based on research AAA found from
14 mobile security firm Lookout.

15 Almost one out of three
16 robberies nationwide involves the theft
17 of a mobile phone. That's according to
18 the Federal Communications Commission.
19 In the United States, about 113
20 smartphones go missing each minute, and
21 as we just heard from police, so far this
22 year in Philadelphia alone, nearly 5,900
23 cell phone thefts so far, if I heard the
24 figure correctly. That's a lot of
25 smartphones going missing. Well, an

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2 iPhone, as you know, costs hundreds of
3 dollars without a contract. So it's a
4 very pricey problem.

5 You could be at extra risk if
6 you're at college or if you use mass
7 transit, and I'm sure we'll hear more
8 from Ms. Rush. But also Drexel students
9 earlier this year were robbed of their
10 smartphones at gunpoint in three
11 University City robberies. SEPTA Police
12 have ramped up their enforcement, and you
13 heard from them that they are taking
14 measures because of the cell phone thefts
15 that happen on the train platforms.
16 Thirty-nine cell phones on average lost
17 or stolen each month last year throughout
18 SEPTA's mass transit system, and they are
19 working hard to combat that.

20 All these things really point
21 to also things that consumers can do to
22 protect themselves. Keep in mind, in a
23 few seconds, a thief can swoop down and
24 make away from your pricey device.
25 Smartphones are a lucrative target. They

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2 are small, light, easy to steal, and

3 valuable to sell, especially when a

4 vending machine makes it extra easy.

5 Whether you're on a train platform or

6 walking down the street, you're at risk.

7 So we do advise everyone please

8 stay alert and secure your devices while

9 walking around the City, parking in a

10 garage, and using mass transit. You can

11 install a phone app such as Find My

12 iPhone, which will allow you to log into

13 a website to locate a stolen or lost

14 phone and wipe the phone clean of

15 personal data. So those are all things

16 that we can do as individuals to protect

17 ourselves as well.

18 We thank the Councilwoman and

19 the Committee for actions to help prevent

20 smartphone theft, and AAA urges everyone

21 to exercise caution when using their

22 devices in public.

23 Thank you.

24 COUNCILMAN JONES: Thank you

25 for your testimony.

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2 MS. RUSH: Good afternoon. My
3 name is Maureen Rush. I'm Vice President
4 for Public Safety and Superintendent of
5 Penn Police at the University of
6 Pennsylvania. It's my pleasure to be
7 invited here by Councilwoman Blondell
8 Reynolds Brown and for the Chair's time
9 and attention.

10 So I want to just talk a little
11 bit about the statistics that I
12 submitted, and I'm going to speak about
13 around cell phone technology thefts,
14 which has been a growing trend/problem in
15 college/university settings as well as
16 SEPTA police areas. So the statistics
17 that we gathered and presented to Council
18 are for the patrol zone, not just the
19 campus of Penn. So from 30th Street to
20 the east, 43rd Street to the west, Market
21 Street to the north, which also coincides
22 with Drexel University area, and then
23 south to Baltimore Avenue and around the
24 Science Health System area. And so over
25 the years, in 2011, we started to see a

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2 trending of cell phone robberies,
3 burglaries, thefts of like snatching out
4 of people's hands. Can I borrow your
5 cell phone?

6 So these trends started to
7 catch our attention and we started
8 tracking the statistics, specifically
9 towards any kind of cell phone or iPhone
10 technology. And so from 2011 -- and this
11 was including cell phones that were
12 taken, smartphones that were taken in
13 burglaries, purse snatches, retail
14 theft -- we have a Verizon, AT&T store on
15 our campus -- robbery, robbery point of
16 gun, thefts, all other, which were
17 usually the snatch out of the hand, theft
18 from vehicles, and theft from buildings.

19 So for 2011, we had 68 total
20 thefts of cell phone technologies. In
21 2012, it went to 86, and year to date --
22 we're not finished yet -- it's 90. So we
23 are seeing a trending that's going
24 upward. And I appreciate the companies
25 and having sat through listening to what

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2 the company is doing and that they are
3 working well with law enforcement, and
4 that's admirable. The thumbprint
5 technology is terrific, but all of this
6 is after the fact, and the problem that I
7 see is that until the perpetrators or
8 would-be perpetrators -- who, by the way,
9 are as young as 9, 10, 11-year-old kids,
10 and sometimes it's because they want to
11 flip the phone and get money or they
12 actually want to have a cell phone to be
13 in with the "in" crowd. So we do a lot
14 of education -- I'm sure AAA does the
15 same -- for people to not walk around
16 with your earbuds on, not have your phone
17 in your hand walking down the street, not
18 be on SEPTA and sitting next to the
19 opening of the door and have your phone
20 taken away from you.

21 But I think if this kind of
22 technology were to continue to go
23 forward, all of the measures that are in
24 place and are being put in place by the
25 company are all reactive to after the

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2 fact. And so my suggestion -- I liked
3 what Chief Nestel from SEPTA Police
4 mentioned also, the delay in the
5 gratification of getting that, because a
6 lot of times this is going to be drug
7 money for people who want to flip a
8 phone. They steal a phone. They get the
9 money. And, yeah, maybe they are caught
10 by the police later because the company
11 is going to work closely with them in the
12 thumbprint and you not need a subpoena.
13 All of that is terrific, but we still had
14 a crime occur. And so my position is, we
15 try to prevent crime. So how do we
16 prevent crime? And maybe -- and I agree
17 with Commissioner Ramsey, the DA's
18 Office, and SEPTA Police and the Council
19 that certainly a task force looking at
20 all the things that -- the questions that
21 Councilwoman Blondell Reynolds just put
22 out were very insightful, and I think I
23 probably had five or ten more that I was
24 thinking of as you were discussing that.
25 So the company may not have all the

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2 answers now, but if they're willing to
3 work with law enforcement to not just
4 doing it reactively, not just to help us
5 capture the person who stole the phone in
6 a robbery point of gun that has scarred
7 somebody's life forever, but to figure
8 out a way to communicate to the would-be
9 cell phone thief that it's not worth it.
10 Now, that would probably happen years
11 later after it gets out that this
12 technology is really great in helping us
13 capture people, but how many people will
14 be robbed in between.

15 So I think the task force is a
16 wonderful idea. I think these are the
17 issues that have to be discussed. How
18 can proactively the company work with law
19 enforcement to do a major campaign. Just
20 like we do campaigns when how not to be a
21 victim of theft of an iPhone, how can
22 they work to make sure that in addition
23 to all these other post robbery problem
24 solutions, how do they preempt it from
25 happening at all.

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2 And then, finally, I would say
3 that I think the new technology coming
4 out from Apple with the Find My iPhone
5 and all of that -- now, you cannot with
6 the new operating system, because I just
7 upgraded, you cannot turn off Find My
8 iPhone without your pin number. But even
9 those things I worry about. I've been in
10 law enforcement 38 years, and somebody
11 has a gun on you and they want your MAC
12 machine pin number, they want your iPhone
13 pin number, they're going to get it.

14 So there's a lot to think
15 about. When there's transactions without
16 people checking and double-checking, it
17 can be traced, and all that's terrific,
18 but how do you stop it. And, again, I
19 think it goes back to how do we work on
20 getting the word out that this is not
21 worth it for you to take this phone,
22 steal from somebody point of gun and take
23 it to a machine and get money for it.

24 Thank you for allowing me to
25 testify.

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2 COUNCILMAN JONES: I just want
3 to thank you, because every time we have
4 a public safety issue, whether it was
5 cameras, University of Penn is a major
6 stakeholder in the safety of the public
7 in and around its campus and in a larger
8 context with integration of these cameras
9 that we -- I just want to thank you for
10 always being there. AAA too has been a
11 frequent flyer at that table and has
12 given us great insight and information.
13 I want to thank you for it publicly.

14 MS. ROBINSON: Thank you.

15 MS. RUSH: Thank you.

16 COUNCILWOMAN BROWN: I want to
17 go on the record as well acknowledging
18 University of Pennsylvania's consistent,
19 consistent presence on all public safety
20 measures, not just for the University but
21 for the City at large.

22 And, AAA, you have been here on
23 a couple of other matters that escape me
24 now, but you're paying attention, and
25 that's what matters.

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2 I have no questions for you,
3 but I thank you very, very much. And the
4 thread of appeal that I've heard is,
5 let's figure out how we can work together
6 in an authentic fashion to see how we can
7 have this technology aid us in a
8 proactive way and not a reactive way to
9 addressing this one image of crime that
10 is on the uptick in Philadelphia. So
11 thank you both.

12 MS. RUSH: You're very welcome.

13 MS. ROBINSON: Thank you.

14 COUNCILMAN JONES: Thank you.

15 If there are no other questions for this
16 panel, thank you very much.

17 I want to also say for the
18 industry folk that came in and educated a
19 lot of us that -- and they suspended
20 their pitch of being an eco-friendly
21 company to try to keep these out of
22 landfills. So I thought I would let them
23 have that on the record.

24 And the other thing is that one
25 thing that -- and if it is not true, just

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2 yell from the gallery, but that most of
3 the times in the secondary market, you
4 pay below the retrievable rate in a
5 pawnshop and other places and, therefore,
6 aren't the first choice of a stolen
7 phone. Is that --

8 MR. MERSTEN: We endeavor to be
9 competitive. We are never necessarily
10 going to be the best, but certainly we
11 have the most -- we offer the most
12 choices.

13 COUNCILMAN JONES: Thank you so
14 much.

15 Councilwoman, I just want to
16 applaud you publicly for bringing up some
17 tough issues that aren't always
18 understood easily, but you do have the
19 patience of Job and make us sit through
20 these hearings to learn what your point
21 of view is, and thank you very much.

22 COUNCILWOMAN BROWN: You're
23 very welcome.

24 COUNCILMAN JONES: So we're
25 going to end our public hearing and begin

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2 our public meeting at this point.

3 COUNCILWOMAN BROWN: Yes. I'd
4 like to ask, Mr. Chairman, that we move
5 this bill out of committee with a
6 favorable recommendation with a proviso.
7 Everybody who testified stated in their
8 testimony a willingness to sit down at
9 the table over the next X number of
10 months so that we can figure out a
11 big-picture, comprehensive solution. So
12 with the understanding that we listen to
13 what people say, but we watch what we do,
14 I'm asking for favorable move out of
15 committee to convene a task force where
16 we do just that.

17 Thank you, Mr. Chairman.

18 COUNCILMAN JONES: All right.
19 I'm going to ask my Vice Chairman to make
20 that motion.

21 COUNCILMAN HENON: Thank you,
22 Mr. Chairman. I make a motion that Bill
23 No. 130693 be voted out of committee with
24 a favorable recommendation.

25 (Duly seconded.)

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2 COUNCILMAN JONES: Having been
3 moved and seconded that Bill No. 130693
4 be voted out of committee with a
5 favorable recommendation. And for the
6 record, there is no rules suspension. So
7 for the industry or the layperson, that
8 is slowing it down.

9 All those in favor?

10 (Aye.)

11 COUNCILMAN JONES: All those
12 opposed?

13 (No response.)

14 COUNCILMAN JONES: The ayes
15 have it. Bill No. 130693 has been voted
16 out of committee.

17 This concludes our public
18 meeting.

19 (Committee on Public Safety
20 concluded at 3:35 p.m.)

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direct control and/or supervision of the
certifying reporter.)

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