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COUNCIL OF THE CITY OF PHILADELPHIA

3

COMMITTEE ON PUBLIC SAFETY

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Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, October 24, 2007
2:20 p.m.

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PRESENT:

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COUNCILWOMAN DONNA REED MILLER, CHAIR

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COUNCILMAN WILLIAM GREENLEE

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COUNCILMAN BRIAN J. O'NEILL

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COUNCILMAN FRANK RIZZO

14

COUNCILMAN JAMES KENNEY

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COUNCILMAN DARRELL CLARKE

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RESOLUTION 070851 - Resolution authorizing
City Council's Committee on Public Safety to
hold public hearings to investigate proposals
for expanded use of the police tactic known as
"stop, question and frisk," often referred to
as "stop and frisk."

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COUNCILWOMAN MILLER: Good

3

afternoon, everyone. I am Councilwoman

4

Donna Reed Miller, Chair of the Public

5

Safety Committee. Also in attendance

6

with me today, members of the Committee,

7

to my left Councilman Frank Rizzo,

8

Councilman Bill Greenlee and to my right,

9

Councilman Brian O'Neill.

10

Would the Clerk please read the

11

title of Resolution No. 070851.

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THE CLERK: Resolution

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authorizing City Council's Committee on

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Public Safety to hold public hearings to

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investigate proposals for expanded use of

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the police tactic known as "stop,

17

question and frisk," often referred to as

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"stop and frisk."

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COUNCILWOMAN MILLER: Before we

20

begin, I'm going to call on Councilman

21

O'Neill for an opening statement, and

22

when he finishes, I also have an opening

23

statement.

24

COUNCILMAN O'NEILL:

25

Councilwoman, thank you. And I'd like to

1 10/24/07 - PUBLIC SAFETY - RES. 070851
2 thank you also for co-sponsoring this
3 resolution with me as the Chair of the
4 Public Safety Committee, and all those
5 colleagues of mine who signed the
6 resolution, including the people at the
7 table, Councilman Rizzo and Councilman
8 Greenlee.

9 People have asked why now, why
10 these hearings on stop and frisk. It's
11 an issue that came up in the primary.
12 One candidate for mayor supported it.
13 From what I understand, that candidate
14 has a good chance of being the next
15 mayor, and it will probably be his major
16 initiative, the whole crime, violent
17 crime, gun crime and murder issue in
18 Philadelphia, which is, unfortunately,
19 leading the nation in an area that we
20 really don't want to be first. And
21 rather than wait until a new police
22 commissioner comes in, until the Mayor
23 gets through his transition, the next
24 Mayor, I believe it's important that
25 people learn about this issue. They

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2 learn about the constitutionality of it.

3 They learn about the background of it.

4 Stop and frisk can sound very
5 scary, those two words, whether you throw
6 "question" in the middle of it and call
7 it stop, question and frisk, but it has
8 been effective in a lot of areas. It is
9 one of, I believe, the major tools that
10 can help us get guns off the street.

11 I know you're going to be
12 talking about another hearing, and I
13 support that wholeheartedly, but I
14 believe this is a public education issue
15 and also an education for policy leaders,
16 like Councilmembers and other elected
17 officials, that they learn as much about
18 this as they can so they can decide with
19 the best available information whether to
20 support it or not.

21 COUNCILWOMAN MILLER: Thank
22 you. Thank you, Councilman O'Neill.

23 As the Councilman indicated,
24 this is not our only hearing. We will be
25 having another hearing.

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2 This is not civil liberties
3 versus fighting crime. Philadelphia
4 streets are plagued with the climate of
5 fear and violence. A good number of
6 citizens, young and old, law abiding and
7 non-law abiding, feel that they need to
8 carry guns to protect themselves. It's
9 almost like taking your keys with you
10 when you're leaving the home. They can't
11 leave home without it.

12 I cannot tell you how many
13 people, including very young boys, have
14 told me that they need to carry guns.
15 One boy says that they think that if they
16 don't carry guns, they're not going to be
17 prepared, because they think everybody
18 else has a gun.

19 I'm not here today to tell you
20 that stop and frisk is necessary or even
21 that I support it. I want everyone to
22 receive the appropriate information. I
23 don't want anyone, like the young man who
24 was facing many years for aggravated
25 assault, to say, I wish I knew or no one

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2 told me.

3 I'm also here today to give you
4 both sides of the story, and after
5 everyone has spoken their minds, the
6 Committee members and I can have a better
7 understanding of the issue. Until now, I
8 really don't know which way to go since
9 both sides are equally convincing and
10 since I don't see more in favor or more
11 against. What I really want to know is
12 that if this does get implemented, how
13 the police will use this tool. I also
14 want to ensure the public that it will
15 not be used for any negative reasons.

16 Currently, the police are
17 permitted to pat an individual down if
18 the officer feels that his or her life
19 may be in danger. The stop and frisk is
20 no different from that. I just want the
21 public and the police to know that what
22 the law is and make sure that everyone is
23 following it.

24 The real reason we are here
25 today is because a lot of people are

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2 carrying illegal guns with no fear that
3 they will be stopped and/or prosecuted.
4 For that reason, we need to educate the
5 public, especially our young men.

6 Last night, I was at the 10,000
7 Men March follow-up meeting at Germantown
8 High School. Maybe an hour before I left
9 the office, I heard there was a young
10 man, a 19-year-old, that was shot and
11 killed maybe right around Germantown and
12 Washington Lane in Germantown and he was
13 actually shot by a 17-year-old, and it
14 had to do with the kid said he
15 disrespected his sister. Now, further
16 than that, I don't know. But we were
17 thinking of reasons why young people have
18 been shot, cell phones, cheese steak, you
19 know, girls or guys, and the list can
20 just go on and on as to why some of these
21 killings have taken place.

22 While I was at the meeting at
23 Germantown High School, I got a call that
24 another kid had been shot, not far from
25 Germantown High School, because someone

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2 pushed him or they bumped into each
3 other.

4 We went to that crime scene.
5 There were nine bullet casings, seven of
6 them lodged in -- I think this kid is
7 about 15 years old, and today he's over
8 in Einstein Hospital. He survived. I
9 know in the future we're going to be
10 talking about obesity, and one of the
11 reasons why he survived was because he
12 was kind of juicy. He had a lot of meat
13 on his bones. But we're really happy
14 that he wasn't a fatality, but he did get
15 shot seven times.

16 So this whole issue of people
17 carrying weapons and most of them that
18 are carrying them are illegal is
19 important. We believe stop and frisk can
20 help it, help stop it, help curtail it.
21 The tide of violence that we're having
22 here in Philadelphia, most people are
23 willing to try almost anything.

24 So with that, I'd like to call
25 our first witness, who has actually

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2 invited himself to the table and he's
3 there already, and welcome, welcome,
4 welcome, Alan Butkovitz.

5 Please identify yourself for
6 the record.

7 MR. BUTKOVITZ: Good afternoon,
8 Councilmen. I'm Alan Butkovitz. I'm the
9 City Controller. I'm sorry if it looks
10 like I invited myself. I thought I was
11 supposed to be here.

12 First of all, I'd like to thank
13 Councilman O'Neill for leading the way in
14 this resolution and Councilwoman Miller
15 for having these hearings. And I'd like
16 to ask permission if we could submit our
17 written remarks for the record, and I
18 have some things to say extemporaneously.

19 We're confronting a situation
20 right now where there are a number of
21 numbers that kind of cross in mid-air.
22 One of the numbers is that we're at
23 pretty historically low police staffing
24 levels at a time of very tight City
25 budgets, and what that means is that we

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2 have to get, pardon the expression, the
3 greatest bang for the buck. We have to
4 be very proactively efficient and
5 effective in the way we deploy our police
6 resources.

7 The fact of the matter is that
8 a very large percentage of the people
9 perpetrating the homicides and other
10 violent incidents with guns, that the
11 first time they get a victim is not the
12 first time they committed that practice.
13 In fact, it's like most other human
14 endeavors, they upgrade a little bit at a
15 time. And, in fact, there's been a
16 review of looking backwards at some of
17 the homicide arrests during the past
18 year, and of 283 people who were charged
19 with homicide by gun, 28 were on
20 probation or parole at that time,
21 three-quarters of those people on
22 probation for committing a crime with a
23 gun or committing homicide or committing
24 a crime with another weapon.

25 It is this set of facts which

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2 has led State Representative Bill Keller
3 and myself to develop a proposal, which
4 Police Commissioner Sylvester Johnson
5 endorsed, providing legal authority in
6 Pennsylvania for search of persons who
7 are on parole for committing a crime of
8 violence or a crime with a firearm.

9 The inspiration for that
10 proposed legislation was the United
11 States Supreme Court decision in the last
12 year, which upheld a law in California
13 that provided the same provision.

14 Now, there is no civil
15 liberties issue implicated in this.
16 People who are on parole are not in the
17 same legal situation as other citizens.
18 They are effectively still prisoners who
19 have the privilege to now be -- to rejoin
20 society, provided that they abide by
21 certain conditions, and there are a
22 number of conditions on parole: the need
23 to submit to drug testing, the need to go
24 job hunting, the need to avoid
25 association with felons. And in

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2 Pennsylvania, another point that really
3 needs to be stressed is, already under
4 Pennsylvania law and under Pennsylvania
5 practice, parole officers have the right
6 to stop parolees, search them without
7 probable cause. Police officers don't
8 have that right.

9 The idea behind this
10 legislation, House Bill 31, which has
11 passed the House Judiciary Committee and
12 is awaiting action in the State House of
13 Representatives, is that that power
14 should be expanded to police. So this
15 really shouldn't be looked at as a civil
16 liberties issue. It's really more of a
17 union jurisdictional issue or a job
18 classification issue. If it is
19 constitutional for parole officers to
20 perform those searches, but they are not
21 the ones who are in fact coming into
22 contact with these people on the street,
23 the police officers are the ones who are
24 coming in contact, why logically and
25 legally shouldn't that right be expanded

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2 to them?

3 Now, what will be the effect of
4 putting that kind of legislation into
5 effect? As Councilwoman Miller said
6 about as eloquently as I've heard from
7 anyone, there is just this proliferation
8 and explosion of guns in Philadelphia to
9 the point that anybody for every little
10 stupid insult, cross-eyed look or
11 whatever, is firing at will now, and the
12 more guns in circulation, the more people
13 firing.

14 And among the community of
15 people who are carrying the guns and
16 firing, they're pretty much saying the
17 same thing. They're saying that they
18 have to carry guns because everybody else
19 is carrying guns.

20 When Bill Keller and I were
21 first elected to the Legislature in the
22 early 1990s, this strikes us as a very
23 familiar and frustrating argument,
24 because when we started meeting with the
25 School District at that time, we heard

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2 the same argument when they installed
3 metal detectors in schools. There were
4 kids and some kids' parents who were
5 complaining that if my kid abides by the
6 rules and he doesn't bring a gun to
7 school or his gun is taken off him at the
8 metal detector, he's going to be at a
9 disadvantage, because going through that
10 neighborhood or getting on the bus and
11 going to school, he's going to be unarmed
12 and everybody else is armed.

13 Well, what you have to do is
14 you have to reverse that logic, right?
15 You have to make it a disincentive to be
16 carrying a gun rather than to be stupid
17 and naive to be the only guy that's not
18 carrying a gun.

19 So if you start with parolees
20 and they know that there is a
21 likelihood -- and the police say that
22 something upwards of 80 percent of these
23 parolees go right back to the police
24 district that they started in. So the
25 police know exactly who they're talking

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2 about. If they know that when they're
3 spotted that they will be searched for
4 weapons and if a gun is found on them,
5 they will be violated on parole and they
6 will go back into jail, they're a
7 rational lot, they won't be walking
8 around the streets with these weapons.
9 The fewer weapons that they're walking
10 around with, the less chance there is
11 that people are going to be firing them.

12 You have to begin to create an
13 expectation and an environment where the
14 person caught with the weapon is the one
15 that is the odd man out and the one that
16 is risking penalty and that innocent kids
17 and innocent people in neighborhoods are
18 not going to be caught in this crossfire
19 and that this mayhem on Philadelphia
20 streets is going to begin to be reined in
21 and brought under some kind of proactive
22 control.

23 So the specific proposal that
24 I'm talking to is a -- it's akin to stop
25 and frisk. It's not stop and frisk. I'm

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2 not an expert on the intricacies of that.
3 I think you're going to have Professor
4 Sherman who is more familiar with that
5 proposal, but it is of the same family of
6 the types of legal tools that will help
7 the police go from a posture of being
8 overwhelmed by these incidents popping up
9 unexpectedly everywhere into one where
10 they are better able to control the
11 situation.

12 COUNCILWOMAN MILLER: Thank
13 you.

14 Councilman O'Neill and then
15 Councilman Rizzo.

16 COUNCILMAN O'NEILL:
17 Mr. Controller?

18 MR. BUTKOVITZ: Yes.

19 COUNCILMAN O'NEILL: Stop and
20 frisk -- and I appreciate not only your
21 position and support for parolee waiver,
22 but coming up with the idea along with
23 Representative Keller, I think it can go
24 a long way to being another piece in the
25 reduction of guns on the street and gun

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2 violence as a result of them on the
3 street.

4 But specifically, do you come
5 here today in support of stop and frisk
6 as we know it and as Professor Sherman
7 and others hopefully will describe it?

8 MR. BUTKOVITZ: Yes. Yes.
9 Yes.

10 COUNCILMAN O'NEILL: Thank you.

11 COUNCILWOMAN MILLER: I'd like
12 to ask a question about parolee
13 legislation. And I think in your
14 testimony at the bottom of Page 2 you
15 basically describe the person that your
16 particular legislation would target are
17 those people that have already committed
18 a violent crime?

19 MR. BUTKOVITZ: Not only --

20 COUNCILWOMAN MILLER: Only
21 those parolees?

22 MR. BUTKOVITZ: Only parolees
23 who have committed a violent crime or a
24 crime with a gun or a weapon. So our
25 proposal is actually less than what was

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2 upheld in California, where it applied to
3 all parolees.

4 COUNCILWOMAN MILLER: Okay.
5 Thank you for that clarity.

6 Councilman Rizzo.

7 COUNCILMAN RIZZO: Thank you.

8 Mr. Butkovitz, I know we're
9 here to talk about stop and frisk, but
10 you discussed briefly your proposal on
11 the parolees. Could you explain for the
12 record what the difference is between
13 probation and parole?

14 MR. BUTKOVITZ: Well, probation
15 is a sentence that allows someone not to
16 go to jail for one day but to be under
17 the supervision of the probation office.
18 Parole is a -- it's an early release from
19 prison for someone who has served a
20 certain percentage of their time and is
21 under the supervision of parole officers.
22 Parole officers are all state. Probation
23 could be state or county.

24 COUNCILMAN RIZZO: Would your
25 proposal affect probation?

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2 MR. BUTKOVITZ: We tried -- no.

3 We tailored it specifically to what was

4 upheld in California, and what the U.S.

5 Supreme Court said is that this was

6 clearly constitutional for parolees.

7 They did not -- I don't think they gave

8 an opinion either way on whether it would

9 be constitutional with probationers. And

10 as I pointed out, there's a big

11 difference between the legal status of

12 probationers and parolees. Parolees are

13 people that have already been sentenced

14 to prison and really they've served time

15 in prison, but there has been a decision

16 to let them out early because of good

17 behavior or for certain other factors.

18 Probationers, there was an

19 initial decision that their conduct

20 didn't warrant any prison time, that they

21 didn't -- they never gave up the rights

22 that citizens give up when they entered

23 the prison system. So probationers

24 legally have some more protections

25 already in the legal system than people

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2 that are on parole or people who have
3 been sent to prison.

4 COUNCILMAN RIZZO: Thank you.
5 Thank you, Madam Chairman.

6 COUNCILWOMAN MILLER: Thank
7 you, Councilman Rizzo.

8 Councilman Greenlee.

9 COUNCILMAN GREENLEE:
10 Mr. Butkovitz -- thank you, Madam Chair.

11 Just for the record, you may
12 have said this. I'm sorry if I missed
13 it. What is the status of this bill now?

14 MR. BUTKOVITZ: It passed the
15 House Judiciary Committee by an
16 overwhelming vote. I don't think it was
17 unanimous. And it was scheduled for
18 debate in the House of Representatives.
19 It's been postponed, I think, for two
20 weeks.

21 COUNCILMAN GREENLEE: Okay.
22 Thank you.

23 MR. BUTKOVITZ: It would be
24 very helpful if Council would issue some
25 kind of opinion, because I think this

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2 legislation, the great controversy it's
3 attracting is within the Philadelphia
4 Delegation. So if there was an
5 indication out of Philadelphia for
6 favorable consideration of this, I think
7 that would be important to communicate to
8 Harrisburg.

9 Thank you.

10 COUNCILMAN GREENLEE: Thank
11 you.

12 COUNCILWOMAN MILLER: Are there
13 any more questions of this witness?

14 (No response.)

15 COUNCILWOMAN MILLER: Seeing
16 none, thank you. Thank you for your
17 testimony and caring about crime.

18 Mr. Barnes, you're going to
19 just read the statement or are you going
20 to be available for questions?

21 MR. BARNES: I could do my best
22 to answer questions.

23 COUNCILWOMAN MILLER: I mean,
24 you don't have to. I just --

25 MR. BARNES: I'm not Larry

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2 Sherman, but I'm playing him today. So
3 I'll do my best if there are any
4 questions.

5 COUNCILWOMAN MILLER: Okay.
6 Please identify yourself for the record
7 and begin.

8 MR. BARNES: My name is
9 Geoffrey Barnes. I am testifying today
10 on behalf of Lawrence Sherman.

11 COUNCILWOMAN MILLER: Thank
12 you.

13 MR. BARNES: Mr. O'Neill, other
14 members of the City Council, ladies and
15 gentlemen, thank you for the opportunity
16 to testify today on this major issue for
17 our city. My name is Geoffrey Barnes and
18 I'm testifying for Lawrence Sherman, who
19 is the Director of the Jerry Lee Center
20 for Criminology at the University of
21 Pennsylvania.

22 I offer you this testimony
23 today from Cambridge University in
24 England where Lawrence Sherman is at the
25 moment, a country with one of the lowest

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2 homicide rates in the world. By way of
3 comparison, the 55 million people of
4 England and Wales have had fewer than 800
5 homicides this year compared to over 400
6 among the Philadelphia population of just
7 1.5 million. This means that the
8 homicide rate in Philadelphia is about 25
9 times higher, or 2,400 percent more --

10 COUNCILWOMAN MILLER: Excuse
11 me. Mr. Barnes, do we have copies of
12 your testimony?

13 MR. BARNES: I believe they
14 were e-mailed. Whether they were
15 distributed, I don't know.

16 COUNCILWOMAN MILLER: Thank
17 you.

18 MR. BARNES: This means that
19 the homicide rate in Philadelphia is
20 about 25 times higher, or 2,400 percent
21 more than in England. Yet even in
22 England, comparatively safe England, and
23 even this week, homicide among young men
24 has become a major issue. And so has
25 stop and frisk.

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2 Last Sunday, the President of
3 the National Black Police Association,
4 Keith Jarrett, called for police to
5 increase substantially the number of
6 stop-and-search investigations of youths,
7 especially those in, quote/unquote,
8 "black areas" -- these would include
9 Pakistani-English areas -- that have had
10 high rates of gun and knife violence.
11 Such stops had been discredited ever
12 since they provoked riots during the
13 1980s. But in those days, the police
14 were using them to look for drugs or for
15 stolen goods. Now the issue is murder.
16 Not by the hundreds, but enough young
17 people are dying from guns and knives to
18 cause a major hue and cry within the
19 United Kingdom.

20 Mr. Jarrett said that he called
21 for more stops on behalf of many other
22 black parents, who, in his words, want to
23 stop these killings, and if that means
24 that their sons and their daughters are
25 going to be inconvenienced by being

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2 stopped by the police, so be it. I'm
3 hoping that we go down that road.

4 Mr. Jarrett's sole interest, it
5 seems, is in reducing bloodshed against
6 young minority group members. He is well
7 aware that English justice is already
8 vastly skewed against members of those
9 groups. Indeed, far more so than in the
10 United States. In our country,
11 African-Americans are in prison at a rate
12 roughly three times in proportion of the
13 population. In England, on the other
14 hand, Afro-Caribbean people are in prison
15 at eight times their proportion in the
16 population. So he, Mr. Jarrett, would
17 not make this recommendation for just any
18 crime. Only for murder.

19 It is important to remember
20 that in a democracy, the people get to
21 participate in the ongoing debate about
22 the balance of liberty and order.
23 England abolished police powers to arrest
24 people on mere suspicion in the 1980s
25 when these powers were deemed excessive

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2 to their purpose. Now we hear calls to
3 use more limited powers, but far more
4 widely in what is seen as a proportional
5 and commensurate response to the
6 seriousness of the problem.

7 All of these proposals, of
8 course, assume that stop and frisk can
9 actually help save lives. That
10 assumption should not be accepted on
11 faith alone, and, sadly, the evidence for
12 this assumption has not been discussed at
13 all within England, where controlled
14 evaluations of these sorts of things were
15 invented almost a century ago. But if
16 that evidence were to be put on the table
17 in the United Kingdom in the same way
18 that Michael Nutter put it on the table
19 in 2007 during the primary election, here
20 is what it would show:

21 The stop-and-frisk strategy has
22 been formally tested in seven locations.
23 In all seven of these tests, the number
24 of murders or shootings went down
25 substantially relative to a matched

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2 comparison area. In the five tests that
3 have been conducted within the United
4 States, there was no evidence of public
5 protest, litigation or even complaints
6 against police. In the prototype test
7 conducted in Kansas City in 1992,
8 neighborhood residents, when polled door
9 to door, strongly endorsed the approach.
10 In the two areas of Pittsburgh, my home
11 town, that have tested this strategy
12 under Pennsylvania law, the number of
13 shootings treated in the local hospitals
14 went down by 75 percent.

15 Even with that evidence on the
16 table, nobody would claim that this
17 strategy by itself is a panacea, least of
18 all Mr. Nutter. Fundamental problems of
19 concentrated poverty, education and job
20 readiness must be tackled. But the place
21 to begin is to make the streets safer for
22 young men to go to and from school and
23 work so they can help themselves and help
24 their city. When police fail to provide
25 that reassurance, they lose public

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2 support just as readily as if they had
3 treated citizens impolitely.

4 And stop and frisk does not
5 have to be impolite. It can be and has
6 been in other locations very gracious and
7 civil, with police explaining everything
8 they are doing and why. It can be sold
9 as a major campaign needing public
10 support. Most of all, it has to be
11 focused on the very few places where gun
12 crime is predictably likely to occur,
13 just as Mr. Nutter has proposed. It also
14 must be relentless in looking for
15 illegally carried weapons in those
16 high-risk locations and it must have
17 special training for the police assigned
18 to such works, on both the legal
19 constraints and how to identify suspects,
20 as well as tactics to ensure the
21 officer's safety.

22 A stop-and-frisk strategy
23 cannot be deployed overnight, nor will it
24 succeed in one day, but it can be the
25 first step in the process of creating a

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2 tipping point against murder. Getting to
3 that tipping point is what the evidence
4 says we can do. In a society that now
5 pays more attention to research evidence
6 than to mere ideology, a society that
7 pays more attention to the enduring
8 values of the Constitution than to the
9 politics of recent decades, it is the
10 evidence about this constitutional option
11 that really matters.

12 It was Earl Warren, the Supreme
13 Court Chief Justice so famously accused
14 of handcuffing the police in many other
15 decisions, who wrote the 1968 Terry
16 opinion empowering the police to stop and
17 frisk. He was the first among equals on
18 requiring counsel and limiting police
19 searches in general. By encouraging our
20 police to use the powers that he and the
21 court determined the Constitution does
22 allow, we may do more to build public
23 trust in the police than by making the
24 police sit on the sidelines while
25 homicides continue unabated.

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2 Thank you.

3 COUNCILWOMAN MILLER: Thank
4 you. Thank you, Mr. Barnes.

5 Our next witness will be
6 Mr. Fran Healey, who is representing, I
7 believe, Commissioner Sylvester Johnson.

8 LIEUTENANT HEALEY: Good
9 afternoon, Madam Chair and other members
10 of the Committee.

11 COUNCILWOMAN MILLER: Thank
12 you. Good afternoon.

13 LIEUTENANT HEALEY: My name is
14 Lieutenant Francis Healey. I'm an
15 attorney and act as a special advisor for
16 Police Commissioner Johnson. In this
17 capacity, I have been responsible for the
18 development and implementation of the
19 Police Department's Pedestrian
20 Investigation Policy and Report. We call
21 it our 75-48A.

22 Let me state at the outset,
23 though, that I truly appreciate the
24 opportunity to finally lay to rest the
25 misperceptions and confusions that have

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2 surrounded the issue of stop and frisk
3 and how it is implemented here and in
4 other jurisdictions. This confusion is
5 for the basis of this hearing and
6 hopefully I'll be able to resolve that.

7 The purpose of my testimony,
8 therefore, today is to, once and for all,
9 clear the confusion that exists on this
10 topic and, number two, explain what
11 actually New York City did in the 1990s,
12 because there's a big misperception
13 that's been going on.

14 With these goals in mind, let
15 me state that it's well settled
16 constitutionally that police can briefly
17 stop any person if the officer has
18 reasonable suspicion to believe that the
19 person may have committed a crime.
20 During that kind of stop, police may be
21 permitted to pat down the individual or
22 frisk if the officer reasonably believes
23 the person stopped is carrying a weapon
24 or is an otherwise threat to the officer.
25 If the officer has probable cause to

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2 believe that the person has committed a
3 crime, obviously it's a higher standard,
4 he may arrest the individual. And
5 there's an exception to the warrant
6 requirement, we can do a search incident
7 to an arrest.

8 At this point, let me state
9 real clearly that the Philadelphia Police
10 Department will never develop or
11 implement a policy of stopping and
12 frisking people without reason. It's
13 unconstitutional and it's unthinkable.
14 The New York -- let me also say this:
15 The New York Police Department has never
16 implemented such a policy either.

17 Although the Police Department
18 practices are often contrasted with those
19 implemented in New York, as I'll tell you
20 very shortly, we operate under exactly
21 the same standards.

22 Then what is stop and frisk and
23 why is there such a controversy? To put
24 it simply, it's a very, very bad name,
25 and this is the heart of the confusion.

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2 In fact, the New York Police Department
3 has a standard operating procedure, a
4 directive, that's titled "Stop and
5 Frisk." It's the NYPD Procedure No.
6 212-11. However, if you look at this
7 document, which I have a copy if you'd
8 like to, nowhere in this document does it
9 authorize the unfettered discretion of
10 police officers to stop and frisk
11 individuals without reason. On the
12 contrary, it lays out the specific
13 constitutional requirements necessary to
14 temporarily detain and stop a person and
15 then the additional requirements
16 necessary to pat down or frisk that
17 individual.

18 Herein lies the basis for the
19 misperception and confusion. Based upon
20 merely the title of the NYPD directive,
21 people, including academics, have
22 concluded that the NYPD has a policy
23 allowing police to stop and frisk people
24 at will. Nothing is further from the
25 truth. In fact, the very report that was

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2 cited in today's resolution, the New York
3 Attorney General's report, titled "The
4 New York City Police Department's Stop
5 and Frisk Practices" issued in 1999
6 describes in Chapter 2 the actual legal
7 requirements for police officers to
8 detain, frisk and search individuals.
9 They're identical to those in
10 Pennsylvania.

11 As this report states, the
12 technique of lawfully detaining -- let me
13 say that again -- lawfully detaining
14 civilians for investigatory field
15 interrogations and, where appropriate,
16 conducting pat-down frisks must be
17 understood as a primary method to be used
18 by the police to prevent, detect and
19 solve crimes. Investigating criminal
20 activity is not something that we choose
21 to do or not do. It's something we must
22 do. It's basic policing. In addition,
23 it's also what we're expected to do.
24 And, in fact, in Philadelphia, we do over
25 5,000 pedestrian and vehicle

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2 investigations every week.

3 So let me state again at this
4 point, the Philadelphia Police Department
5 will never implement a policy or plan
6 that involves illegally stopping or
7 frisking people.

8 So why the confusion? If you
9 look at Chapter 3 in that very same
10 report that I just mentioned, the
11 Attorney General's report in New York,
12 you can see rather clearly that the New
13 York Attorney General examined the
14 ability of the police officers in New
15 York to lawfully detain people as part of
16 a, quote, "overall crime-fighting
17 philosophy." This crime-fighting
18 philosophy or strategy was identified as,
19 quote, "Order Maintenance." It's better
20 known as the Broken Windows theory of
21 policing. This strategy was based upon
22 studies of Kelling and Coles in their
23 book "Fixing Broken Windows: Restoring
24 Order and Reducing Crime in Our
25 Communities." Somehow and some way this

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2 crime-fighting strategy has been
3 misinterpreted and mislabeled here in
4 Philadelphia as, quote, "stop and frisk."
5 Along with this is all the
6 unconstitutional notions that a stop and
7 frisk engenders. Thus, the confusion.

8 So let's be clear. What is an
9 Order Maintenance -- or rather a Broken
10 Windows theory of crime fighting, which
11 is what they did in New York and is what
12 is being proposed everywhere? The
13 premise of Order Maintenance is that --
14 there's two premises. One, that
15 low-level disorders such a graffiti,
16 panhandling and the like makes people
17 fearful and weakens neighborhoods and
18 social controls. In this atmosphere,
19 law-abiding citizens become more fearful
20 and withdraw from the daily life of the
21 community, effectively ceding the streets
22 to the forces of greater disorder and
23 more serious crime.

24 We see that in all the
25 community in the high-crime areas as it

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2 is today.

3 Premise No. 2, as a tactical
4 matter, Order Maintenance theory
5 advocates a close collaboration between
6 the police and citizens in the
7 development of a neighborhood standard of
8 conduct. Such standards are enforced,
9 for the most part, through non-arrest
10 approaches so that arrests would only be
11 resorted to when the approaches failed.

12 What does it all mean in a
13 nutshell? In a nutshell, advocates of
14 the Broken Windows theory believe that
15 restoring order; i.e., that means
16 investing the time from law enforcement's
17 perspective to investigate low-level
18 quality-of-life violations and offenses,
19 reduce crime, at least in part, because
20 the process of storing order, police will
21 have more contacts with persons who carry
22 weapons and commit more serious crimes.

23 Police Commissioner Bratton
24 brought this strategy completely --
25 bought into this strategy completely and

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2 implemented Police Strategy No. 5, which
3 he entitled "Reclaiming the Public Spaces
4 of New York" in 1994. This outlined the
5 Department's plan to combat low-level
6 street disorder with the overall goal of
7 reducing crime. It's important to note
8 that nowhere in this plan were
9 unconstitutional stops ever envisioned.

10 So where did this notion come
11 from actually? It's kind of simple. As
12 mentioned above, police can lawfully
13 detain a person when investigating
14 illegal behavior. Under the law, it does
15 not matter whether the crime being
16 investigated is minor or even trivial,
17 for that matter. During these temporary
18 detentions, officers may arrest the
19 individual, which then legally allows the
20 officer to conduct a search incident to
21 arrest; i.e., we find the guns, we find
22 the drugs. If the officer merely
23 conducts an investigation based upon
24 reasonable suspicion of this violation --
25 it could be the minor violation, throwing

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2 trash on the highway, urinating on the
3 highway. If the officer merely conducts
4 the investigation based upon the
5 reasonable suspicion but, nevertheless,
6 the officer believes that the person has
7 some type of weapon or is a threat to the
8 officer, the officer can do a pat-down
9 constitutionally. Now we find the guns.

10 It was no surprise that in New
11 York when the police began enforcing this
12 petty quality-of-life violations, crime
13 was reduced because more criminals were
14 coming in contact with the police before
15 they had the opportunity to commit more
16 serious offenses. The ability of the
17 NYPD to intersect criminals using petty
18 crime investigations has somehow been
19 twisted into this perception that they
20 stop and frisk people at will. This has
21 never been the case and, regrettably,
22 this overall crime strategy which has
23 been labeled stop and frisk, which is a
24 misnomer, that disrespects the officers
25 of the NYPD, as well as the researchers

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2 who developed the Broken Windows theory.

3 So let's move to Philadelphia.
4 Police Commissioner Johnson fully
5 comprehends and supports the Broken
6 Windows strategy of lawfully stopping
7 petty offense violators in an effort to
8 reduce more serious crime.

9 Based on the theory that
10 increased contacts produce results,
11 between 2005 and 2006 the Police
12 Department had increased their pedestrian
13 investigations by 30 percent. In 2007,
14 the number of pedestrian investigations
15 has increased an additional three
16 percent. This activity has and is
17 yielding results. Between the years 2000
18 and 2006, FBI UCR statistics for violent
19 and property crime indicate that overall
20 serious crime has decreased 13 percent.
21 We are also recognizing an impact in more
22 recent statistics comparing 2006 and
23 2007. Total crime is down two percent.
24 Violent crime is down six percent. The
25 number of shooting incidents has

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2 decreased 13 percent. The number of
3 firearms seized has increased 37 percent,
4 and the number of drug arrests has
5 increased 16 percent.

6 So, therefore, the Police
7 Department, we support the Broken Windows
8 theory, and the numbers demonstrate that
9 our officers are active and making a
10 difference. But under no circumstances
11 will the Commissioner support any plan
12 that would allow stopping citizens
13 without, at the very least, reasonable
14 suspicion.

15 Since the PPD already uses this
16 strategy, we should be debating how we
17 can modify or tweak the Broken Windows
18 theory here in Philadelphia. How can we
19 make an excellent strategy better? These
20 are the questions that we as a whole
21 should be asking. These are the
22 questions that will bring the
23 communities, the police and our leaders
24 together, and where we should be focused.

25 This concludes my testimony,

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2 and I hope I have been able to remove the
3 confusion that surrounds stop and frisk,
4 and I hope you understand truly what
5 happened in New York. And I really hope
6 in the future that the use of stop and
7 frisk ceases. We either use Broken
8 Windows theory or not, basically.

9 Any questions?

10 COUNCILWOMAN MILLER: Yes.

11 Councilman Greenlee.

12 COUNCILMAN GREENLEE: Thank
13 you, Madam Chair.

14 Thank you, Lieutenant. Very
15 enlightening testimony, but I guess what
16 I'm thinking -- what you described here,
17 as what you're describing as stop and
18 frisk, sounds a little different from
19 what at least other people are describing
20 it and maybe I'm wrong, but what I
21 thought Mr. Sherman's statement was
22 describing it. Now, I know somebody here
23 from Mr. Nutter is going to testify, so I
24 don't want to speak for what he
25 interprets it as. But there seems to be

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2 the perception that part of it is not
3 just when there's suspicion that somebody
4 might have committed a crime or is
5 suspicious in some way, but that therein,
6 quote/unquote, a high-crime neighborhood,
7 maybe just walking down the street, but
8 they get stopped, because they're in that
9 area, which is something a little
10 different from what you said.

11 LIEUTENANT HEALEY: I'm very
12 upset about -- not upset, but I've been
13 working for eight years doing the Police
14 Department's policy, and the fact that
15 there's so much confusion on this simple
16 issue is amazing. You can ask any police
17 officer and they'll lay it right out for
18 you. That would be an unconstitutional
19 stop to stop someone in that area,
20 period, no if's, and's or but's. In New
21 York it would be unconstitutional, just
22 as it is here.

23 What the -- and no disrespect
24 to Dr. Sherman. I believe there is a
25 disconnect between why the basis for the

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2 stops were done. We want to increase
3 stops. Absolutely. We want to increase
4 lawful stops. We just can't go down the
5 street and say, You're in a high-crime
6 area, you stand up against the wall, and
7 pat them down. What's going to happen is
8 two things. First and foremost, let's
9 say we recover a gun that was used to
10 kill an officer in Washington, DC. That
11 gun will be suppressed and that case will
12 be thrown out. That's the worst thing
13 that can happen.

14 The second thing that can
15 happen is, the City will be sued to the
16 nth degree, and rightfully so.

17 COUNCILMAN GREENLEE: I was
18 going to get into that.

19 LIEUTENANT HEALEY: Maybe it
20 would be my time to leave and start suing
21 the City if that starts to happen, but
22 nonetheless.

23 This thing is -- what people
24 are disconnecting and the fact is -- and
25 all these other jurisdictions, you were

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2 talking about an Order Maintenance
3 strategy, not a stop and frisk strategy,
4 and the difference being, and as
5 Dr. Sherman indicated, the community is
6 all on board. Well, that was the second
7 premise of George Kelling's Broken
8 Windows theory. Get the community on
9 board so we set what the standards are
10 for this community. The community is, We
11 will not accept graffiti, we will not
12 accept public urination, public
13 intoxication. So that community is on
14 board. We agree. We don't want that
15 behavior in our community.

16 So what happens then, the
17 police would then go into that community
18 and aggressively enforce it. The problem
19 is, you got to be prepared, and the
20 community needs to be on board, because
21 when grandpa is coming home from the bar
22 after one or two beers because he's
23 celebrating something and he's walking
24 down the street not bothering anybody but
25 he's staggering and he gets stopped, he

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2 gets caught up in the net just like the
3 criminal down the street.

4 So the community needs to be on
5 board and be a part of the plan. So it's
6 not a question of let's target an area
7 and just because of crime stats and do
8 a -- we're going to send the troops in
9 and start throwing people up against the
10 wall. You will get guns. I am not going
11 to tell you you're not, but we have
12 constitutional guidelines and laws to
13 abide by. We can work within those
14 parameters. New York did it, and the
15 basis the way they did it was the Broken
16 Windows theory. That's why we have
17 adopted it here.

18 Now, have we adopted absolutely
19 zero tolerance in certain areas? No.
20 But we have -- I mean, the Commissioner's
21 SITE Unit uses these tactics all the time
22 to make the more contacts. The lawful
23 contacts they have gives them the
24 opportunity to make minor arrests. Once
25 I make an arrest for somebody, the

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2 handcuffs go on, I go through their
3 pockets, I find the guns.

4 So that's a really, really
5 important difference that I hope I'm
6 getting it across. Stop and frisk is
7 just a very bad name. We should title
8 this policy Broken Windows Theory, a
9 hundred percent, modified percent.
10 That's what we should be debating.

11 COUNCILMAN GREENLEE: Okay.
12 No. I appreciate that. I appreciate
13 what you're saying, and certainly I've
14 had some concern, as did others that
15 communicated with me, about that
16 constitutional aspect that you were
17 talking about. But you're saying what
18 New York did and what Philadelphia is,
19 just at the same place, is not what some
20 people are fearful of.

21 LIEUTENANT HEALEY: It's not
22 what you're being sold. The bottom line
23 is, we need to find as many ways to come
24 in contact with criminals as possible.
25 The best way to do that is through the

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2 low-level crimes. Case in point, I'll
3 use the one example. In New York City,
4 they had a problem with gunpoint
5 robberies on the trains. So what they
6 did is, they -- turnstile jumping in New
7 York was not a big -- it was beneath the
8 officers to investigate that type of
9 stuff, but what they did under Bratton
10 and under Jack Maples, they assigned
11 undercover and plain-clothes officers in
12 the train station and started pinching
13 people for doing that violation, but once
14 they made those arrests, lo and behold,
15 the robbers weren't the ones paying the
16 tolls. But in that net, did they catch
17 some executives that were late for work?
18 Yeah, they did. They got tickets and
19 they got fines, but in the end, gunpoint
20 robberies dropped dramatically on the
21 train station. But what did not happen
22 was, they did not pat down everybody that
23 walked down the train station. They
24 could have got the same accomplished
25 goals, but the one would have been

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2 unconstitutional and illegal, the other
3 one was completely legal and a very good
4 strategy to use.

5 COUNCILMAN GREENLEE: And they
6 didn't go in high-crime areas and just
7 pat down everybody either, right?

8 LIEUTENANT HEALEY: No, not at
9 all. New York would have been bankrupt
10 by now a long time ago. What they did
11 is, they premised their stops on minor
12 petty behavior. The mind set of the
13 police -- and when you come out of the
14 academies, you go out there and you get
15 the big pinch. You get the robberies,
16 the rapes, the murders. Those are the
17 big jobs. And what happened is, in our
18 mind sets, we somehow lost track. Well,
19 that guy is urinating on the highway,
20 he's drinking on the highway. That's
21 minor stuff. I got to go to the busy
22 stuff. And our cops are running
23 constantly left and right, so I don't
24 have time to stop and deal with that.
25 Well, what New York did is, they put the

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2 brakes on. They said, Listen, the people
3 that are violating the serious crimes are
4 drinking the beer at 8 o'clock in the
5 evening and then going shooting people at
6 12 o'clock. So let's intersect with them
7 first, because they're carrying the gun
8 at 8 o'clock as well, and now we get to
9 stop them lawfully, arrest them, search
10 them incident to arrest, or even if we
11 don't arrest them, we investigate them
12 based on reasonable suspicion. And if
13 they do something specific -- like most
14 people that carry a gun and the police
15 stop them get a little nervous. They
16 start doing a lot of goofy things. They
17 won't listen to the police officer. They
18 won't take their hands out of their
19 pockets. You see a bulge. You see the
20 jacket hanging down. Our officers are
21 trained to identify all those type of
22 factors and they put them on our reports
23 that they do. Now that gives the officer
24 the opportunity, Yo, buddy, put your
25 hands on the wall. I stopped you for --

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2 best case example, you see a guy coming
3 out of the alleyway and he's zipping up
4 his zipper. You know what he did back
5 there, but you don't really know, so
6 you're going to stop and investigate.
7 You have reasonable suspicion to stop,
8 but are you going to cite him? You don't
9 know. During the course of talking to
10 him, all the sudden he gets real hinky,
11 he starts grabbing his coat, turning away
12 from you, he won't take his hands out of
13 his pockets, and you see what looks to be
14 a bulge in the pocket. At that point in
15 time -- and it can happen in a split
16 second -- the officer throws the guy on
17 the wall appropriately so for his own
18 safety, which is the only reason to pat
19 someone down, pats him down, finds a gun.
20 There's one more gun off the street and
21 we got a gun pinch based on intersecting
22 with the minor crime of drinking a 40 on
23 the highway. And so those are the
24 tactics that were used in New York.

25 COUNCILMAN GREENLEE: Just so

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2 I'm clear, what difference or is there a
3 difference right now from New York and
4 Philadelphia in how we're approaching
5 this?

6 LIEUTENANT HEALEY: Absolutely
7 none. And, actually, might I say, the
8 report that's cited in 1999, as a result
9 of that, it was determined that certain
10 units -- well, it's not absolute
11 connection, but ironically enough, some
12 units in the Police Department were found
13 to have a high proportion of unjustified
14 stops. That unit was disbanded shortly
15 after the 1999 report.

16 COUNCILMAN GREENLEE: If I may,
17 Madam Chair, just one quick sort of
18 aside.

19 You heard Mr. Butkovitz's
20 testimony. If I could ask, what's your
21 opinion on that, the issue of sort of
22 wholesale stopping of -- of searching of
23 parolees?

24 LIEUTENANT HEALEY: Well, you
25 have to understand, I'm a police officer.

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2 They're convicts, and they're still
3 convicts when they're out on parole.
4 According to me, in lieu of their being
5 released, they release or acquiesce
6 certain rights. If they want their
7 absolute rights to be withheld, they can
8 stay in prison.

9 COUNCILMAN GREENLEE: All
10 right. I got you.

11 Thank you, Madam Chair.

12 COUNCILWOMAN MILLER: Thank
13 you.

14 But once they get out, how do
15 you determine who is a parolee that can
16 be stopped? I mean, they're not going to
17 wear a special bracelet.

18 LIEUTENANT HEALEY: Exactly.
19 From the Police Department's perspective,
20 the way the law is now, I need to know
21 immediately when I stop someone my
22 reasonable suspicion. Now, I can stop
23 and talk to anybody on the street. I do
24 it all the time. But I can't stop and
25 detain someone and then say, Are you a

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2 parolee? There would have to be -- if
3 that law was ever passed, there would
4 have to be some type of pictures and
5 documentation of all the parolees in a
6 certain geographical area, and that would
7 be given to maybe the police officers.

8 Now, I'm not really sure
9 whether or not the Police Commissioner
10 would support or not support that notion.
11 I don't really know. Personally, if it's
12 legal and as long as it's argued among
13 the legislative bodies and it's
14 determined to be reasonable, then I'm
15 sure we would enforce every tool we can
16 use.

17 But when the officer makes that
18 initial stop, he would have to know that
19 this individual is a parolee or at least
20 have a reasonable suspicion that he's a
21 parolee. He can make a mistake. He
22 looks like his brother or something like
23 that. Honest mistakes are made, but if
24 we're going to use that as a tool, as it
25 stands right now, the officer would have

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2 to know -- from my legal experience, that
3 he would have to know that he's a parolee
4 prior to making the stop.

5 COUNCILWOMAN MILLER: I know
6 that there is some software that does
7 facial detection. I don't believe the
8 Police Department has that in their cars.

9 LIEUTENANT HEALEY: Correct.

10 COUNCILWOMAN MILLER: But I
11 have one more question. When you say
12 that the community has to decide to
13 become a part of this Broken Windows
14 strategy, or whatever we're calling it,
15 so once the community lays out the
16 standards and behaviors that they don't
17 want in their neighborhood, would that
18 mean that the probable cause is developed
19 per neighborhood?

20 LIEUTENANT HEALEY: No,
21 absolutely not.

22 COUNCILWOMAN MILLER: Or per
23 police district or citywide?

24 LIEUTENANT HEALEY: No. The
25 Police Department can enforce any and all

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2 City code ordinances, the motor vehicle
3 code, the state law. Now, we have a lot
4 of discretion of what we enforce. We may
5 stop someone for urinating on the
6 highway, but we don't give them a ticket.
7 We say, Listen, knock it off. Don't do
8 it again. If I catch you next time, I'm
9 going to give you the ticket.

10 We do a lot of discretion, and
11 the last thing I would want to do is take
12 away that discretion from the police
13 officers. But if we're going to have a
14 targeted plan, it needs to be debated
15 amongst the Police Department, the
16 legislature here to see how aggressive do
17 we want to be in a certain area. We can
18 say, Listen, we're going to pick on one
19 or two offenses. Case in point was the
20 New York train station. They only
21 focused on turnstile jumping. They
22 didn't focus on any other minor offenses.

23 So in a specific area, you
24 would want to work with the commanders in
25 that area and the Police Department and

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2 say, What are some of the major problems
3 and how is it the best way to come across
4 the criminals.

5 Now, we may realize that a lot
6 of them are juveniles smoking --
7 juveniles, period. Number one, we would
8 use curfew, the curfew laws and
9 regulations. Now, we'd also use minors
10 in possession of tobacco, would be a good
11 way to get involved to get us legally in
12 front of the kids to stop them. I need
13 something lawful to interject, I should
14 say, but it doesn't have to be the
15 serious offense. It can be jaywalking.
16 I mean, that is an offense. That's
17 written on the books. Or not jaywalking.
18 That's a bad example. But any summary
19 offense, minor, trivial offense, if it's
20 written in the code, it allows the police
21 officer to temporarily stop and detain
22 the individual. That's what we look at.
23 We say, Listen, the police want to come
24 to your area. You got a problem. Is it
25 okay with you -- now, the only reason I

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2 say this, you don't need to include the
3 community, but this is the premise under
4 the Broken Windows theory so as that you
5 don't have the complaints that will come
6 out of the community saying, I can't
7 believe you're busting our chops for
8 graffiti when we got four homicides down
9 the street.

10 What happens is, if you don't
11 include the community, the community
12 becomes kind of the problem. They'll
13 start complaining, like what are the cops
14 doing? They're busting everybody's chops
15 for graffiti? Are you serious? We got a
16 shooting down the corner.

17 The reality is, we're trying to
18 prevent the next shooting by interceding
19 with the petty crimes, but the community
20 needs to be aware of that.

21 Now, in some communities in New
22 York, they weren't included in the mix.
23 So they went out and sued the Department.
24 And a lot of times you will hear people
25 say stop and frisk has been held to be

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2 constitutional. On reality, you have to
3 understand what they're saying.

4 The stops that were made in New
5 York based in this area that they picked,
6 the community was not included, but
7 nevertheless, the police chose this
8 aggressive pattern of panhandling and
9 everything else. They forgot to include
10 everybody in the community, like the
11 community leaders, and explain to them
12 what they were doing. So they got a
13 little ticked off, quite frankly, and
14 what they did is, they sued and said,
15 Listen, you're only doing this super
16 aggressive enforcement in the black
17 communities. Why? It's discriminatory.
18 Well, the reality was, it was based on
19 the crime stats and that's where it was
20 needed. But what happened, the community
21 wasn't brought into the mix, so some
22 wasted lawsuits went back and forth and
23 the City was upheld, because it wasn't
24 discrimination.

25 So you need to remember, when

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2 somebody says stop and frisk has been
3 supported by caselaw, it's not the stop
4 and frisk. It was whether or not they
5 could use the data to target certain
6 areas for aggressive enforcement of this
7 Order Maintenance.

8 And the answer is absolutely
9 yes, but if you're going to go 100
10 percent in, let's say, a ten-block area,
11 a district, an area, those people in that
12 area need to know. They need to know,
13 Listen, don't complain to Council when
14 Johnny gets caught out at curfew.
15 Because you guys are the ones that are
16 going to get all the phone calls from all
17 legitimate sons and daughters that get
18 caught up in the net. And what happened
19 is, that's why it's important that we're
20 all on the same page. We need you to
21 tell the community to say, Listen, we
22 told you we were going to do this and we
23 told you why we were going to do it.
24 Make sure Johnny, who is 15, is in at the
25 right time.

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2 So that's the important part to
3 make sure that this plan works. We do
4 this already. The SITE Unit is excellent
5 at doing it, and that's what the Police
6 Commissioner put together. These are
7 excellent officers that use every little
8 piece of statute or crime law that they
9 can use to make a lawful stop. Based on
10 that, they're making some incredible
11 statistics.

12 So the strategy works, and what
13 we should really be debating is here, do
14 we want to go zero tolerance, do we want
15 to pick certain types of offenses, but we
16 just need the community to be on board.
17 And we're all separated right now. Stop
18 and frisk, yes or no. The reality is,
19 the police officers are stopping and
20 frisking people based on reasonable
21 suspicion every day. Our officers are
22 doing a tremendous job every day.
23 They're putting their lives on the line
24 doing this stuff. To say that we're not
25 applying the tools that we have available

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2 is actually -- it's an insult to our
3 police officers. Those officers are out
4 there doing it every day. They're
5 stopping people based on reasonable
6 suspicion.

7 They have a 48A now that they
8 have to fill out, which I created. They
9 don't like me for it, but they need to
10 document why they stopped someone, if
11 they frisked them; and if they frisked
12 them, what caused them to frisk them; if
13 they searched them, why.

14 So we document each and every
15 one of the stops that our officers do on
16 the street to, number one, protect the
17 officer from allegations, but also to
18 intercede with this criminal activity.
19 They do a great job, and they're doing a
20 lot of it, and it really annoys me when
21 you hear people say, Well, why don't the
22 police do this. It's a slap in the face
23 to all the police officers that are out
24 there every day doing this type of stuff.
25 And what it is, it's all focused because

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2 it's a bad name. Stop and frisk is a
3 bad, bad name. It is an Order
4 Maintenance. And actually, I would just
5 use we want to adopt Broken Windows
6 theory and that we should be debating to
7 what extent do we want to do that.

8 COUNCILWOMAN MILLER: Okay. I
9 have more questions, but I'm going to
10 call on Councilman Brian O'Neill. Thank
11 you.

12 COUNCILMAN O'NEILL:
13 Lieutenant, thank you for your testimony.
14 Near the end of your testimony
15 I thought I heard you say that we don't
16 go as far as New York goes, and in
17 response to Councilman Greenlee, you said
18 we do exactly what New York does. I just
19 want you, if you could, clarify.

20 LIEUTENANT HEALEY: If I had
21 said that, I must have misspoke. No.
22 The New York standards for stopping
23 someone, it's based on federal
24 constitutional law. We apply the same
25 standards as New York. In fact, New York

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2 and Pennsylvania --

3 COUNCILMAN O'NEILL: No, no. I
4 don't mean -- we better be applying the
5 same standards all across the country.
6 But is it your testimony that we're doing
7 exactly what New York is doing in this
8 area of trying to confiscate guns and
9 deter people from leaving the house with
10 guns?

11 LIEUTENANT HEALEY: Absolutely.
12 Yes.

13 COUNCILMAN O'NEILL: The next
14 question I have is just two cities that
15 have been mentioned in Dr. Sherman's
16 testimony, and I've read them in other
17 places, possibly from his testimony as
18 well at other times, and, that is,
19 Pittsburgh -- those two areas that were
20 concentrated in Pittsburgh and had a 75
21 percent reduction in hospital cases for
22 gunshots and in Kansas City where they
23 took two areas of the city and had, I
24 think, a 50 percent reduction in
25 gun-related crimes or gun offenses.

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2 Are we aware of them? Have we
3 looked at them? Is there something they
4 did? Because we're not getting the
5 reduction. I mean, you're for this,
6 you're for that. I think everybody is
7 after the same result. We don't seem to
8 be getting the results that other people
9 seem to have gotten, whether it's because
10 of stop and frisk. I'm not interested in
11 nomenclature, but I think what's driving
12 this train from my end is we don't seem
13 to be getting our arm's around this and
14 other people, at least we've had
15 testimony, are or have.

16 LIEUTENANT HEALEY: Number one,
17 I would like to read each one of those
18 reports, and the focus of those reports,
19 I guarantee you, were probably not on
20 stop and frisk. The Kansas City study
21 was whether or not patrol officers
22 present had an impact on crime or not.

23 I mean, there's different
24 issues, so you need to be careful of what
25 you're being sold. If somebody is

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2 telling you a study, I would personally
3 read the study to see what its purpose
4 was and what its ultimate goals were.

5 COUNCILMAN O'NEILL: So you're
6 not aware of the Kansas City situation?

7 LIEUTENANT HEALEY: I'm aware
8 of the Kansas City program of what
9 happened. I would suspect -- if anybody
10 is saying that somebody implemented a
11 stop and frisk, they are more than likely
12 telling you that it was an Order
13 Maintenance strategy or policy that was
14 implemented there; whereas, they probably
15 did the same exact thing that New York
16 did.

17 COUNCILMAN O'NEILL: But you
18 know about the Kansas City report?

19 LIEUTENANT HEALEY: Yes.

20 COUNCILMAN O'NEILL: Is that
21 what they did?

22 LIEUTENANT HEALEY: I'm not
23 sure whether it was stop and frisk. That
24 was not an issue that I know of.

25 COUNCILMAN O'NEILL: Or Order

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2 Maintenance. I'm not concerned about the
3 nomenclature, but it is basically the
4 same thing they were doing in Kansas City
5 as New York?

6 LIEUTENANT HEALEY: Number one,
7 I think the study was not based on this
8 subject matter. I think it was based for
9 something completely different. It was
10 my reading of the report --

11 COUNCILMAN O'NEILL: But
12 whatever it was, it seems to have been
13 successful. Really, again, I care less
14 about what it was.

15 LIEUTENANT HEALEY: What I'm
16 saying is, I really don't know what it
17 was successful at.

18 COUNCILMAN O'NEILL: Have we
19 tried to copy anybody else's best
20 practices? Maybe that's a better way to
21 phrase it.

22 LIEUTENANT HEALEY: Well, we
23 are, and the best practices that we found
24 were the ones from New York. And when
25 Police Commissioner Timoney came to town,

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2 those were the strategies and practices
3 he brought with us. CompStat brought us
4 the geographical coding of where crime
5 is. Now, we were working on it before
6 that a little bit, but pretty much we
7 nailed it when he came here.

8 The objective of that strategy
9 was so that we could target enforcement
10 in those areas. Now, when we target
11 enforcement, what do we mean by that?
12 That doesn't mean we stop and frisk.
13 Now, what it does mean is, we go down
14 there and we do legitimate car stops and
15 pet stops. That's what we're talking
16 here, stopping people for good reason or
17 good cause, spitting on the sidewalk, all
18 these type of minor stuff, and that's
19 what we want to do.

20 Now, what happened is,
21 sometimes our direct parole officers in
22 divisions and districts get overwhelmed
23 with 9-1-1 calls. Without a doubt,
24 they're running constantly. It's very
25 hard for the actual sector car who is

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2 actually more than -- he's probably four
3 or five sector cars -- to handle or to
4 actually focus on minor petty offenses.
5 And recognizing that is why Commissioner
6 Johnson, I believe, initiated the SITE
7 Unit.

8 The SITE Unit is not 9-1-1
9 responsive. They help and assist with
10 9-1-1, but their job is, they go and
11 focus and they have the time and
12 resources to focus on the petty offenses,
13 and those petty offenses, as well as the
14 major ones, are how they're able to
15 intercede. That is exactly what New York
16 does, and I believe that's the policy or
17 the strategy that's being used in other
18 cities rather successfully. We are using
19 it successfully here too as well.

20 COUNCILMAN O'NEILL: You
21 mentioned in New York that where they did
22 have problems, even though it was upheld
23 in court, it was because they didn't
24 bring the community in. If we're doing
25 the same thing New York has been doing in

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2 terms of our policing, have we brought
3 the community in to where we're doing it?

4 LIEUTENANT HEALEY:
5 Regrettably, this whole topic, this
6 hearing today, has separated people. The
7 people in the community --

8 COUNCILMAN O'NEILL: No, no,
9 no, no.

10 LIEUTENANT HEALEY: But let me
11 finish. Let me explain.

12 COUNCILMAN O'NEILL: Pre this
13 topic. This topic only goes back six
14 months in the City.

15 LIEUTENANT HEALEY: Yes.
16 Commissioner Johnson has been probably
17 the best unifier of the City of a police
18 commissioner that we ever had. He goes
19 into the community. The community knows
20 him. They reach out to him personally.
21 His chief of staff is instrumental in
22 reaching out back and forth to the
23 community. That's primarily her
24 full-time job. I mean, so he is
25 excellent with the community.

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2 Now, what happens is,
3 regrettably, we're working together.
4 Now, Broken Windows theory, we're doing
5 it. We do every day. Cops across the
6 country are doing the strategy day in and
7 day out, like I said.

8 COUNCILMAN O'NEILL: Do you do
9 it in certain areas?

10 LIEUTENANT HEALEY: We do this
11 everywhere. Every cop in every
12 district --

13 COUNCILMAN O'NEILL: You do
14 Broken Windows theory in the Northeast?

15 LIEUTENANT HEALEY: Yes.

16 COUNCILMAN O'NEILL: You lost
17 me now. I'm sorry. You've lost all
18 credibility with me. I am absolutely
19 sorry, because if you guys are doing
20 Broken Windows theory --

21 LIEUTENANT HEALEY: Let me
22 explain.

23 COUNCILMAN O'NEILL: -- I don't
24 trust you to be fighting violent crime in
25 high gun areas, because you don't have

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2 enough police officers in the street to
3 answer a patrol -- a call for patrol on a
4 Friday night for eight hours sometimes
5 even with a gang fight.

6 I think we're better off just
7 ending at least my questioning now,
8 because if we're doing it and we're doing
9 it in Northeast Philadelphia, which I'm a
10 little more familiar with than some of
11 the areas where we're talking about these
12 statistics --

13 LIEUTENANT HEALEY: Let me
14 explain.

15 COUNCILMAN O'NEILL: -- you're
16 failing miserably.

17 LIEUTENANT HEALEY: I as a
18 police officer -- and I will speak for
19 myself -- routinely use petty offenses to
20 stop people all the time. I made
21 thousands of pet stops based on petty
22 offenses and made lots of gun pinches. I
23 like making gun pinches. Okay? Yes, a
24 theory does not have to be applied in a
25 whole. Are there officers in the

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2 Northeast that use it? Probably not.

3 COUNCILMAN O'NEILL: Thank you.

4 LIEUTENANT HEALEY: Are there
5 officers in the Northwest that don't do
6 it as well? Probably not. It's a tool
7 the police officers use.

8 COUNCILMAN O'NEILL: But I
9 think that contradicts what you just said
10 to me --

11 LIEUTENANT HEALEY: I don't
12 think it does.

13 COUNCILMAN O'NEILL: -- was
14 that we are doing it citywide.

15 LIEUTENANT HEALEY: Officers
16 are applying this strategy. They are.
17 Now, whether or not we want to
18 uniformly -- now, here's the key: That's
19 a strategy officers use. They do every
20 day. Now, if we want to target certain
21 areas, that is not being done as maybe we
22 should or could. Like I said, we need to
23 debate that issue. In certain areas of
24 the City maybe we should, maybe we
25 shouldn't, but the community needs to be

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2 involved in it. That's what I'm saying.

3 The individual officer uses
4 this tactic, and that's this tactic for
5 making a lot of car stops and pet stops.
6 A lot of officers out there want to make
7 pinches. Our cops are hungry to make
8 pinches. So they will use the vehicle
9 code, they'll use the City ordinance code
10 as a basis for stopping. That is the
11 Broken Windows theory. Maybe we are just
12 misinterpreting it.

13 COUNCILMAN O'NEILL: Do you
14 also have enough police to respond to
15 Broken Windows type crimes when they're
16 called in on 9-1-1, which we can't do
17 right now in certain areas of the City?

18 LIEUTENANT HEALEY: Listen,
19 it's our objective to answer all 9-1-1
20 calls, but when they're prioritized and
21 they're running all over the district --
22 and this is what I had said. Trying to
23 do this policy or trying to do this
24 strategy when you're running all over the
25 city or all over the district is

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2 impossible, and that's why Commissioner
3 Johnson has a SITE Unit that are not
4 being driven by 9-1-1 and have the
5 opportunity to focus on those things.
6 But the poor cops in the districts are
7 running ragged.

8 So, yes, there will be
9 quality-of-life violations in the
10 Northeast that last for hours. I'm not
11 going to say there's not. I wish we
12 could address it. But nonetheless --

13 COUNCILMAN O'NEILL: Because
14 they live on the wrong side of the
15 boarder with Bucks County and Montgomery
16 County. Because they don't have the same
17 problem right over the border. They have
18 enough police officers to handle
19 citizens' calls. Calls for service is
20 the basis for their staffing, not violent
21 crime in the district, which there's very
22 little of. We decided to go the old
23 route. Everyone else is going in a
24 different direction.

25 I don't want to get into

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2 quality-of-life crimes, because it's a
3 totally different issue. I think we're
4 failing at it miserably. I'm concerned
5 about this issue and how our Police
6 Department at the very top seems to think
7 we're doing what New York does and no one
8 else seems to think we are. And I'm not
9 just talking about New York. I'm talking
10 about other examples. And I appreciate
11 you coming in, but I think that if you
12 went out and asked people that apparently
13 have been contacted by the Commissioner
14 that they've been brought into the
15 process, they don't think we're doing
16 this either. But I appreciate your
17 testimony, because it's been
18 enlightening.

19 Thank you.

20 COUNCILWOMAN MILLER:

21 Councilman Rizzo.

22 COUNCILMAN RIZZO: Lieutenant,
23 I've been thinking about this and trying
24 to think of other situations that
25 possibly need to be addressed. How many

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2 gun permits do you think we have in the
3 City of Philadelphia right now? I know
4 it's really increased in the last decade
5 or so.

6 LIEUTENANT HEALEY:
7 Approximately 38,000, I believe.

8 COUNCILMAN RIZZO: Thirty-eight
9 thousand. In the training or the
10 information that's provided a person that
11 has a legal gun, if they were -- if a
12 person that carries a legal gun would be
13 stopped by police for doing one of these
14 quality-of-life ordinance violations,
15 spitting on the sidewalk or whatever, are
16 they trained to immediately tell the
17 officer that they have a legal gun in
18 their possession?

19 LIEUTENANT HEALEY: In the
20 instruction packet that they get when
21 they get their permit, they are
22 instructed that they should notify the
23 police officer. It's not legally
24 required, but we put it in our
25 instructions that you should notify any

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2 police officer when immediately stopped.

3 COUNCILMAN RIZZO: So if a
4 person would be encountered that had a
5 legal gun, how would the officer deal
6 with that? Would they ask to see his
7 permit? How would an officer deal with a
8 person he'd come across, one of these
9 38,000 people, that have permits to
10 carry?

11 LIEUTENANT HEALEY: The first
12 thing is the officer safety issue. The
13 officer would take possession of the gun,
14 temporarily at least. If the person is
15 going to be investigated and released,
16 the gun will be returned to the
17 individual as long as it's a valid permit
18 and it's confirmed to be a valid permit.

19 Now, if it's not valid or
20 there's something that's not right, it
21 comes back as not being valid, the gun
22 will be confiscated and the individual
23 will be arrested. But in a normal
24 routine stop, the gun will be at least
25 withheld by the police officer until the

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2 end -- like a car stop. The individual
3 says, I'm a licensed -- I am a permit
4 holder. I got a gun.

5 Okay. Please step out of the
6 car. I'll take the gun off you
7 temporarily. I'll give it back to you
8 when we're done.

9 I give him his tickets or I
10 give him his warning and he's on his way
11 and I hand him his gun back as he's
12 leaving, and that's the end of the show.

13 But if, let's say, now I lock
14 him up for DUI, I stop the same
15 individual and he's DUI. Now, obviously
16 I would confiscate that firearm. The
17 firearm would be confiscated not as
18 evidence of a crime, but for safe
19 keeping, and it would be put into our
20 inventory.

21 COUNCILMAN RIZZO: That's
22 interesting you mention that. That's
23 kind of hypocritical that you can
24 actually go in a bar with a gun, drink
25 and have two, three drinks and you're

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2 allowed to carry a weapon. I've always
3 kind of thought about that.

4 LIEUTENANT HEALEY: Let me say
5 one caveat. We revoke more people in
6 Philadelphia than probably any other
7 county in the state. We revoke people
8 for good cause, which is the standard.
9 We have a unit specifically dedicated.
10 If I stop someone and they're drunk and I
11 don't think they have the faculties about
12 them, I instruct officers to seize the
13 weapon and we'll revoke the gun permit.
14 We've done that routinely.

15 COUNCILMAN RIZZO: Walking down
16 the street, not driving.

17 LIEUTENANT HEALEY: Walking
18 down the street, yes.

19 COUNCILMAN RIZZO: But it is
20 legal for a person that has -- one of
21 these 38,000 could go out on a Friday
22 night, have three or four drinks and be
23 able to carry the gun, right?

24 LIEUTENANT HEALEY: There's
25 nothing that says you can't carry a gun

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2 drunk, like driving, no.

3 COUNCILMAN RIZZO: Okay. Now,
4 when an officer stops someone for a motor
5 vehicle violation, is it standard policy
6 that the officer asks if the person has a
7 gun in the car?

8 LIEUTENANT HEALEY: It's up to
9 the officer. I mean, like I said, when I
10 stop -- and I speak for myself. When I
11 stop somebody, it was kind of joking, but
12 serious. I say, Are there any guns,
13 knives or bombs in the car?

14 Well, I got a gun in the back
15 seat.

16 Well, why do you got it here?

17 Well, I'm coming back from the
18 range.

19 All right.

20 I have always asked the
21 question any guns, knives or bombs, kind
22 of in joking, but often times you'd get,
23 Well, there's a knife under the front
24 seat, and you find a butcher knife. I've
25 gotten more gun pinches that way than

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2 not.

3 But, yeah. The officers are
4 out there for their own safety. That's
5 their paramount concern. Yeah, they can
6 ask anybody in the car, You got any
7 weapons in this car. I mean, with 38,000
8 permits, I'm hoping my officers are
9 asking those questions.

10 COUNCILMAN RIZZO: Good. Thank
11 you very much, sir. Thanks.

12 Thank you, Madam Chair.

13 COUNCILWOMAN MILLER: Yes.
14 Thank you, Councilman Rizzo.

15 What's the difference between
16 Terry stop and -- I don't want to call it
17 stop and frisk anymore.

18 LIEUTENANT HEALEY: Thank you.

19 COUNCILWOMAN MILLER: Whatever
20 you called it, the Window something.

21 LIEUTENANT HEALEY: Broken
22 Windows theory. A Terry stop is -- let's
23 not confuse apples and oranges. That
24 strategy allows us to intervene people
25 that are doing low-level crimes. We stop

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2 them. That's probable cause and
3 reasonable suspicion.

4 The Terry stop was a decision
5 sent down by the Supreme Court that gave
6 permission to the police officers to stop
7 people based on reasonable suspicion of
8 criminal activity. That gave me the
9 opportunity to actually physically stop
10 you. Now, that's a big difference in
11 saying, Yo, buddy, come here, I want to
12 talk to you, and the guy says, See you,
13 officer, I'm out of here. I have the
14 legal authority to stop and detain you.
15 That means I can stop, I can put
16 handcuffs on you, if necessary. I can
17 put you in the back of my police car. I
18 can detain you on that location
19 temporarily to investigate criminal
20 activity. But it must be based on
21 reasonable suspicion. That's the premise
22 of the Terry stop.

23 Now, when you get into the
24 pat-down, that's part also of the Terry
25 stop decision. I stopped you. I got you

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2 stopped for whatever the violation. I
3 can't legally then frisk you
4 automatically. Just because I stopped
5 you for going through a red light does
6 not mean that I can frisk you, pat you
7 down for a weapon.

8 What happened according to the
9 law, what needs to be done is -- step one
10 is the reasonable suspicion for the stop.
11 Step two is specific and articulable
12 reasons or evidence -- not evidence so
13 much, but reasons or belief that the
14 officer thinks this individual is a risk
15 to him. Now, it could be a lot of
16 different things. He's combative towards
17 police, he's got his hands in his pocket,
18 he's got a bulge, his jacket is hanging
19 down to the side, which we know is
20 usually a firearm. These things the
21 officers are trained to observe, and
22 based upon that and only that can the
23 officer do a pat-down of the outer
24 exterior of the clothes.

25 Now, the pat-down is for

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2 nothing other than weapons. That's it.
3 I do a quick cursory pat-down and make
4 sure that you don't pull a pipe out on
5 me, a gun, a knife. That way, I can
6 continue my investigation and you can go
7 on your happy way. That's the Terry
8 stop.

9 Now, that is not part of --
10 see, this is where everybody gets
11 confused. That we have always had since
12 the '60s. The police officers are
13 allowed to use that technique and tool,
14 and it's been given to us by the Supreme
15 Court, and we use it every day. The
16 police officers in all parts of the City
17 use it every day.

18 This Broken Windows theory,
19 it's a theory -- I guess it's not a
20 policing theory, but it's an urban
21 studies theory based upon that if you
22 intercede with low-level crimes, you will
23 reduce larger crimes, and it's proven to
24 be true. Now, the way we do that is, we
25 stop people for reasonable suspicion or

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2 probable cause for the low-lying
3 offenses, graffiti, jaywalking and those
4 type of things. Based upon that stop,
5 which is reasonable, then we can pat down
6 individuals if we think we're in danger.

7 COUNCILWOMAN MILLER: Thank
8 you.

9 Are there any other questions
10 of this witness?

11 For the record, Councilman Jim
12 Kenney has joined us.

13 COUNCILMAN KENNEY: Thank you.
14 I was listening to the dialogue in my
15 office.

16 Isn't it more about deployment
17 than it is anything else?

18 LIEUTENANT HEALEY: I'm sorry?

19 COUNCILMAN KENNEY: Isn't it
20 more about deployment than it is anything
21 else? Isn't it more about police uniform
22 visibility, bike teams, cars in
23 neighborhoods that are experiencing this
24 difficulty, as opposed to special units?
25 I mean, Highway Patrol is terrific, but

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2 unless they're deployed in the
3 neighborhood on a regular basis, all the
4 tools you have won't be used, because in
5 some circumstances -- and you're not
6 going to give me the numbers, but you
7 know how many people are in a district at
8 any given time. And it's kind of
9 appalling that we have that few people on
10 patrol in a district in a regular car at
11 any given time of the day at any shift.
12 And it's dangerous for the officers,
13 because they have to respond to difficult
14 situations and need back-up.

15 I mean, roll calls are sparse.
16 I know it's nice to want to put people
17 into narcotics and into plain clothes and
18 they're more glamorous kind of jobs and
19 they develop overtime and all that kind
20 of stuff, but you can have all the stop
21 and frisk and all the tools at your
22 disposal. If I don't have officers on
23 these streets interacting with the
24 public, both the good guys and the bad
25 guys, I don't think we're going to ever

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2 accomplish anything.

3 LIEUTENANT HEALEY: Well, I
4 mean, I know you were busy, but that's
5 basically what we had talked about. The
6 Order Maintenance theory is the ability
7 to interact with more people more often.

8 COUNCILMAN KENNEY: But you
9 need --

10 LIEUTENANT HEALEY: And you
11 need police officers to do it.

12 COUNCILMAN KENNEY: That's my
13 point. I don't disagree with Broken
14 Windows. I don't disagree necessarily
15 with being more aggressive in trying to
16 get guns out of kids' waistbands, but
17 unless there are enough people in those
18 districts doing it in uniform and
19 visible, we could have all the narcotics
20 guys we need or all the special units.

21 LIEUTENANT HEALEY: I will say
22 the uniform is an excellent -- what
23 happens is, it's very good for the
24 community. It deters crime, without a
25 doubt. If I could have a cop on every

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2 corner throughout the City, there would
3 be very little crime, because there would
4 be nothing going on. That's just not
5 feasible. But what is important to also
6 know is --

7 COUNCILMAN KENNEY: I'm not
8 saying --

9 LIEUTENANT HEALEY: No. I
10 know.

11 COUNCILMAN KENNEY: I'm saying
12 how about like twice as many as we have.

13 LIEUTENANT HEALEY: Apart from
14 that -- but let me just disagree with you
15 on one thing. The plain clothes element
16 can work very well --

17 COUNCILMAN KENNEY: I
18 understand.

19 LIEUTENANT HEALEY: -- in
20 combination with the visible presence.
21 Yes, I agree.

22 COUNCILMAN KENNEY: Okay.
23 Thanks.

24 COUNCILWOMAN MILLER: Thank
25 you. Thank you for your testimony.

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2 LIEUTENANT HEALEY: Thank you.

3 COUNCILWOMAN MILLER: John

4 Nesby and Gene Blagmond. I'm sorry;

5 McNesby.

6 Hi. Just identify yourself for

7 the record and proceed with your

8 testimony.

9 MR. McNESBY: John McNesby,

10 recently elected President of Fraternal

11 Order of Police, Lodge No. 5.

12 MR. BLAGMOND: Eugene Blagmond,

13 Director of Public Relations of FOP,

14 Lodge 5.

15 MR. McNESBY: Thank you for the

16 opportunity.

17 COUNCILMAN O'NEILL: On behalf

18 of my colleagues, I also would like to

19 congratulate you, John, on your recent

20 election to the top post, President of

21 the FOP.

22 MR. McNESBY: Thank you,

23 Councilman O'Neill. And also for the

24 Councilmembers present, you received all

25 unanimous endorsement of the Board of

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2 Directors last night from the Fraternal
3 Order of Police.

4 COUNCILWOMAN MILLER: Thank
5 you.

6 MR. McNESBY: I'd like to thank
7 you for the opportunity to address the
8 panel today.

9 I don't have a prepared
10 statement. I had a format which I was
11 going to go by, and recently listening to
12 Lieutenant Healey, who I believe is very
13 good at what he does, he expressed
14 something, that the officers on the
15 street are doing an excellent job, but as
16 Councilman Kenney just stated, they're
17 doing an excellent job, but there's only
18 a few of them out there. You can have
19 all the Broken Windows theories that you
20 want. You're not going to have a police
21 officer in the 25th District on a Friday
22 night stopping somebody for a curfew
23 violation. It's just not happening.

24 Six, seven years ago, we had
25 6,900 police officers on the street. As

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2 of yesterday afternoon, we had 6,426
3 officers on the street. So it's simple
4 math. It's simple math.

5 I don't believe that we have a
6 lot of people in the City of Philadelphia
7 creating a lot of crime. I believe we
8 have a small amount of people in the City
9 of Philadelphia creating a lot of crime.
10 It's an epidemic. It's an epidemic. And
11 I'm not an expert on the statistics, but
12 what I see out there is -- and I've had
13 discussions with some of the
14 Councilmembers. I recently had the
15 opportunity to visit every district in
16 every unit in the City of Philadelphia
17 over a two-month period, and as
18 Councilman Kenney had stated, there's
19 only three or four people at a roll call.
20 I was going to roll calls on the 11:00 to
21 7:00 shift at night, where I wouldn't
22 take my entire board that was running
23 with me because I didn't want to -- their
24 first question to me was, Hey, you want
25 to jump in the car and come out with us?

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2 Because there's only three or four of
3 them in the car.

4 I had a conversation a couple
5 months back with Councilman O'Neill where
6 I visited one unit where we had 17
7 people, 17 police officers, sitting
8 inside a police station because they had
9 no police cars to use. That's an extra
10 eight cars that could have been on on a
11 Friday night in a high-crime area.

12 I believe that the theory is
13 good, the Broken Windows theory that
14 they're bringing up, but we don't have
15 the police officers out there now to stop
16 people for curfews, for drinking a 40.
17 They're running from police 9-1-1 call to
18 9-1-1 call. And as I said yesterday, the
19 cameras are a great tool, especially in
20 the climate today, but if we don't have
21 somebody to answer the person on the
22 other line calling for the help for the
23 police officer on the street, you can
24 have all the cameras you want, we need
25 the police officers on the street, we

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2 need the vehicles on the street.

3 Deployment is an issue.

4 Councilman Kenney brought up deployment.

5 Deployment is a big issue. They brought

6 up CompStat. We have three or four

7 officers assigned to CompStat statistics

8 in the district; whereas, five years ago,

9 you had one. I mean, it's growing and

10 growing. And in one district they even

11 joked that they should build an addition

12 to the district because of the fact that

13 there's so many people working inside.

14 We have to be able to pull --

15 deployment is an issue -- be able to pull

16 the officers, better scheduling. We have

17 certain officers that need to work a

18 certain shift, a daywork shift that's

19 accommodating to them.

20 They brought up the SITE Unit.

21 The SITE Unit was a tool where they rob

22 Peter to pay Paul. They pulled those

23 officers for the SITE Unit from the

24 patrol districts and took vehicles with

25 them. So there's less people answering

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2 calls in the district to the community.
3 The community is calling. They're not
4 getting a response for an hour, an hour
5 and a half, two hours, depending on
6 deployment. And then when the officer
7 finally gets there, he gets the flack. I
8 called two hours ago.

9 They create a unit, a SITE
10 Unit, which is more reactive than
11 proactive. We're going out and we're
12 responding to incidents that happened 24
13 and 48 hours prior. What's the sense of
14 putting a police officer on a corner a
15 day after a shooting? Why don't we use
16 that police officer around the
17 neighborhood to prevent a future
18 shooting, a possible future shooting? I
19 mean, there's no sense sitting on a
20 corner and being able to do that, but the
21 whole thing comes down to manpower.

22 If we had an extra 300, 400
23 police officers on the street, we would
24 be able to deploy that Broken Windows
25 theory and be able to be more aggressive

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2 with the curfews, with the underage
3 drinking, with the prostitution along
4 Kensington Avenue.

5 I mean, there was a day in
6 1990, '91 where I was a police officer in
7 the 24th District, we had one wagon crew
8 that went up and down Kensington Avenue
9 from Lehigh all the way up to North
10 Catholic just to pick up the hookers.
11 What you would take off of those girls
12 and guys would be unbelievable. You
13 would get guns. You would get everything
14 else.

15 So it's not a matter of
16 applying. It's a matter of applying the
17 theory, but it's also a matter of having
18 the people and the equipment out there,
19 too. Seventeen people on a street on a
20 Friday night sitting in a district with
21 no vehicle, that's an extra eight two-man
22 cars that you could have on the street.

23 And, as I said, we visited
24 every unit. And the SITE Unit is a great
25 tool, but they rob Peter to pay Paul.

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2 They took those 80 to 100 officers and
3 they're reacting. They're reacting.
4 They're going from crimes from yesterday.
5 If there was a shooting in -- as
6 Councilman Miller said, they'll be out by
7 Germantown High tonight. And you could
8 check the statistics tomorrow. They'll
9 be around that area tonight, hoping to
10 prevent another one, when they should be
11 out there -- they need to turn the
12 officers in the areas to be able to do
13 the job that they have to do and be able
14 to stand up if they were going to employ
15 this theory to be able to indemnify the
16 officers to protect them against the
17 Civilian Review Board.

18 As Lieutenant Healey said, we
19 have a great working relationship, great
20 working relationship with the community.
21 Police shootings this year are at an
22 all-time high, but also officers are
23 being shot at at an alarming rate. But
24 you don't see the community. You don't
25 see the community getting in an uproar

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2 because they know that they're being held
3 hostage. They're being held hostage in
4 their own homes. Kids can't go out to
5 get an ice cream. I mean, we got people
6 being shot left and right out there.

7 But overall crime is basically
8 down. It's the guns. It's the guns and
9 the murders. And what we need to do is
10 put more police officers on the street
11 and have the equipment to be able to
12 deploy those officers.

13 I mean, we're looking at -- we
14 talked to the one commander and he was
15 saying that there was one car in the 23rd
16 District that was a mandatory car, but
17 when they inquired as to why it was a
18 mandatory car, the mandatory car was
19 there to cover Connie Mack Stadium, which
20 was knocked down 40 years ago. So, I
21 mean, it's a matter of looking at the
22 different redeployment, redistricting of
23 the districts.

24 I mean, do we really need to
25 have 22 or 23 different police districts?

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2 Could we do it with five or six and give
3 the commanders more control, and inside
4 them districts or divisions have L&I,
5 have representatives from Council in
6 there to answer complaints one or two
7 days a week, to have the different
8 opportunities available?

9 I look at the 2nd and 15th
10 District in Councilman O'Neill's district
11 where the guys and girls can't even go
12 downstairs at night to get changed
13 because there's water two feet high in
14 the basement because of the flooding and
15 the toilets, because it's tied up in red
16 tape. Somebody went out on the DROP
17 program and there's nobody there to
18 answer the request for repair, the 2nd
19 and 15th District. They're down there,
20 there's no cars. That's a prime piece of
21 real estate. I mean, why couldn't we
22 sell off that 2nd and 15th District, move
23 down the street to the Catholic school
24 that just closed down? It would be
25 minimal price. It would be better

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2 working conditions.

3 We have a homicide epidemic
4 where we have a Homicide Unit that can't
5 respond to the homicides because they
6 have no vehicles to get there. They have
7 no vehicles to get there. That was the
8 main complaint when we went to the
9 Homicide Unit three weeks ago.

10 We have witnesses being brought
11 in, witnesses being brought in for these
12 homicides when the doers are being walked
13 right past the witnesses in the same
14 room. There's no place to separate the
15 witnesses and there's no place to
16 separate the doers. So I'm going to be
17 reluctant to testify against Gene
18 Blagmond if I know he just committed a
19 crime but he sees me sitting in the
20 Homicide Division at 8th and Race. I'm
21 shutting up.

22 So with that, I mean, I'd hate
23 to -- I know I'm getting a little bit off
24 topic, but I believe the problem is that
25 we need to put police officers on the

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2 street with the equipment, be able to
3 give them the backing, the
4 indemnification to be able to do that.
5 Because guess what? The community is not
6 in an uproar. The community is backing
7 the police officer on the street. We
8 don't, as I said, see an outcry from the
9 community on the rise in police
10 shootings, but also police officers are
11 being shot at an alarming rate.

12 So thank you.

13 COUNCILWOMAN MILLER: Wow.

14 Thank you.

15 Mr. Blagmond, are you going to
16 testify?

17 MR. BLAGMOND: Well, just to
18 continue what John said about Connie Mack
19 Stadium, I'm sure it was only a few
20 months ago that we read in the paper that
21 this Police Department discontinued a
22 move detail at 62nd and Osage. Twenty
23 years, 24 hours a day, we had two cops
24 sitting on a house for no reason at all,
25 because nobody could make a command

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2 decision to end. And until the
3 newspapers got a hold of it, it would
4 still be going on. Pretty much that says
5 what the problem is.

6 COUNCILWOMAN MILLER: It's very
7 clear that manpower is an issue.

8 MR. BLAGMOND: Manpower and
9 vehicles, equipment.

10 COUNCILWOMAN MILLER: My next
11 question was about the vehicles. They
12 are not being repaired? They haven't
13 purchased enough? What is the status?

14 MR. McNESBY: We have vehicles
15 with two and three hundred thousand miles
16 on the street from '02, '03. They're
17 being used 24 hours a day, seven days a
18 week. They're purchasing smaller
19 vehicles now where some officers aren't
20 able to fit in. We have one sergeant in
21 the 2nd District who is over 6'10". He
22 can't get into a Chevy Impala. And if he
23 can, he doesn't have the ability to get
24 to his gun right away, God forbid, in an
25 emergency in case he needs to because he

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2 can't move with the computer right next
3 to him.

4 We have vehicles that are being
5 put down at an alarming rate. We have no
6 unmarked cars. The commanders in the
7 divisions have no ability to be able to
8 command -- at least when Commissioner
9 Timoney was here, we had a program where
10 it was leasing, where they would lease
11 vehicles and have a program set up where
12 they were equally deployed throughout the
13 numbered districts, and each week or two,
14 they would be swapped off with -- the
15 24th would swap with the 26th. So that
16 way, you don't see a guy on the corner
17 saying, Here comes the police again in
18 his unmarked car, because they know the
19 unmarked car. There was a program in
20 place where they had the leasing there
21 and the police were on the street at that
22 time. And the one division that I was in
23 with the 17 officers was a high-crime
24 unit out to fight crime on a Friday night
25 in the middle of the summer with no

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2 vehicles.

3 COUNCILWOMAN MILLER: And they
4 just don't have vehicles at all?

5 MR. McNESBY: They're beg,
6 borrowing and stealing. Like I said,
7 they created the SITE Unit. The SITE
8 Unit, it's a really good idea if we had
9 7,000 officers on the street. We have
10 6,400, and they drained patrol to create
11 another unit and took police vehicles
12 with them. Now, that's just one or two
13 less vehicles per division that these
14 officers aren't available to have.

15 COUNCILWOMAN MILLER:
16 Councilman Kenney.

17 COUNCILMAN KENNEY: Thank you.

18 I hear all of what you're
19 saying about all the equipment issues and
20 all the other stuff, but one of the
21 issues that is going through the
22 government as a whole is the DROP
23 program. Although it was a very
24 sought-after program and very popular
25 with employees, we are decimated when it

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2 comes to middle-level management and
3 people who are going to make the repairs
4 to the toilet or order the cars. I mean,
5 we're just basically emptying out all of
6 the people who actually run this
7 government on a day-to-day basis, not
8 just the bosses, but the people who work
9 in Public Property and Recreation, and
10 they're not being replaced or they're not
11 replaced with people as experienced as
12 the people we were losing. So that's one
13 issue, too.

14 I want to know your opinion on
15 a potential idea dealing with retired
16 officers. My understanding is you cannot
17 get your pension and also work another
18 City job. So you either have to go find
19 employment in another place, another
20 police department, private sector,
21 whatever. Would there be any interest at
22 all in people who decide -- and a lot of
23 officers retire at not a really old age.
24 I mean, they're not old guys. I mean,
25 they're not retiring when they're 65.

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2 They're probably retiring a little
3 earlier.

4 If the City could make
5 arrangements to legally bring on retired
6 officers who are collecting their
7 pensions on part time to work in areas
8 like business strips where you have a
9 beat officer, which would be the beat
10 officer assigned to that particular
11 business avenue or around playgrounds and
12 areas around schools where there's these
13 kind of problems that affect innocent
14 bystanders, would there be an interest in
15 making extra money that way while getting
16 your pension? Because you're still
17 licensed. You're still under the act.

18 MR. McNESBY: That's a great
19 idea. And as we said, like I had brought
20 up earlier about the cameras, they're
21 going to put 60 new cameras in the City
22 of Philadelphia. What better person to
23 have behind the lens of that camera than
24 a retired police officer being able to
25 know what they're looking through, being

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2 able to dispatch that car properly and
3 giving an accurate description, because,
4 like I said, the training is there.

5 COUNCILMAN KENNEY: You don't
6 have to comment on this, because I don't
7 know whether or not it would put you in
8 an awkward position, but I understand
9 that that unit has been a bit of a
10 disaster as far as it's kind of where
11 they put people when they're either being
12 disciplined or they're getting ready to
13 be fired, and there's not always a lot of
14 interest in paying attention to what's
15 going on on those cameras. Now, I'm sure
16 there are officers there that are right
17 on it and paying attention and are
18 excited and enthused about it, but is it
19 kind of a place that people get put for
20 punishment?

21 MR. McNESBY: Well, yes and no.
22 It's a Catch 22.

23 COUNCILMAN KENNEY: Is that
24 Differential Response?

25 MR. McNESBY: Differential

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2 Response and Police Radio. What they're
3 doing is, some officers that are
4 pregnant, some officers that are on
5 restricted duty, some officers that are
6 under investigation are there. So it's a
7 mix. But I'd hate to think that there's
8 any police officer up there that's not
9 giving it their all every day, because I
10 don't champion bad police officers.

11 And another thing would be
12 the --

13 COUNCILMAN KENNEY: But you do
14 believe that a newly retired officer who
15 wants to stay in the profession, who
16 wants to collect his or her pension but
17 still is motivated to do police work
18 would do so for a part-time salary to
19 supplement their income? Because you
20 know as well as anybody else how
21 difficult it is to retire on a police
22 pension in the City.

23 MR. McNESBY: Absolutely. I
24 would. I also believe that -- when I
25 said I took the test in 1989, 20,000

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2 people took the test. The last police
3 test that was given, 1,700 people took
4 the test. We're not getting the core
5 group of people that want to be police
6 officers from the City.

7 COUNCILMAN KENNEY: Does the
8 FOP support the waiver of the
9 pre-employment residency requirement, not
10 the post-employment, but the
11 pre-employment so that we can recruit --

12 MR. McNESBY: Absolutely.

13 COUNCILMAN KENNEY: -- on
14 college campuses, military institutions?

15 MR. McNESBY: Absolutely.

16 COUNCILMAN KENNEY: So that's
17 something you guys would support?

18 MR. McNESBY: Yes. We also
19 looked at the cost-effective thing with
20 both the police and the City would be to
21 be able to extend the DROP that extra
22 year. It would be beneficial to the
23 community, beneficial to the City and be
24 beneficial to the officers.

25 COUNCILMAN KENNEY: All right.

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2 Good. Thank you.

3 MR. McNESBY: Thank you.

4 COUNCILWOMAN MILLER: Thank
5 you. Thank you for testifying.

6 We're going to bring three
7 folks up at this time, and, that is,
8 Wendell Pritchett, University of Penn Law
9 School representing Michael Nutter;
10 Dr. Jerry Ratcliffe, Temple University;
11 Eugene O'Donnell, John Jay College of
12 Criminal Justice, New York.

13 And, Mr. Pritchett, will you
14 please go first. Just identify yourself,
15 pull the mike up so that we can hear you.

16 PROFESSOR O'DONNELL: Madam
17 Chair, would you mind, I have to catch a
18 train back to New York.

19 COUNCILWOMAN MILLER: I'm
20 sorry?

21 PROFESSOR O'DONNELL: Yes. My
22 name is O'Donnell, Professor O'Donnell.
23 I have to catch a train back to New York,
24 if you wouldn't mind.

25 COUNCILWOMAN MILLER: Okay.

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2 Do you mind, Mr. Pritchett?

3 PROFESSOR PRITCHETT: No, I
4 don't.

5 PROFESSOR O'DONNELL: Thank
6 you, sir.

7 COUNCILWOMAN MILLER: Thank
8 you.

9 PROFESSOR O'DONNELL: You have
10 my written testimony, so I'll just try to
11 briefly summarize the testimony.

12 My name is Eugene O'Donnell.
13 I'm a Professor of Law and Police Studies
14 and John Jay College. I'm a former --

15 COUNCILWOMAN MILLER: Can you
16 pull the mike closer. Thank you.

17 PROFESSOR O'DONNELL: Sure.
18 Former member of the New York City Police
19 Department and also a former prosecutor
20 up in the city. And as I say, you have
21 my written testimony. I'll try to
22 quickly summarize it.

23 With respect to stop and frisk,
24 you may know that New York City has been
25 touted as a model for crime reduction. I

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2 think it's important, though, that as I'm
3 sure the members of the Committee know,
4 that you really have to be careful in
5 comparing cities, because there's very
6 different dynamics in every city.

7 A particular concern I think
8 also is, the tone that's set at City Hall
9 is a very important issue that's often
10 overlooked. And indeed, in New York City
11 even though we had dramatic crime drops,
12 history will record the then Mayor had an
13 extraordinarily combative, provocative
14 relationship with the minority community
15 in the city, and, fortunately, five years
16 ago, a republican mayor, also a
17 republican mayor, Michael Bloomberg, was
18 elected and appointed Ray Kelly, the
19 Police Commissioner. And that mayor and
20 that police commissioner have an
21 outstanding record among the minority
22 community. Their opinion poll numbers
23 are terrific.

24 Crime continues to be reduced
25 to record levels and we don't see the

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2 scenes that we saw under the first
3 Administration. So even though we
4 sometimes spend a lot of time talking
5 about the police, it's important to
6 understand this is a political issue and
7 people have to look at City Hall and
8 people have to see themselves represented
9 there. And there has to be sensitivity
10 to particularly the minority community,
11 because that is where policing is done,
12 no matter how we dress it up
13 disproportionately, and this kind of stop
14 and frisk is going to be done there, and
15 we need the assent and the consent of the
16 people in that community.

17 To summarize the New York City
18 experience -- and, again, I think you got
19 to be careful oversimplifying. There's a
20 thousand different people stepping out of
21 the woodwork to say it was my plan that
22 made New York City safer and sort of
23 disaggregate all the people that claim
24 they were the father of this or mother of
25 this reduction.

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2 Of course, in New York City in
3 1990, we had 2,200 people killed. We had
4 40 people murdered a week. And we had a
5 conversation that I think I heard for
6 about the last hour and a half. I heard
7 a police department that sounded sort of
8 underfunded and sort of paralyzed. And
9 you'd go to community meetings and the
10 Police Department in those days took the
11 position in New York that there wasn't a
12 whole lot we could do, which, of course,
13 understandably frustrated people.

14 One important thing that's
15 often not reported is the Mayor, who
16 actually started the crime reduction in
17 New York City, was not the Mayor who is
18 currently running for national office.
19 It was David Dinkins, the City's first
20 African-American mayor. It was he who
21 actually worked to pass the important
22 Safe Streets, Safe Cities plan. And
23 really as I heard the FOP talk, again, it
24 harkens back to the days in New York
25 City. Thanks to Safe Streets, Safe City,

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2 it's fair to say the New York City Police
3 Department really has a blank check at
4 this point. They have 36,000 officers.
5 It's a multi-billion dollar agency, and
6 police, they have whatever they need in
7 New York City, and that was not what we
8 had for many, many years, and it was
9 David Dinkins. He's sort of being
10 airbrushed out of the picture now. Under
11 Mayor Dinkins, it was he, it was his
12 Administration that crime started to drop
13 under.

14 Today, we all know it's widely
15 reported the murder rate in New York
16 City. The number of murders in New York
17 City is less than 500. It's 400
18 something murders. That means in that
19 17-year period, 30,000 lives were spared
20 in the City of New York, and it also
21 means, of course, the thousands fewer
22 gunshot wounds, people at emergency
23 rooms, and the collateral consequences of
24 that, of course, would be enormous. And
25 it sounds a little tripe, but it's

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2 absolutely true -- and I put it in my
3 testimony -- that old people in New York
4 today don't have to time -- as they used
5 to when I was a police officer, they had
6 to time their visits onto the street.
7 They had to make sure they got home
8 before the shootings started. Parents of
9 teenagers and young children had to keep
10 their kids sequestered, and worried
11 themselves sick if the kids didn't come
12 home at a certain hour.

13 We have to also be careful in
14 this conversation. We have to not be
15 insensitive to people's civil rights and
16 not pretend that those are not going to
17 be an issue, and also it should be fact
18 based, this conversation. And as we've
19 all learned the hard way, programs that
20 work in New York or other cities don't
21 always replicate well in other cities.
22 So CompStat is one good example of that.
23 CompStat was hailed out as a great
24 experience. It has not, I don't think,
25 been a great experience here as much as

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2 it has been in New York and certainly has
3 not worked, I think, in Baltimore,
4 according to a reporter I talked to down
5 there. They're having lots of problems
6 with the whole concept of CompStat.

7 I will quickly fast forward
8 here.

9 It did come up. I think the
10 Lieutenant from PPD spoke about this. It
11 was Bill Bratton and the Chief of the
12 Transit Police who undertook, I think,
13 something worth looking at for the
14 Committee, and that was the subway
15 initiative. The subway initiative
16 really -- and the subways are unique, so
17 you can't get carried away with this
18 either, because the New York City transit
19 has a right to exclude people pretty much
20 at will.

21 But the theory there was a
22 couple of theories. One, if you stop
23 people from coming into the subway --
24 and, of course, the people doing bad
25 stuff weren't paying their fare. They

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2 were hopping the turnstile. So they were
3 not. So if you stopped them at the gate,
4 if you ejected them aggressively, that
5 was a good start. And then, of course --
6 because you're sending a signal that
7 lawlessness and disorder was not going to
8 be tolerated. And that's more than just
9 kind of a slogan. That's absolutely
10 correct. And I think the academics in
11 the room might have disagreements. I
12 certainly must say as somebody who was
13 both a police officer and a prosecutor, I
14 don't have any doubt -- the one thing
15 that I don't have any doubt is when the
16 cops are out in the street and they're
17 engaged and they're stopping people and
18 they're questioning people and the lights
19 are on and the sirens are on and people
20 that are doing things they shouldn't be
21 doing are being stopped, that that has a
22 tremendous multiplying effect and the
23 word is out. And when the police are on
24 the playing field, people know it. And
25 in the subway, that was particularly

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2 true.

3 The cops worked in plain
4 clothes. And, in fact, in New York
5 City -- fair warning. Anybody coming to
6 New York City to visit, don't put your
7 feet on the seat in the subway. Don't
8 smoke a cigarette. Don't have an open
9 container. Lots of tourists get burned
10 because they're in the subway car and
11 they run into three plain clothes
12 officers. There's a constant effort to
13 keep that message forward.

14 If I could just -- and, again,
15 I want to -- and I appreciate my
16 colleagues here deferring. Just a couple
17 of things and I'll try to wrap it up
18 here.

19 The stop and frisk shouldn't be
20 done in a vacuum. There shouldn't be a
21 conversation that says it should be just
22 stop and frisk. And indeed I think
23 there's an argument before you expand
24 stop and frisk you ask a question, sort
25 of like we do in the intelligence world,

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2 what are you doing with the powers you
3 already have and what are you doing to
4 coordinate better and what are you doing
5 to prosecute those you're already
6 apprehending. Because sometimes the
7 failures are not necessarily an
8 apprehension. There's failures that take
9 place.

10 One illustration of that is,
11 for many, many years in New York City,
12 particularly in the subway but even out
13 of the subway, the police would stop
14 people, they would summons people and
15 they would warrant and nobody would do
16 anything about it. And we had thousands
17 and thousands and thousands of unpursued
18 warrants. The net result was, you were
19 having the worst kind of breakdown,
20 because people knew the system wasn't
21 serious. People knew it was a joke.
22 And, again, if you come to New York
23 tomorrow morning, you'll see a very
24 aggressive warrant squad that comes right
25 out and picks people up. They don't wait

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2 a week or two or a month. They come
3 right out. There's still a backlog, but
4 it's one of the things that is a
5 strategy. And that was with the Bratton
6 approach, was not to just have all your
7 eggs in one basket, to have a series of
8 strategies along the lines in terms of
9 the police issues.

10 And obviously -- and I
11 personally wouldn't assist New York. The
12 Police Department really did undergo a
13 seat change. Crime was not relevant when
14 I worked there. It was not particularly
15 counted, and there was a "can't do"
16 approach, and there really was a dramatic
17 transformation.

18 Just a couple words on stop and
19 frisk as some things came up. There may
20 be some misunderstanding.

21 In New York state, stop and
22 frisk is codified in the New York state
23 criminal procedure law, Article 140, and
24 that is the starting point for this
25 conversation. The state Legislature has

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2 endorsed stop and frisk, police officer
3 stop and frisk, pursuant to that statute.
4 There's lots and lots of caselaw in New
5 York on what stops and frisks -- what the
6 parameters are. I won't bore you. It
7 actually gets quite tricky. One argument
8 you can make, actually New York's law is
9 so tricky that the cops don't even
10 understand it. Judges don't even
11 understand it to create four levels of
12 intrusion.

13 To really summarize in a very
14 quick nutshell, police officers --
15 there's a right to inquire. There's a
16 right to stop. There's a right to
17 question. There may be a right to frisk
18 and there may be a right to search, and
19 it's a calibrated approach. It's not
20 just a one size fits all.

21 Somebody referred to England.
22 I think England they just -- because I
23 was there last year at Police College. I
24 think they just go right in. They stop
25 somebody and search. In the New York

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2 approach, the stop and frisk approach,
3 it's very -- there's gradations and it's
4 an evolving kind of interaction with the
5 citizen, and it is not appropriate for
6 the cops to simply just throw somebody up
7 on the wall. And there are very adequate
8 legal protections, and there are lots of
9 caselaw -- there is lots of caselaw that
10 actually leads to suppression of things
11 that are seized.

12 The final part of this
13 conversation, I just made some
14 recommendations in here that I hope the
15 Committee can take a look at, to the
16 extent that the Committee and the Mayor,
17 the mayor-to-be, whoever that mayor may
18 be, should take into account the
19 following procedures:

20 There should be proper training
21 of officers about the law, specifically,
22 again, the calibrations and the
23 gradations and the fact that
24 police-citizen street encounters are
25 very, very tricky. That will be my first

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2 suggestion.

3 The second thing is good, clear
4 written guidelines for carrying out stop,
5 question and frisk and search activities.
6 A lot of police guidelines aren't good or
7 clear and nobody knows what they really
8 say, and, of course, lots of times we
9 spend a lot of time in police departments
10 telling the cops what they can't do. One
11 of the things we need to spend some time
12 doing is telling the cops what they can
13 do.

14 Adequate tactical training of
15 officers, and I think somebody brought
16 this up. Clearly, officers that are
17 tactically aware and feel safe make
18 better judgements. They can diagnose
19 things better. They can protect
20 themselves and you don't have an
21 escalation that can lead to catastrophic
22 and sad consequences.

23 Officers should be trained
24 about ensuring their personal safety.
25 Nobody should be shy about saying the

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2 cop's safety is paramount here. That's
3 absolutely necessary.

4 There needs to be adequate
5 oversight of police efforts by
6 prosecutors' offices. Sometimes they
7 take a pass on this. Sometimes they
8 aren't aggressively involved. They
9 should be reviewing cases. They should
10 be telling the cops -- giving them
11 feedback about cases and problems. Check
12 and balance, if you will.

13 There should be directions
14 against racial profiling of offenders,
15 and that is an easy enough thing to do.
16 It's one of Ray Kelly's signature issues
17 in New York. He did it when he was
18 Customs Commissioner. They follow it in
19 New York. No need to racially profile.

20 Again, there has to be a
21 sensible conversation, because obviously
22 because of the nature of where we're at.
23 I left out a whole bunch of stuff about
24 obviously the condition of the country,
25 but obviously a lot of the crime is going

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2 to disproportionately affect minority
3 people and, therefore, nobody should be
4 shocked that minority people may be on
5 the receiving end of some of the frisks.
6 But, again, that has to be done on
7 extreme sensitivity, and the City Hall at
8 the very top has to hear that.

9 A few final just suggestions
10 here. Teaching officers to explain,
11 where practicable, the reasons for a stop
12 and search and, whenever possible,
13 apologizing to those who are
14 unnecessarily detained or searched. The
15 New York City cops did this routinely. I
16 mean, they may not follow it always and
17 they can't always do it. There's nothing
18 wrong with saying sorry. Some of you
19 know that often sorry eviscerates further
20 bad things from happening.

21 Proper documentation of stops
22 with forms that do not lead officers to
23 make boilerplate conclusions. Some
24 agencies think they're going to simplify
25 this by having eight different things

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2 that cops can check off, and actually you
3 got to be careful there, because you can
4 actually then start looking at patterns
5 that are improper. The cop starts
6 checking off the same boxes.

7 Constant analysis of the fruits
8 of the stops and an effort to discern
9 patterns of weapons possession, including
10 geographical patterns. If you're looking
11 for a starting point, where in the City
12 of Philadelphia do you have a real
13 serious gun and homicide problem, and
14 then a full-court press there with the
15 possibility you're going to displace some
16 of those people. But certainly that's a
17 good starting point.

18 Rules of respect that officers
19 should follow in conducting the stops.
20 Again, in the same vein. They should be
21 respectful. You can be firm and
22 respectful most of the time. Sometimes
23 you can't because it's just not practical
24 to do that.

25 Training about the value of

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2 police interventions. You really need to
3 get the cops to buy into this. And it
4 seems to me as an observer -- I live down
5 the street. I'm far enough away that I
6 follow Philadelphia, but it seems to me
7 there's a demoralization issue in the
8 police force, and if the cops don't buy
9 in, if they're not on board, it's a huge
10 problem.

11 And then I would say, finally,
12 explicit instructions to officers that
13 good-faith efforts to follow the law
14 would be rewarded and not punished. That
15 has to be explicitly said, and the
16 Council has to say it. And if you don't
17 mind me saying, it might require some
18 courage on the part of Councilmembers,
19 but if you want the cops to go out there,
20 they're literally going to be willing
21 here to put themselves on the line, put
22 their lives literally on the line, they
23 have to be told explicitly that if
24 they're making those good-faith efforts,
25 they will be rewarded and they won't be

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2 punished.

3 If I could just finally say --
4 and this is the last thing I want to say,
5 because I was in the City on Monday and I
6 saw the Philadelphia papers on Monday,
7 and that to me was an extremely
8 impressive picture of the 10,000
9 African-American initiative. One of the
10 things obviously as a criminal justice
11 professor I hope is -- obviously I hope
12 that initiative is successful, but beyond
13 that initiative being successful, I saw
14 some of those people in that picture were
15 awfully young people. I hope those young
16 people will in the future consider the
17 police service. Maybe this is a good way
18 to get them in the police service, so
19 that we can finally bridge a divide.
20 There's this crazy divide sometimes. The
21 police really should be the people and
22 the people should really be the police.
23 We teach that in criminal justice. If we
24 didn't have the police, the police would
25 have to do the job. Here in Philadelphia

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2 the people are stepping up, but perhaps
3 some of those young people will also
4 become part of the PPD in the future.

5 I really appreciate the
6 opportunity to speak and my colleague's
7 forbearance.

8 COUNCILWOMAN MILLER: We want
9 to thank you and thank you for coming
10 down from New York. We may call you
11 again, because we are going to have a
12 second hearing.

13 PROFESSOR O'DONNELL: I'd be
14 honored, Madam Chair.

15 COUNCILWOMAN MILLER: Thank
16 you.

17 PROFESSOR O'DONNELL: Thank
18 you, ma'am.

19 COUNCILWOMAN MILLER: You're
20 welcome.

21 Mr. Pritchett, Wendell
22 Pritchett.

23 PROFESSOR PRITCHETT: Thank
24 you, Madam Chairwoman and members of
25 Council. My name is Wendell Pritchett

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2 and I'm the Policy Director for the
3 Nutter for Mayor campaign. I'm also
4 Professor at the University of
5 Pennsylvania Law School.

6 Councilman Nutter is very sorry
7 that he could not be here to participate
8 in this important discussion and he
9 thanks Councilman O'Neill and
10 Councilwoman Miller for their leadership
11 in this area. Councilman Nutter had a
12 longstanding engagement in Washington, DC
13 and so he can't be here with us today.

14 I've submitted formal
15 testimony, but I'd like to just make the
16 following brief comments about this
17 issue.

18 In poll after poll,
19 Philadelphians have stated that violent
20 crime is the most pressing issue facing
21 the City. Last year, the City had 406
22 murders. We are on track to match or
23 exceed that number in 2007.

24 Violent crime affects everyone
25 in the City. It creates a fear that

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2 obstructs investment and it taxes our
3 resources, preventing us from using this
4 money to improve our schools, parks and
5 other facilities. Violent crime has the
6 biggest impact on the City's poor
7 population, particularly poor
8 African-American youth. Violent crime
9 prevents our citizens from enjoying their
10 neighborhoods, makes it difficult for our
11 children to learn and play, and limits
12 the opportunities of hundreds of
13 thousands of residents.

14 During the primary, the
15 Councilman issued the Nutter Plan for
16 Safety Now. The plan proposed several
17 initiatives. I just want to briefly go
18 through them.

19 An increase in the number of
20 police officers, as we've heard from many
21 people, including the President of the
22 FOP. This is a very important issue.
23 The increased use of surveillance cameras
24 in high-crime areas; greater targeting of
25 fugitives and others who make up the

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2 small percentage of criminals committing
3 the most violent crime; the creation of a
4 public safety cabinet to enhance
5 coordination of the City's public safety
6 agencies; support for the Youth Violence
7 Reduction Program and other efforts to
8 target youth at risk for a life of crime;
9 an increased support for programs such as
10 the recently introduced PREP bill by
11 Councilman W. Wilson Goode to aid the
12 training and employment of ex-offenders
13 who want to take a more productive path
14 in life.

15 Now, just one important part of
16 this strategy is the enhanced use of what
17 has been called stop, question and frisk
18 policing policies.

19 And I'd just like to say right
20 now the interpretation of the stop,
21 question and frisk policing policies in
22 the Nutter for Mayor plan is exactly the
23 same as that laid out by Lieutenant
24 Healey. There is no difference between
25 the interpretation of the standard laid

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2 out in the campaign policy and what
3 Lieutenant Healey laid out for us today.
4 No difference.

5 Such tactics, when implemented
6 correctly, have been shown to have a
7 significant impact in reducing violent
8 crime.

9 As Mayor, Councilman Nutter
10 will direct the Police Commissioner to
11 initiate a program to target people
12 carrying handguns and other lethal
13 weapons. The goal of this initiative is
14 to create a disincentive to those
15 thinking about carrying an illegal
16 handgun. It is not to undertake
17 wholesale detainment or arrests of
18 innocent people. The goal is to get
19 illegal guns off the streets. If you are
20 not carrying an illegal gun, you will not
21 have a problem. If you are, the police
22 are coming after you.

23 Stop, question and frisk
24 tactics have been found constitutional by
25 the United States Supreme Court. The law

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2 requires, as Lieutenant Healey told us,
3 for a police officer to have a reasonable
4 suspicion to make a stop. Before
5 initiating such a program, Councilman
6 Nutter will undertake a public education
7 effort to increase public understanding
8 of the tactic. Before initiating the
9 program, Councilman Nutter will also
10 direct the Police Commissioner to conduct
11 a comprehensive training program for our
12 officers in the appropriate methods for
13 implementing the initiative. The Police
14 Department will work closely with
15 community members to implement this
16 initiative in a careful, considered
17 manner. Any complaints about
18 inappropriate use of the tactic will be
19 fully investigated, and the Police
20 Department will provide regular reports
21 on the strategy.

22 There is no more important
23 challenge facing the City, and Councilman
24 Nutter has pledged to make this a
25 priority in his Administration should he

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2 be elected. This tactic is one part of a
3 larger program to decrease violent crime
4 in the City. It is an important one, but
5 let me conclude that by stating that
6 equally important are improvements to the
7 educational system and the creation of
8 jobs, because these are the foundation of
9 a healthy city.

10 As Mayor, Councilman Nutter
11 will make public safety, education and
12 economic development his main priorities.

13 Thank you, Madam Chairwoman.

14 COUNCILWOMAN MILLER: Thank
15 you. Thank you, Mr. Pritchett. I also
16 know that you have a time restraint, and
17 we want to thank you for coming in and
18 giving us this testimony.

19 PROFESSOR PRITCHETT: Thank
20 you.

21 COUNCILWOMAN MILLER: We'll
22 probably call on you again.

23 PROFESSOR PRITCHETT: Thank
24 you.

25 COUNCILWOMAN MILLER:

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2 Councilman Clarke has joined us and he
3 actually has a question, Mr. Pritchett.
4 Can you just wait one second?

5 PROFESSOR PRITCHETT: Yes. I'm
6 happy to stay for a few minutes. I'm
7 happy to stay for the Councilman
8 particularly.

9 COUNCILMAN CLARKE: You're
10 coming back?

11 COUNCILWOMAN MILLER: He will
12 be coming back. We're going to have a
13 second hearing.

14 COUNCILMAN CLARKE: Your
15 response might cause me to ask additional
16 questions, so go ahead.

17 COUNCILWOMAN MILLER: Thank
18 you.

19 PROFESSOR PRITCHETT: Thank
20 you.

21 COUNCILWOMAN MILLER:
22 Councilman Clarke, you weren't here in
23 the beginning, but we established that
24 we're going to have a second hearing.

25 COUNCILMAN CLARKE: Okay.

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2 COUNCILWOMAN MILLER: Good
3 afternoon and thank you for being here.
4 Dr. Ratcliffe, good to see you.

5 DR. RATCLIFFE: Good afternoon.

6 COUNCILWOMAN MILLER: Thank
7 you.

8 DR. RATCLIFFE: My name is Dr.
9 Jerry Ratcliffe. I'm a Professor of
10 Criminal Justice at Temple University.
11 As you can probably tell from my accent,
12 Madam Chairwoman, I'm not from around
13 here.

14 COUNCILWOMAN MILLER: Yes.

15 DR. RATCLIFFE: But I don't
16 have a time constraint either.

17 Just to give a little bit of a
18 background, I was a police officer with
19 the Metropolitan Police for 11 years
20 until I had a mountaineering accident.
21 In my academic career, I've published
22 about four books and about 45 articles in
23 the area of policing, crime reduction and
24 intelligence-led policing.

25 I'd like to thank Councilman

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2 O'Neill and your good self for the
3 invitation to be here. I'm aware of the
4 time of the day, and I've got four pages
5 of testimony, which I've submitted to
6 you. I will try and summarize these as
7 briefly and as on topic as possible.

8 COUNCILWOMAN MILLER: Thank
9 you.

10 DR. RATCLIFFE: Basically,
11 there are no easy answers. Any program
12 that you're thinking of using at the
13 moment that doesn't impact -- basically,
14 if there was any program that was around
15 that didn't impact on the quality of life
16 or the inconvenience of local residents,
17 we'd have done that already.

18 In the end, most of the other
19 speakers have mentioned that jobs and
20 education in the long term are necessary,
21 but what we're talking about here is some
22 sort of short-term respite. So there are
23 three questions which I think need to be
24 addressed here regarding this policy.
25 Will it work? Are there any negative

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2 consequences that might destroy any of
3 the positive crime-reduction benefits
4 that we have? And are there any other
5 objections? I'll keep it to the first
6 two questions, because everybody is busy.

7 In terms of will this work, the
8 basic mechanism that we're trying to make
9 happen here is the offenders will think
10 that the risk of capture outweighs the
11 benefits and the efforts to carry and use
12 guns. That's the basic mechanism that
13 we're trying to make work here.

14 Now, in terms of trying to
15 figure that out, that's kind of difficult
16 and it depends what constituency you're
17 looking at. For the drug gangs in the
18 City, using firearms and having access to
19 firearms is pretty much a way of life and
20 is a requirement for running business.
21 Therefore, while they may change their
22 behavior, I'm not entirely convinced that
23 an increased policy of stop and frisk or
24 something related to that will
25 necessarily tackle those areas as well as

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2 we might hope.

3 But a lot of violence in the
4 City, as the Councilwoman referred to in
5 her opening comments, doesn't relate to
6 drug crime, but just relates to the
7 day-to-day minutia of people having
8 arguments in and around the City.

9 So for people who carry guns
10 because they think erroneously that it
11 helps them for their protection, it's
12 just not true. People who carry guns
13 tend to have an increased level of
14 involvement in gun violence. And for the
15 people, especially the young people that
16 carry guns because they perceive it
17 increases their status, then increasing
18 police powers or certainly increasing the
19 police approach to stop and frisk within
20 the confines of what's legal is possibly
21 a plan that might work. So there is a
22 mechanism here that can work, which it
23 will increase the risks of capture to the
24 level where people make a decision that
25 they're not going to carry firearms.

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2 As for the negative
3 consequences, we ought to be realistic
4 about where this is going to take place.
5 My studies in the Department of Criminal
6 Justice at Temple University have found
7 that just over 50 percent of the people
8 who are shot in Philadelphia are shot
9 within 800 feet -- that's about two
10 blocks -- of their home address. And
11 contrary to what the gentleman for the
12 FOP said, but I got the gist of where he
13 was going with that, is that actually we
14 do now know from our recent studies that
15 if there's a shooting on a street corner
16 in Philadelphia, the risk of there being
17 another shooting within the same block or
18 so for the next two weeks increases by a
19 third. So the idea of putting police
20 officers on corners where there has just
21 been a shooting is actually a policy that
22 can help to prevent the next shooting
23 that takes place. But in the end, just
24 standing police officers on the street
25 corner may not be sufficient, and more

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2 active proactive work -- I'm not sure I
3 like the term "aggressive policing." I
4 think it's the wrong use of the term and
5 I think more proactive policing is
6 something that we can certainly think
7 about addressing.

8 But in the end, we have to
9 decide whether this is going to work,
10 because as we know from our looking at
11 shootings information -- we get access to
12 the shooting data from the Police
13 Department and we analyze it in my
14 department. In the end, the shootings
15 that take place in the City are going to
16 be concentrated in the poorest
17 neighborhoods, and in much the case of
18 Philadelphia, poor is synonymous with
19 black. So we're going to concentrate
20 much of this work in the poorest black
21 neighborhoods of the City. And because
22 the nature of what it involves, the
23 question is, are some residents prepared
24 to accept that some inconvenience is
25 necessary on their liberty or at least

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2 some restrictions on their liberties in
3 return for a safer neighborhood.

4 So there are some potential
5 negative consequences.

6 That being said, most research
7 finds and our most recent poll at Temple
8 University finds that generally people in
9 Philadelphia think very positively of the
10 Police Department. So we start from a
11 good starting position. That being said,
12 about a fifth think the police don't
13 protect their basic rights and about
14 one-third of the people interviewed think
15 that the police stop people for no
16 reason. Therefore, why this may be a
17 policy that could work, the question we
18 have to consider is, are we prepared to
19 put some risk to the relationship, the
20 police-community relationship, in some of
21 the neighborhoods where they actually
22 need policing the most.

23 If I can just clarify a couple
24 of the points that came up a little
25 earlier. There was some confusion with

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2 Councilman O'Neill and Lieutenant Healey.
3 I believe you were both talking at cross
4 purposes with the Kansas City experiment.
5 I think that Lieutenant Healey was
6 talking about the Kansas City
7 Preventative Patrol Experiment that took
8 place in the city, but, Councilman
9 O'Neill, you were talking about the
10 Kansas City Gun Experiment.

11 Now, for that gun experiment
12 there, the police officers -- and there
13 are only pretty much four officers used,
14 two cars, two police officer cars. So it
15 was a very small experiment. But they
16 did find one gun for every 28 stops,
17 which from having been an ex-police
18 officer, that's actually a very good hit
19 rate. But we have to be realistic -- and
20 "hit rate" is probably not the right
21 term. But we have to be realistic, but
22 there are 27 non-guns found for every gun
23 found. So these are the considerations.

24 If you ask me on balance
25 whether we should do this, I think we

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2 should, but I think it should be
3 considered within the framework of we
4 should monitor this to see if it's in the
5 right neighborhoods and keep an eye on it
6 as we go along. We should certainly
7 target the neighborhoods that need it the
8 most, and we can do that sort of work.

9 We know there are spacial and
10 temporal patterns to gun violence. And
11 the training that's been talked about
12 basically for two reasons. We know that
13 when a police officer -- when somebody
14 has a negative interaction with a police
15 officer, the implications for the opinion
16 of the police are anything like four to
17 14 times worse than if they have a good
18 interaction. Therefore, some training
19 for police officers conducting this would
20 certainly be a sensible idea, and
21 secondly purely for issues of officer
22 safety.

23 I could go on. I'm going to
24 try not to. I'm happy to answer
25 questions that you might have.

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2 Just to finish up, I would say
3 I would support it, but with the caveat
4 that political support for the Police
5 Department is essential. In other words,
6 if we start this policy in media cameras,
7 the first thing they'll do is drive up to
8 a rough neighborhood in North Philly or
9 West Philly, find somebody who says that
10 their good lad cannot come out of the
11 house without being stopped and harassed
12 by the police, we then need to think
13 about the political support. If we're
14 going to go and ask the Police Department
15 to do that, then we need some robust
16 support for them if we're actually going
17 to ask them to do that, when the
18 inevitable media attention falls on the
19 policy.

20 I hope this comes as some
21 assistance to you.

22 COUNCILMAN O'NEILL: Thank you
23 very much. Thank you for coming.

24 Next witness?

25 Any questions? William?

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2 COUNCILMAN GREENLEE: If I
3 could, Councilman.

4 COUNCILMAN O'NEILL: I'm sorry.

5 COUNCILMAN GREENLEE: Sir, you
6 talk about risk to the community
7 relations, and it's something that
8 certainly has been discussed since this
9 issue, whatever you want to call it, has
10 been brought up. In the studies you've
11 shown or you've seen -- and I wanted to
12 ask the gentleman from New York this, but
13 he had to leave -- what have you seen to
14 those risks?

15 I mean, I guess one of the
16 things that is a concern for me and
17 others is that the respect for the
18 police, I think you mention, is pretty
19 high, that that's going to go down
20 because certain communities are going to
21 think they're being --

22 DR. RATCLIFFE: Targeted.

23 COUNCILMAN GREENLEE: Targeted,
24 yes. Have you seen that in some of these
25 other cities?

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2 DR. RATCLIFFE: Generally, the
3 perception is that people actually want
4 more police activity in their
5 neighborhoods. The question is what is
6 the nature of that activity. Councilman,
7 let me give you an example from one
8 study. In the Brightwood area of
9 Indianapolis -- which you have to bear
10 with me. I'm new to this country. It's
11 apparently somewhere out west -- the
12 police at the behest of the community
13 spent a lot of money doing a long-term
14 surveillance operation to tackle drug
15 dealers, and the community was adamant
16 the police weren't doing enough and there
17 was lots of demands for the police to do
18 something. Well, the police did. They
19 got some wiretaps. They did some
20 surveillance. What they discovered was
21 that the community activists who were so
22 adamant that the police should be doing
23 something about crime were also the ones
24 that they caught on wiretaps advising
25 some of the drug dealers that the police

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2 were active in the area.

3 So what happens is, the general
4 sense is we want the police to do more in
5 our neighborhood, but as long as it's not
6 my nephew or my grandson. And that's the
7 factor that we're up against here. If we
8 wanted to do this properly -- not
9 properly. That's not the right term. If
10 we wanted to do this in a slightly
11 different way, we would use more
12 intelligence-led resources and we would
13 start to target the activities that we're
14 thinking about more specifically to
15 people in the neighborhoods. But that's
16 hard to do in Philadelphia, because
17 people generally don't talk to the
18 police, and the Police Department is not
19 set up for that. Intelligence resources
20 and the street police officers generally
21 don't speak to each other very well.

22 COUNCILMAN GREENLEE: Well,
23 certainly communication within the Police
24 Department, as you say, but certainly
25 with the community is important.

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2 In any of these cities, again,
3 or in your opinion, obviously a lot of
4 the people or a lot of the individuals
5 that may be stopped could be still in
6 school, school-age children. Has there
7 been dialogue like right into schools in
8 these other cities where there was
9 interaction with the -- go right in the
10 school and say, Here's what we're trying
11 to do, kind of thing?

12 DR. RATCLIFFE: The unfortunate
13 side is -- and you have to bear in mind,
14 I was a police officer long before I ever
15 got stuck with being an academic -- is
16 that most academic studies tend to be
17 longwinded about the statistics and very
18 short on exactly what took place.

19 COUNCILMAN GREENLEE: Right.

20 DR. RATCLIFFE: The general
21 approach seems to be -- and when we ran a
22 similar type of policy when I was a
23 police officer in London, it's the
24 demeanor of the police officers and how
25 they deal with people. Keith Jarrett in

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2 the testimony that was read on behalf of
3 Professor Sherman, Keith Jarrett called
4 for more police use of essentially stop
5 and frisk, for want of a term. I
6 actually worked with his predecessor,
7 George Rodin. And a lot of the case was
8 that -- and that the Black Police
9 Officers Association was supportive of
10 this, but recognized that it was the
11 demeanor of the police officer that
12 dictated the outcome.

13 In other words, the individual
14 relationship as much as anything else
15 just with young black kids in London just
16 wanted to be spoken to courteously and
17 called "sir." They understood the need
18 for searching. They understood that they
19 were likely to be on the downside of
20 generally knives and not guns in the UK.
21 But it's that level of work. And working
22 through the schools might be able to
23 help, but that's a dynamic that's also
24 very different and it's not necessarily
25 the easiest thing for police officers to

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2 be the people to go and explain that.

3 COUNCILMAN GREENLEE: I
4 understand, but I guess, again, just
5 getting into "we're not your enemy" kind
6 of thing.

7 DR. RATCLIFFE: No, and it
8 comes back to this issue. If we don't
9 provide training for police officers,
10 then what you'll end up with is pretty
11 much something that reflects the general
12 perception of how people feel about the
13 police in Philadelphia, which is not
14 necessarily bad. The police are quite
15 well thought of in this town compared to
16 many other places.

17 COUNCILMAN GREENLEE: Right.
18 And it's certainly, I think -- I'm
19 getting old, but it seems like it's a lot
20 better now than it was before, and I
21 guess there is some concern that we don't
22 want to go in any way backwards. While
23 we still have to fight this terrible
24 problem we have, we don't want to get
25 that relationship hurt again, because

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2 there was a time where there was not that
3 feeling. I can tell you as a life-long
4 Philadelphian there was a time where
5 there was not that feeling certainly in
6 some communities.

7 DR. RATCLIFFE: No. And I
8 agree with you, and this should be a
9 concern to think about. Which means I
10 don't necessarily think this is a bad
11 idea to pursue, but the broader issue is
12 how do we go about doing it while
13 minimizing the damage to police-community
14 relations.

15 COUNCILMAN GREENLEE: And I
16 guess the last thing -- and this is
17 something that both Lieutenant Healey and
18 the representative for Councilman Nutter
19 said, kind of agreed on, but the
20 perception seems to be different out
21 there in the community, that still we're
22 just talking about stopping and frisking
23 people who reasonably -- they have reason
24 to stop and not just stopping people in
25 high-crime areas that just happen to be

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2 there. Again, Dr. Sherman's statement
3 seemed to be slightly different than
4 that. It seemed to -- I might not use
5 the word "advocate," but talked about a
6 different level, that next level, which I
7 think is what concerns people, that the
8 guy just walking down the street in a
9 high-crime area is going to get stopped.
10 But it seems like the Philadelphia Police
11 Department, Councilman Nutter and I think
12 the New York representative said that --
13 I'm not sure about that. I couldn't get
14 a chance to ask him -- said that that
15 might --

16 DR. RATCLIFFE: My English
17 is -- it was coming at me far too fast
18 for me to have an idea of what the cop
19 from New York was telling you.

20 COUNCILMAN GREENLEE: Right.
21 But I guess you would agree that, first
22 of all, there are constitutional
23 problems, right?

24 DR. RATCLIFFE: Sure. This has
25 to stay within the Constitution. How it

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2 worked quite well in London -- and it's
3 something that might be worth thinking
4 about -- the Police Department here fill
5 out a form and that form articulates the
6 reasons why they stopped somebody. Now,
7 how it worked in London is that police
8 filled out a form, but it was carbonated
9 and the person who was stopped and
10 searched actually got to keep a copy.

11 So where that worked nicely is
12 that the training then fell to the
13 officers for the officers to more
14 clearly -- and that's a good use of
15 training resources -- to more clearly
16 articulate the reason why they stopped
17 and searched somebody.

18 COUNCILMAN GREENLEE: It's
19 almost like when you get a traffic
20 ticket, know what you're being charged
21 with.

22 DR. RATCLIFFE: Sure. And you
23 can stop people, as Lieutenant Healey
24 quite clearly pointed out, about using
25 the officer for gun reduction, and that's

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2 not a bad use of it at all, and there's
3 nothing unconstitutional with that as
4 long as it's done within the original
5 reasons for the stop.

6 So I think there are good
7 reasons to approach that, and it might be
8 worth thinking about, actually thinking
9 about some sort of policy where people
10 actually get some indication of why they
11 were stopped.

12 COUNCILMAN GREENLEE: Okay.
13 And, again, the last thing, if I could,
14 Madam Chair, I understand in the Attorney
15 General's report in New York, there was
16 some concern raised about a higher level
17 of minorities being stopped than
18 non-minorities. Now, I don't know if
19 that was an opinion or what exactly that
20 was based on, but I'm just looking
21 through it real quick and I picked that
22 up.

23 DR. RATCLIFFE: The phrase
24 "bang for the buck" came up earlier, and
25 the reality I think is that if you want

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2 to maximize the benefits, if you perceive
3 there are also some potential negative
4 consequences, the best way to use such a
5 policy is to use it in the smallest area
6 at the best times so that the negative
7 consequences are minimized and you get
8 the best bang for the buck, the best
9 return from that.

10 In the end -- because I've
11 stared at the crime data. There's no
12 getting away from it. I don't think
13 these are high-crime areas because
14 they're black. They're high-crime areas
15 because they've got a lot of poverty, and
16 poverty and lack of education and lack of
17 jobs drives crime. Unfortunately, here
18 in Philadelphia it ends up being
19 synonymous, and that's an impression
20 that's going to have to be managed. But
21 if you want to use the best areas, you
22 end up minimizing the areas, and that's
23 going to be predominately black parts of
24 the City.

25 COUNCILMAN GREENLEE: So

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2 proceed carefully, I guess, is how we
3 could wrap it up. Is that how you would
4 say it?

5 DR. RATCLIFFE: Yeah. I mean,
6 that's a good way of summarizing it. We
7 have to be careful, but then we also have
8 to respond to the fact that people are
9 concerned about gun violence.

10 COUNCILMAN GREENLEE:
11 Absolutely. Thank you.

12 DR. RATCLIFFE: If I had the
13 easy solution that didn't have any impact
14 on the community, I'd have come and given
15 it to you a long time ago.

16 COUNCILMAN GREENLEE: Well, we
17 would have done it before you, so you
18 wouldn't have had to come here today.

19 Thank you, sir.

20 Thank you, Madam Chair.

21 COUNCILWOMAN MILLER: I want to
22 thank you for coming in, but you know,
23 the reality is, there is a correlation
24 between race and stopping, and I don't
25 know how we deal with that.

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2 DR. RATCLIFFE: No, and I'm
3 afraid I have no real suggestion for you.
4 You'll have to bear with me. I've only
5 been in the country and in the City about
6 five years. So I'm just getting that
7 sense of -- race relations in this
8 country and in the City are very
9 different than the United Kingdom, and I
10 was in Australia before that. So I'm
11 probably not the person best qualified to
12 deal with that.

13 A sense is that when we look
14 at -- when I have graduate students in
15 our doctoral program and we look at crime
16 in the City and we look at demographic
17 factors, a lot of the high-crime areas
18 are not always black. There are some
19 Hispanic areas in the 15th District that
20 have got some real problems as well. But
21 once you start looking at socioeconomics
22 and once you start looking at poverty and
23 lack of education, lack of jobs, the race
24 factor tends to parry out. It's so
25 difficult in the City to separate those

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2 things. And, of course, one could
3 articulate in an environment like this
4 that would be targeted here, is that a
5 high crime because of the poverty? But
6 in the end, the people here are going to
7 sit there and say it has a race factor to
8 it, and I'm afraid I can't offer any
9 immediate suggestions for that. I'm
10 really not the person qualified for that.

11 COUNCILWOMAN MILLER: And we
12 understand that. And we are also very
13 much aware of the data, the demographics,
14 the victims and all of that. So we just
15 have to figure out how we do this.

16 DR. RATCLIFFE: I should just
17 add something to Professor Sherman's. It
18 did kind of -- his testimony did kind of
19 suggest that the claim for stop and frisk
20 helped keep the murder rate in the United
21 Kingdom sort of 125th. It's pretty much
22 because about ten years ago there was a
23 school shooting in a school in Dunblane
24 in Scotland and the United Kingdom
25 completely bans handguns. Nobody is

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2 allowed to buy, own, operate, have
3 handguns at all. Even the Olympic
4 shooting team have to go overseas to
5 train.

6 COUNCILWOMAN MILLER: Oh, wow.

7 COUNCILMAN GREENLEE: Madam
8 Chair, if only that was here. If only
9 that was here.

10 COUNCILWOMAN MILLER: That's
11 right.

12 Thank you. Thank you,
13 Professor, for coming in.

14 DR. RATCLIFFE: Pleasure.

15 COUNCILWOMAN MILLER: We will
16 now have everybody who is left. Wayne
17 Jacobs, Bruce Harris and Adam Kremis.

18 Is there anyone else in this
19 room to testify on this resolution other
20 than the two folks at the table?

21 (No response.)

22 COUNCILWOMAN MILLER: Great.

23 You can identify yourself and
24 please proceed.

25 MR. HARRIS: My name is Bruce

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2 Harris and I've been a Computer Engineer
3 for 37 years. I'm retired now. I just
4 have a brief statement.

5 I lived all my life at 52nd and
6 Market, a high-crime area, and something
7 has to be done, and stop and frisk is the
8 thing. Because we've got to stop the
9 killing.

10 COUNCILWOMAN MILLER: You're
11 right.

12 MR. HARRIS: That's basically
13 all I have to say.

14 One other thing. I do have one
15 other thing to say. I know the policies
16 and procedures. You have to just make
17 sure that there's no loopholes in there
18 where non-Caucasians can be discriminated
19 against.

20 COUNCILWOMAN MILLER: So you
21 just want it fair and equal.

22 MR. HARRIS: Fair and square.

23 COUNCILWOMAN MILLER: Thank
24 you, Mr. Harris.

25 Good afternoon, Wayne Jacobs.

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2 MR. JACOBS: Yes.

3 Councilwoman, as the co-founder of
4 X-offenders for Community Empowerment, we
5 support some type of mechanism in
6 reference to the stop and frisk. We
7 recognize that the killing have to stop
8 and we recognize that where the killing
9 is taking place at. It takes place in
10 our neighborhoods. It's committed on us
11 by us. And to try to find a way to not
12 do racial profiling would be almost
13 impossible, because nine out of ten
14 homicides is in our neighborhoods.

15 However, I feel that if you
16 look at doing this, they should look at
17 doing a possible pilot program so that
18 you can monitor. And what I mean by
19 monitoring, the officer talked about the
20 Terry stop. Now, the Terry stop is
21 mainly for finding weapons. It's not a
22 search. It's not a frisk. It's a
23 pat-down. Now, I don't know the
24 difference between a frisk and a search.
25 To me they both the same. A frisk and a

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2 search is the same. A pat-down is
3 totally different.

4 Now, if this program is
5 implemented and they are using the Terry
6 stop as a mode to pat people down, then a
7 police officer should not be arresting
8 nobody when they commit a Terry stop for
9 a bag of cocaine that's this size. Okay?
10 In order to find a bag of cocaine this
11 size in somebody's pocket, you have to
12 search them. You know what I mean? If
13 you are searching or patting a person
14 down and they got illegal lotteries in
15 they pocket, that's not a pat-down.
16 That's a search.

17 So this is the reason why we're
18 proposing that ya'll have a pilot
19 program. So that after those six months
20 to a year you can look at it and you can
21 see was the program used actually to get
22 guns or was the program actually used
23 just to increase the prison population of
24 non-violent offenders or, what you will
25 say, the Broken Glass crimes or

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2 quality-of-life crime. You know what I
3 mean?

4 That is our position, is that
5 you need to put together a pilot program
6 so that you can monitor and see was the
7 training that the officer received
8 correct and was the officer using the
9 correct procedures to do this. Because a
10 lot of times you give them the red flag
11 or the go-ahead to do certain things and
12 they go overboard. And when you look
13 around, it will still be the same volume
14 of guns on the street, but it will be a
15 whole lot of other people being arrested.
16 I'm not saying that the other people
17 shouldn't be arrested for committing
18 crime, but I'm saying the intent of this
19 Committee is to only focus on guns and
20 nothing else.

21 COUNCILWOMAN MILLER: Okay. So
22 you're saying that you are for, we'll
23 call it, stop and frisk --

24 MR. JACOBS: Okay. Yeah.

25 COUNCILWOMAN MILLER: -- if

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2 there is proper officer training and the
3 officers use certain types of procedures,
4 and it should happen in a pilot area?

5 MR. JACOBS: Right. Right.
6 And it should be a pilot. At the
7 beginning this should not be something
8 that's locked -- that's etched in stone.
9 I think you should look at doing it as a
10 pilot project first so you can see what's
11 good, what's bad, so you can make
12 adjustments and make changes.

13 That's my whole position, is
14 that -- and that the Terry stop should be
15 fully explained and showed to folks,
16 simply because of the fact that, you
17 know, we're targeting guns, we're not
18 targeting nothing else, and we should
19 keep that focus there. It's about guns.
20 So if a person got a gun in their waist
21 pant and you do a Terry stop, you will
22 find the gun. If a person got illegal
23 lotteries in they pocket and the police
24 officer do a Terry stop, they shouldn't
25 find no lotteries, you know. That's what

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2 I'm saying. If they're doing that
3 procedure correctly.

4 COUNCILWOMAN MILLER: Okay.

5 Well, one thing that became very clear to
6 me today is that we would have to do a
7 real education. We did question the
8 Police Department earlier around the
9 difference between the Terry stop and a
10 stop and frisk, and we'd have to really
11 educate people.

12 MR. JACOBS: Right. And I
13 think --

14 COUNCILWOMAN MILLER: And all
15 of us. All of us. We're not experts on
16 this. We've learned a lot today.

17 MR. JACOBS: Right.

18 COUNCILWOMAN MILLER: And we
19 are going to have a second hearing. You
20 were not here when we did announce that.

21 MR. JACOBS: Okay. And I'll
22 make sure I submit testimony next time.

23 COUNCILWOMAN MILLER: We
24 believe we need to have a second hearing.
25 But I do want to thank you, Wayne.

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2 Do you have any questions?

3 COUNCILMAN GREENLEE: No.

4 COUNCILWOMAN MILLER: I want to
5 thank you for coming in.

6 Is there anyone else in this
7 Chamber that wants to testify on this
8 resolution?

9 (No response.)

10 COUNCILWOMAN MILLER: Seeing
11 none, this hearing is recessed until the
12 call of the Chair.

13 Thank you.

14 (Committee on Public Safety
15 adjourned at 4:30 p.m.)

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