

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON LAW AND GOVERNMENT

- - -
Room 400, City Hall
9, Pennsylvania
Monday, March 15, 2010, 1:20 p.m.
- - -

*Bill 100123 - Providing for submission to
qualified electors of City of Philadelphia of
an amendment to the Philadelphia Home Rule
Charter to provide for creation of Office of
Inspector General...

*Res. 100140 - Proposing an amendment to the
Philadelphia Home Rule Charter to provide for
creation of Office of Inspector General...

Bill 100121 - Restrictions on political
activities of City officers and employees...

Res. 100139 - Restrictions on political
activities of City officers and employees...

(* - Held to call of the Chair.)

COMMITTEE MEMBERS PRESENT:

William K. Greenlee, Chair
James F. Kenney, Vice Chair
W. Wilson Goode, Jr.
Bill Green
Jack Kelly

Also Present: Councilman Curtis Jones, Jr.

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2 COUNCILMAN GREENLEE: Good
3 afternoon, everybody. This is the
4 Committee on Law and Government.

5 For the record, we have a
6 quorum: Councilman Kenney, vice chair of
7 the committee; Councilman Goode;
8 Councilman Green; Councilman Kelly; and
9 myself, Bill Greenlee, who is the chair.

10 And I would ask Miss O'Connell
11 to read the first bill and resolution
12 that we're going to consider today.

13 THE CLERK: Bill No. 100123, an
14 ordinance providing for the submission to
15 the qualified electors of the City of
16 Philadelphia of an amendment to the
17 Philadelphia Home Rule Charter to provide
18 for the creation of an Office of
19 Inspector General, to provide for the
20 powers and the duties of such office to
21 establish requirements for certain City
22 officials and employees in connection
23 with the work of the Inspector General,
24 and to otherwise provide for the
25 incorporation of the Inspector General

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2 into the City government, fixing the date
3 of a special election for such purposes;
4 prescribing the form of the ballot
5 question to be voted on; and authorizing
6 the appropriate officers to publish
7 notice and to make arrangements for the
8 special election.

9 Resolution No. 100140, a
10 resolution proposing an amendment to the
11 Philadelphia Home Rule Charter to provide
12 for the creation of an Office of
13 Inspector General, to provide for the
14 powers and duties of such office, to
15 establish requirements for certain City
16 officials and employees in connection
17 with the work of the Inspector General,
18 and to otherwise provide for the
19 incorporation of the Inspector General
20 into the City government; and providing
21 for the submission of the amendment to
22 the electors of Philadelphia.

23 COUNCILMAN GREENLEE: Thank
24 you.

25 Just for the record, to show

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2 how we're going to do this, we're going
3 to run the bill and resolution, have
4 testimony on that bill and resolution
5 first dealing with the Inspector General.

6 And after all of that's
7 completed, we will have the testimony on
8 the political-activities bill.

9 So our first witness is City
10 Controller Alan Butkovitz. And while Mr.
11 Butkovitz is coming up, I'd like to make
12 a general announcement.

13 I know we have a long list of
14 witnesses on both bills, and I would ask,
15 if you have written testimony, we will
16 make that a part of the record, but if
17 you could kind of give a -- more of a
18 brief statement rather than reading every
19 word of your testimony of your written
20 statement, it would make things move a
21 little faster, 'cause some witnesses are
22 going to be here on both bills.

23 (City Controller Alan Butkovitz
24 comes forward.)

25 COUNCILMAN GREENLEE: So with

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2 that, Mr. Butkovitz, good afternoon. How
3 are you?

4 CITY CONTROLLER BUTKOVITZ:

5 Good afternoon. I can't help noting that
6 it's the ides of March and that,
7 traditionally, this is a dangerous time
8 for members of a legislative branch to
9 enter a legislative chamber.

10 COUNCILMAN GREENLEE: Some

11 people would say it's always dangerous in
12 here.

13 (Laughter.)

14 CITY CONTROLLER BUTKOVITZ:

15 Thank you for the opportunity to testify
16 on the Inspector General bill. I think
17 the current Inspector General, Amy
18 Kurland, has been doing a very good job
19 in the office as is presently
20 constituted. And mayor Nutter is to be
21 commended as well for his leadership in
22 ethics and reform.

23 Under its current leadership

24 and in its current form, the IG's Office
25 plays a crucial role in investigating and

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2 weeding out fraud in criminality in City
3 government. While I have serious
4 concerns in the number of provisions in
5 this proposed legislation, I am most
6 troubled by the requirement that all
7 governmental agencies, including District
8 Attorney's Office, the Philadelphia
9 Police Department, and the City
10 Controller's Office would all be required
11 to report all wrongdoing to the Inspector
12 General. This would include any rumored
13 or unsubstantiated allegations of
14 wrongdoing.

15 This mandatory notification
16 provision would lead to massive
17 investigatory confusion and create
18 jurisdictional paralysis. It would
19 dangerously disrupt long-established
20 investigatory procedures and territorial
21 ground rules in the DA's Office, the
22 Police Department, and the City
23 Controller's Office.

24 In addition to jeopardizing
25 investigations by law enforcement and the

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2 Controller's Office, mandatory
3 notification would result in the IG's
4 Office being totally overwhelmed by
5 hundreds, if not thousands, of unfounded
6 allegations, all of which the IG would be
7 required to investigate.

8 There are at least 300
9 assistant district attorneys, over 70
10 auditors and investigators in the City
11 Controller's Office and over 6,000
12 Philadelphia police officers, all of whom
13 would be required to notify the IG of any
14 and all wrongdoing as soon as they became
15 aware of it or face termination if they
16 fail to do.

17 The phone lines between the
18 Police Department and the Inspector
19 General's office would be chronically
20 jammed. The City Solicitor would be put
21 in the legal quandary of having to decide
22 whether or not to abide by the mandatory
23 notification requirement and notify the
24 IG of suspected and/or rumored criminal
25 activity by a City employee when he or

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2 she is required to provide legal counsel
3 to.

4 How could the City Solicitor be
5 required to provide information to an
6 investigatory unit that would eventually
7 investigate a client he or she is
8 required to defend under the City
9 Charter. This legislation would
10 jeopardize, if not destroy, attorney-
11 client privilege and raise serious
12 questions about client privacy.

13 Hypothetically, a City employee
14 could be terminated for acting in good
15 conscience in alerting the United States
16 Attorney to suspected criminal wrongdoing
17 instead of going to the Inspector
18 General.

19 At the same time that this
20 proposed legislation requires City
21 employees to notify the IG of all
22 wrongdoing, the employee is required,
23 under threat of dismissal, to ensure that
24 the complaint is not frivolous before the
25 employee notifies the IG. So you place

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2 the employee in the position of
3 contradictory requirements with
4 devastating consequences potentially for
5 the employee. It's an unfair burden upon
6 the employee who is threatened with
7 dismissal if they fail to report what
8 they perceive as criminal wrongdoing
9 while also facing the possibility of
10 termination for a complaint that is
11 frivolous.

12 I have no problem with multiple
13 investigatory and law enforcement
14 agencies; i.e., the United States
15 Attorney, the DA, the Philadelphia Police
16 Department, the State Attorney General,
17 the City's Inspector General, and our own
18 office all working independently in a
19 variety of fronts to uncover and expose
20 municipal fraud and criminal corruption.

21 It has been clear in the past
22 that when the time comes and
23 circumstances warrant, all involved
24 parties come together and fully cooperate
25 with each other. That's the way it has

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2 been and that's the way it should be.

3 Establishing single clearinghouse run by
4 a political appointee to screen and
5 filter all allegations of criminal
6 wrongdoing is just dangerous.

7 While all City agencies are
8 required to report any and all wrongdoing
9 to the IG, there is no reciprocal
10 requirement that the IG notify or turn
11 over any investigatory materials and
12 information to other departments such as
13 the District Attorney and/or the City
14 Controller. The Inspector General would
15 not be required to turn over the
16 discovery of any financial fraud to the
17 Controller for auditing.

18 Additionally, by granting the
19 IG the power to audit fraud, corruption,
20 and misconduct, this proposed legislation
21 confuses the professional practice of
22 auditing with an investigation that
23 includes the need to conduct an audit.
24 The state and local inspectors general
25 are usually only given the authority to

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2 investigate, detect, or examine, which is
3 in direct contrast to the authority to
4 audit that this proposed legislation
5 grants to the Inspector General.

6 The Home Rule Charter clearly
7 delineates, duties, responsibilities, and
8 powers for all City departments and
9 agencies. Provisions contained in this
10 legislative proposal would not only
11 create confusion; it would result in a
12 duplication of duties and
13 responsibilities.

14 When similar legislation to
15 change the duties of the Inspector
16 General was proposed three years ago, the
17 Committee of Seventy raised these very
18 concerns as well as the fear that it
19 would diminish the independent
20 investigatory powers of other City
21 agencies, including the District
22 Attorney, the Police Department, and the
23 City Controller.

24 The Committee of Seventy
25 previously stated that Council should

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2 make every effort to avoid unnecessary
3 confusion to ensure that the taxpayers
4 are not paying two or three time for
5 duplicative investigations. I shared the
6 concerns back then and continue to
7 believe today that multiple agencies
8 investigating the same person or entity
9 simultaneously will create confusion and
10 compromise if not disrupt ongoing
11 investigations of waste, fraud,
12 mismanagement, and criminality.

13 There is also the very serious
14 question of independence. In comparison
15 to the District Attorney and the City
16 Controller, who are independently elected
17 by voters, the Inspector General is a
18 political appointee of an incumbent
19 mayor, the very person whose office and
20 departments the IG is tasked with
21 investigating.

22 While we have every confidence
23 in Mayor Nutter and his commitment to
24 ethics in City government, these proposed
25 changes, if enacted, will be in place for

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2 future mayors, some of whom may not have
3 the high integrity and ethical standards
4 as our current mayor.

5 Under this proposed Charter
6 change, the Mayor would have the sole
7 power to appoint and terminate the
8 Inspector General, although it is for
9 cause, a termination for cause. But the
10 decision on termination is the Mayor's
11 solely, not one that needs to be validated
12 by a super majority in Council, by a
13 majority of Council, or by any other
14 body.

15 That in itself raises serious
16 questions about potential conflicts of
17 interest, potential political
18 interference, and questionable
19 independence during an investigation of
20 the Mayor's own staff or departments.

21 Aside from the potential to
22 duplicate or disrupt ongoing
23 investigations by other investigatory
24 agencies, there's the serious question of
25 independence and how aggressive a

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2 political appointee would be in pursuing
3 an investigation of the very person who
4 appointed him or her. The public would
5 always question the thoroughness of the
6 investigation.

7 There is the very real
8 possibility that, given a certain set of
9 circumstance, the IG could function as an
10 internal defense mechanism, protecting a
11 City mayor from outside investigations
12 and scrutiny of his or her departments by
13 independent outside oversight
14 authorities, whether they be law
15 enforcement or auditing authorities like
16 the City Controller.

17 Given the concerns already
18 outlined, there is the added problem that
19 this legislation gives an inordinate
20 amount of power to the Mayor over all
21 City agencies and departments,
22 independently-elected row offices. This
23 unchecked authority could be easily
24 abused by a mayor intent on using his or
25 her power to punish political enemies who

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2 were duly-elected to run their own
3 respective City agencies. The Mayor
4 would have to power to compel the
5 Inspector General to investigate another
6 independently-elected City official.

7 The question is whether the IG
8 would resist this intrusion by the Mayor,
9 fully realizing that the Mayor has the
10 power to terminate him or her, with
11 virtually no recourse to appeal to an
12 outside independent authority.

13 Giving the Office of the
14 Inspector General unchecked authority and
15 duplicative powers of oversight is
16 dangerous and highly suspect.

17 If enacted, this legislation
18 could be used as an early warning system
19 that would alert the Mayor to the
20 discovery of potential criminal
21 wrongdoing by one of his or her
22 appointees or even by the Mayor himself.
23 The consequences of this are clear and
24 evident.

25 In closing, the Office of the

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2 Inspector General plays an important role
3 in weeding out fraud and corruption in
4 City government as well as serving a
5 deterrent because of its very existence.

6 The current IG has clearly
7 demonstrated this point. I believe the
8 proposed changes to the IG's role have
9 the potential to create confusion while
10 duplicating and disrupting ongoing
11 investigations by law enforcement and
12 other City investigatory agencies as well
13 as potentially protecting a sitting mayor
14 and his or her administration from
15 outside scrutiny and investigation by an
16 independent authority.

17 So thank you.

18 COUNCILMAN GREENLEE: Thank you
19 for your testimony.

20 Any questions for
21 Mr. Butkovitz?

22 Councilman Green.

23 COUNCILMAN GREEN: Thank you.

24 So to be clear -- I don't think
25 you specifically said so in your

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2 testimony -- you oppose enacting current
3 Inspector General.

4 CITY CONTROLLER BUTKOVITZ:

5 Well, in this forum, and what I was
6 basically focusing on was page 6 of the
7 bill, which starts out: Every elected
8 official and City agency, et cetera, will
9 report to the Inspector General any
10 knowledge, information, or allegation, et
11 cetera, et cetera.

12 COUNCILMAN GREEN: Are you

13 aware of the Mayor's Executive Order with
14 respect to the Inspector General, in the
15 creation of the Inspector General?

16 CITY CONTROLLER BUTKOVITZ: I

17 recall seeing it at one time, I'm aware
18 of it; I haven't looked at it lately.

19 COUNCILMAN GREEN: Okay. Every

20 provision that you object to in terms of
21 the authority and power of the Inspector
22 General is in the Executive Order
23 currently.

24 CITY CONTROLLER BUTKOVITZ:

25 Well, first of all, that order has no

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2 jurisdiction over the City Controller,
3 the District Attorney, et cetera. So --

4 COUNCILMAN GREEN: It
5 specifically does say the language that
6 you're objecting to, though.

7 CITY CONTROLLER BUTKOVITZ:
8 They have not tried to impose that
9 requirement in our office before.

10 COUNCILMAN GREEN: Are you
11 not -- are you at all concerned that if
12 your employees are aware of some
13 investigation you're doing and they
14 haven't turned it over to the Inspector
15 General that they are subject to
16 termination pursuant to the terms of the
17 Executive Order today?

18 CITY CONTROLLER BUTKOVITZ: No,
19 no. That's the very point. The
20 Executive Order only applies to employees
21 who are subordinate to the Mayor.

22 COUNCILMAN GREEN: Well, it
23 purports to apply to everybody, including
24 your office.

25 CITY CONTROLLER BUTKOVITZ:

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2 Well, we still have a democracy in
3 Philadelphia.

4 COUNCILMAN GREEN: Right.

5 CITY CONTROLLER BUTKOVITZ: And
6 the Mayor does not have the power to
7 promulgate regulations without
8 legislative authority --

9 COUNCILMAN GREEN: No, I just
10 thought you might enjoy the opportunity
11 to put that on the record.

12 I'm curious about something in
13 your testimony. It said it would
14 dangerously disrupt long-established
15 investigatory procedures and territorial
16 ground rules in the DA's Office, the
17 Police Department, and the City
18 Controller's Office. And by implication,
19 I guess, there are ground rules in the
20 Inspector General's office.

21 Is there any sort of written
22 agreement of where people's jurisdiction
23 begins and ends?

24 CITY CONTROLLER BUTKOVITZ: No.
25 I think that the law and practice is

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2 clearly delineated.

3 For example, we have the
4 authority to pursue anything that is
5 incident to the auditing of the City's
6 financial statements. And if that, for
7 example, will lead to evidence of fraud,
8 we have the option, and usually we will
9 either refer it -- first of all, we'll
10 make a finding as to whether we think
11 there is substance to the potential
12 finding.

13 And then it will yield a
14 referral either to the District Attorney
15 or sometimes a joint action with our
16 office and the United States Attorney's
17 Office.

18 Now, under this legislation,
19 this would appear to create a detour or
20 some kind of initial reporting
21 requirement. I can tell you, I mean, we
22 are on the verge of some major
23 revelations in the near future. And
24 investigative practice involves keeping
25 these things very close to your vest and

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2 not maximally dispensing them to many
3 eyes and many other agencies because
4 things get leaked, people are warned.

5 COUNCILMAN GREEN: Sure. No,
6 I -- and your testimony makes that very
7 clear and, I think, raises excellent
8 points in that regard.

9 I just wondered if there are a
10 clear set of guidelines that people
11 operate under other than having to look
12 at and interpret the Charter yourself
13 and, you know, make your own decision
14 about what the Executive Order actually
15 authorizes compared to what it purports
16 to authorize, et cetera, and whether or
17 not you think it would be a useful
18 exercise to sort of put those sort of
19 jurisdictional things, you know, in --

20 (Indiscernible; parties talking
21 over each other.)

22 CITY CONTROLLER BUTKOVITZ: I
23 think it functions very -- I mean, look,
24 take the District Attorney, for example;
25 they have hundreds of years of common law

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2 experience and expertise in determining
3 what will result in a successful
4 prosecution, what the rules of the game
5 are within their forum.

6 Why should they confront a
7 situation where there is a piece of
8 legislation that is written as if the
9 universe is being created from scratch,
10 and there is an office of 19 or 20 people
11 that now has authority functionally over
12 hundreds of assistant district attorneys,
13 dozens of auditors, and thousands of
14 police officers, without even the
15 capacity to understand the detailed rules
16 of the game under which these various
17 agencies are functioning today and have
18 functioned for dozens or hundreds of
19 years.

20 COUNCILMAN GREEN: Thank you
21 very much.

22 COUNCILMAN GREENLEE: Thank
23 you.

24 Any other questions for the
25 City Controller?

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2 (No further questions or
3 comments.)

4 COUNCILMAN GREENLEE: Seeing
5 none, thank you, sir, for coming.

6 CITY CONTROLLER BUTKOVITZ:
7 Okay, thank you.

8 COUNCILMAN GREENLEE: Our next
9 witnesses are from the Office of the
10 District Attorney: Seth Williams,
11 Mr. Greg Rowe, and Mr. Curtis Douglas.

12 (Witnesses come forward.)

13 COUNCILMAN GREENLEE: Good
14 afternoon, gentlemen. Please identify
15 yourselves for the record and proceed
16 with your testimony.

17 MR. ROWE: Thank you. Good
18 afternoon. My name is Greg Rowe, Chief
19 of Legislation and Policy Unit in the
20 Philadelphia District Attorney's Office.

21 MR. DOUGLAS: Good afternoon.
22 My name is Curtis Douglas. I'm the
23 Deputy of Investigations for the District
24 Attorney's Office of Philadelphia.

25 COUNCILMAN GREENLEE: Thank

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2 you.

3 MR. ROWE: Thank you.

4 And although the District
5 Attorney could not be here this
6 afternoon, he does have written testimony
7 that I have submitted, and I will present
8 the highlights of that testimony.

9 COUNCILMAN GREENLEE: Thank
10 you.

11 MR. ROWE: And I will not read
12 the entire portion --

13 COUNCILMAN GREENLEE: Thank
14 you.

15 MR. ROWE: -- of his testimony.

16 COUNCILMAN GREENLEE: I'm glad
17 somebody listened. No, I'm only kidding.

18 MR. ROWE: At the outset, we
19 certainly want to echo the praise for the
20 Inspector General. The work of the
21 Inspector General thus far has been
22 admirable, and she is doing outstanding
23 work.

24 And that is why, when we look
25 at some of the provision of the bill, we

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2 have to wonder whether these provisions
3 will further public safety in
4 Philadelphia.

5 Although we oppose the
6 resolution as written, we stand ready and
7 able to work with City Council, with the
8 Inspector General, and with the Mayor's
9 Office to attempt to fashion a bill that
10 better protects public safety, makes
11 better use of taxpayer dollars, and
12 certainly incorporates the notion of
13 making the Inspector General a more
14 independent body, which is a very
15 worthwhile and important goal that we
16 share.

17 Unfortunately, as written, we
18 believe that the resolution greatly
19 expands and, in fact, changes the role of
20 the Inspector General from an agency that
21 identifies and investigates fraud, waste,
22 and abuse and refers criminal matters to
23 the DA or the AG or the US Attorney to an
24 agency that actually conducts criminal
25 investigations that are currently led by

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2 the DA or the US Attorney or Attorney
3 General.

4 This is bad for taxpayers.

5 This is bad for taxpayers because it will
6 lead to overlapping duplicative
7 investigations. At a time when budgets
8 are tight and the economy is not good, we
9 should be looking to enhance efficiencies
10 and to reduce waste, not to put into
11 place a system that may actually yield
12 more inefficiencies and duplicative
13 investigations.

14 The resolution is bad for
15 public safety because it may actually
16 impede and disrupt investigations and
17 prosecutions by law enforcement, and
18 that's a very real concern that we have
19 based on the language that's before us as
20 we read it.

21 It sanctions a non-criminal
22 justice agency, the Inspector General, to
23 actually conduct criminal investigations
24 that the DA and the US Attorney typically
25 handle. Prosecutors and police should be

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2 investigating the alleged criminal
3 activity.

4 Unlike the Inspector General,
5 prosecutors and other law enforcement
6 have the tools and resources to conduct
7 criminal investigations such as through
8 access to law enforcement records and
9 intelligence information, the ability to
10 use wiretaps, the power to seek search
11 warrants, or immunity.

12 Moreover, if the Inspector
13 General takes longer to conduct its
14 enhanced investigations under this
15 resolution before referring matters to
16 prosecutors, applicable statutes of
17 limitations that clearly put a time limit
18 on our investigations and prosecutions
19 may run out. It would be disastrous to
20 allow criminals to go free based on any
21 technicalities under these circumstances,
22 and we want to be sure that we avoid
23 these circumstances.

24 Another concern is that as one
25 expands the role of the Inspector

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2 General, that may actually diminish the
3 capacity for the Inspector General with
4 its current resources available to do
5 what it does now, which it does very
6 well. So we want to put out there that
7 first do no harm; and by expanding the
8 universe, there could be harm to the job
9 that's currently done.

10 We also have to be careful
11 about the dissemination of protected
12 confidential intelligence information in
13 the hands of law enforcement and, there's
14 a reason why specifically delineated law
15 enforcement agencies are the only ones
16 that are allowed to have access under
17 state and federal law, in particular with
18 confidential information.

19 While I won't get into a
20 recitation of the state law, 'cause that
21 would be incredibly boring, it is worthy
22 of noting that, again, law agencies are
23 the ones that are supposed to have -- are
24 the only ones that are supposed to have
25 access to this investigative information,

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2 and they're not supposed to share that
3 information with non-law enforcement
4 agencies. It's very dangerous if that
5 information gets out, and it's important
6 to keep that information within the
7 smallest universe possible so as to avoid
8 the risk of targets learning --
9 unintentionally allowing targets to learn
10 about investigations.

11 We also wanted to echo the
12 concerns raised by Mr. Butkovitz about
13 the mandatory reporter provisions in the
14 bill. If an employee fails to report
15 suspected misconduct supported by
16 probable cause or reports to the IG
17 suspected misconduct and there is no
18 probable cause, then, under this
19 language, that person may be fired for
20 cause.

21 The concerns that arise there
22 are that some City employees would
23 effectively be required to report gossip.
24 How would a City employee know what
25 specific issue or area falls within the

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2 IG's purview. How would a City employee
3 know what constitutes probable cause,
4 which, of course, is an issue which
5 individual members of our state and
6 supreme and superior and US Supreme Court
7 can't agree on.

8 Who determines probable cause?

9 And if a good City employee who reports
10 criminal activity within the enhanced
11 scope of the Inspector General to the DA
12 and to the Police and the US Attorney and
13 to the FBI but doesn't report it to the
14 IG, he or she could be fired for cause
15 under plain-language reading of this
16 resolution.

17 So it may be an unintended
18 consequence, but I just want to point out
19 some of the drafting issues that we'll
20 need to look at as we go further.

21 Moreover, as it's written, as
22 our investigators, as Mr. Douglas and his
23 staff go through and are doing their
24 investigations, if they feel that that
25 uncovers criminal activity that's covered

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2 within the scope of the Inspector

3 General, if it arises to the level of

4 criminal activity, he would actually have

5 to then report that to the Inspector

6 General, which, again, seems perhaps

7 unintended but certainly duplicative and

8 not a good use of resources.

9 Finally, I think the effect on

10 the Inspector General, with the enhanced

11 duties, would certainly be a need for

12 increased staffing to handle the influx

13 of phone calls and inquiries based on

14 what's put forth in terms of the duties

15 and responsibilities of all City

16 employees.

17 So I'll end it there, but we

18 are here to answer any of your questions

19 and to work with you going forward on

20 this.

21 COUNCILMAN GREENLEE: Thank

22 you.

23 Mr. Douglas, do you have

24 separate testimony or do you --

25 MR. DOUGLAS: I do not. I just

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2 concur with, uh --

3 COUNCILMAN GREENLEE: Okay,
4 thank you.

5 Councilman Green.

6 COUNCILMAN GREEN: Thank you
7 for your testimony.

8 Did you hear the convers -- you
9 were present in the room when I was
10 asking questions of Controller Butkovitz.
11 Are you aware that the current Executive
12 Order requires the very things that you
13 are suggesting should not be there,
14 mandatory reporting, other things like
15 that?

16 MR. ROWE: We certain are aware
17 of that now, yes.

18 COUNCILMAN GREEN: Are you
19 aware that the Inspector General has
20 police officers assigned to her and that
21 she is using those police officers and
22 actively conducting investigations and
23 threatening people with subpoenas?

24 MR. ROWE: Yes.

25 COUNCILMAN GREEN: And are you

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2 working with them on that or -- because
3 your testimony seems to indicate that you
4 don't feel that that's appropriate; that
5 when it reaches that level, they should
6 refer the matter to the District
7 Attorney.

8 MR. ROWE: Let me let
9 Mr. Douglas answer that, who works with
10 the IG day in and day out.

11 MR. DOUGLAS: All right. At
12 this point, I think that the position of
13 the District Attorney's Office is, once
14 the Inspector General finds that there
15 are any indications of violations of law
16 or criminal violations, those
17 investigations should be turned over to
18 either the Office of the District
19 Attorney, the United States Attorney's
20 Office or the Attorney General's Office.

21 We do not agree that they
22 should actually involve criminal
23 investigations; that is a realm that I
24 think is specifically given to the
25 District Attorney, the Philadelphia

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2 Police Department, as well as the other
3 agencies that I mentioned.

4 We are aware that there are
5 police officers there. Now, whether
6 those police officers are, in fact,
7 conducting criminal investigations or may
8 be assisting in some violations of police
9 work is the question. We're actually not
10 certain as to how they're working.

11 COUNCILMAN GREEN: Well, you
12 know, I'm not going to characterize how
13 the Administration is doing it 'cause,
14 obviously, I don't know, but I would
15 suggest to you that you probably ought to
16 have those conversations because during
17 the budget testimony and other times, you
18 know, we would expect to try to have a
19 clear delineation of responsibilities so,
20 as you suggested, we are not spending
21 resources on duplicative activities.

22 So I thank you for your
23 testimony.

24 MR. ROWE: Thank you.

25 COUNCILMAN GREENLEE: Thank

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 you.

3 Councilman Kenney.

4 COUNCILMAN KENNEY: Thank you
5 very much. Thank you for your testimony.

6 As I understand your concern
7 relative to criminal investigations, it's
8 your position that if this bill were in
9 place, that if you were aware or became
10 aware during your investigations of
11 criminal activity or potential criminal
12 activity amongst City employees, you
13 would be required to turn that
14 information over to the Inspector General
15 --

16 MR. ROWE: Yes.

17 COUNCILMAN KENNEY: -- thus
18 potentially --

19 MR. ROWE: Yes.

20 COUNCILMAN KENNEY: --
21 certainly not in this particular case
22 with this particular inspector general,
23 but potentially compromising an
24 investigation, because in this particular
25 case, I don't have a problem with this

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2 particular inspector general thinking
3 that she would do anything of the sort.

4 But if you would perhaps go
5 back to the future, in past
6 administrations, I don't particularly
7 know whether or not I would have complete
8 confidence that that information would
9 remain pristine.

10 And going forward, not knowing
11 who's going to be elected mayor after
12 Mayor Nutter, I would have really serious
13 concerns about who that next IG might be
14 and what kinds of ramifications there are
15 relative to everything that involves your
16 investigations.

17 MR. ROWE: And that's precisely
18 the point, sir, that when we look at the
19 bill, we have to look at it in the
20 context of going forward, it being the
21 law of the land for years and decades to
22 come. So we have to account for all
23 possibilities based on whoever is mayor
24 and whoever is IG.

25 COUNCILMAN KENNEY: And I

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2 recognize the charge of the DA in
3 Philadelphia does have corruption issues
4 and other issues that they need to
5 investigate, but it's been my experience
6 that because of the workload that you
7 folks have on the day-to-day street crime
8 and all of the things that you need to
9 deal with the constrained resources, that
10 the real effective enforcers of
11 corruption -- or anti-corruption in
12 investigations and laws and prosecutions
13 has been the US Attorney's Office, and
14 they've been very effective at doing
15 that, and they have the unlimited -- not
16 unlimited, but relatively unlimited
17 resources and power and authority in just
18 about every area of city, state, and
19 federal government, and they've been
20 doing it for quite some time, and they do
21 it quite well.

22 MR. DOUGLAS: May I,
23 Councilman?

24 Councilman, actually, you're
25 probably right that the US Attorney's

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 Office has been working for the most part
3 as a forefront.

4 However, I would like to bring
5 to Council's attention that since the
6 present administration has been in
7 office, we've had one trial in which
8 there are 373 guilty counts brought
9 against three people for theft of deeds
10 and the reselling of those deeds.

11 So it's an emphasize of the
12 current administration to actually pursue
13 some of the white-collar fraud and
14 corruption charges against people in the
15 City of Philadelphia. So we will not
16 leave it to the US Attorney's Office.

17 COUNCILMAN KENNEY: And I know
18 that is a different philosophy from the
19 last district attorney, who automatically
20 would refer that information to the US
21 Attorney's Office.

22 And if DA Williams is of a
23 different mindset, then, you know, bravo,
24 and you'll have two competent agencies
25 checking stuff out.

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2 MR. ROWE: And he is.

3 And, again, just to bring this
4 full circle, again, we are
5 extraordinarily pleased with the work of
6 the Inspector General, so this is not any
7 criticism of the Inspector General.

8 COUNCILMAN KENNEY: Yeah, and I
9 think I hopefully made that clear in my
10 comments.

11 MR. ROWE: Yes.

12 COUNCILMAN KENNEY: Thank you.

13 COUNCILMAN GREENLEE: Thank
14 you.

15 I have to add, as someone who's
16 been involved with the whole issue of
17 theft of property, I'm very glad to hear
18 how quickly and strongly you're moving on
19 those 'cause I think that is a problem
20 that's really prevalent in the City and
21 maybe not as -- people are not as aware
22 of it until it happens to them.

23 So I congratulate the new DA on
24 that activity.

25 Thank you.

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2 Any other questions from
3 members of the committee?

4 (No further questions or
5 comments.)

6 COUNCILMAN GREENLEE: Seeing
7 none, gentlemen, thank you both very
8 much.

9 MR. ROWE: Thank you.

10 MR. DOUGLAS: Thank you.

11 COUNCILMAN GREENLEE: Thank you
12 for coming.

13 The next witness I'll call is
14 Mr. Armbrister, Chief of Staff to the
15 Mayor.

16 (Witnesses come forward.)

17 COUNCILMAN GREENLEE: I see the
18 City Inspector General is joining
19 Mr. Armbrister, okay.

20 Good afternoon to you both.
21 Please identify yourself for the record
22 and proceed. And we have your testimony
23 here already, yes. Thank you.

24 MR. ARMBRISTER: Good
25 afternoon. I'm Clarence Armbrister,

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2 Mayor Nutter's Chief of Staff.

3 INSPECTOR GENERAL KURLAND:

4 Good afternoon. Amy Kurland, Inspector
5 General.

6 MR. ARMBRISTER: I know you
7 have my testimony, and it's very, very
8 short, so I'm going to go through it
9 very, very quickly here.

10 On January 24th, at the
11 beginning of Mayor Nutter's term, the
12 Mayor proposed Council Resolution 080039,
13 which called for an amendment to the
14 Philadelphia Home Rule Charter to create
15 an independent and effective Office of
16 Inspector General.

17 Clearly, this administration is
18 in favor of an independent Inspector
19 General's Office, and we really do
20 appreciate Council's efforts to revisit
21 the issue.

22 This committee held a hearing
23 on the bill on February 19, 2009, and the
24 bill still sits before this committee.

25 Resolution No. 100140, the

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 subject of today's hearing, contains most
3 of the same provisions as the 2008
4 proposed Charter change. The proposal
5 before Council today, however, has some
6 important differences from the Mayor's
7 proposal, which I'd like to briefly
8 describe.

9 First, I note that Resolution
10 No. 100140 would exempt City Council and
11 its staff from the IG's jurisdiction. I
12 understand Council has concerns regarding
13 inclusion under IG's jurisdiction because
14 it is a separate branch of government,
15 and the IG is an executive and
16 administrative branch official; we really
17 do appreciate these concerns and do not
18 oppose leaving the investigation of
19 Council-related matters to Council
20 itself.

21 Second, financial independence
22 of the Inspector General is critical to
23 the performance of its functions.
24 Resolution No. 100140 would not provide
25 for a guaranteed budget for the IG. This

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 really is a significant concern for the
3 Administration.

4 Third, Resolution 100140 would
5 require the IG to report to the President
6 of City Council allegations made by any
7 persons of alleged wrongdoing by a member
8 of City Council or its staff. This is
9 also a significant problem for the
10 Administration, as such disclosures could
11 unfairly be seen as a determination that
12 the alleged wrongdoer had, in fact, done
13 something wrong and could compromise an
14 ongoing investigation by a law
15 enforcement agency.

16 Because of our concerns
17 regarding guaranteed funding and the
18 requirement to disclose allegations of
19 wrongdoing, the administration would like
20 to propose amendments to Resolution No.
21 100140, which I would offer to you now.

22 In conclusion, I want to thank
23 you for returning to this subject, which
24 is obviously of importance to the
25 Administration. Thank you for the

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2 opportunity to testify. And, of course,
3 I will answer any questions you may have.

4 Amy Kurland, the current
5 Inspector General, will also offer
6 testimony and is available to answer any
7 questions.

8 COUNCILMAN GREENLEE: Thank
9 you, Mr. Armbrister.

10 Ms. Kurland, did you want to
11 say something too?

12 INSPECTOR GENERAL KURLAND: I
13 do, I do.

14 COUNCILMAN GREENLEE: Okay,
15 please do.

16 INSPECTOR GENERAL KURLAND:
17 Okay. Thank you, Councilman.

18 As the Chief of Staff has
19 testified, this resolution proposes the
20 creation of an independent Office of the
21 Inspector General under terms that are
22 very similar to those in the Mayor's
23 proposal from January of 2008.

24 In 2008, I provided testimony
25 before this committee in support of that

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2 bill; and, clearly, we are in favor of an
3 independent Inspector General's Office,
4 similar to that which exists in other
5 major cities like Chicago, New York,
6 Miami, and New Orleans.

7 I will not go through in detail
8 the provisions of the proposed Charter
9 change because, as the Chief of Staff
10 said, they are virtually identical,
11 except for some major points, to the one
12 that was proposed in 2008.

13 This resolution is modeled
14 after comparable legislation in other
15 large cities. The Association of
16 Inspector Generals, which is a
17 nationally-recognized organization, has
18 established quality standards and
19 principles and recommends that IG offices
20 be independently established by law.
21 Many large cities throughout the country
22 have followed this recommendation, and
23 inspector general offices are active in
24 New York, Chicago, Baltimore, Washington,
25 D.C., Miami, Houston, and New Orleans.

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2 In Chicago, the independent
3 Office of the Inspector General was
4 established in 2005. More recently, in
5 New Orleans, the City Council passed a
6 bill for an operationally-independent
7 Office of the Inspector General.

8 These cities have recognized
9 the need to police themselves; they do
10 not rely on federal and state law
11 enforcement to clean their houses. They
12 have responded by affirmatively
13 demonstrating to their citizens that they
14 are willing, and even eager, to police
15 themselves. As independent offices of
16 the Inspector General, they exercise
17 objectivity, fairness, and integrity;
18 thus earning the public's trust.

19 Resolution 100140, the subject
20 of today's hearings, contains many of the
21 same provisions as the 2008 proposed
22 Charter change, as outlined by the Chief
23 of Staff. However, two proposals have
24 significant differences that would
25 threaten the independence of the

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2 Inspector General. And if I may briefly
3 describe those differences.

4 First, Resolution No. 100140
5 would exempt City Council and its staff
6 from the Inspector General's
7 jurisdiction. I understand Council has
8 concerns regarding the inclusion under IG
9 jurisdiction because it is a separate
10 branch of government; but just as Council
11 is concerned about its independent,
12 financial independence of the Inspector
13 General is critical to the performance of
14 its function.

15 This resolution would not
16 provide for a guaranteed budget, and this
17 is a significant concern for several
18 reasons.

19 Other cities with IG offices do
20 have guaranteed budgets. Washington,
21 D.C. has a guaranteed budget, which
22 cannot be reduced. New York City has a
23 guaranteed budget of \$18 million. New
24 Orleans has an independent budget of \$3.1
25 million. Miami, Dade IG's budget is set

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2 at 1/4 of 1 percent of all operating
3 departments. And similarly, in Chicago,
4 recent legislation was proposed to
5 establish the IG's budget at 1/10 of
6 1 percent of all operating departments.

7 Without a guaranteed budget,
8 there can be no independence. If someone
9 is unhappy with investigations pursued by
10 the Inspector General, the threat to
11 reduce or zero-out the IG's budget is
12 always present. The threat of a reduced
13 or eliminated budget, of course, hampers
14 independence.

15 The Philadelphia Inspector
16 General's Office is more than
17 self-supporting. Our current budget is
18 1.3 million. However in 2009, the IG
19 financial accomplishments totaled over
20 \$4.1 million. In the first three months
21 of this year alone, the IG has recovered
22 well over \$3.14 million, more than triple
23 its budget.

24 Resolution 100140 would also
25 require the IG to report to the President

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2 of City Council allegations made by any
3 person of alleged wrongdoing by Council
4 and its staff. This is also a
5 significant problem for two reasons.

6 The first reason is that
7 allegations of wrongdoing that we receive
8 may simply be nothing more than
9 allegations. The IG takes this point
10 very seriously, and its practice is to
11 neither confirm nor deny whether an
12 investigation exists, except when we
13 determine that there's sufficient
14 evidence to warrant a referral to law
15 enforcement agency. This practice
16 protects individuals about whom
17 allegations are made should the
18 allegations be unfounded.

19 If the IG is required to
20 disclose allegations before a complete
21 investigation is conducted, individuals
22 may be unfairly tainted by baseless
23 allegations. This is the same rationale
24 for grand jury secrecy.

25 The second concern is that if

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2 the IG is required to disclose
3 allegations of wrongdoing, this could
4 compromise an ongoing investigation by a
5 law enforcement agency.

6 Because of our concerns
7 regarding guaranteed funding and the
8 requirement to disclose allegations of
9 wrongdoing, the Chief of Staff has
10 proposed amendments to the resolution.

11 The amendments would guarantee adequate
12 funding to the Office of the Inspector
13 General and eliminate the requirement
14 that the IG report to Council President
15 complaints that the IG receives related
16 to Councilmembers and its staff.

17 In addition, the resolution
18 leaves reserved the start date of the
19 first term of the IG under this proposal.
20 The proposed amendment would make that
21 date July 1st.

22 In conclusion, I would like to
23 thank Council for returning to this
24 subject, which is obviously of great
25 importance to me and to the

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2 Administration.

3 Thank you for the opportunity
4 to testify. And, of course, I will
5 answer any questions you have.

6 COUNCILMAN GREENLEE: Thank
7 you.

8 Just one for me, and it's a
9 broad question, and I guess it could be a
10 long answer, but I ask you to be as brief
11 as possible.

12 You've heard the testimony of
13 both the Controller and the District
14 Attorney's Office, which, quite frankly,
15 to me, was convincing.

16 Could just -- again, could you
17 briefly sort of respond to that,
18 particularly the whole duplicative
19 concerns that both -- was raised by both
20 offices.

21 INSPECTOR GENERAL KURLAND:
22 Okay. If I could first address the
23 Controller's Office and the relation with
24 the Inspector General.

25 The Controller's Office, as

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2 you're aware, does broad-based
3 performance audits of every department
4 every year. The type of audit that the
5 Inspector General office does is not
6 really an audit; it's a financial
7 investigation.

8 If we discover that somebody
9 has been stealing money from a certain
10 department, what we will do is go in,
11 examine the books and records of the
12 department, and try to determine how that
13 person was able to steal the money.

14 Then we would refer to the City
15 Controller's Office the recommendation
16 that they do a complete audit to try and
17 determine, you know, what is in place in
18 that department and try to present that
19 kind of thing from happening again.

20 But when the Controller's
21 Office does a broad performance audit,
22 they're not looking at an individual
23 person and trying to determine whether
24 that individual person committed a
25 particular fraud. So that, I think, is

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2 the distinction with the Controller's
3 Office.

4 As far as the District
5 Attorney's Office goes, frankly, I am a
6 little bit confused because we have been
7 working hand-in-hand with the District
8 Attorney's Office and have had many
9 successful investigations in the last two
10 years.

11 We do have police detectives
12 that are detailed to the Inspector
13 General's Office, and those police
14 detectives serve as the investigators for
15 the District Attorney's Office.

16 We had the case of Mona
17 Lambertson, who stole cell phones and
18 distributed them to her friends and
19 family. That investigation was conducted
20 with police detectives and investigators
21 and then prosecuted by the District
22 Attorney's Office.

23 Similarly, the LIHEAP
24 investigation was conducted with police
25 officers, Inspector General detectives,

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2 and then prosecuted by the District
3 Attorney's Office. So we do work
4 hand-in-hand with the District Attorney's
5 Office.

6 I know that there was some
7 testimony about a concern with sharing
8 information with non-law enforcement
9 agencies. But, Councilman, there is --
10 there are requirements of grand jury
11 secrecy that the Inspector General's
12 Office is required to abide by.

13 I personally was sworn in to
14 the local grand jury during the course of
15 the LIHEAP investigation; and so, we do
16 work very, very closely. And I think the
17 fact that we get involved early on in an
18 investigation makes that investigation a
19 better criminal case.

20 When matters come into the
21 Inspector General's Office as
22 allegations, they don't walk in the door
23 as criminal cases. We need to do a
24 preliminary investigation, make sure the
25 allegations are not baseless, and then

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2 determine whether they are, in fact,
3 administrative-type problems or criminal
4 cases.

5 And when they're criminal
6 cases, we go directly to either the
7 District Attorney's Office or the US
8 Attorney's Office.

9 COUNCILMAN GREENLEE: Okay. I
10 appreciate that answer. And not to get
11 into a back-and-forth, but I think the
12 District Attorney's representatives did
13 say that they didn't have a concern
14 basically with you individually. I think
15 it was sort of the codifying of this and
16 the problems that could come up. And I
17 think Councilman Kenney referenced that
18 too. So I think that's the more broad
19 concern, but I appreciate that.

20 I will note for the record that
21 Councilman Jones is here, but before I
22 recognize him, Councilman Green and then
23 Councilman Goode.

24 COUNCILMAN GREEN: Thank you.

25 When both the Controller

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2 testified and the representatives of the
3 District Attorney, they mentioned
4 provisions of the bill which are also
5 provisions in the Executive Order.

6 And I'd just like to know --
7 you were here for the conversation so I
8 won't repeat it -- whether or not you
9 believe that currently police officers,
10 if they're aware of any wrongdoing, are
11 required to report it to the Inspector
12 General if someone from, say, the City
13 Controller's Office is working on
14 something, whether or not they're
15 required to report to the Inspector
16 General, et cetera.

17 And I read you section 6A of
18 the Executive Order: All employees,
19 officials of the City shall report
20 promptly and directly to the OIG any
21 knowledge, information, or allegation
22 brought to their attention that any
23 employee or former employee may have
24 committed a criminal act or violated any
25 provisions of the standard of conduct of

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2 rules, et cetera, et cetera.

3 INSPECTOR GENERAL KURLAND:

4 That's correct, Councilman. And the
5 Executive Order does not include elected
6 officials, because under the Executive
7 Order, we are an executive branch agency.
8 The proposed language of the Charter
9 change, because the jurisdiction is
10 expanded, I believe that language is
11 expanded.

12 As a practical matter --

13 COUNCILMAN GREEN: But my
14 question is: Does the language in the
15 Executive Order, in your opinion, apply
16 to the Police Department today?

17 INSPECTOR GENERAL KURLAND: To
18 the Police Department? I think it could
19 be read that way, but it certainly
20 doesn't apply in practical terms.

21 COUNCILMAN GREEN: Okay. What
22 about employees of the City Controller's
23 Office?

24 INSPECTOR GENERAL KURLAND: No,
25 because I don't believe they're a part of

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 the executive branch.

3 COUNCILMAN GREEN: Okay. So
4 the Executive Order was not intended to
5 expand the authority to any -- any of
6 your authority to any of the row offices
7 or to the City Controller's Office or to
8 the DA's Office.

9 INSPECTOR GENERAL KURLAND:
10 That's correct.

11 COUNCILMAN GREEN: Okay. Thank
12 you.

13 COUNCILMAN KENNEY: Could I
14 just get a point of clarification? I'm
15 sorry.

16 COUNCILMAN GREENLEE:
17 Councilman Kenney.

18 COUNCILMAN KENNEY: I just want
19 to make sure I'm following the discussion
20 properly.

21 What Councilman Green's
22 assertion is of the Executive Order, and
23 you're somewhat in agreement with that,
24 that it did not include those folks that
25 we were just talking about. And then the

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2 Council legislation, as I understand it,
3 does include them. And your amendments,
4 proposed amendments, are taking it back
5 out to make it more reflective --

6 MR. ARMBRISTER: No.

7 COUNCILMAN KENNEY: -- of the
8 Executive Order? No?

9 MR. ARMBRISTER: No. The
10 amendments are actually in two other
11 areas, Councilman. They don't affect it.
12 The amendments, which I think now are
13 copies up there --

14 COUNCILMAN KENNEY: Yeah, I
15 just got a chance to --

16 MR. ARMBRISTER: They relate to
17 the funding issue --

18 COUNCILMAN KENNEY: Okay.

19 MR. ARMBRISTER: -- that we
20 raised (indiscernible) as well as the
21 discretion of whether or not the Council
22 President is required to report -- people
23 are required to report activity to the
24 Council President.

25 COUNCILMAN KENNEY: Is there

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2 agreement and positions that the
3 Executive Order in the current
4 legislation in the areas just discussed
5 with Councilman Green, you folks agree
6 that that's the case, relative to the
7 criminal investigations, the City
8 Controller's Office employees'
9 responsibilities, the Police Department's
10 responsibilities in reporting to the IG?

11 MR. ARMBRISTER: Let me just
12 try to -- 'cause this is a little
13 confusing.

14 I think what Councilman Green
15 was trying to point out is that the
16 Executive Order has a certain limitation
17 that has been expanded, I think, in the
18 legislation.

19 COUNCILMAN KENNEY: Okay.

20 MR. ARMBRISTER: So as of right
21 now, the two are not congruent in their
22 reading.

23 You have the Executive Order,
24 which is an interpretation of the IG is
25 limited to the executive branch, but it

1 3.15.10 LAW & GOV'T, BILL 100123, RES. 100140

2 is clear on plain reading of the statute
3 that it would expand the jurisdiction.

4 COUNCILMAN KENNEY: So the
5 proposed Council legislation expanded
6 those two additional offices but not to
7 Council?

8 INSPECTOR GENERAL KURLAND:
9 That's correct.

10 MR. ARMBRISTER: That's
11 correct.

12 COUNCILMAN KENNEY: Fine.
13 Thank you.

14 COUNCILMAN GREENLEE: Thank
15 you.

16 Councilman Goode.

17 COUNCILMAN GOODE: Thank you,
18 Mr. Chairman.

19 Mr. Armbrister, in the case of
20 criminal investigations, the end-user is
21 the District Attorney's Office or the
22 Attorney General's Office. For
23 non-criminal investigations, who or what
24 is the end-user?

25 MR. ARMBRISTER: The end-user

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2 of an IG's report?

3 COUNCILMAN GOODE: An
4 investigation, report.

5 MR. ARMBRISTER: Oftentimes --
6 and I'll let the IG respond as well. But
7 oftentimes what happens is, the IG will
8 issue a report to the department, the
9 head of the department, and then it runs
10 up the chain certainly in our area.

11 And so, if it was something
12 that happened in the Water Department,
13 for example, the Water Commissioner, the
14 Deputy Mayor, the Managing Director, the
15 Mayor, and I would get a copy.

16 COUNCILMAN GOODE: So for
17 non-criminal investigations, it's
18 considered to be a management tool.
19 Would you characterize it as something
20 more than a management tool?

21 MR. ARMBRISTER: Well,
22 sometimes it becomes more than a
23 management tool, depending on the
24 activity that the person who's under
25 investigation has undertaken. You know,

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2 we've had situations where sometimes
3 those things turn into criminal
4 situations, unfortunately.

5 COUNCILMAN GOODE: I'm saying
6 for non-criminal.

7 MR. ARMBRISTER: Oh, okay. I
8 said sometimes they do. But yes, it is
9 often a good management tool, yes.

10 COUNCILMAN GOODE: Ms. Kurland?

11 INSPECTOR GENERAL KURLAND: I
12 would agree, sir. The significant
13 administrative investigations that we
14 conduct usually recommends us making a
15 recommendation for termination.

16 Once the person is terminated,
17 if our recommendation is accepted,
18 oftentimes they appeal and go before the
19 Civil Service Commission, and then we
20 testify before the Civil Service
21 Commission, explaining the investigation.

22 COUNCILMAN GOODE: Thank you.

23 Thank you, Mr. Chairman.

24 COUNCILMAN GREENLEE: Thank
25 you.

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2 Councilman Kelly.

3 COUNCILMAN KELLY: Yes. Thank
4 you, Mr. Chairman.

5 I would just like to ask
6 Mr. Armbrister and, of course, the
7 Inspector General: You would have no
8 problem in seeing that the offices of
9 City Council and its staff members are
10 exempted from reporting to the Inspector
11 General?

12 MR. ARMBRISTER: That's our
13 testimony, yes.

14 COUNCILMAN KELLY: I just
15 wanted to put that on the record that
16 both of you agree that they should be
17 exempt.

18 MR. ARMBRISTER: Well, just to
19 be clear, I think it's important to note
20 that that was in my testimony, and that
21 is the position of the Administration.
22 An independent inspector general might
23 have a dinner opinion.

24 COUNCILMAN KELLY: Okay. And
25 do you --

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2 INSPECTOR GENERAL KURLAND: We
3 would abide by whatever is the Charter
4 change. If the Charter change exempts
5 City Council employees, we certainly
6 would not have any --

7 COUNCILMAN KELLY: You would
8 have no objection.

9 INSPECTOR GENERAL KURLAND: No.

10 COUNCILMAN KELLY: Thank you.

11 Thank you, Mr. Chairman.

12 COUNCILMAN GREENLEE: Thank
13 you.

14 Councilman Jones.

15 COUNCILMAN JONES: Thank you,
16 Mr. Chairman.

17 And for the record, I go to all
18 committee hearings where my schedule
19 permits; it's not just germane to you. I
20 sit in on trees and shrubbery and make
21 comments just like this, so --

22 COUNCILMAN GREENLEE: We can
23 verify that.

24 (Laughter.)

25 COUNCILMAN JONES: 'Cause I

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2 keep interested in these things.

3 But I do have a couple of
4 questions.

5 COUNCILMAN KENNEY: And A lot
6 of trees have died as a result of you.

7 (Laughter.)

8 COUNCILMAN JONES: I thought we
9 got paid by the word so I wanted to make
10 sure my per diem was right.

11 So in all seriousness, can you
12 explain to me the differences and
13 intersections of responsibilities between
14 you, the DA, the District Attorney's
15 Office, the Inspector General's Office,
16 the Ethics Board.

17 I'm just -- after a while, I
18 get a little confused about all of the
19 agencies that are watching us and keeping
20 us straight. Even though that is an
21 important issue, I'm just curious as to,
22 in these budgetary times, you know, is
23 there a duplication at all?

24 INSPECTOR GENERAL KURLAND:
25 I'll be happy to answer the question very

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2 briefly. And the Administration has
3 prepared an agency overview that really
4 outlines in a lot more detail what the
5 different focuses of each of those
6 organizations and gives examples, but I
7 can hand that up.

8 But basically, Councilman, the
9 District Attorney's Office prosecutes
10 only criminal cases; they do not deal
11 with serious administrative matters.

12 COUNCILMAN JONES: Mm-hmm.

13 INSPECTOR GENERAL KURLAND: The
14 Ethics Board only deals with ethics
15 violations, so they don't cover serious
16 administrative violations or criminal
17 matters.

18 The Controller's Office focuses
19 on auditing and improving efficiency in
20 the government. Again, they don't deal
21 with serious administrative matters.

22 I believe the Inspector
23 General's Office is the only one of those
24 agencies that investigates wrongdoing
25 among City employees when that wrongdoing

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2 does not amount to a criminal violation.

3 COUNCILMAN JONES: So there is
4 no duplication whatsoever?

5 INSPECTOR GENERAL KURLAND: Oh,
6 no. There certainly is overlap. There's
7 always overlap among many different
8 agencies, just in the same sense that the
9 FBI, the Bureau of Alcohol, Tobacco and
10 Firearms, the DEA, all have some overlap.

11 So there is some overlap, but I
12 believe that we have relationships
13 between its Controller, the DA, and the
14 Board of Ethics, and the Chief Integrity
15 Officer where we would work together to
16 minimize that overlap because we all, you
17 know, definitely are in communication
18 with each other.

19 MR. ARMBRISTER: And if I might
20 just offer, Councilman, the existence of
21 overlaps hopefully, there shouldn't be
22 any gaps either.

23 COUNCILMAN JONES: Well, I
24 guess my question is: Isn't there a way
25 that we could have one-stop-shop ethics

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2 governing over us all and not have so
3 many confusing rules and regulations?

4 I mean, I've got to believe
5 that there is probably some
6 administrative duplication and costs that
7 we all are probably paying for, and I'm
8 wondering if nothing more than in space
9 allocation on these things could be
10 synthesized and put together. It's just
11 a question, and in tight budget times, I
12 mean, it would seem to me that we would
13 have an eye towards that.

14 I understand the need to be
15 independent of any kind of political
16 and/or budgetary pressures so that you
17 can clearly do your job, but I'm
18 wondering if, in fact, there isn't some
19 of that going on and if we could be more
20 efficient in keeping us on the straight
21 and narrow.

22 The second question I would ask
23 is -- and we had similar questioning, and
24 I believe on relationships to the media
25 and leaking of information, one of the

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2 things was that the reason why there was
3 so much communications with the press
4 wasn't sensationalism, but it was in the
5 name of transparency. And I'm wondering,
6 is that similar for you that you guys --
7 because sometimes, you know, the line
8 gets blurry for me. So...

9 INSPECTOR GENERAL KURLAND: The
10 Inspector General's Office does not
11 release reports in the interest of the
12 confidentiality. Once we make a
13 recommendation to a department, say, that
14 someone is terminated and the department
15 acts on that recommendation, if the
16 employee then begins litigation either
17 before the Civil Service Commission or
18 arbitration, then the matter would become
19 public.

20 But we do not release the
21 reports.

22 COUNCILMAN JONES: And similar
23 to your chart where you codified a lot of
24 responsibilities, is there a process
25 chart that -- of what the steps are by

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2 way of what the graduating steps are
3 towards the ultimate, which might even be
4 a criminal pursuit of charges and also
5 rights of people that are accused of
6 crimes, similar to what the burdens are
7 on the District Attorney when they bring
8 charges of rights and responsibilities of
9 the defendant.

10 Is there a clear kind of guide
11 that a individual has in redress and
12 recourse provided them?

13 INSPECTOR GENERAL KURLAND:

14 Well, under the Executive Order, under
15 which we operate right now, individuals
16 are required to cooperate with the
17 Inspector General's Office. That goes
18 hand-in-hand with whistleblower
19 protection. If they cooperate, they will
20 not be retaliated against for
21 cooperating.

22 It also goes hand-in-hand with
23 the prohibition against bringing
24 frivolous charges or making an allegation
25 that is simply not true.

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2 So that's --

3 COUNCILMAN JONES: I just -- I
4 don't hear my question being --

5 (Indiscernible; parties talking
6 over each other.)

7 INSPECTOR GENERAL KURLAND:

8 Okay, I'm sorry. I may have
9 misunderstood.

10 COUNCILMAN JONES: Clearly in
11 this process, there is a -- there should
12 be a chart of graduated investigatory
13 processes that may even lead up to
14 criminal charges.

15 INSPECTOR GENERAL KURLAND:

16 Okay.

17 COUNCILMAN JONES: And
18 corresponding, is there a chart of rights
19 to a person who is being accused, who
20 lives under that cloud of suspicion, and
21 what their redress and recourses are?

22 INSPECTOR GENERAL KURLAND: As
23 far as the graduated investigation, I
24 believe that any allegations that come to
25 the Inspector General's Office we make

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2 several determinations.

3 First, if it's an anonymous
4 tip, we look for some kind of
5 corroboration before we proceed on that.
6 If we do proceed, we have to determine
7 whether it's an administrative matter or
8 whether it should go to the District
9 Attorney or the US Attorney as a criminal
10 matter.

11 So those are the steps that we
12 would take.

13 MR. ARMBRISTER: Councilman, I
14 think outlining what those steps would
15 be, I think your question is whether or
16 not something like that exists for the
17 person who might be under investigation
18 that they could look at. And I take it,
19 your answer is, it probably doesn't
20 exist, but we could -- it's certainly
21 something that could be created.

22 INSPECTOR GENERAL KURLAND:
23 Exactly. I mean, clearly, a person has a
24 right to refuse to incriminate themselves
25 under the Fifth Amendment if it's a

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2 criminal case. If it's an administrative
3 case --

4 COUNCILMAN JONES: I think that
5 is one aspect of it, but even if they
6 want to cooperate, even if they are
7 willing to cooperate, what I 0-I guess
8 what I'm reaching for is, what are their
9 rights, appellate rights, what are their
10 abilities -- for example, what vexes me
11 in most law enforcement processes is that
12 you coul get into more trouble not from
13 what you did but what you tried to kind
14 of get clarity on from people.

15 So if you talk to somebody
16 while you're doing that, that is a
17 indication of a possible -- what is that,
18 the term you use, impeding upon a
19 investigation or trying to do that.

20 And so, the person often is,
21 like, defenseless to say, to talk to, to
22 ask what's going on until such time as,
23 quote, the investigation is done.

24 And that kind of is not the
25 rule, I understand, our most of our laws

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2 are based upon. They have certain
3 rights.

4 And in this case, I'm wondering
5 if there is a clear understanding of what
6 those rights are.

7 INSPECTOR GENERAL KURLAND:

8 Well, first of all, that's -- what you
9 stated is the very reason why our
10 investigations are confidential. We
11 don't want somebody to be tainted by some
12 kind of allegations unless those
13 allegations are proven.

14 COUNCILMAN JONES: In the real
15 world, and I happen live in that world,
16 the minute you start, taint begins.

17 And all I'm saying -- and
18 sometimes -- not in my case, but some of
19 'em are justifiable, and I'm not -- I
20 just want to create that scale of justice
21 that says that here's what you are
22 allowed to do: You can go get an
23 attorney, you could go do these things,
24 so that it is clearly spelled out, so
25 that people don't live in a state of flux

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2 while you take your time and process
3 this, as you should, to investigate
4 stuff.

5 So either there are rights or
6 they're not, and they should be known if
7 they are.

8 INSPECTOR GENERAL KURLAND: We
9 can certainly put together something like
10 that, Councilman.

11 COUNCILMAN JONES: Thank you.

12 Thank you, Mr. Chairman.

13 COUNCILMAN GREENLEE: Thank
14 you, Councilman.

15 Anyone else? Any other
16 questions?

17 (No further questions or
18 comments.)

19 COUNCILMAN GREENLEE: Thank you
20 both very much.

21 INSPECTOR GENERAL KURLAND:
22 Thank you.

23 COUNCILMAN GREENLEE: Our next
24 witness is Brian McCormick.

25 (Witness comes forward.)

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2 COUNCILMAN GREENLEE: And

3 Mr. McCormick, while you're coming up, we
4 have your written testimony; I know you
5 kind of combined everything together. If
6 you could just summarize maybe in this
7 portion your feelings on the Inspector
8 General piece, I'd appreciate it.

9 MR. McCORMICK: I will.

10 COUNCILMAN GREENLEE: Thank
11 you.

12 MR. McCORMICK: Thank you very
13 much.

14 Good afternoon. My name is
15 Brian McCormick, and I'm one of the nine
16 members of the Mayor's Task Force on
17 Ethics and Campaign Finance Reform, which
18 submitted its final report and
19 recommendation in December of 2009.

20 Unfortunately, our chairman,
21 Michael Schwartz, could not be here today
22 because of a prior commitment, but I've
23 been asked by the Task Force to testify
24 in his place.

25 The Task Force was formed in

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2 September of 2008 by Executive Order of
3 Mayor Michael Nutter. The Task Force was
4 directed to perform a comprehensive
5 review of Philadelphia's campaign finance
6 and ethic laws, hold public hearings,
7 receive information and recommendations
8 from the public, and ultimately provide a
9 report to Mayor Nutter and Council
10 President Verna setting forth
11 recommendations regarding improvements,
12 changes, and/or amendments to the
13 existing campaign finance and ethic laws
14 of the City. The Task Force produced its
15 final report and recommendations on
16 December 10, 2009.

17 I would like to believe that
18 the Task Force's final report provided
19 some of the guidance and impetus for
20 today's hearing and the ethics of
21 campaign finance initiatives that were
22 introduced in City Council earlier this
23 month.

24 The ballot questions and
25 related ordinances being discussed today

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2 touch on several of our recommendations.

3 As such, I would like to offer the Task
4 Force's thoughts and opinions on those
5 issues.

6 And as I just spoke with you,
7 Councilman Greenlee, I'll speak simply on
8 the Inspector General part now.

9 Finally, I would like to
10 congratulate and thank City Council for
11 moving forward with this ethics and
12 campaign finance reform. While there are
13 some differences between the Task Force
14 recommendations and the ethics package
15 introduced two weeks, including parts of
16 the resolutions and ordinances that are
17 the subject of today's hearing, a number
18 of the issues in the ethics package
19 appear to be very similar to our Task
20 Force recommendations.

21 In any case, we are glad that
22 City Council has raised these issues and
23 is moving forward.

24 The Task Force strongly
25 recommended that the City establish an

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2 independent inspector general to
3 investigate allegations of fraud,
4 corruption, and misconduct; thus, the
5 Task Force applauds City Council for its
6 resolution to create an independent
7 Office of the Inspector General that is
8 provided for in the Home Rule Charter.

9 The Office of the Inspector
10 General has been in existence for more
11 than twenty years but owes its existence
12 to an executive order; thus, the
13 Inspector serves at the General
14 discretion of the Mayor and has no
15 authority to investigate wrongdoing by
16 other elected officials. That should be
17 changed.

18 The Task Force believes that
19 independent oversight by an inspector
20 general with investigative resources is
21 absolutely necessary to show the public
22 that the past and future reform measures
23 are real and not just window-dressing.

24 Similarly, as the Task Force
25 recommended, the Office of the Inspector

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2 General must be authorized to investigate
3 allegations of fraud and misconduct in
4 all branches of City government. This
5 appears to be at odds with Subsection H
6 of the proposed ordinance regarding the
7 Inspector General's powers and duties.

8 As with almost all of its
9 recommendations, the Task Force based its
10 proposal here on the principle that all
11 City employees and officials should be
12 subject to the same rules.

13 Further, the Task Force
14 recommended that the position of the
15 Inspector General be an independent
16 office, similar to the Board of Ethics,
17 and should be set for a term of office
18 unless there's just cause for early
19 removal.

20 The Task Force recommended a
21 five-year term, with a second term being
22 permitted. The proposed ordinance
23 appears to adopt that suggestion.

24 The Task Force also recommended
25 the Inspector General to report his or

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2 her findings to the Ethics Board for
3 consideration of whether penalties should
4 be imposed.

5 The Task Force has reviewed
6 similar positions and ordinances in a
7 number of cities, including New York,
8 Miami, and Chicago, and suggested that
9 the City Council and the Mayor review the
10 scope and legislation creating those
11 offices when considering the position for
12 Philadelphia.

13 The provision in Subsection H
14 of the propped ordinance appears
15 problematic. While the Task Force would
16 agree that the complaints should be
17 referred to any appropriate federal,
18 state, or local law enforcement
19 authorities, the Task Force would also
20 suggest two revisions to the proposed
21 ordinance.

22 First, the Inspector General
23 should not be required to report
24 complaints relating to City Council,
25 whether it be a staff person or a

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2 Councilmember to the Council President.

3 The protection and confidentiality of
4 investigation and the underlying
5 allegation should be paramount.

6 The Inspector General must have
7 the authority to withhold serious
8 allegations which he or she has referred
9 to local, state, or federal prosecutors,
10 from the Mayor and City Council President
11 and all other City officials.

12 Second, the ordinance should be
13 amended to add a provision that
14 complaints can also be referred to the
15 Board of Ethics where applicable.

16 Finally, the Task Force
17 expresses concern that the ordinance does
18 not provide for a guaranteed source of
19 funding for the Office of the Inspector
20 General. For the Office of the Inspector
21 General to work as it should be, it will
22 need to be funded with a guaranteed
23 source of funds and not be forced to
24 justify its staff resources, et cetera,
25 on an annual basis. This funding should

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2 be made a part of the ordinance.

3 The establishment of an
4 independent and funded Office of the
5 Inspector General is an important step in
6 the right direction for the City.

7 With the amendments and
8 modifications that I have suggested and
9 appear in the Task Force report, the Task
10 Force Task Force would urge City Council
11 to adopt a Charter change necessary to
12 establish an independent and properly
13 funded Office of the Inspector General.

14 Thank you for the opportunity
15 to be heard in this matter.

16 COUNCILMAN GREENLEE: Thank
17 you, Mr. McCormick.

18 Councilman Green.

19 COUNCILMAN GREEN: Thank you,
20 Mr. McCormick. I know the Task Force
21 worked hard over a long time to produce
22 the report. Obviously, we have been
23 looking at it for six to eight months and
24 came together with a group of proposals
25 that we thought could move forward on

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2 City Council.

3 I just wanted to ask you two
4 quick questions.

5 MR. McCORMICK: Sure.

6 COUNCILMAN GREEN: The first
7 is: Are you aware that of the 25 major
8 cities in the country, six have inspector
9 general's offices, and only one of those
10 jurisdictions has -- does the Inspector
11 General have authority over the
12 legislative branch of government?

13 MR. McCORMICK: I'm not aware
14 of the exact number of cities that have
15 them. But in the cities that we
16 apparently looked at -- and I must
17 confess this was not my area of
18 expertise. As you know, when the Task
19 Force was set up, we were set up with
20 different subcommittees.

21 But I know that these cities at
22 our size that we felt were comparable to
23 us had the legislation.

24 COUNCILMAN GREEN: Yes. Only
25 one, only one had an inspector general

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2 that had authority or jurisdiction over
3 the legislative branch of government.

4 So I just wanted to make that
5 clear for the record.

6 Thank you very much.

7 COUNCILMAN GREENLEE: Thank
8 you.

9 Councilman Goode?

10 Wait a minute. Councilman
11 Goode has a question. Councilman Goode?

12 COUNCILMAN GOODE: Thank you,
13 Mr. Chairman.

14 Mr. McCormick, I'm going to ask
15 you the same question I asked the
16 Administration. For non-criminal
17 investigations, who or what is the
18 end-user of the work done by the
19 Inspector General's Office?

20 MR. McCORMICK: I can't speak,
21 Councilman Goode, to the specifics like
22 you just heard from Inspector General
23 Kurland and Mr. Armbrister; I simply
24 can't give you the definition.

25 We felt like the interaction

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2 that we heard from the people that
3 testified at the different -- that came
4 and spoke to us about this position --

5 COUNCILMAN GOODE: So it's very
6 possible that they'd understand what they
7 wanted in terms of who or what the
8 end-user would be.

9 MR. McCORMICK: Who? Who is
10 not sure?

11 COUNCILMAN GOODE: The people
12 who you said testified. I'm asking you,
13 as a result of the Task Force work --

14 MR. McCORMICK: Right.

15 COUNCILMAN GOODE: -- for
16 non-criminal investigations, who or what
17 is the end-user of the Inspector
18 General's work?

19 MR. McCORMICK: And I don't
20 know what you mean by "end-user."

21 COUNCILMAN GOODE: What's the
22 purpose for the Inspector General's work?
23 Is it a management tool, or is it
24 something other than a management tool?

25 MR. McCORMICK: (No immediate

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2 verbal response.

3 COUNCILMAN GOODE: Okay, thank
4 you.

5 Thank you, Mr. Chairman.

6 COUNCILMAN GREENLEE: Any other
7 questions?

8 Councilman Kenney.

9 COUNCILMAN KENNEY: Yeah, I
10 just want to make sure you understand
11 that all of this discussion relative to
12 confidentiality is critical.

13 And I'll reiterate what I've
14 said to a previous witness: In this
15 particular situation, I don't have a
16 problem with being sure that this group
17 of folks are not going to be leaking
18 stuff to the press. I mean, so for the
19 next two, probably six years from now, as
20 long as this group is in place, I don't
21 really have a problem with the issues
22 relative to City Council.

23 Going forward, however, once
24 this is institutionalized from a Charter
25 change amendment or a Charter change

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2 approval by the voters, I don't know who
3 the next mayor's going to be, and I don't
4 know whether or not the next mayor's
5 going to appoint an Amy Kurland to that
6 post.

7 And if that person that's
8 appointed to that post is more political
9 than not or can be political, I don't
10 have a lot of confidence that information
11 about people, staff, or individuals that
12 are -- allegations that are made may not
13 wind up over there at that table
14 (pointing to press seats). And they
15 don't do anything wrong; they're just
16 going to write what they think is
17 accurate and what is given to them.

18 So in this particular set of
19 circumstances, I'm very confident that
20 anything that they look at will be
21 handled appropriately. I just wonder
22 what's to come in the future, when you
23 have a political more mayor who makes
24 more political appointments potentially,
25 and that this office could potentially

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2 become kind of your political rival.

3 And, again, I'm going to say it
4 good again: It is not now, nor would I
5 expect it to ever be, as long as they're
6 here. But I don't know what the future
7 brings.

8 And once you do that, once it's
9 a part of the Charter, getting it off the
10 Charter is much harder than getting it
11 on. And I don't know where I'm going to
12 be on the final legislation, but it's
13 just -- I don't know -- and how long I'll
14 be in office. But I just know, going
15 forward, the potential, the potential of
16 it being a political tool is really
17 strong, or at least strongly possible.
18 Not now, but going forward.

19 And that's my biggest concern.

20 MR. McCORMICK: Well, I can't
21 address that concern. It's safe to say
22 that --

23 COUNCILMAN KENNEY: It's
24 rhetorical. You don't have to say
25 anything.

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2 Thank you.

3 COUNCILMAN GREENLEE: Thank
4 you. Thank you, Mr. McCormick.

5 Any other questions?

6 (No further questions or
7 comments.)

8 COUNCILMAN GREENLEE: The last
9 witness I have on record is the Committee
10 of Seventy for this bill and resolution.

11 (Witnesses come forward.)

12 MR. STAHLBERG: Good afternoon.
13 I'm Zack Stalberg, President of the
14 Committee of Seventy, which is a
15 nonprofit, nonpartisan group interested
16 in plain and effective government and
17 fair elections.

18 This is Ellen Mattleman Kaplan,
19 who is the Vice President of the
20 Committee of Seventy.

21 In accordance with the
22 Chairman's request, I'll just deal with
23 the part of my testimony that refers to
24 the Inspector General. I hope you'll
25 read the whole thing because, among other

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2 things, it includes some praise of City
3 Council, which I'd hate for you to miss.

4 (Laughter.)

5 MR. STAHLBERG: The Committee
6 of Seventy urges City Council to defer
7 action on the proposed Charter amendment
8 dealing with the Inspector General.

9 To be clear, Seventy supports a
10 charter-sanctioned independent Inspector
11 General with jurisdiction over the entire
12 City government. The pending legislation
13 would preclude the Inspector General from
14 investigating the legislative branch, but
15 wrongdoing can and has happened
16 throughout City government.

17 More importantly, tabling the
18 proposed Charter amendment would give
19 Council an opportunity to help clarify
20 the responsibilities among the various
21 political officials charged with
22 monitoring government integrity.

23 Council has properly questioned
24 the roles and cost of these official
25 watchdogs on several occasions.

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2 Seventy, too, has raised the
3 need to define the division of
4 responsibilities among the Board of
5 Ethics, the Inspector General, the Chief
6 Integrity Officer, the City Controller,
7 and the District Attorney.

8 Given the economic necessity
9 for all entities in City government to
10 function most effectively, it is
11 important to ensure that there is no
12 duplication of efforts or waste of
13 taxpayer dollars.

14 It is also essential that the
15 public, including whistleblowers, know
16 precisely which office to turn to.

17 I would add that if there is
18 deferral of this legislation, I would
19 hope that the language in the current
20 bill that deals with whistleblowers is
21 converted to a separate ordinance that
22 protects the rights of whistleblowers.

23 The pending legislation
24 essentially reflects the powers and
25 duties of the Inspector General as they

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2 currently exist. There is no compelling
3 reason to rush to place the Inspector
4 General question on the May ballot.

5 COUNCILMAN GREENLEE: Any
6 questions?

7 Councilman Goode.

8 COUNCILMAN GOODE:
9 Mr. Stahlberg, the same question: For
10 non-criminal investigations, who or what
11 is the end-year of the Inspector
12 General's work?

13 MR. STAHLBERG: I think the
14 Inspector -- and I though hope this goes
15 to your question, because too, I'm not
16 sure about the "end-user" term, but I
17 believe the --

18 COUNCILMAN GOODE: Who's
19 supposed to do something with it?

20 MR. STAHLBERG: I believe that
21 it's valuable -- it is valuable to the
22 public if the Inspector General is
23 investigating issues and problems that
24 none of the other watchdogs are using or
25 doing.

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2 COUNCILMAN GOODE: That does
3 not answer the question.

4 MR. STAHLBERG: I think it's
5 valuable to the public if these issues
6 are exposed. I think it's definitely a
7 management tool, as you suggest, and it
8 can lead to prosecution.

9 COUNCILMAN GOODE: I said, for
10 non-criminal investigations, who or what
11 is the end-user?

12 MR. STAHLBERG: I'm afraid I
13 can't give you a better answer than any
14 of the previous witnesses.

15 COUNCILMAN GOODE: If there's
16 not an end-year, then what's the purpose?
17 Actually, the Administration gave a very
18 good answer; they said it's a management
19 tool. The Inspector General said that
20 the recommendations usually lead to
21 termination.

22 So beyond it being a management
23 tool, is there some other purpose for it?
24 Is there some other end-user?

25 MR. STAHLBERG: I think the

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2 public awareness of problems within City
3 government means that the public is a
4 valuable end-user, but the notion that
5 the strongest use is a management tool
6 makes sense to me.

7 COUNCILMAN GOODE: Thank you,
8 Mr. Chairman.

9 COUNCILMAN GREENLEE: Thank
10 you.

11 Seeing no further questions --

12 MS. KAPLAN: I'd like to --

13 COUNCILMAN GREENLEE: Yes?

14 MS. KAPLAN: Even though
15 Councilman Kenney didn't ask this
16 question, can I answer the question that
17 you asked the other witnesses?

18 COUNCILMAN KENNEY: You're
19 there. Which one?

20 MS. KAPLAN: Having to do with
21 the future.

22 COUNCILMAN KENNEY: Oh.

23 MS. KAPLAN: I just wanted to
24 say that I think that there are a number
25 of things in the Charter that one could

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2 be concerned would not be a problem at
3 one time in history but may be a problem
4 at another time in history.

5 I think that there might be
6 some who would say that the strong
7 mayoral form of government could be fine,
8 depending on who the Mayor is but may not
9 be fine depending on who a future mayor
10 is.

11 COUNCILMAN KENNEY: And I
12 appreciate your point of view, but I
13 don't think that's an apple and an apple,
14 because what we're talking you about here
15 are folks, whether they're employees or
16 whether they're elected officials, the
17 court of opinion, than if you have an
18 inspector general that is prone to be
19 political that's been appointed by a very
20 political mayor and is prone to pick up
21 the phone and allow people to have
22 information about ongoing investigations
23 or allegations that have yet to be
24 founded, sometimes that information spins
25 out of control so that the genie never

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2 gets back in the bottle, even when
3 there's a finding of no wrongdoing.

4 And what happens is, over the
5 course of -- and, again, this hasn't
6 happened because I don't expect it to
7 happen in this administration. When that
8 information gets out and spun, there's a
9 period where the investigation is
10 ongoing.

11 They can't conclude ill --
12 wrongdoing or not until they get to the
13 end of the process. In the meantime, you
14 could wind up with five or six different
15 stories that already have given the
16 public an opinion about you that you're
17 somehow -- where there's smoke, there
18 must be fire. And I think that's a very
19 dangerous thing in a political world.

20 When it comes to -- I don't
21 think you're going to likely have a leak,
22 so to speak, or, you know, a plumbing
23 inspector or an L&I inspector that
24 happens to be accused of doing something
25 wrong. I don't think -- I think the

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2 public cares about whether it's true or
3 not, but I don't think the public would
4 be as pruriently interested if it were
5 not a public official. And I do think
6 that that's a danger that I worry about.

7 I mean, having a strong mayoral
8 form of government, I mean, you can argue
9 one way or the other, who the
10 administration is, whether you're happy
11 with that or not.

12 But when it comes to your own
13 reputation and your potential
14 continuation in office, even if you've
15 done nothing wrong, I think if the Mayor
16 at that time was that prone to be that
17 political and appoints people politically
18 to positions, I think it could be a
19 disaster.

20 MS. KAPLAN: Well, I might
21 suggest that in the IG proposal that was
22 introduced a couple of year ago, they
23 certainly called for mayoral appointment
24 followed by a Council confirmation.

25 And I don't know if that would

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2 really address the concerns that you had,

3 but there are --

4 COUNCILMAN KENNEY: Look, again

5 --

6 (Indiscernible; parties talking
7 over each other.)

8 MS. KAPLAN: -- there is a
9 possibility for Council to have a role as
10 it does, for example, with the Ethics
11 Board.

12 COUNCILMAN KENNEY: It's
13 difficult to imagine this in this
14 particular situation here, because
15 it's -- I don't think it's going to
16 happen, I know it's not going to happen.

17 But, I mean, I think of past
18 mayors, which I will not name, or future
19 mayors that I do not know about that an
20 anonymous phone call to the IG starts an
21 investigation that could be prone to be
22 leaked to a member of the press that then
23 starts a series of suppositions that wind
24 up in ending a career that, you know, may
25 have not have needed to be ended. That's

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2 all.

3 I mean, again, it is a -- it is
4 prospective, and I don't know if it's
5 ever going to happen, but it's a little
6 frightening.

7 MS. KAPLAN: I appreciate your
8 point.

9 COUNCILMAN GREENLEE: Thank
10 you.

11 Any other questions?

12 (No further questions or
13 comments.)

14 COUNCILMAN GREENLEE: Seeing
15 none, thank you.

16 Is there anyone else here to
17 testify on this bill and resolution on
18 the Inspector General?

19 (No response.)

20 COUNCILMAN GREENLEE: Seeing
21 none, before we go -- because I know
22 there are some people that are here just
23 for this bill, just for the Inspector
24 General issue. Given a lot of the
25 concerns that were raised by a number of

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2 witnesses, I'll officially announce at
3 the meeting that the bill and resolution
4 on the Inspector General will be held to
5 the call of the Chair.

6 Now we're going to take up the
7 other bill and resolution that's dealing
8 with the political activities.

9 Miss O'Connell, will you please
10 read that bill and resolution.

11 THE CLERK: Bill No. 100121, an
12 ordinance providing for the submission to
13 the qualified electors of the City of
14 Philadelphia of a proposed amendment of
15 the Philadelphia Home Rule Charter set
16 forth in the resolution approved by
17 Council relating to restrictions on the
18 political activities of City officers and
19 employees, and authorizing the
20 appropriate officers to publish notice
21 and to make arrangements for the special
22 election.

23 Resolution No. 100139, a
24 resolution proposing an amendment to the
25 Philadelphia Home Rule Charter relating

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2 to the restrictions on the political
3 activities of City officers and
4 employees, and providing for the
5 submission of the amendment to the
6 electors of Philadelphia.

7 COUNCILMAN GREENLEE: Thank
8 you.

9 The first witness will be
10 Professor Seth Kreimer, but I'd just like
11 to make a few very brief introductory
12 remarks in conjunction with Councilwoman
13 Tasco, who is the sponsor of this bill
14 but is in a National League of Cities
15 meeting in Washington.

16 First, based on the input from
17 a number of parties, we plan to amend
18 this bill today in committee to provide
19 that the Charter change question would
20 appear on the November, rather than May,
21 ballot.

22 Secondly, we plan to schedule a
23 hearing on the companion ordinance, which
24 is Bill No. 100128, in the coming months,
25 and well in advance of the voters taking

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2 up the Charter change question, again,
3 which will now be held in November.

4 Third, based on further
5 discussions among Councilmembers as well
6 as feedback from key stakeholders, we
7 plan to amend the companion ordinance,
8 Bill No. 100128, so that it sets up a
9 bifurcated system of political-activity
10 restrictions along the lines of the
11 federal Hatch Act, which makes a
12 distinction between further restricted
13 and less restricted employees, depending
14 upon the type of job function performed.
15 And, again, that will come when that bill
16 is taken up.

17 But, again, this bill we're
18 going to have amended -- we're going to
19 propose an amendment to have it up on the
20 November ballot.

21 Councilman Green, do you have
22 an opening statement?

23 COUNCILMAN GREEN: No.

24 COUNCILMAN GREENLEE: Oh, I'm
25 sorry. Okay.

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2 Professor Kreimer, I appreciate
3 your time coming here. Sorry you had to
4 wait a little bit, but it was a long
5 hearing. I know your background is a
6 constitutional law professor.

7 My understanding is, you're
8 here basically to answer questions we
9 might have. Is that basically accurate?
10 I don't know if you had any opening
11 things you wanted to say.

12 PROFESSOR KREIMER: Yeah. I do
13 have some --

14 COUNCILMAN GREENLEE: I'm
15 sorry. First identify yourself for the
16 record.

17 PROFESSOR KREIMER: Right, I'm
18 sorry. My name is Seth Kreimer. I teach
19 constitutional law at the University of
20 Pennsylvania Law School.

21 Let me give you -- I've been
22 asked to come and speak about the
23 constitutional law background to the
24 issues before Council.

25 COUNCILMAN GREENLEE: Okay.

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2 PROFESSOR KREIMER: And what
3 I'll do, with the permission of the
4 Council, is to make some opening
5 remarks --

6 COUNCILMAN GREENLEE: Sure,
7 good.

8 PROFESSOR KREIMER: And then
9 answer questions.

10 COUNCILMAN GREENLEE: Very
11 good. Thank you.

12 PROFESSOR KREIMER: So the
13 story begins in the early 20th century,
14 at a time when public employment was
15 viewed as a privilege that could be
16 denied on any grounds.

17 The initial limitations on
18 political activity were adopted in that
19 environment, in the situation where it
20 was thought that by making themselves
21 party to an employment contract, the
22 employee had essentially forfeited any
23 First Amendment rights.

24 For the last generation, it has
25 been clear that under current law that

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2 citizens don't forfeit their
3 constitutional rights by accepting public
4 employment. The rights to participate in
5 public discussion, mobilization, and
6 dialogue are cherished rights of American
7 citizenship; they lie at the heart of the
8 First Amendment. And public employees
9 cannot be broadly stripped of that right
10 simply by joining public service.

11 Second, with respect to matters
12 of public concern, the employee's
13 interest is augmented by the public
14 interest in making sure that public
15 employees' voices are heard. Public
16 employees are likely to be particularly
17 knowledgeable about certain areas of
18 public affairs, and the Supreme Court has
19 observed that their participation is
20 necessary for informed, vibrant dialogue
21 in a democratic society.

22 So in the current environment,
23 in evaluating the restrictions on speech
24 by public employees on the First
25 Amendment, the courts balance the needs

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2 of the employer against the intrusion on
3 the interest of the citizens and the
4 public.

5 The government can't prohibit
6 speech on matters of public concern
7 simply because it is uncomfortable or
8 politically inconvenient or might pose
9 some possible difficulty. It has to
10 justify particular levels of constraints
11 by demonstrating an adequate employment-
12 related reason for imposing those
13 constraints.

14 Government employers have to
15 demonstrate a real danger, as the court
16 says, far greater than mere speculation.

17 With that background, let me
18 say a few words about what the Supreme
19 Court has said about limitations on
20 political participation by public
21 employees, and then I'll turn to talk
22 about the current City Charter.

23 The federal Hatch Act, adopted
24 in 1939, was upheld by the Supreme Court
25 in 1947 and again in 1973. What it did

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2 was to prohibit public employees taking
3 an active part in political management or
4 political campaigns. The concerns behind
5 the Hatch Act that justified this
6 imposition were threefold:

7 First of all, a concern with
8 impartial execution of the law that
9 public employees not be in a position to
10 either reward political allies or to
11 punish political opponents.

12 Second, a concern that public
13 employees, at least in the merit civil
14 service, have the opportunity to advance
15 on the basis of merit free from political
16 pressure.

17 And third, a concern that the
18 political public service not be the basis
19 for what the court referred to as the
20 establishment of a powerful, invincible,
21 possibly corrupt political machine.

22 But I think it's worth knowing
23 that in concluding that the Hatch Act was
24 not overbroad, the Supreme Court
25 emphasized the limits on the speech that

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2 was suppressed. The Hatch Act reserved
3 the right to express opinions on all
4 political subjects. Senator Hatch
5 specifically rejected the prior provision
6 that limited the right to privately
7 express opinions, okay?

8 Second, the implementing
9 regulations in the Hatch Act specifically
10 permitted the expression of opinion as an
11 individual privately and publicly about
12 political subject and candidates.

13 Second, it specifically allowed
14 the display of political pictures,
15 buttons, or badges.

16 And, third, it allowed the
17 making of financial contributions.

18 The Supreme Court, in Broderick
19 against Oklahoma and the -- in the letter
20 carriers case, in 1973, suggested that in
21 the absence of these constraints, the
22 statute could well be overbroad.

23 Now, by contrast, the City
24 Charter, as currently written, is
25 substantially broader than the Hatch Act.

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2 First of all, Police and Fire
3 Department officials are prohibited from
4 making contributions. And indeed, as to
5 that, the Eastern District of
6 Pennsylvania has held that that
7 prohibition addressed to firefighters is
8 based on mere speculation and violates
9 the First Amendment.

10 It seems to me quite likely
11 that, if challenged, the same would be
12 true for the police officers.

13 Second, the City Charter, as
14 currently written, prohibits taking any
15 part in the affairs of any political
16 campaign, not just active management.
17 And it makes an exception only as to
18 privately express opinions.

19 This was the language that was
20 rejected by the Hatch Act in 1939, and it
21 was that rejection that partly made the
22 Hatch Act not overbroad in the view of
23 the Supreme Court.

24 Moreover, the implementing
25 regulations of the City Charter, first of

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2 all, prohibit wearing of badges or
3 displaying lawn signs. That, it seems to
4 me, is clearly improper under current
5 law.

6 Second, the implementing
7 regulations prohibit, quote, writing for
8 publication or publishing any letter or
9 article for or against any political
10 party, body, or candidate.

11 It seems to me that that
12 prohibition interferes with the
13 opportunity of the public to obtain the
14 wisdom of any City employee regarding any
15 political campaign or any political body.

16 In an era like the one we live
17 in, what exactly does it mean to publish
18 a letter? Is it sufficient to post it on
19 a blog? to e-mail it to three friends? to
20 post it on Facebook? to put it on
21 Twitter?

22 The potential here for both
23 chilling the expression of public
24 employees and, I should add, for
25 selective enforcement of a statute that

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2 potentially covers a great deal of speech
3 by public employees is a substantial
4 concern.

5 Now, turning to the question of
6 justification for the current system,
7 the -- let's remember that limitations on
8 speech by public employees on matters of
9 public concern has to be justified by
10 something far stronger than mere
11 speculation.

12 Since 1993, the federal
13 government has substantially withdrawn
14 its limits on public participation by
15 most public employees. I would submit
16 that it is worth taking a look at whether
17 that withdrawal has had any of the
18 negative effects that upheld the original
19 Hatch Act.

20 Secondly, the Mayor's Task
21 Force notes that most other cities have
22 rules substantially less constricting
23 than those that apply in Philadelphia.
24 Again, I would submit that Council is
25 obliged by the First Amendment to try to

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2 determine whether or not those more
3 speech-permissive rules have resulted in
4 any substantial adverse effects much.

5 Third, I think it's worth
6 noting that the current prohibitions, as
7 I understand it, were adopted by a
8 referendum in 1951 and were modeled on a
9 statute that was a promulgated -- or a
10 proposed statute promulgated in 1919.
11 That's almost a hundred years ago.

12 It seems to me entirely
13 appropriate that the Charter be amended
14 to allow the City Council to tailor the
15 constraints on speech by public employees
16 to demonstrated needs in the 20th century
17 -- 21st century.

18 In my opinion, if the current
19 broad Charter prohibitions are not
20 revised, it is likely the federal court
21 may revise them as a matter of First
22 Amendment law.

23 COUNCILMAN GREENLEE: Okay,
24 thank you, thank you very much.

25 Councilman Green.

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2 COUNCILMAN GREEN: Thank you,
3 Professor.

4 You went through the current
5 political-activities restrictions in the
6 Charter; I won't repeat them. And I
7 believe you mentioned the test from your
8 speculation or -- but could you tell us
9 what a court would look at to determine
10 whether a restriction on a public
11 employee's First Amendment speech was
12 permissible?

13 PROFESSOR KREIMER: The court
14 would look at two sets of concerns.
15 First of all, how narrow the restriction
16 is, how much it impinges on the ability
17 of public employees to engage in core
18 political speech. The more that's -- the
19 more that speech is constricted, the more
20 justification would be required.

21 On the other side, the court
22 would look at the -- both the
23 demonstrated record and the likely effect
24 of the constraint in question. So that
25 in answering the question of whether or

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2 not, for example, prohibiting someone
3 from posting a Facebook update saying
4 they support Barack Obama, the court
5 would look at the question of whether or
6 not there's any demonstrated track record
7 or evidentially-based threat to the
8 public interest.

9 COUNCILMAN GREEN: Under the
10 Pickering Balancing Test, would it be
11 permissible to draw a distinction between
12 categories of employee, in your view? I
13 understand, you know, you're not the
14 court.

15 PROFESSOR KREIMER: They
16 haven't put me on the Supreme Court yet.
17 Even if they did, I'd only have one vote.

18 COUNCILMAN GREEN: You couldn't
19 answer my question if they had, so --

20 PROFESSOR KREIMER: That too.

21 COUNCILMAN GREEN: Based on
22 their work functions and further limit
23 the type of political activities that
24 employees would say adjudicatory,
25 prosecutorial, or any sort of enforcement

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2 authority has creating a similar test to,
3 say, the federal Hatch Act in terms of
4 more permissive and less permissive
5 activities, for example --

6 PROFESSOR KREIMER: Yeah, I
7 think it's certainly the case that in
8 implementing the Pickering Balance Test,
9 the courts do treat dangers of different
10 employees differently.

11 So, for example, there was a
12 case in 1987 called Rankin against
13 McPherson that involved a probationary
14 employee whose job in the constable's
15 office was to type information from court
16 papers onto a computer.

17 And she was fired because, when
18 she heard about the attempted
19 assassination of President Reagan, she
20 said, "If they go for him again, I hope
21 they get him."

22 Now, the court acknowledged
23 that if a police officer said something
24 like that, that there would be
25 substantial concerns that you wouldn't be

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2 able to rely on the police officer to
3 fairly enforce the law against murder.

4 On the other hand, the court
5 said, for someone who enters material
6 into a computer, those concerns are
7 nowhere -- don't justify the sorts of
8 imposition.

9 So that making distinctions on
10 the basis of job function, it seems to
11 me, is both approved by the Supreme Court
12 and entirely appropriate.

13 Indeed, as you say, in the
14 revised Hatch Act, the 1993 Hatch Act,
15 the federal Hatch Act does exactly that.

16 COUNCILMAN GREEN: Okay. So
17 people performing, say, an administerial
18 function or a word-processing function or
19 something like that would be at the far
20 end of the spectrum as to having the
21 least restrictions on their speech.

22 PROFESSOR KREIMER: Yes.

23 COUNCILMAN GREEN: Is that fair
24 to say?

25 PROFESSOR KREIMER: The concern

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2 that the law be administered impartially
3 is most salient with respect to
4 individuals who have substantial
5 discretion on how the law is enforced.

6 To an individual who has
7 essentially, as you say, an administrative
8 function, that concern really is not
9 terribly pressing and largely drops out.

10 COUNCILMAN GREEN: So if we
11 were to adopt standards akin to the
12 federal Hatch Act, maybe even including,
13 say, L&I inspectors, Streets inspectors,
14 anybody who has a sort of oversight or
15 any kind of an adjudicatory enforcement
16 role within government into the more
17 restrictive standard, do you think that
18 would meet the Hatch Act? We would be --

19 PROFESSOR KREIMER: It would
20 certainly be consistent --

21 COUNCILMAN GREEN: I'm sorry.
22 I don't mean the Hatch Act.

23 PROFESSOR KREIMER: It would be
24 consistent with the First Amendment
25 concerns that the impositions on

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2 employees be tailored to the public
3 dangers imposed by their potential
4 speech.

5 COUNCILMAN GREEN: That's
6 great.

7 Professor, I really appreciate
8 you coming in today. I don't know if
9 anybody else has any questions.

10 COUNCILMAN GREENLEE: Any other
11 questions?

12 Councilman Kelly.

13 COUNCILMAN KELLY: Yes.
14 Professor Kreimer, I just want to get
15 your opinion on allowing City employees
16 to be more active in a political party.

17 PROFESSOR KREIMER: Are you
18 asking for my opinion as a matter of
19 constitutional law or my opinion just as
20 a --

21 COUNCILMAN KELLY: Yeah.

22 PROFESSOR KREIMER: Certainly
23 there is no constitutional objection to
24 allowing employees to be more active. To
25 the extent that the experience with

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2 political activities by particularly
3 administerial employees shows no history
4 or threat to legitimate public policy, it
5 seems to me that the First Amendment
6 casts doubt on the exclusion.

7 That said, I have to say that
8 at least as late as 1973, the Supreme
9 Court upheld the Hatch Act, which broadly
10 prohibited active management of political
11 campaigns.

12 COUNCILMAN KELLY: Okay. So
13 that would -- in your opinion, then, you
14 would --

15 PROFESSOR KREIMER: In my
16 opinion, the biggest objection to the
17 current standard is the one that limits
18 the ability to engage in speech and
19 particularly publication of speech about
20 political affairs.

21 There are concerns, but I --
22 without knowing more about the specific
23 history of Philadelphia and what the
24 experience of other cities are, I would
25 be reluctant to say it's unconstitutional

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2 to exclude employees from activity in
3 active management of political campaigns.

4 COUNCILMAN KELLY: Thank you.

5 Thank you, Mr. Chairman.

6 COUNCILMAN GREENLEE:

7 Councilman Green.

8 COUNCILMAN GREEN: Thank you.

9 So I guess it's your advice to
10 this body to look at the federal Hatch
11 Act and what its impact has been in terms
12 of --

13 PROFESSOR KREIMER: I would --
14 yes -- I -- the federal Hatch Act and the
15 experience of other cities, I think.
16 That's right.

17 COUNCILMAN GREEN: That's
18 right.

19 And with respect to -- are you
20 drawing a distinction between active
21 management of political campaigns and
22 active -- being active in a political
23 party?

24 PROFESSOR KREIMER: Well, the
25 Hatch Act is -- was phrased in terms

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2 of... active party in political
3 management or political campaigns. It
4 did not speak specifically about
5 political parties. So I guess the
6 clearest concern is political campaigns.

7 That said, as a practical
8 matter, active involvement in political
9 parties by enforcement officials raises
10 concerns. The idea that the ward
11 committeeman is also the L&I inspector
12 who would cut a break to people he feels
13 are likely to vote in favor of his party
14 is a quite legitimate concern.

15 COUNCILMAN GREEN: I agree with
16 that completely. And, as we said, we're
17 looking at more restrictive and less
18 restrictive standards. With respect to
19 the administrative employee, you don't
20 feel the same way?

21 PROFESSOR KREIMER: That
22 concern clearly would not be there.

23 COUNCILMAN GREEN: Thank you,
24 Professor.

25 COUNCILMAN GREENLEE: Thank

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2 you.

3 Councilman Jones.

4 COUNCILMAN JONES: Thank you,
5 Mr. Chairman.

6 Thank you and I understand you
7 actually live in the 4th Councilmatic
8 District, which I think is meritorious of
9 mentioning. I just thought so.

10 I would be interested in
11 understanding because there's such a
12 cloud about the difference between what
13 the Hatch Act allows at the federal
14 level. If we precede, it will -- if we
15 could, would it allow, for example, a
16 person from DHS who took issue with
17 something, a policy there, from writing a
18 letter about supporting an issue? Right
19 now, we can do that, correct?

20 I mean if someone in DHS wanted
21 to write a letter of protest about a
22 public policy matter, they can do that.

23 PROFESSOR KREIMER: As I
24 understand it, even under the
25 interpretation of the current City

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2 Charter, if there's not a reference to a
3 political campaign, you could write that.

4 COUNCILMAN JONES: Currently,
5 if that same said employee liked one of
6 the Mayor's positions, a candidate on the
7 issue of DHS, today they couldn't express
8 that in a blog and say, "I'm going to
9 vote for 'so-and-so' because he's" --

10 PROFESSOR KREIMER: If I
11 understand the way that the current
12 regulations are written, what they say is
13 -- let me pull that out.

14 What they say is that an
15 employee may not write for publication or
16 publish any letter, article, signed or
17 unsigned, in favor of or against any
18 political party, body, or candidate for
19 office.

20 COUNCILMAN JONES: So --

21 PROFESSOR KREIMER: So that if
22 an employee -- if a clerk in DHS wanted
23 to publish a blog post saying, "I don't
24 like Mayor Nutter's approach to civil
25 service reform," and Mayor Nutter was

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2 running for office, I think they would
3 put themselves at risk.

4 COUNCILMAN JONES: That's
5 important.

6 No matter what we do in the
7 workplace, I guess the pendulum of public
8 opinion and what is appropriate political
9 involvement swings back and forth, and
10 people tighten it up a little bit about
11 fears.

12 Like no matter what we do in
13 the workplace, you can't express a
14 button, we would not be allowed to wear a
15 "Bill Green for Mayor button," for
16 example, ever in the workplace, correct?

17 PROFESSOR KREIMER: That would
18 be a function of what ordinance Council
19 decides to write.

20 They certainly could prohibit
21 it within the current sets of concerns
22 because the Supreme Court currently says
23 that producing workplace disagreement to
24 the extent that the government constrains
25 what people do in the workplace, it's

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2 certainly within the sphere of legitimate
3 employer concern.

4 COUNCILMAN JONES: And,
5 obviously, we would want protections
6 against a individual, same individual, in
7 the course of dispersing or giving
8 resources or making decisions in the
9 workplace, it could never be politically
10 motivated to --

11 PROFESSOR KREIMER: That's
12 exactly the concern that the Supreme
13 Court says is both legitimate. And,
14 indeed, I would think at this point,
15 political retaliation against opponents
16 would itself violate the Constitution.

17 COUNCILMAN JONES: And,
18 obviously, low-hanging fruit like hiring,
19 we wouldn't want to have anybody who was
20 voting for Bill Green would be hired in
21 this department as opposed to someone
22 voting for Bill Greenlee.

23 So donations, currently, they
24 can make -- people can write a check?

25 PROFESSOR KREIMER: If they're

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2 not members of the Police Department.

3 COUNCILMAN JONES: Okay. And

4 --

5 PROFESSOR KREIMER: Again, I'm

6 working from the statute -- the

7 provisions that I've been given, so --

8 COUNCILMAN JONES: And working

9 on someone's campaign, so if Wilson

10 Goode's employee decided they wanted to

11 go work on Bill Green's campaign after

12 work, would they be allowed to do that?

13 PROFESSOR KREIMER: Uh... Are

14 you saying an employee of the Department

15 of Human Services?

16 COUNCILMAN JONES: Yeah, yeah.

17 COUNCILMAN GREENLEE: Just for

18 the record, Councilman Goode said he

19 would not permit that.

20 (Laughter.)

21 COUNCILMAN JONES: So if there

22 were an employee of the Department of

23 Human Services and they, at 5 o'clock,

24 punched out and walked into the campaign

25 office, would they be in violation?

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2 PROFESSOR KREIMER: Right now,
3 they could not engage in that activity.

4 COUNCILMAN JONES: Thank you.

5 COUNCILMAN GREENLEE: Thank
6 you.

7 Okay, thank you, Professor. I
8 appreciate the time very much.

9 PROFESSOR KREIMER: Okay.

10 COUNCILMAN GREENLEE: The next
11 witness on this bill is Mr. Armbrister
12 again.

13 (Witness comes forward.)

14 COUNCILMAN GREENLEE:
15 Mr. Armbrister, we have again your
16 written testimony. This one is not
17 short. But, again, if you could just
18 summarize, we'd appreciate it, and we may
19 have some questions on it.

20 MR. ARMBRISTER: I will
21 certainly try, Councilman, but I think,
22 notwithstanding the announcement you made
23 earlier, if you don't mind, if I could at
24 least try to get to some of the details
25 of my testimony.

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2 COUNCILMAN GREENLEE: Yeah,
3 sure.

4 MR. ARMBRISTER: If you would
5 indulge me.

6 COUNCILMAN GREENLEE: Sure.

7 MR. ARMBRISTER: Good
8 afternoon, Chairman Greenlee and members
9 of the committee. My name is Clarence
10 Armbrister; I'm Chief of Staff to Mayor
11 Michael Nutter.

12 I'm here today to testify on
13 behalf of the Nutter Administration on
14 Bill No. 100121 and Resolution 100139.

15 I did hear the chairman's
16 announcement at the beginning of this
17 particular hearing and acknowledging that
18 the sponsor would like to make some
19 modifications in scheduling as well as in
20 one of the companion bills.

21 However, I think it's important
22 that today's testimony on behalf of the
23 Administration be taken in the context of
24 what we knew before we got here today.
25 So I will try to modify my testimony as

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2 it goes along to recognize the important
3 facts that you acknowledged at the
4 beginning of this hearing.

5 But this proposal, which was
6 introduced as part of a package of ethics
7 reforms bill in the wake of
8 recommendations by the Task Force on
9 Ethics and Campaign Finance Reform made
10 in December, we are in agreement with the
11 view of the Task Force that some reforms
12 in the area of allowing greater political
13 expression by employees are indeed
14 worthwhile.

15 But this current proposal would
16 potentially open the door to wholesale
17 elimination of the Charter's strong
18 protection against injecting politics and
19 political-party activity into the daily
20 operation of government. That, in our
21 view, would not be reform; that would be
22 regression. It would be a major step
23 backwards.

24 The Nutter Administration
25 strongly opposes this kind of proposal,

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2 and we want to respectfully urge the
3 Council committee to table it for further
4 consideration and collaboration or to
5 reject it outright.

6 And, again, I do hereby
7 acknowledge the intention of the sponsor
8 to slow down.

9 Although it is not before this
10 committee today for consideration, my
11 testimony will necessarily refer to a
12 companion bill, Bill No. 100128, to which
13 you referred earlier, which Council
14 introduced the same day as Resolution
15 100139 and Bill No. 100121.

16 This companion bill, if
17 authorized by the legislation before the
18 committee today, would significantly
19 change the law with respect to how
20 political activities of employees are
21 regulated within the City of
22 Philadelphia. These potential changes
23 causing the Administration grave concern
24 are a significant reason for the position
25 we take today.

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2 And we really do look forward
3 to working with the Councilman in future
4 in modifying that bill as well.

5 First, there's nothing in the
6 Charter's political-activities
7 restrictions that is fundamentally flawed
8 or broken. The rules have been included
9 in the Charter for nearly sixty years for
10 a reason -- to require the City's
11 political leaders, if elected officials,
12 to return to the voters when they want to
13 change these kinds of rules.

14 Although there are some
15 important and practical changes of the
16 rules that we would support, we are not
17 in support of moving the authority to
18 take those kinds of changes away from the
19 voters.

20 Second, we do not believe
21 employees of the executive and
22 administrative branch of government who
23 are involved in day-to-day operational
24 decisions of the City -- social workers,
25 police officers, assistant district

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2 attorneys, health and L&I inspectors,
3 supervisors in departments throughout the
4 City -- should be actively involved in
5 the affairs of political candidates and
6 parties.

7 The required separation which
8 protects both the public and the
9 employees themselves has served the City
10 well for almost sixty years and should
11 not be changed now.

12 What does this change do? Let
13 me first address what the proposal would
14 do.

15 The proposed Charter change
16 would take away, we believe, voters'
17 rights to vote on eliminating or revising
18 a group of Home Rule Charter relating to
19 political activity in City government.

20 This change would allow City
21 Council to change the current rule that
22 says all City officials or employees,
23 except for elected officials, are
24 prohibited from being a member of any
25 political party or committee or taking

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2 part in the management or affairs of any
3 political party or political campaign.

4 Obviously, if it passes and
5 this is subject to change, the rules
6 along the lines of the companion bill,
7 Ordinance 100128, introduced in Council,
8 City employees could take an active part
9 in political campaigns of a candidate or
10 serve as a committee person or a ward
11 leader in a political party.

12 The change would also give the
13 Council the authority to:

14 1. Allow City officials and
15 City employees to engage in political
16 fundraising;

17 2. Allow a candidate and
18 political committees to solicit political
19 contributions from civil service
20 employees;

21 3. Allow police officers and
22 firefighters to make political
23 contributions; and

24 4. Revise rules that require
25 City officials and employees, except for

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2 elected officials running for reelection
3 to resign from their position before
4 running for elective office.

5 Although rules regarding
6 political expression could be relaxed,
7 the political-activities rules are really
8 not fundamentally flawed.

9 Let me begin to explain our
10 concerns with this portion of the
11 proposal.

12 A common misconception about
13 the Charter's political-activities
14 restrictions are that they are unsound
15 legally. In this regard, it is important
16 to keep in mind the distinction between
17 activity and political parties and
18 campaigns on the one hand and political
19 expression on the other.

20 As the Task Force report notes,
21 the political-activities rules have been
22 interpreted strictly in the past to
23 prohibit employees from certain types of
24 expression, like wearing while not at
25 work or placing political lawn signs in

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2 our yards. It may be that these
3 interpretations have been too strict with
4 respect to things like buttons and lawn
5 signs.

6 We agree with the Task Force
7 that it would make sense for the Board of
8 Ethics, the body that now has
9 jurisdiction over these issue, to revisit
10 the issue and perhaps, by regulation or
11 advisory opinion, provide for leeway in
12 this area for City employees.

13 But any suggestion that our
14 rules are flat-out unconstitutional is
15 simply wrong.

16 And I would like to submit for
17 the record today an opinion of the City
18 Solicitor explaining that our rules are
19 entirely defensible, and similar federal
20 rules in place before the Hatch Act, as
21 amended in 1993, have been upheld by the
22 US Supreme Court.

23 For example, see the US Civil
24 Commission versus the National
25 Association of Letter Carriers that was

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2 reported in 1973 by the Supreme Court.

3 And the Ethics Task Force has agreed with
4 this interpretation.

5 Indeed, apart from a challenge
6 to a specific rule prohibiting political
7 campaign contributions by firefighters,
8 we're not aware of any challenges by any
9 City employees in sixty years to our
10 local rules. If our rules are so plainly
11 unconstitutional, elimination of them by
12 court challenge would be fairly
13 straightforward.

14 So the idea that we somehow
15 need to change the rules because of,
16 quote/unquote, constitutional validity
17 really disguises that this was really a
18 policy-based decision.

19 We can talk about
20 reinterpreting rules that have been taken
21 too far or make modest practical changes,
22 but it is not so difficult to change the
23 Charter. Indeed, there have often been
24 multiple Charter changes per election for
25 the last six or seven years, and there

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2 will be multiple referenda on this year's
3 ballot. That we should be potentially
4 completely removing these rules from the
5 Charter and taking away from voters the
6 authority to directly approve changes in
7 the political-activities rules.

8 We are also opposed to allowing
9 the mixture of activities with the daily
10 operation of government. There are, of
11 course, real reasons for having a strict
12 separation between substantive political
13 activity and the day-to-day operations of
14 government and why we have the
15 political-activities restrictions in our
16 Charter. Again, even the US Supreme
17 Court and the Congress recognize that in
18 their opinions and laws respectfully.

19 The Charter was adopted after a
20 long reform movement that grew from a
21 series of crises in the early part of the
22 20th century. During this period,
23 Philadelphia was dominated by the
24 Republican political machine. No
25 disrespect to our Republican friends;

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2 this is just our city's history, and it
3 occurred a long time ago.

4 So much so that party officials
5 and not the elected officers like the
6 Mayor and members of Council controlled
7 the day-to-day operations of City
8 government, in part circumventing weak
9 civil service rules to replace party
10 loyalists throughout the government.

11 This history is recounted in an
12 excellent study published by the
13 Committee of Seventy in October of 1980
14 called, "The Charter: A History."

15 During that era, with employees
16 allowed to, and even required to,
17 participate in local campaigns to support
18 the political machine, the political
19 establishment and operation of government
20 were one in the same.

21 So I'll then just move on with
22 my testimony. The Charter, which is our
23 City constitution, that was adopted in
24 1951, contained two significant pillars
25 to protect against political party

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2 control of any of the day-to-day
3 operations of City government.

4 The first is a strong civil
5 service system to prevent purely
6 patronage employment, and the second is a
7 political-activities restriction
8 contained in Section 10107 of the
9 Charter, at issue here today.

10 And as Councilman Kenney has
11 pointed out in the previous hearing, our
12 concern is often not with this Council,
13 this good Council might have the ability
14 to provide good leadership in this area,
15 but we're not sure about future councils.

16 As I have said, in itself, this
17 Charter change would not establish
18 political-activities rules. Bill 100128,
19 however, is a companion ordinance that
20 was introduced on March 4th at the same
21 time as this Charter proposal.

22 Although it's not before the
23 committee today, it has been proposed
24 presumably as Council's indication of its
25 plan first and from this regard, and I do

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2 now acknowledge that the Council is going
3 to revisit that bill.

4 But in its current form, it
5 would, among other things, make
6 significant changes to currently
7 political-activity restrictions.

8 Eliminate the ban on political
9 activity by City employees. This would
10 also allow all City employees to work on
11 political campaigns for candidates for
12 City office as well as statewide and
13 federal office.

14 It would permit all City
15 employees to be active members of
16 political parties and become committee
17 persons and ward leaders. A significant
18 downside to allowing political work by
19 City employees is a potential erosion of
20 public confidence in government.

21 We understand that proposed
22 rules would only allow political work
23 when someone is off duty and would
24 prohibit the use of most City resources
25 for such work.

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2 No matter how hard responsible
3 city officials and employees work to keep
4 politics out of our day-to-day work for
5 the City and no matter how vigorously we
6 enforce the separation of use of the
7 workplace for political activities, it
8 would be impossible to persuade a
9 rightfully skeptical public that this
10 separation will be maintained. That's
11 even putting aside the enforcement
12 nightmare of trying to police the use of
13 City resources for political activities.

14 If a decision-maker is
15 politically active particularly in the
16 local political community, it would be
17 very easy for a citizen who is denied a
18 permit or who does not get a City
19 contract to claim that politics played a
20 part of that decision. And I think that
21 that was acknowledged during the colloquy
22 between the previous witness and
23 Councilman Green, particularly in the
24 area of Licenses and Inspections, among
25 other things.

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2 And folks will find it very
3 difficult to keep political influence, or
4 the perceptions of such influence, out of
5 their day-to-day discretionary decisions.

6 If a social worker at DHS is a
7 committee person and knows that a loyal
8 party worker is suspected of neglect of
9 his or her child, there could be subtle,
10 or perhaps not so subtle, pressures to
11 give greater weight to the party worker
12 at the risk of expense to the best
13 interests of the child than if the social
14 worker had no connection to the political
15 system.

16 Similarly for the BRT, which is
17 explained in the testimony, as well as
18 the DA's Office.

19 There was a lot of discussion
20 regarding the Hatch Act that I'd like to
21 address very quickly.

22 There will be claims that since
23 the more liberal Hatch Act appears to
24 work in the federal system, they should
25 apply here as well.

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2 First, it is important to note
3 that the federal law as a whole imposes
4 far more restrictions on many, many
5 classes of government employees, an
6 approach which I understand the sponsor
7 of the bill is likely to at least examine
8 going forward, such as -- but these
9 restrictions folks such as law
10 enforcement personnel and others.

11 More importantly, most federal
12 work does not take place directly in our
13 communities. By contrast, the work of
14 City government is tied on a day-to-day
15 basis with the lives of our citizens. We
16 in City government know our neighbors,
17 and they are quick to let us know about
18 their immediate problems, many of which
19 relate to the work of the City.

20 This is, of course, not to say
21 that politics does not play a necessary
22 and important part in our government.
23 The Mayor is a ward leaders; many members
24 of Council are ward leaders as well.
25 There is, of course, nothing wrong with

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2 that.

3 But decision-making for
4 rank-and-file employees should not be
5 subject to political considerations, and
6 the public should not perceive that it
7 is.

8 Now I'd like to move down to
9 the bottom of page 7 regarding employees
10 being engaged in campaign and party work.

11 By allowing City officials and
12 City employees to engage in campaign and
13 party work, we will inevitably be
14 exposing those employees who choose to
15 stay out of politics to both subtle, and
16 sometimes not so subtle, pressures.

17 Employees who just want to do
18 their jobs in the best interests of the
19 City would inevitably feel uncomfortable
20 if their bosses or colleagues are openly
21 involved in political campaigns. If a
22 supervisor worked for a party or a
23 candidate, employees under that
24 supervisor may feel pressured into doing
25 the same work, at the risk of getting

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2 less favorable work assignments or
3 performance reviews. If an employee
4 openly supports the same candidates the
5 supervisor supports, others will always
6 assume that a promotion or other
7 favorable treatment resulted from that
8 support.

9 We have not heard a clamoring
10 among employees or the citizens of the
11 City for any loosening of the current
12 restrictions. Undoubtedly, many
13 employees believe restrictions on
14 political expression are too extensive;
15 and, as I've said, they may have a point
16 there.

17 There probably are some who
18 would like to be involved in campaigns,
19 whether at the local, state, or federal
20 level, and we respect that.

21 But in general, we believe most
22 City employees and City officials are
23 proud to work in the government and know
24 clearly the line between politics and
25 public service. This administration

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2 cannot support a proposal that has a
3 potential to lead to a crisis in the
4 morale of the City workforce.

5 The other problems noted in the
6 proposal, which reflect primarily to
7 100128 are noted in my testimony, and I
8 won't read through them now.

9 But I'd just like to conclude
10 by saying we acknowledge there may be
11 flaws in the current political expression
12 restrictions. I urge Council to give
13 serious consideration to fixing anything
14 that truly needs to be addressed with
15 respect to political expression
16 restrictions.

17 We should not rush, and this
18 body apparently has agreed with that, to
19 dramatically alter the rules regarding
20 political-activity restrictions.

21 This administration cannot
22 support the current proposal that is
23 before the committee because, rather than
24 addressing a limited problem, it
25 authorizes the potential wholesale

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2 evisceration of strong and sound
3 protection from political interference in
4 the workings of government, especially
5 when viewed in the context of the
6 companion legislation, Bill No. 100128.

7 We thank you for modifying your
8 timetable, and I am hopeful that this
9 will allow the Council and the
10 Administration to work together on the
11 more narrow, targeted, and practical
12 changes that continue the real reform
13 agenda this Council has pursued over the
14 past few years.

15 Thank you for the opportunity
16 to share the views of the Administration,
17 and I'll be happy to respond to any
18 questions you may have.

19 COUNCILMAN GREENLEE: Thank
20 you, Mr. Armbrister.

21 Not surprisingly, there are
22 some questions up here. I'll first
23 recognize Councilman Kenney.

24 COUNCILMAN KENNEY: Thank you
25 very much.

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2 If we were dismantling or
3 attempting to dismantle the civil service
4 system, I would totally agree with your
5 testimony, but that's not the case.

6 And one of the things that
7 struck me during the course of your
8 testimony -- and I do understand that the
9 Police Commissioner should not be ward
10 leader; I got that. But when the Mayor's
11 a ward leader, which I respect and
12 admire, it's a hard argument to make that
13 clear.

14 I recognize the Police
15 Commissioner has responsibilities that
16 deal with law enforcement and other
17 things like direct police protection, but
18 the Mayor has similar authority -- or
19 actually more authority than the Police
20 Commissioner.

21 So the fact that the Mayor's a
22 ward leader to me indicates that your
23 thought logic is somewhat flawed, with
24 all due respect, 'cause we're friends and
25 we have friendly conversation.

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2 The other thing that kind of
3 makes me think a little bit about your
4 position is, what is your definition of a
5 committee person? I mean, what do you
6 think a committee person does that would
7 so erode the confidence of the public?

8 To me -- what is your
9 definition of a committee person?

10 MR. ARMBRISTER: It's not that
11 the -- there are a couple of different
12 levels. Let me first deal with the first
13 part of the question you raised regarding
14 the ward leaders.

15 The Mayor, as an elected
16 official, is inherently political, and I
17 think that that really distinguishes you
18 and the Mayor and others --

19 COUNCILMAN KENNEY: He's the
20 Police Commissioner's boss.

21 MR. ARMBRISTER: -- who are
22 elected.

23 But he is, by definition,
24 elected. I mean, he is elected; the
25 Commissioner is not elected. And the

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2 Mayor does not have direct day-to-day
3 responsibility for the administration of
4 policing in the City.

5 COUNCILMAN KENNEY: But if the
6 Mayor is a ward leader, has a neighboring
7 ward that he's friendly with, and there's
8 a problem going on in a particular
9 business strip, the Mayor has the ability
10 to call Deputy Commissioner Ross or
11 Commissioner Ramsey and say, You know
12 what? I need a little attention over
13 there 'cause people are complaining
14 really loud, and I need to not only make
15 sure that people are safe but I need to
16 make sure that these people aren't angry
17 with me.

18 I mean, do you find that
19 inherently evil?

20 MR. ARMBRISTER: "Illegal," did
21 you say?

22 COUNCILMAN KENNEY: Evil.

23 MR. ARMBRISTER: Oh, no, no,
24 no, no.

25 COUNCILMAN KENNEY: Well, not

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2 evil; "evil" is too strong a word.

3 MR. ARMBRISTER: No.

4 COUNCILMAN KENNEY: Apparently
5 inappropriate?

6 MR. ARMBRISTER: No. But I
7 think it could raise a cloud.

8 COUNCILMAN KENNEY: But the --

9 MR. ARMBRISTER: The cloud not
10 of the Mayor making the call but of the
11 administration of decisions by police
12 officers on the street.

13 COUNCILMAN KENNEY: I -- I
14 don't --

15 MR. ARMBRISTER: And that's all
16 --

17 (Indiscernible; parties talking
18 over each other.)

19 COUNCILMAN KENNEY: Anybody can
20 put handcuffs on me or shoot me; I don't
21 necessarily need them to be political,
22 unless they want to express their
23 political views with a lawn sign or
24 contribute to a PAC that supports their
25 issues.

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2 See, let me go from the
3 committee person up first. These are
4 folks who get elected and are basically
5 service people in their community. I
6 mean, they are the ones who are feet on
7 the ground and deal with problems in the
8 community. The overwhelming number of
9 committee people are like that and care
10 about their communities throughout the
11 City.

12 If they're a City employee and
13 they are doing this on their own time and
14 are more engaged and more involved in
15 their neighborhood and then also have
16 responsibilities to carry out their City
17 duties, isn't that something that
18 complements each other?

19 I mean, isn't that something
20 you want your City employers, your
21 teachers, your folks that work for the
22 government involved in your neighborhood
23 to knowing what's going on and how they
24 can serve people better?

25 It's almost like they serve

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2 people at work all day, and then they go
3 home at night for free and serve them
4 some more.

5 What is wrong with that?

6 MR. ARMBRISTER: There is
7 nothing inherently wrong with that, but
8 the potential abuse is those who feel
9 that that work would come into the --
10 that line would be blurred, and it would
11 come into the workplace, particularly for
12 those employees who don't want to be
13 active.

14 COUNCILMAN KENNEY: You have
15 civil service protection.

16 MR. ARMBRISTER: Who don't want
17 to be active in --

18 COUNCILMAN KENNEY: If I feel
19 that my progress report, my evaluation is
20 done because of some other reason,
21 whether it's politics or personality or
22 whatever, I have rights of appeal that I
23 can follow through with that.

24 I don't think being a committee
25 person in your neighborhood is going to

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2 be an undue influence on every other
3 employee in that department to do the
4 same.

5 For example, if I run a rec
6 center, and there's an open seat for
7 mayor, and this particular candidate for
8 mayor is talking wonderful things about
9 what he or she doing going to do for
10 recreation in the City, and I want to
11 have a coffee klatch in my house on a
12 Saturday afternoon to let people know
13 what that person's saying, that erodes
14 the public's confidence?

15 MR. ARMBRISTER: But let me
16 take that -- give one further example.

17 What if you are a supervisor
18 and you asked your subordinates to join
19 you for that coffee klatch?

20 COUNCILMAN KENNEY: On their
21 own time?

22 MR. ARMBRISTER: On their own
23 time, right. And whether they wanted to
24 or not, they might feel some pressure to.
25 And that's really what is important.

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2 It's in part designed to help protect
3 those who don't want to participate as
4 well.

5 COUNCILMAN KENNEY: But you
6 said earlier in your opinion testimony
7 that it's a combination of political
8 restrictions and civil service is what
9 cleaned up the mess of the earlier 20th
10 century.

11 MR. ARMBRISTER: To a great
12 extent it did.

13 COUNCILMAN KENNEY: So what
14 we're saying is that -- what I believe is
15 that folks who are more engage, more
16 involved, know what's going on, know
17 where the bad problems in the community
18 are, know where the kids need some help,
19 I think that that makes a person a better
20 employee, not necessarily someone who
21 erodes the public's confidence.

22 MR. ARMBRISTER: Understood.

23 COUNCILMAN GREENLEE: And if I
24 could just add one thing. I mean, you
25 talk about the history, Mr. Armbrister,

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2 of why this, you know, Charter was
3 established and all.

4 I mean, wasn't the biggest
5 problem, as Councilman Kenney alluded to,
6 the problems that you talked about in
7 your testimony, because of the lack of
8 civil service regulations?

9 I mean, we're not talking about
10 taking any of them away, you know. So I
11 guess that was the real problem, was it
12 not?

13 MR. ARMBRISTER: That was
14 certainly one of the problems, but I
15 think early on, the institution of the
16 civil service system did not immediately
17 solve a lot of the issues that were
18 described.

19 COUNCILMAN GREENLEE: All
20 right.

21 Councilman Green.

22 COUNCILMAN GREEN: Thank you.

23 Just following up on Councilman
24 Kenney's point. Your testimony talks a
25 lot about perceptions and appearances.

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2 And I would agree, you know, that we have
3 to, you know, try to make it clear to the
4 public that the decisions that are being
5 made are the right decisions for the
6 right reasons because -- not because of
7 any undue political influence.

8 So don't you think the Mayor
9 should resign as ward leader to avoid
10 those appearances and perceptions?

11 MR. ARMBRISTER: No.

12 COUNCILMAN GREEN: Okay. Just
13 -- thank you.

14 So you talk about the
15 enforcement nightmare of trying to police
16 the use of City resources for politics.
17 What is the law currently today? Can
18 people be politically active on duty and
19 use City resources?

20 MR. ARMBRISTER: No.

21 COUNCILMAN GREEN: I'm
22 confused. Why --

23 MR. ARMBRISTER: You said, can
24 people be politically active on duty?
25 Was that the question?

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2 COUNCILMAN GREEN: Yeah.

3 MR. ARMBRISTER: No.

4 COUNCILMAN GREEN: Or use City
5 resources?

6 MR. ARMBRISTER: No, they
7 can't.

8 COUNCILMAN GREEN: So why are
9 we under any different situation --

10 MR. ARMBRISTER: Because the
11 extension -- because if we extend their
12 ability to be politically active, which
13 they can't do now, I mean, that would be
14 the big difference, is that they can't be
15 politically active now.

16 COUNCILMAN GREEN: Off, right.
17 They can't be politically active on duty
18 under either scenario.

19 MR. ARMBRISTER: No, no, no.
20 I'm saying if you extend it to off-duty,
21 then the question as to when someone's on
22 or off duty could come into question.

23 I mean, some people's
24 responsibilities --

25 COUNCILMAN GREEN: I mean,

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2 right now, you don't really know how to
3 police that. As you point out, it's an
4 enforcement nightmare; there's no way for
5 you to know which of our 23,000 employees
6 is, say, printing out even a community
7 flyer let alone a political flyer or, you
8 know, something like that, using City
9 resources.

10 MR. ARMBRISTER: Well, they
11 shouldn't be doing that under any sense.

12 COUNCILMAN GREEN: Right. What
13 would you think of a proposal where, if
14 you were politically active -- and bear
15 in mind that despite your testimony --
16 and I realize you didn't have a chance to
17 revise it the last minute, we're looking
18 at a clear bifurcation here more along
19 the lines of the federal system --

20 MR. ARMBRISTER: I understand.

21 COUNCILMAN GREEN: -- which
22 probably could include supervisors and
23 where there's actual enforcement. So
24 probably not supervisors of clerk-
25 typists. But, you know, we can have a

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2 discussion about that.

3 But given that -- sorry, I went
4 onto speech mode and lost my question.
5 But the... hold on a second.

6 So in the ten pages of your
7 testimony you, I guess, looked at this
8 issue very hard. What existing laws
9 exist that would prevent every, you know,
10 nightmare scenario that you raised in
11 your testimony?

12 In other words, what laws are
13 in place to prevent an employee asking
14 another employee for a contribution; is
15 that currently illegal? Other than --

16 MR. ARMBRISTER: It would be a
17 violation of the Charter.

18 COUNCILMAN GREEN: Other than
19 the political activities restrictions, is
20 there a law against macing in
21 Pennsylvania?

22 MR. ARMBRISTER: It would
23 violate the Charter.

24 COUNCILMAN GREEN: But that's
25 not my question.

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2 Other than the Charter is there
3 a law against macing?

4 MR. ARMBRISTER: I'm not aware.

5 COUNCILMAN GREEN: Yes, there
6 is.

7 Would a DHS worker face civil
8 and criminal activities if, for example,
9 that person succumbs to political
10 influence and did not take a child away
11 from another political worker?

12 MR. ARMBRISTER: I would assume
13 that would be a dereliction of their
14 duties.

15 COUNCILMAN GREEN: Yeah, right,
16 okay.

17 So, like, there are already in
18 place laws that prevent basically every
19 single one of --

20 MR. ARMBRISTER: But,
21 Councilman, there may be laws in place,
22 but I think what we're talking here is
23 about the environment, that I think there
24 is a fundamental shift in the environment
25 where today, people are not permitted to

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2 engage in political activity.

3 And I just want to make it
4 clear so that everyone understand the
5 administration's position, we are willing
6 to concede that there are some portions
7 of the Charter that are probably too
8 strictly interpreted regarding
9 expression. So I just want to make that
10 clear for the record.

11 But our view, with respect to
12 political activity, we think that that's
13 a sea change in terms of perception and
14 environment. And so, when you change the
15 environment, we think that there is a
16 potential for many of those scenarios to
17 possibly occur, which might not be ripe
18 to occur in the current environment.

19 And that's really the point
20 that we're trying to make.

21 COUNCILMAN GREEN: Isn't that
22 really mere speculation?

23 MR. ARMBRISTER: No. Well, I
24 think we actually have certain evidence
25 that it actually occurred at least over,

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2 you know, fifty years ago.

3 COUNCILMAN GREEN: Well, with
4 respect to the Inspector General's recent
5 report, how many of those people who are
6 disciplined in that report were civil
7 service?

8 MR. ARMBRISTER: I don't know.

9 COUNCILMAN GREEN: How many
10 were patronage employees?

11 MR. ARMBRISTER: I couldn't
12 tell you, but we could get that
13 information for you.

14 COUNCILMAN GREEN: Mm-hmm.

15 COUNCILMAN GREENLEE: Let me
16 just try this one more time. When you
17 talk about fifty years ago -- and I know
18 Councilman Goode is waiting to ask a
19 question, but there wasn't those
20 protections or the laws that are there
21 now, were there, Mr. Armbrister?

22 I mean, I don't think we can
23 keep talking about -- actually, it's,
24 yeah, almost sixty years now since this
25 charter has been enacted. I don't think

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2 we can say because it was bad back then,
3 there were a lot of things done wrong,
4 that we just have to stick to those same
5 rules. It just doesn't seem to make
6 sense to me.

7 Again, because, as has been
8 pointed out a couple times, the civil
9 service regulations were not in effect
10 back then. And as Councilman Green said,
11 a lot of things you're concerned about
12 are illegal now, would be illegal if this
13 bill was put in. They're against the
14 law; they're not just against the
15 Charter; they're against the law.

16 MR. ARMBRISTER: I think the
17 concern is the environmental context in
18 which I just tried to describe to
19 Councilman Green in my answer to him that
20 I think it's really a sea change in the
21 environment, which could potentially
22 adversely affect our ability to contain
23 what we have enjoyed for the last sixty
24 years. And that's really our concern.

25 COUNCILMAN GREENLEE:

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2 Councilman Goode.

3 COUNCILMAN GOODE: Thank you,
4 Mr. Chairman.

5 Mr. Armbrister, what percentage
6 of your testimony would you say was
7 actually against the companion bill
8 rather than the Charter change?

9 MR. ARMBRISTER: I'm not sure I
10 would put a percentage on it. I think
11 that they are almost inextricably
12 intertwined.

13 COUNCILMAN GOODE: Is it safe
14 to say that if the Charter was amended by
15 the bill and resolution before the
16 committee right now, that it in fact
17 would do nothing without an amendment to
18 the Philadelphia Code?

19 MR. ARMBRISTER: It would
20 authorize Council to adopt ordinances
21 such as 1000128.

22 COUNCILMAN GOODE: But it would
23 do nothing just for the passage of the
24 Charter amendment.

25 MR. ARMBRISTER: That is

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2 correct, but it would authorize the
3 Council to adopt that type of ordinance,
4 that's correct.

5 COUNCILMAN GOODE: So there's
6 nothing that Council could do for a
7 companion bill, not the bill that is
8 associated with this legislation now,
9 that would be acceptable to the
10 Administration.

11 MR. ARMBRISTER: No, I didn't
12 say that. You said, is there nothing
13 that Council could do --

14 COUNCILMAN GOODE: In the form
15 of a companion bill to the Charter
16 legislation that would be acceptable to
17 the Administration.

18 MR. ARMBRISTER: I think one of
19 the tenets of our concern about the
20 construction of how Council has gone
21 about this is that we are removing from
22 the voters the ability to make these
23 decisions on some of these big matters.

24 It's the Administration's view
25 that if we wanted to change the

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2 Charter -- for example, just to give you
3 an example, to allow police officers to
4 make contributions, that we should have a
5 specific provision, a Charter change for
6 that.

7 We think, much like Councilman
8 Kenney said, you know, this body, this
9 particular Council body may be
10 responsible. We're not sure about future
11 Council bodies in terms of their
12 responsibility for --

13 COUNCILMAN GOODE: You mean the
14 future Council bodies that would be
15 elected by the people.

16 MR. ARMBRISTER: Well, they
17 certainly are elected by the people, but
18 why not give the people an opportunity to
19 directly weigh in on those issues which
20 they've done under this Charter for the
21 last sixty years.

22 COUNCILMAN GOODE: How would
23 you characterize voter turnout in
24 Philadelphia?

25 MR. ARMBRISTER: It depends on

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2 the election and the issue.

3 COUNCILMAN GOODE: In general.

4 MR. ARMBRISTER: Probably fair
5 to middling.

6 COUNCILMAN GOODE: And why is
7 that?

8 MR. ARMBRISTER: Again, it
9 depends on the issue. I don't know if
10 people are apathetic. I don't know why
11 we don't get a lot of people to --

12 COUNCILMAN GOODE: Who's
13 responsible for voter turnout?

14 MR. ARMBRISTER: The issues and
15 the candidates, presumably.

16 COUNCILMAN GOODE: Presumably?
17 What role... might committee people play
18 in voter turnout?

19 MR. ARMBRISTER: I've never
20 been a committee person, so I'm not sure,
21 but I assume that they'd help get the
22 vote out for their particular candidate.

23 COUNCILMAN GOODE: If you
24 have -- well, not just for a particular
25 candidate --

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2 MR. ARMBRISTER: The issues --

3 COUNCILMAN GOODE: -- but in
4 general --

5 MR. ARMBRISTER: Right.

6 COUNCILMAN GOODE: -- is it
7 possible that when there is low voter
8 turnout, it's because of the lack of
9 confidence in government?

10 MR. ARMBRISTER: It could be a
11 number of reasons, Councilman.

12 COUNCILMAN GOODE: If that were
13 the reason, how do you restore the type
14 of confidence?

15 MR. ARMBRISTER: You try to
16 restore confidence in government. You
17 said if there was lack of government
18 [sic], presumably you would try to
19 restore confidence in government, if
20 that's supposition of your question.

21 COUNCILMAN GOODE: Actually, at
22 the end of the day, what I'm actually
23 inferring is, just as you say that sixty
24 years under this Charter provision has
25 worked, one might make the argument that

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2 it does not work, that what it has done
3 to some extent is create disconnect
4 between the government and political
5 process.

6 In some cases, what it might
7 do -- and I've actually seen it in a
8 number of different instances, where you
9 will have government officials who
10 actually believe that a committee person
11 request is somehow wrong because that
12 person has a political position as
13 opposed to that person just being someone
14 who is advocating on behalf of their
15 community.

16 So might it be possible that
17 the better way to restore confidence in
18 government, to create a better connection
19 between the voters, who are also
20 taxpayers in government, is to create an
21 honest and positive relationship between
22 government and the voters?

23 MR. ARMBRISTER: I mean,
24 clearly, the relationship between the
25 government and the voters is to try to

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2 instill confidence, honesty, integrity;
3 those certainly are the hallmarks
4 certainly of what we think is our
5 administration, and we've had a very
6 successful partnership with this Council
7 in doing that. I mean, you've been very
8 helpful to us in trying to make sure
9 that that happens.

10 Whether or not -- and I guess
11 this is the point of your question --
12 having a committee person be able to work
13 for the City restores confidence in
14 government, I'm not willing to make that
15 leap.

16 COUNCILMAN GOODE: Isn't it
17 more advantageous to have a neighbor
18 reaching out to other neighbors?

19 MR. ARMBRISTER: Clearly. I
20 think it was Councilman Kenney's point
21 about, you know committee people and
22 people who are involved in their
23 government and city, we all want that.
24 Obviously, if people were more involved,
25 you know, maybe a lot of our problems

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2 would be fewer.

3 But to change what we believe
4 has been a system that's worked, in which
5 23,000 employees out of a population of
6 what, a million and a half people who
7 knowingly, when they take these jobs,
8 realize that they may be limited in some
9 respect in their ability to participate
10 in the political process is a leap that
11 this administration, at least for now, is
12 not willing to take.

13 COUNCILMAN GOODE: I understand
14 that, but I'm saying on the other hand,
15 it's not just a matter of limiting those
16 employees and that being part of their
17 understanding when they're hired. The
18 issue is whether you're actually limiting
19 the effectiveness of government.

20 MR. ARMBRISTER: And I would
21 submit that I don't think we've limited
22 the effective of matters of government,
23 but I understand your point, but I don't
24 agree with that necessarily.

25 COUNCILMAN GOODE: And in an

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2 ideal world, wouldn't we want neighbors
3 across the City engaged with other
4 neighbors, promoting the government as
5 something that people should be involved
6 with? In other words, asking them to do
7 more than just push a button on Election
8 Day, but to stay connected.

9 MR. ARMBRISTER: Clearly, we
10 want people connected. But in an ideal
11 world, we wouldn't have to worry about,
12 you know, prosecuting people who do wrong
13 things; we wouldn't have to worry about a
14 lot of things in an ideal world. And,
15 unfortunately, we don't live in an ideal
16 world.

17 And our position isn't because
18 we're concerned of undermining any
19 confidence in government. We think, in
20 many respects, the current situation
21 actually restores government.

22 One of the issues that you
23 raised about whether or not, you know,
24 when committee people or people who are
25 going to go political ask for things to

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2 get done, clearly, it is the position of
3 our administration that those people
4 shouldn't be prejudged in regard.

5 I mean, people who ask for
6 service, we intend to give them service
7 whether, you know, they are supporters or
8 not, because that's what we're here to
9 do; we're here to serve.

10 But as you said, you know, and
11 I think, as Councilman Kenney said
12 earlier, you know, we may not always be
13 in office; you may have a different
14 administration that doesn't have that
15 view.

16 And we strongly believe that
17 the Charter, which is our City
18 constitution, should be, when it is, in
19 fact, changed, the voters should have an
20 opportunity to look specifically at those
21 provisions. And we would just submit
22 that these changes as currently proposed
23 really takes away from the voters the
24 ability to do that. And we would argue
25 that they should still retain that right.

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2 COUNCILMAN GOODE: Lastly, on a
3 scale 0 to 10 -- 0 being totally
4 non-political and 10 being totally
5 political -- let's start with the Mayor.
6 Where would you place the Mayor?

7 MR. ARMBRISTER: Being
8 political? This sounds like the
9 question -- I was with my daughter at the
10 pediatrician the other day, and he said,
11 "Okay, between 0 to 10, tell me how much
12 it hurts."

13 I mean, the Mayor is a
14 political person. The Mayor has been
15 elected --

16 COUNCILMAN GOODE: On a scale
17 from 0 to 10.

18 MR. ARMBRISTER: I would say
19 10.

20 COUNCILMAN GOODE: Okay. The
21 Mayor's cabinet?

22 MR. ARMBRISTER: When you
23 say -- none of them have been elected. I
24 mean --

25 COUNCILMAN GOODE: That's not

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2 the question because if we're going to
3 make the assumption that other City
4 employees would become political if they
5 had the right to be political, the
6 question is: To what extent are
7 employees political now?

8 And I'm starting with the Mayor
9 and going on down.

10 MR. ARMBRISTER: I mean -- I
11 mean, when you say "political," I don't
12 consider myself particularly political at
13 all. You know, I'm here -- I got one
14 vote. You know, many of you have run for
15 office; I got one vote.

16 The only person who has ever
17 voted for me is the Mayor; I mean, he
18 selected me to work for him. That's the
19 extent of my politics and, I would argue,
20 that's the same for most of the members
21 of the Mayor's cabinet. I mean, he
22 selected them; that's their one vote.

23 COUNCILMAN GOODE: And those
24 people who report directly to the Mayor's
25 cabinet?

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2 MR. ARMBRISTER: Meaning
3 commissioners and others? Again, they
4 have the vote, you know, that the Mayor
5 ultimately is the determiner of whether
6 or not they continue to be an employee of
7 this administration.

8 COUNCILMAN GOODE: And those
9 people who report to them?

10 MR. ARMBRISTER: Um...

11 COUNCILMAN GOODE: 'Cause I'm
12 trying to figure out at what point people
13 become political.

14 MR. ARMBRISTER: Well, I mean,
15 under the current rubric, they shouldn't
16 be political other than for purposes of
17 their own private expressions.

18 Are you saying at what point
19 they would become political under the new
20 proposed language? Or are you saying at
21 whether they're political under the
22 current --

23 COUNCILMAN GOODE: I'm saying
24 currently.

25 MR. ARMBRISTER: Well,

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2 currently, none of them. I mean,
3 currently, under the Charter, they
4 shouldn't be --

5 COUNCILMAN GOODE: I know what
6 the rules are; that wasn't the question.

7 And, actually, the question
8 was: On a scale from 0 to 10 --

9 MR. ARMBRISTER: Well, I --

10 COUNCILMAN GOODE: -- how
11 political is the Mayor's cabinet?

12 MR. ARMBRISTER: I don't think
13 that they're political at all. In the
14 context of a 0 to 10, I would say close
15 to 0.

16 COUNCILMAN GOODE: Okay, thank
17 you.

18 MR. ARMBRISTER: Mm-hmm.

19 COUNCILMAN GREENLEE:

20 Councilman Kelly.

21 COUNCILMAN KELLY: Thank you,
22 Mr. Chairman.

23 Mr. Armbrister, earlier,
24 Councilman Green asked if you the Mayor
25 should resign since he's a ward leader,

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2 and you answered no.

3 I agree with that. I don't
4 think there's any reason for the Mayor to
5 resign because he's a ward leader. I
6 think for too long -- and I'd like to go
7 on the record as saying there are people
8 in this city who somehow try to paint a
9 picture of trying to give the impression
10 that ward leaders, committee people are
11 the scourge of the City; somehow, they're
12 very corrupt, they're sinister, they try
13 to, I guess, walk around reform in the
14 City of Philadelphia, they try to avoid
15 it.

16 I don't think there's anything
17 -- anything more outrageous than what
18 people have been saying about ward
19 leaders and committee people because for
20 the simple fact that any candidate
21 running for any office, whether it be
22 judge, it be Municipal, Common Pleas,
23 Superior, the Supreme Court, whether it
24 be the higher offices such as a state
25 senator or a governor or a mayor, any of

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2 these candidates would find it very, very
3 difficult to be even elected without the
4 support of committee people and ward
5 leaders, because I have never seen any of
6 these candidates knock on doors to get
7 their petitions filled, never. And I
8 don't think that this is one of the
9 things that I think ward leaders and
10 committee people do.

11 I think they -- they're very
12 respected in their communities, and I
13 think that to have any City employee to
14 become a committee person is not the
15 worst thing in the world; it really
16 isn't. I think it shows that they are
17 interested in their community and they
18 want to help out in any way they can.

19 I don't think the two
20 organizations in Philadelphia -- the
21 Republican and Democrat City
22 committees -- I don't think they're
23 trying to jeopardize reform in this city;
24 I really don't.

25 I think that City employees

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2 should have that right, you know, and I
3 think it's a right that at least they
4 should be considered and not just thrown
5 away.

6 And that's all I have to say
7 about that.

8 MR. ARMBRISTER: Thank you.

9 COUNCILMAN GREENLEE:
10 Councilman Kenney.

11 COUNCILMAN KENNEY: Thank you.

12 And this has been -- we've
13 whacked this around a bit, and I
14 understand there's a philosophical
15 difference.

16 And I'm not trying to put you
17 on the spot, but I'm just trying to --
18 based on Councilman Goode's line of
19 questioning, I'm just trying to get an
20 idea as to the -- Councilman Goode just
21 whispered in my ear and said, "Can
22 anybody be zero percent political?" and I
23 don't think that's possible.

24 I mean, I think that in some
25 form or another, in some way or another,

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2 you have a political opinion, a political
3 philosophy, a political activity --

4 MR. ARMBRISTER: I think I said
5 "close to zero."

6 COUNCILMAN KENNEY: Like, for
7 example, exempt employees in the
8 Administration, do they ever attend
9 fundraisers?

10 MR. ARMBRISTER: Excuse me?

11 COUNCILMAN KENNEY: Do, like,
12 exempt employees in the Administration
13 ever attend fundraisers for folks or --

14 MR. ARMBRISTER: I think they
15 certainly could.

16 COUNCILMAN KENNEY: I mean, do
17 they now, for example --

18 MR. ARMBRISTER: I don't know,
19 I don't know.

20 COUNCILMAN KENNEY: How about,
21 like, in your level?

22 MR. ARMBRISTER: I -- I --

23 COUNCILMAN KENNEY: Do you
24 attend fundraisers at all?

25 MR. ARMBRISTER: Not typically,

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2 no.

3 COUNCILMAN KENNEY: No? Okay.

4 I mean, have you?

5 MR. ARMBRISTER: Since I've

6 been here, I can't --

7 COUNCILMAN KENNEY: I don't see

8 anything wrong with it.

9 MR. ARMBRISTER: No, no, no.

10 I'm just trying to remember. I've

11 certainly given to campaigns, but I can't

12 think of any political fundraisers.

13 COUNCILMAN KENNEY: But you've

14 contributed to campaigns --

15 MR. ARMBRISTER: Sure.

16 COUNCILMAN KENNEY: -- since

17 you've become Chief of Staff.

18 MR. ARMBRISTER: Yeah.

19 COUNCILMAN KENNEY: And, again,

20 I don't think there's anything wrong with

21 that either.

22 MR. ARMBRISTER: No.

23 COUNCILMAN KENNEY: I think

24 it's in the best interests of the City,

25 from your level of vision, it's a good

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2 thing for the City to be supportive of
3 folks who will go to Washington and go to
4 Harrisburg and go to other places to be
5 helpful to us as a city, not
6 individually.

7 MR. ARMBRISTER: Sure.

8 COUNCILMAN KENNEY: But to be
9 there when the City needs a tough vote,
10 those kinds of issues.

11 And I think that's kind of at
12 the macro level, at the micro level. I
13 mean, we encourage, you know, high school
14 students; I think almost every high
15 school in the City now has
16 community-service requirements that
17 people have to go out and do so many
18 hours of community service.

19 MR. ARMBRISTER: Mm-hmm.

20 COUNCILMAN KENNEY: I think
21 where we separate philosophically is the
22 view of politics as a profession or as
23 something that erodes the public's
24 confidence. I really -- well, that
25 was -- I think those were words that you

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2 used in your testimony about the erosion
3 of public confidence.

4 I think where we break apart on
5 this is that I don't think that being
6 politically active on your own time,
7 having a coffee klatch, working in your
8 division, being involved in, you know,
9 fundraising for a rec center, all those
10 things, I think, make you a better
11 citizen and ultimately make you a better
12 employee. So I think where we part ways
13 is there.

14 So I think that if higher-level
15 political appointees who are in the
16 government, being paid by the same
17 taxpayer, can do good political work in
18 helping get folks elected through their
19 contributions, through their guidance,
20 through their advice, elected officials
21 who will then go where they're going and
22 help our city, I think that's a wonderful
23 thing.

24 And if have City employees at a
25 lower level who go out into our

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2 neighborhoods and work hard to help our
3 neighborhoods, I think it's better for
4 everyone.

5 And certainly there are going
6 to be issues that the Inspector General
7 is to going want to look at or that some
8 supervisory individual is going to look
9 at or the Ethics Board is going to want
10 to look at.

11 But I think, in general, the
12 supposition that political activity at a
13 neighborhood level is that dangerous I
14 think is really overstating the facts;
15 when at higher levels, us included --
16 we're elected, you're appointed, we're
17 elected, political activities at those
18 levels are somehow good for the future of
19 the City.

20 I think they're both good for
21 the future of the City and that's where I
22 think we part ways philosophically.

23 So thanks.

24 COUNCILMAN GREENLEE: Thank
25 you.

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2 I know that we've been going at
3 this for a while, and I hesitate to ask
4 this; I'm not trying to embarrass anybody
5 else that's here.

6 But I know -- I think it's
7 fair, Mr. Armbrister, to say a lot of it
8 is -- what you're talking about is
9 concern about the integrity of
10 government, I guess, you would say,
11 right?

12 Are you concerned about some of
13 the changes here?

14 MR. ARMBRISTER: Concerned? I
15 think we're concerned about the
16 appearance that the delivery of services
17 to the public are compromised in any way
18 by politics, purely politics.

19 COUNCILMAN GREENLEE: Sure.

20 And the reason I bring that
21 up -- and, again, she's here and if she
22 wants to testify herself, but the Mayor's
23 Chief Integrity Officer, right? I'm
24 quoting from her in January of 2009,
25 before the Ethics Task Force. And I

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2 don't think I'm taking anything out of
3 context, but I won't read the whole
4 thing; anybody, you know, can read it.

5 It talks about the section on
6 political activity. "It's just about the
7 most restrictive provision in terms of
8 political activity I've ever heard of."
9 It goes on to say, "I think it's unfair
10 and unenforceable."

11 A little later on it says, "I
12 know when I worked at the federal
13 government for twenty years, we had..."

14 Now it says here "a Hatch
15 check." I think they mean "Hatch Act."

16 MR. ARMBRISTER: Hatch Act.

17 COUNCILMAN GREENLEE: I think
18 it was mistranscribed.

19 "... which worked pretty well,
20 and I would suggest that something like
21 that would work well here too."

22 Now, obviously, nobody is --
23 you know, this is a representative of the
24 -- I think it indicates that a lot of
25 people think there's a problem here.

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2 Now we can debate exactly how
3 far we should go and whether we should
4 have two tiers and all of that kind of
5 thing. But, you know, there's --
6 clearly, it seems to a lot of people that
7 there is a problem here, and it's just
8 too restrictive.

9 MR. ARMBRISTER: And,
10 Councilman, I think -- and I do again
11 want to, maybe for the second or third
12 time, underscore the position of the
13 Administration regarding the broad
14 definition of "political activity" and on
15 the continuum what we talk about as
16 "political expression," that clearly, it
17 is the view of this administration that
18 the interpretation of the Charter, as it
19 relates to political expression, probably
20 had gone overboard.

21 And we are willing to engage in
22 a conversation with this council about
23 how those restrictions or, as we
24 suggested in my testimony, that the
25 Ethics Board maybe take another look at

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2 that interpretation of political activity
3 as it relates to political expression.

4 COUNCILMAN GREENLEE: We can't
5 we --

6 MR. ARMBRISTER: And then with
7 respect to political activity, I think --
8 and as it relates to the Hatch Act -- and
9 I know there was a lot of discussion from
10 the previous witness about that, that the
11 delivery of federal -- of services at the
12 federal level, we think, and the delivery
13 of services at the local level are
14 fundamentally different in terms of the
15 interaction between the person delivering
16 the service and the person receiving the
17 service; and therein, we think, lies the
18 problem on the local level.

19 And we think in that context
20 that it is not inappropriate for the City
21 to be more restrictive as it relates to
22 its employees in the Hatch Act. And I'm
23 really interested in seeing the kind of
24 two-tiered proposal that the Council may
25 come up with. I mean, maybe this

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2 becomes, you know, a moot issue; I don't
3 know since I haven't seen anything.

4 But that really is the
5 fundamental philosophical issue is that
6 at the federal level, the -- and even in
7 the amendments that were made by Congress
8 post 1937, I think it was a general
9 recognition that delivery of services by
10 federal employees to citizens maybe don't
11 touch the individual citizen as much as
12 the delivery of services at a local
13 level.

14 COUNCILMAN GREENLEE: Okay. I
15 guess there's some disagreement there.

16 One last question from me, and
17 I know Councilman Green has a question.

18 The boards and commissions
19 issue, what is your feeling on that?
20 Should there be differences as far as
21 your restrictions on members of boards
22 and commissions?

23 MR. ARMBRISTER: Well, it kind
24 of depends. And, again, I think --
25 that's why I think there needs to be a

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2 careful analysis of the work that the
3 particular board or commission does.

4 I mean, obviously, boards and
5 commissions that provide privileges or
6 could withhold privileges or permissions
7 and things like that that are ultimately
8 governmental in nature, I think you may
9 want to look at those differently than
10 you do from boards and commissions that
11 are purely advisory that don't have any
12 real substantive governmental function
13 other than providing, you know, maybe
14 advice and don't withhold privileges or
15 grant permission for certain things. I
16 think that there's an opportunity to make
17 some distinctions there.

18 COUNCILMAN GREENLEE: Okay.

19 Thank you.

20 Councilman Green.

21 COUNCILMAN GREEN: Thank you.

22 With respect to your discussion
23 that there's a different interest at the
24 City level because people are involved in
25 local politics, what is the interest in

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2 the City of Philadelphia in regulating
3 whether or not someone can be politically
4 active in the campaign of someone running
5 for Congress or US Senate or the
6 president?

7 MR. ARMBRISTER: Well, in many
8 respects, as I've heard many politicians
9 say, all politics being local, I mean, I
10 think that that might be the interest
11 there. I mean, it's essentially a local
12 issue.

13 COUNCILMAN GREEN: But you just
14 testified that the federal employees
15 don't do their work in communities; city
16 workers do, and.

17 MR. ARMBRISTER: But that is --
18 (Indiscernible; parties talking
19 over each other.)

20 MR. ARMBRISTER: But that's not
21 a delivery of service; you're actually
22 talking about an active campaign. I
23 thought that was the premise of the
24 question.

25 COUNCILMAN GREEN: Sure. But,

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2 I mean, what interest does the City have
3 in limiting someone's political campaign
4 activity for someone running for US
5 Congress?

6 MR. ARMBRISTER: Because I
7 think, as I stated before, the underlying
8 premise of a lot of politics is that
9 politics is local and you start at the
10 local level, and that if, you know, a
11 political campaign in which there are
12 local, you know, committee, ward
13 organizations that lead up to the state
14 --

15 COUNCILMAN GREEN: That's not
16 the question; the question: Is what
17 interest does the City have in preventing
18 a clerk-typist employee in the Streets
19 department from working actively in the
20 political campaign of someone running for
21 US Congress?

22 That has nothing to do with
23 parties; this is an employee working --

24 MR. ARMBRISTER: You say it has
25 nothing to do with parties?

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2 COUNCILMAN GREEN: Right. This
3 is --

4 MR. ARMBRISTER: But it would
5 be an active partisan campaign? Or are
6 you talking --

7 COUNCILMAN GREEN: Well, of
8 course it would be. A person running for
9 Congress is a member of a political
10 party.

11 MR. ARMBRISTER: Right.

12 (Indiscernible; parties talking
13 over each other.)

14 MR. ARMBRISTER: And there
15 could be a local political organization
16 that --

17 COUNCILMAN GREEN: But that's
18 not the hypothetical; the hypothetical
19 is, an employee wants to go work for
20 Patrick Murphy.

21 MR. ARMBRISTER: As part of his
22 active political campaign?

23 COUNCILMAN GREEN: As part of
24 his active political campaign. What
25 interest do we have in preventing that

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2 person from doing so?

3 MR. ARMBRISTER: Well, I think
4 it goes back to the issue regarding the
5 -- the perceptions and whether or not
6 people will perceive that taking one
7 position versus another position might
8 affect the delivery of their service on a
9 local level.

10 COUNCILMAN GREEN: Well, I
11 mean, for a clerk-typist in the Streets
12 Department, what interest is there --

13 MR. ARMBRISTER: I don't know.
14 Who's Mr. Murphy running against? It may
15 be his supervisor that's supporting the
16 other candidate or maybe --

17 (Indiscernible; parties talking
18 over each other.)

19 MR. ARMBRISTER: Or maybe their
20 neighbor walks -- you know, is coming in
21 for, you know, some service or can't get
22 their phone answered; I don't know.

23 But those are really the kinds
24 of --

25 COUNCILMAN GREEN: I agree with

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2 three words of your answer to that

3 question: "I don't know."

4 With respect to the
5 Administration's argument that most
6 federal work does not take place in our
7 communities, and the Hatch Act does not
8 fit at the local level, are you aware
9 that the Hatch Act requirements apply to
10 state government and nonprofit employees
11 whose positions are funded in whole or
12 part with federal funding?

13 MR. ARMBRISTER: Yes, I think
14 that's correct.

15 COUNCILMAN GREEN: Okay. And
16 are you aware that there are many federal
17 employees that work directly in our
18 community?

19 MR. ARMBRISTER: Oh, clearly.

20 COUNCILMAN GREEN: Like postal
21 workers, for example?

22 MR. ARMBRISTER: Clearly.

23 COUNCILMAN GREEN: Have you
24 ever had a problem with a postal worker
25 delivering your mail because of a lawn

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2 sign?

3 MR. ARMBRISTER: I don't know,
4 I don't know. I've had a lot of problems
5 with my postal service delivering mail;
6 maybe it is because of my lawn sign; I
7 don't know.

8 COUNCILMAN GREEN: PHA
9 maintenance workers?

10 MR. ARMBRISTER: I never had
11 that.

12 COUNCILMAN GREEN: The federal
13 Hatch Act applies to them, PHA employees.
14 Head Start employees, they work pretty
15 directly in our community.

16 MR. ARMBRISTER: Okay.

17 COUNCILMAN GREEN: I mean, so,
18 are you maintaining that distinction or
19 are you...

20 MR. ARMBRISTER: Yeah, I would
21 maintain that on a very broad level that
22 that distinction still is applicable.

23 COUNCILMAN GREEN: So it's your
24 position that the Hatch Act doesn't work
25 for PHA employees or Head Start employees

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2 or postal workers because they work
3 directly in our community.

4 MR. ARMBRISTER: No. I said I
5 don't --

6 COUNCILMAN GREEN: And that the
7 federal government needs to change its
8 law because we have people working in the
9 community who shouldn't be because the
10 Hatch Act is too permissive.

11 MR. ARMBRISTER: No, I wouldn't
12 make that claim.

13 COUNCILMAN GREEN: I thought
14 all politics was local.

15 MR. ARMBRISTER: Well, the
16 example you gave me earlier had to do
17 with someone who was running and wanted
18 to be a part of a campaign, which I think
19 is distinguishable from what you're
20 describing now.

21 COUNCILMAN GREEN: So I guess
22 I'd ask you the same question with
23 respect to a candidate for governor and
24 why, and I assume your answer would be
25 the same, so I won't go down that line of

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2 questioning.

3 Can you describe how someone is
4 promoted in the City of Philadelphia if
5 they're a civil service employee?

6 MR. ARMBRISTER: Promoted?

7 They usually take an exam.

8 COUNCILMAN GREEN: That's
9 right. A bunch of people take an exam,
10 and how many people can be chosen for any
11 one open position? How many --

12 MR. ARMBRISTER: The Rule of --
13 you mean the Rule of Two?

14 COUNCILMAN GREEN: Yes.

15 MR. ARMBRISTER: Mm-hmm.

16 COUNCILMAN GREEN: And so, the
17 Rule of Two was -- why was that put in
18 place? Why such a restrictive use?

19 I mean, the Committee of
20 Seventy has come in, you know, and
21 publicly said that we should have a less
22 restrictive rule. Why do you think we
23 had such a restrictive rule in our civil
24 service?

25 MR. ARMBRISTER: I'm not sure I

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2 know the origins of the Rule of Two.

3 COUNCILMAN GREEN: Well, I
4 would argue that it prevents just the
5 sort of conduct that you were concerned
6 about with respect to supervisors
7 favoring people and not favoring people,
8 not just with respect to political
9 activity but with respect to all sorts of
10 activities like, This guy's my hunting
11 buddy. This guy's my bowling buddy.
12 This guy's my whatever.

13 And that you're applying to
14 political activities a different standard
15 in terms of promotions or if somebody's
16 going to get punished for this or that
17 activity, for not supporting a candidate;
18 you want to have a different rule for
19 that than you want to have for somebody
20 who's somebody's bowling buddy or
21 somebody's fishing buddy.

22 And this rule is the
23 restriction of free speech.

24 MR. ARMBRISTER: Well, I'll
25 answer that in a couple respects.

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2 One is that a lot of -- those
3 are the examples that we were relating to
4 in our testimony related to the delivery
5 of services.

6 And I think one lost
7 beneficiary of the current Charter
8 provision that we haven't focused a lot
9 of attention on are those people -- I
10 mean, you Councilmembers have talked a
11 lot about those folks who would like to
12 participate in political activity who
13 currently cannot because of the rule, who
14 knowingly took the job, knowing that they
15 would be restricted.

16 But there are probably as many,
17 if not more, employees who took the job,
18 in large part, because they are, in fact,
19 free of that pressure or perceived
20 pressure. And we shouldn't lose sight of
21 those employees as well.

22 COUNCILMAN GREEN: What do you
23 base that opinion on?

24 MR. ARMBRISTER: I base it on
25 the opinion that a lot of people would --

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2 who --

3 COUNCILMAN GREEN: No. I mean,
4 you just made a statement about how many
5 employees feel --

6 MR. ARMBRISTER: I said there
7 may be --

8 COUNCILMAN GREEN: Oh, there
9 may be --

10 MR. ARMBRISTER: I said there
11 may be employees who are beneficiaries of
12 the rule because they don't want to
13 participate.

14 COUNCILMAN GREEN: And for
15 those employees, are their current
16 restrictions in state law and local law
17 that would prevent the kind of activity
18 that you're concerned about?

19 MR. ARMBRISTER: I'm sure
20 you'll tell me.

21 COUNCILMAN GREEN: Well, of
22 course there are. There are civil
23 service protections, there's anti-macing
24 statutes at the state level; you know,
25 there's all sorts of laws that apply to

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2 those people.

3 So when you boil it all down,
4 what you're saying is, you don't trust
5 City Council.

6 MR. ARMBRISTER: No. I didn't
7 say that.

8 COUNCILMAN GREEN: Okay. With
9 respect to the bifurcations that we've
10 been talking about in trying to make
11 distinctions between people who have
12 administerial duties, like a clerk-typist
13 in the Streets Department and, say, a
14 peace officer or, say, some L&I inspector
15 who's out on the street, et cetera, is
16 that a distinct that the Administration
17 is willing to look at and perhaps engage
18 in a dialogue that --

19 MR. ARMBRISTER: Well --

20 COUNCILMAN GREEN: Do you think
21 it's possible for us to come up with
22 clear definitions of who political-
23 activities restrictions should apply to
24 and who they shouldn't apply to with
25 respect to City employees?

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2 MR. ARMBRISTER: Well, on
3 behalf of the Administration, we're
4 certain encouraged by the announcement
5 that the chair gave earlier today, that
6 this committee and the sponsor is willing
7 to kind of slow down a little bit. We
8 were very concerned about the speed with
9 which the Council was moving.

10 And any discussion in which we
11 have an opportunity to actually sit down
12 and talk to you about these provisions
13 would be welcome.

14 COUNCILMAN GREEN: My question
15 wasn't about the speed, though; my
16 question was whether or not --

17 MR. ARMBRISTER: And I think my
18 answer was that we would welcome the
19 opportunity to sit down and have a
20 dialogue with Council about all of these
21 provisions.

22 COUNCILMAN GREEN: So you
23 believe that it is possible that the
24 Administration could agree to a
25 distinction --

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2 MR. ARMBRISTER: We would

3 welcome --

4 COUNCILMAN GREEN: -- between
5 ministerial officers and everybody else.

6 MR. ARMBRISTER: We would
7 welcome the opportunity to sit down and
8 talk with the Council about all of these
9 revisions.

10 COUNCILMAN GREEN: Thank you.

11 COUNCILMAN GREENLEE: Thank
12 you.

13 Any further questions?

14 (No further questions or
15 comments.)

16 COUNCILMAN GREENLEE: Next is
17 --

18 MR. ARMBRISTER: Excuse me.

19 COUNCILMAN GREENLEE: Yes.

20 MR. ARMBRISTER: I wanted to
21 offer up the opinion of the -- as I
22 mentioned in my testimony, the opinion of
23 the Solicitor.

24 COUNCILMAN GREENLEE: Okay.

25 Thank you. All right. We'll get copies

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2 to everybody.

3 MR. ARMBRISTER: Thank you.

4 COUNCILMAN GREENLEE: All

5 right. The next --

6 COUNCILMAN GREEN: For the

7 record, then, I'd like to provide the

8 e-mail from Steven Bibas -- Stephanos

9 Bibas, a professor at Penn law who sat on

10 the Mayor's Ethics Task Force and goes

11 through in quite explicit detail why the

12 political-activities restrictions that we

13 have in place in this city are overbroad.

14 COUNCILMAN GREENLEE: Thank

15 you. We'll make that a part of the

16 record also.

17 (Copy of above-cited e-mail was

18 not provided to stenographer and is,

19 therefore, not attached hereto.)

20 COUNCILMAN GREENLEE: All

21 right. On my list I have three more

22 testifiers: Mr. McCormick, Mr. Kramer,

23 and Mr. Stahlberg.

24 And, again, if I could

25 reiterate, we've been at this for a

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2 while. If you have written testimony,
3 that will be submitted. And if you could
4 summarize, we'd greatly appreciate it.

5 Thank you.

6 (Witness comes forward.)

7 COUNCILMAN GREENLEE: Once
8 again, if you could just identify
9 yourself for the record and proceed.

10 MR. McCORMICK: Thank you,
11 Councilman Greenlee.

12 My name is Brian McCormick, and
13 I am one of the nine members of the
14 Mayor's Task Force on Ethics and Campaign
15 Financial Reform. We submitted a written
16 statement; attached to that was the Task
17 Force's report and recommendations from
18 December of 2009.

19 Based on Council's decision to
20 postpone or to put off the ballot
21 question, I think my written testimony
22 stands for itself.

23 I would like to just point out
24 the fact that we -- the Task Force did
25 find a distinct difference between

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2 political expression and political
3 activity, which I think pervades
4 throughout that section of our report.

5 As you will see from my written
6 testimony, most of my comments, and in
7 response to Councilman Goode, I'd say
8 about 75 percent were on 10128 [sic].

9 So that's a -- the other parts
10 were on the same -- some of the things
11 that Mr. Armbrister testified on that we
12 thought the ballot question, as written,
13 was overbroad.

14 But other than that, I don't
15 think there's anything I could say that's
16 not in my written testimony. And in the
17 interest of efficiency, I would just
18 submit it.

19 COUNCILMAN GREENLEE: Okay. I
20 appreciate that. Thank you.

21 Councilman Green.

22 MR. McCORMICK: I'm willing to
23 take questions. I know you all have had
24 my written statements since 1 o'clock.

25 COUNCILMAN GREENLEE: Okay.

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2 Well, that usually doesn't stop

3 Councilman Green.

4 (Laughter.)

5 COUNCILMAN GREEN: Um --

6 MR. McCORMICK: I saw him start
7 to get up and walk away, and so I started
8 to cut myself short.

9 (Laughter.)

10 COUNCILMAN GREEN: So, once
11 again, we appreciate the work of the Task
12 Force; I said that to you last time.

13 MR. McCORMICK: Thank you.

14 COUNCILMAN GREEN: And we're
15 trying to take what recommendations we
16 can get support for.

17 Just very quickly, did the
18 members of the Task Force agree among
19 themselves essentially that even if they
20 disagreed with a particular outcome that
21 they would not -- with respect to one
22 provision of the Task Force report versus
23 another provision of the Task Force
24 report. In other words, ultimately, it
25 was a compromise solution.

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2 Did they agree among themselves
3 that if they had a particular
4 disagreement with the final outcome that
5 they would not publicly speak against
6 that?

7 MR. McCORMICK: Uh...

8 COUNCILMAN GREEN: Yes or now?

9 MR. McCORMICK: You're asking
10 me a question? I don't remember the
11 answer; I don't recall.

12 COUNCILMAN GREEN: You don't
13 recall --

14 MR. McCORMICK: I don't recall.

15 COUNCILMAN GREEN: -- whether
16 or there was a --

17 MR. McCORMICK: It's not a
18 cop-out; I don't recall.

19 COUNCILMAN GREEN: Okay.

20 MR. McCORMICK: I remember we
21 had a unanimous decision; we got to the
22 end, and everybody agreed on what we
23 felt.

24 COUNCILMAN GREEN: Okay. Well,
25 would it surprise you to hear that other

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2 members of the Task Force have told me
3 that, basically, the Task Force part of
4 the final discussions were that they
5 would not sort of publicly disagree with
6 any aspect of the report, even if they
7 personally disagreed with one item in it?

8 MR. McCORMICK: I did not hear
9 any of that test -- that was not brought
10 up with me.

11 COUNCILMAN GREEN: I thought
12 you didn't recall.

13 MR. McCORMICK: What do you
14 mean? I don't understand what you're
15 saying.

16 COUNCILMAN GREEN: I'm just --

17 MR. McCORMICK: Well, I don't
18 recall if there's was any, no.

19 COUNCILMAN GREEN: Okay.

20 MR. McCORMICK: Of course not.

21 COUNCILMAN GREEN: Are you
22 familiar with Stephanos Bibas?

23 MR. McCORMICK: Yes, I am.

24 COUNCILMAN GREEN: Well,
25 Stephanos wrote a lengthy e-mail during

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2 the process after the first Task Force on
3 Ethics came out, and you may recall some
4 distinctions between the first,
5 preliminary Task Force report and the
6 final Task Force report, especially as it
7 relates to political activities.

8 MR. McCORMICK: Yes, I do.

9 COUNCILMAN GREEN: Would you
10 care to describe the difference between
11 the first Task Force report and the
12 second Task Force report --

13 MR. McCORMICK: I think --

14 COUNCILMAN GREEN: -- with
15 respect to political activities?

16 MR. McCORMICK: I think the
17 difference was that Stephanos believed
18 that the -- would agree with what
19 Professor Kreimer said here, that some
20 portions of the political-activities
21 section would be held unconstitutional.

22 COUNCILMAN GREEN: That he
23 would agree?

24 MR. McCORMICK: Yes.

25 COUNCILMAN GREEN: Yes. And

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2 who should rewrite the law if a provision
3 of it is unconstitutional, in your
4 opinion? I mean, should it be an
5 unelected body appointed by the
6 Administration, or should it be City
7 Council, who are elected by the people to
8 write laws?

9 MR. McCORMICK: I think it
10 could be a combination of the two.

11 COUNCILMAN GREEN: Well, I
12 mean, if we have an unconstitutional City
13 Charter provision, how can anybody but
14 the legislature fix it, legally?

15 MR. McCORMICK: Well, the
16 legislature can take the recommendations
17 that's it's been given by a body of
18 interested citizens that spent 16 months
19 looking at it and take their
20 recommendations and discuss it with them.
21 And then the legislation will have to
22 make the decision in the end, though.

23 COUNCILMAN GREENLEE: That's
24 right. That's what we're doing, yeah.

25 MR. McCORMICK: Right.

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2 COUNCILMAN GREEN: The
3 legislative body is acting, and while we
4 may agree or disagree with respect to
5 specific conclusions, we are addressing
6 political activities, which, at least in
7 some respects, you believe are too
8 restrictive with respect to freedom of
9 expression.

10 MR. McCORMICK: And I think if
11 you looked at our written comments in our
12 report, we agree with many of the
13 recommendations in 10 -- 10128 [sic].

14 COUNCILMAN GREEN: Right.

15 MR. McCORMICK: On this one, we
16 do not agree.

17 COUNCILMAN GREEN: Right. So
18 but how did the Task Force go from the
19 first committee report, where you said,
20 basically, political-activities
21 restrictions are basically overly broad,
22 and Council should in fact put in place a
23 Charter change that authorizes them to
24 put in place laws that meet the
25 constitutional standards to the second

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2 report, which said something very
3 different?

4 MR. McCORMICK: I think,
5 actually, there were probably three or
6 four reports in the middle. Just like
7 any other body, people that work
8 together, we had several drafts of the
9 report going back and forth. We took
10 comments, we had a public hearing.

11 And after getting comments, we
12 sat down and decided that the original
13 draft was not the correct interpretation
14 of that section, and revised our report.

15 COUNCILMAN GREEN: I don't
16 remember any comments during your
17 original comment period after the first
18 report that argued with the political-
19 activities restrictions in the
20 preliminary report of the Task Force.
21 Was there any public testimony or public
22 comment period about that?

23 MR. McCORMICK: I have not read
24 either of the transcripts since they
25 occurred, but we also met --

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2 COUNCILMAN GREEN: 'Cause I
3 testified there and --

4 MR. McCORMICK: You know,
5 Councilman Green, we met with you, I
6 believe, on at least two or three
7 occasions; we met with other
8 Councilpeople; we met with people from
9 the Mayor's Office; we met with people
10 from the Law Department; we met with
11 Controller Butkovitz.

12 I assume somewhere along the
13 way --

14 COUNCILMAN GREEN: I don't --

15 MR. McCORMICK: I can't
16 pinpoint that exact second.

17 COUNCILMAN GREEN: I don't
18 think you met with me after the
19 preliminary report was out, but certainly
20 --

21 MR. McCORMICK: I'm not saying
22 when; I'm saying just saying we did.

23 COUNCILMAN GREEN: -- certainly
24 beforehand. After the preliminary report
25 was out, did you meet with people from

1 3.15.10 LAW & GOV'T - BILL 100121, RES. 100139

2 the Mayor's Office and the City
3 Solicitor's Office with respect to
4 political-activities restrictions
5 specifically?

6 MR. McCORMICK: I do not know
7 the answer to that. I don't know when
8 that occurred in the timeline.

9 COUNCILMAN GREEN: Is it fair
10 to say --

11 (Indiscernible; parties talking
12 over each other.)

13 MR. McCORMICK: You have to
14 remember, we did not have a staff or
15 anything to help us; we were working on
16 our own.

17 COUNCILMAN GREEN: No, I
18 understand.

19 MR. McCORMICK: Basically, Mike
20 Schwartz's secretary was our sort of
21 person that --

22 COUNCILMAN GREEN: No, I
23 understand.

24 Is it fair to say that the
25 Administration, after the first Task

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2 Force report came out, lobbied extremely
3 heavily with Mr. Schwartz and others to
4 change the recommendations with respect
5 to political activities?

6 MR. McCORMICK: I think the
7 Administration was concerned with the
8 initial report, but I don't know.

9 COUNCILMAN GREEN: And lobbied
10 pretty heavily to get it changed?

11 MR. McCORMICK: I -- lobbied
12 pretty heavily? They were concerned --

13 (Indiscernible; parties talking
14 over each other.)

15 MR. McCORMICK: I know which
16 way you want to go. So you can say
17 "lobbied pretty heavily"; I don't know if
18 I would say that but --

19 COUNCILMAN GREEN: Okay. But
20 they talked a lot about it.

21 MR. McCORMICK: Yeah. We all
22 did.

23 COUNCILMAN GREEN: Okay. And
24 would you say that that was policy
25 discussion or political activity?

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2 MR. McCORMICK: I don't know

3 what you mean.

4 COUNCILMAN GREEN: Never mind.

5 Thank you for your testimony.

6 COUNCILMAN GREENLEE:

7 Councilman Goode.

8 COUNCILMAN GOODE: Well, I'll

9 go where Councilman Green was about to
10 go.

11 On a scale from 0 to 10 -- 0
12 being totally not political, 10 being
13 political -- where does the Task Force
14 fall?

15 MR. McCORMICK: The Task Force?

16 COUNCILMAN GOODE: The Task
17 Force.

18 MR. McCORMICK: Zero.

19 COUNCILMAN GOODE: Zero. So
20 where does the Task Force's understanding
21 of political activities come from?

22 MR. McCORMICK: I'm sorry.

23 Excuse me? I don't --

24 COUNCILMAN GOODE: Where does
25 the Task Force's understanding of

1 3.15.10 LAW & GOV'T - BILL 100121, RES. 100139

2 political activity come from?

3 MR. McCORMICK: It comes from
4 our own reading, it comes from our own
5 discussions within --

6 COUNCILMAN GOODE: Based upon
7 what --

8 MR. McCORMICK: It comes from
9 meetings we've had with different
10 Councilpeople.

11 COUNCILMAN GOODE: If the Task
12 Force is totally non-political, where
13 does your understanding of political
14 activities come from? You said zero.

15 MR. McCORMICK: Right, meaning
16 --

17 (Indiscernible; parties talking
18 over each other.)

19 COUNCILMAN GOODE: So if the
20 Task Force is totally --

21 MR. McCORMICK: I can give you
22 the list -- it's in the Task Force -- of
23 the different people we met with. I
24 don't recall which one of those 78 people
25 talked about political activity.

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2 (Indiscernible; parties talking
3 over each other.)

4 COUNCILMAN GOODE: And where
5 would your understanding come from?

6 MR. McCORMICK: I don't
7 understand what you mean.

8 COUNCILMAN GOODE: Where would
9 your understanding of political
10 activities come from?

11 MR. McCORMICK: I still don't
12 understand your question.

13 COUNCILMAN GOODE: Why would
14 you rely upon their expertise, their
15 opinion on political activity unless you
16 believed that your Task Force members you
17 serve with had some understanding of
18 political activity? Where does the
19 understanding come from?

20 MR. McCORMICK: Well, I believe
21 that Mr. Mezzaroba served as Councilwoman
22 Verna's Chief of Staff, for example; I
23 believe he would understand what
24 political activity was.

25 We met with Councilman Green

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2 and his Chief of Staff and his counsel at
3 least twice; I believe we did talk about
4 political activity. That would have been
5 somewhere where we learned about
6 political activity.

7 Stephanos Bibas, who wrote the
8 e-mail that Councilman Green entered
9 about I don't know how many Supreme Court
10 cases. I assume he learned about
11 political activity from that. He was a
12 former prosecutor in the southern
13 district in New York; he learned about it
14 this way.

15 I -- I don't --

16 COUNCILMAN GOODE: I'm not
17 quite sure how any of the people you
18 described --

19 MR. McCORMICK: Right.

20 COUNCILMAN GOODE: -- Al
21 Mezzaroba, anyone from Councilman Green's
22 staff, or the last person you mentioned
23 where they get their understanding of
24 political activity.

25 MR. McCORMICK: I -- I've got

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2 to be honest. I'm not trying to avoid
3 your question; I don't understand your
4 question.

5 COUNCILMAN GOODE: By virtue of
6 having served on Council staff, does that
7 mean someone understands political
8 activities, as defined under the
9 recommendations?

10 I'm trying to just pinpoint
11 where the actual opinion of the Task
12 Force comes from in terms of political
13 activities. Where does it come from?

14 MR. McCORMICK: And I thought I
15 tried to start to describe that.

16 I can't tell you that I sat
17 down and was hit by a bolt of lightening
18 that told me what political activity is.
19 I learned about it during the course of
20 forty years of living in Philadelphia and
21 sixteen months of being on the Task
22 Force. I don't know.

23 If you're asking me whether I
24 have any practical experience of going
25 out and seeing political activity on the

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2 street? I -- I'm confused as to the
3 question.

4 COUNCILMAN GOODE: No, my
5 question is simply: Where does your
6 opinion come from?

7 MR. McCORMICK: It came from
8 the things I just described, it came from
9 the --

10 COUNCILMAN GOODE: And how does
11 that qualify you to decide that public
12 employees should not be engaged in it?

13 MR. McCORMICK: I would say
14 that the -- the nine members of the Task
15 Force as well as the people we met with
16 from both Council, the Mayor's Office,
17 the City Controller, and pulling together
18 all of that information and that learning
19 and education and our own personal
20 experiences certainly gave us the ability
21 to decide on these issues.

22 COUNCILMAN GOODE: Exactly how
23 --

24 MR. McCORMICK: I don't
25 understand how this is any different than

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2 campaign finance or ethics or lobbying.

3 You sit down and you talk to people and

4 you learn about it.

5 COUNCILMAN GOODE: So what did
6 you learn about political activities with
7 regard to public employees? Aside from
8 it's bad?

9 MR. McCORMICK: We learned the
10 way that the courts have treated it in
11 the past, we learned about the Hatch Act,
12 we looked at the Charter, we compared the
13 different aspects of it, we talked about
14 what we thought was bad and good, and we
15 made some recommendations that broadened
16 the --

17 COUNCILMAN GOODE: And the
18 opinion that it's bad came from where?

19 MR. McCORMICK: I can't tell
20 you specifically. I can't remember one
21 person that came in told us this part of
22 it was bad. I believe it was a --

23 COUNCILMAN GOODE: So no one --
24 if you can't remember who said it was
25 bad --

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2 MR. McCORMICK: Right.

3 COUNCILMAN GOODE: -- and the
4 Hatch Act and every other law on the
5 books on different levels of government
6 in different jurisdictions are less
7 restrictive, then how did you end up here
8 in terms of believing that there should
9 be -- the restrictions should be the same
10 as they are?

11 MR. McCORMICK: Because we
12 believe that the restrictions have done
13 the job for the past sixty years. And
14 so, there's no reason for the --

15 (Indiscernible; parties talking
16 over each other.)

17 COUNCILMAN GOODE: Then why
18 would there be a Task Force, to begin
19 with?

20 MR. McCORMICK: I'm sorry. You
21 ran over me; I couldn't understand the
22 question.

23 COUNCILMAN GOODE: If the
24 restrictions had done the job over the
25 last sixty years, why would there be a

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2 need for the Task Force to begin with?

3 MR. McCORMICK: Well, that
4 wasn't the only thing we looked at,
5 Councilman Goode; there were a lot of
6 other things we looked at. That was one
7 of the issues that we were asked to
8 review.

9 COUNCILMAN GOODE: I'm saying
10 if the Charter had served the purposes in
11 terms of --

12 MR. McCORMICK: And that's why
13 we say we don't think the Charter --

14 (Indiscernible; parties talking
15 over each other.)

16 COUNCILMAN GOODE: In terms of
17 making sure that government is honest,
18 has integrity and so forth and so on,
19 why -- what's the need for a Task Force
20 to begin with, if the Charter has served
21 us that well?

22 MR. McCORMICK: I think there a
23 lot of different issues we were asked to
24 look at, and that was one of them. And
25 we actually said we think it's working,

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2 so don't change that one. But on
3 political expression, it is not working
4 and it should be changed.

5 COUNCILMAN GOODE: And you
6 still haven't explained to me where that
7 opinion came from that it's working.

8 MR. McCORMICK: Well, were back
9 to -- it's back to that question. I
10 can't go back and specifically tell you
11 which person we spoke to gave us that
12 opinion.

13 COUNCILMAN GOODE: Okay. Thank
14 you, Mr. Chairman.

15 COUNCILMAN GREENLEE: Thank
16 you.

17 Councilman Green.

18 COUNCILMAN GREEN: Thank you.

19 Did the City Solicitor's Office
20 advise you with respect to what the law
21 is with respect to political activities
22 after your initial report?

23 MR. McCORMICK: We met with the
24 Law Department; I believe it was after
25 the initial report, yes.

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2 COUNCILMAN GREEN: And did they
3 advise you that, in their opinion, in
4 contrast to Professor Bibas, that it was,
5 um...

6 MR. McCORMICK: Constitutional?

7 COUNCILMAN GREEN: Yeah.

8 MR. McCORMICK: Yes.

9 COUNCILMAN GREEN: Okay. And
10 were they acting at the direction of the
11 Mayor?

12 MR. McCORMICK: I have no idea.

13 COUNCILMAN GREEN: So you
14 couldn't tell us whether that's a 10 to 0
15 on the sale of political activity versus
16 public policy.

17 MR. McCORMICK: You know,
18 councilman Green, I don't know the
19 answer.

20 COUNCILMAN GREEN: I
21 understand. I'm going to read just a
22 brief statement -- or a brief sentence.
23 Professor Bibas goes through the current
24 Charter and regulations and basically
25 says there are dubious constitutionality

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2 under the 1st and 14th Amendments of the
3 United States Constitution and are
4 unlikely to survive an inevitable court
5 challenge if the City attempts to enforce
6 them vigorously. Recent Supreme Court
7 case law casts serious doubt about
8 applying political-activity restrictions
9 to employees' off-the-job activities.
10 The Supreme Court of the United States
11 has recognized that public employees do
12 not surrender all of their First
13 Amendment right by reason of their
14 employment, et cetera, et cetera.

15 Can you please explain why you
16 disagree with that as a matter of law?

17 MR. McCORMICK: I believe
18 that -- and I'm not going to claim to be
19 Professor Kreimer, who teaches at Penn,
20 went to Yale; I went to Rutgers Law; I'm
21 not at that level.

22 Stephanos Bibas has the same
23 sort of résumé; I think he clerked for a
24 Supreme Court justice.

25 I believe the case law I read

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2 does not go as far as Stephanos Bibas

3 thinks it does.

4 COUNCILMAN GREEN: Okay.

5 MR. McCORMICK: I think he is

6 pushing it to a step too far and is not

7 dealing with the practical realities.

8 So that's my personal opinion.

9 COUNCILMAN GREEN: What are the

10 practical realities?

11 MR. McCORMICK: I think the

12 practical realities are that nobody is

13 out there right now looking to change

14 these restrictions, nobody has challenged

15 it yet. And if there is a challenge,

16 we'll deal with it then but not right

17 now.

18 COUNCILMAN GREEN: So as long

19 as -- if something's unusual

20 constitutional, even with respect to

21 expression, we shouldn't do anything

22 about it until someone brings a lawsuit?

23 MR. McCORMICK: No. I believe

24 expression definitely needs to be

25 changed. I think there is a question as

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2 to whether lawn signs and buttons and
3 that type of thing is too restrictive,
4 and I think that should be reviewed.

5 COUNCILMAN GREEN: Thank you.

6 COUNCILMAN GREENLEE:

7 Councilman Goode.

8 COUNCILMAN GOODE: Very
9 quickly. The process of going from a
10 preliminary Task Force to a final Task
11 Force report, would you consider that to
12 be political?

13 MR. McCORMICK: I don't think
14 what we did was political, no.

15 COUNCILMAN GOODE: I said the
16 process of going from a preliminary
17 report to a final report.

18 MR. McCORMICK: No.

19 COUNCILMAN GOODE: Okay. So
20 which one should we trust?

21 MR. McCORMICK: I think you
22 should trust the final report.

23 COUNCILMAN GOODE: Okay. And
24 what about the Committee of Seventy's
25 report on the report?

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2 MR. McCORMICK: I'm sorry.

3 What?

4 COUNCILMAN GOODE: What about
5 the Committee of Seventy's report on the
6 report?

7 MR. McCORMICK: A report on the
8 report?

9 COUNCILMAN GOODE: Yeah. There
10 was a preliminary report.

11 MR. McCORMICK: Right.

12 COUNCILMAN GOODE: And there
13 was a final report and then there was a
14 report on the report.

15 MR. McCORMICK: Uh, I can't...

16 COUNCILMAN GOODE: Thank you.

17 Never mind.

18 MR. McCORMICK: I mean, is that
19 a rhetorical question or just -- okay.

20 COUNCILMAN GREENLEE: Any other
21 questions?

22 (No further questions.)

23 COUNCILMAN GREENLEE: Thank
24 you, Mr. McCormick.

25 MR. McCORMICK: Okay.

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2 COUNCILMAN GREENLEE: Okay.

3 Next is Mr. Kramer from the Ethics Board.

4 (Witnesses come forward.)

5 MR. CREAMER: Good afternoon

6 Mr. Chairman. Shane Creamer, Executive
7 Director of the Philadelphia Board of
8 Ethics.

9 MR. GLAZER: And Richard

10 Glazer, Chair of the Board of Ethics.

11 I'm going to testify, rather than
12 Mr. Creamer, very briefly.

13 Thank you for the opportunity
14 to speak on the proposed amendment to
15 10107, the Philadelphia Home Rule
16 Charter, which contains the restrictions
17 on political activity.

18 As Council's well aware, when
19 the Board of Ethics was established in
20 November of 2006, it was given
21 jurisdiction over 10107 of the Charter.

22 The restrictions on political
23 activities exist to separate politics
24 from the operation of the City and to
25 prevent the perception or reality that

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2 official decisions and actions are
3 inappropriately influenced by political
4 interests.

5 Restrictions on political
6 activities of those employed by the City
7 of the City of Philadelphia have been
8 around in one form or another in the City
9 Charter for 125 years. However, the
10 proposed legislation would give City
11 Council exclusive authority, without
12 further citizen input, to rewrite these
13 fundamental restrictions on political
14 activities that are currently in the
15 Charter.

16 Most of the rest of my
17 testimony dealt with the fast-tracking
18 and the concern that the Board of Ethics
19 would not have the opportunity to come up
20 with a position on Bill 100121 and
21 Resolution 100139.

22 As Council is aware, we have
23 two new members of the Board of Ethics,
24 and they will not be sworn in until our
25 monthly meeting this Wednesday, so we are

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2 pleased to find out that Chair Greenlee
3 has advised us that this will not be
4 fast-tracked and will not be until the
5 November election. And by that time,
6 we'll have an opportunity to consult and
7 come up with a position which we will, of
8 course, supply

9 COUNCILMAN GREENLEE: Thank
10 you.

11 MR. GLAZER: Thank you.

12 COUNCILMAN GREENLEE: Any
13 questions?

14 Councilman Goode.

15 COUNCILMAN GOODE: Just very
16 briefly.

17 Mr. Glazer, you're aware that
18 the Charter-change bill and resolution
19 don't actually do anything to change the
20 rules without a companion bill?

21 MR. GLAZER: I'm sorry. About
22 the what?

23 COUNCILMAN GOODE: Without a
24 companion bill?

25 MR. GLAZER: They do not

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2 change...?

3 COUNCILMAN GOODE: They don't
4 change any rules; they allow the rules to
5 be changed by ordinance.

6 MR. GLAZER: Yes.

7 COUNCILMAN GOODE: But without
8 a companion bill, they don't actually do
9 anything.

10 MR. GLAZER: Yes, I understand
11 that.

12 COUNCILMAN GOODE: So why would
13 the Board of Ethics not have an opinion
14 on the Charter change?

15 MR. GLAZER: The Board of
16 Ethics has not had a chance to meet and
17 discuss, Councilman.

18 COUNCILMAN GOODE: The question
19 is simply whether it should be done by
20 ordinance.

21 MR. GLAZER: We have not had a
22 chance to meet and discuss. We will have
23 a chance to meet and discuss, and we will
24 be pleased to provide you with our
25 opinion.

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2 COUNCILMAN GOODE: I guess the
3 question is, the job of the Board of
4 Ethics is to enforce the ethics
5 provisions of the Philadelphia Code, the
6 Philadelphia Home Rule Charter. If this
7 Charter amendment purely gives the
8 ability to set up new rules by ordinance,
9 why would the Board of Ethics need to
10 weigh in on whether we should be able to
11 establish rules by ordinance?

12 MR. GLAZER: I think that would
13 be something that we would want to
14 discuss and opine on, as to whether it
15 should be done by ordinance or whether it
16 should be done by a Charter amendment.

17 COUNCILMAN GOODE: But there's
18 absolutely nothing within the ethics
19 provisions of the Code or the Charter
20 that would cause you to cause a need to
21 respond or develop an opinion.

22 MR. GLAZER: Well, with the
23 greatest respect, we'll leave that to the
24 board, when we meet, to discuss.

25 COUNCILMAN GOODE: With the

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2 greatest respect, I actually helped to
3 create the Board of Ethics, cosponsored
4 legislation, and I'm still proud that I
5 did so.

6 But one of the questions that I
7 ask, even as a proponent of the Board of
8 Ethics and still a strong supporter of
9 the Board of Ethics, except when they're
10 making mistakes, is simply whether it's
11 clear that from time to time, Council
12 will ordain some things that will require
13 a Charter amendment, and then it's the
14 job of the Board of Ethics to enforce
15 those changes to the Code and/or those
16 changes to the Charter.

17 MR. GLAZER: What's the
18 question, Councilman?

19 COUNCILMAN GOODE: The question
20 is: Do you disagree with that in terms
21 of whether it's actually the board's job
22 to focus on those provisions that exist
23 within the Code and the Charter and to
24 enforce those provisions that are within
25 the Code or Charter, or whether the board

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2 should be making decisions about
3 legislation and public policy?

4 MR. GLAZER: Again, we're going
5 to leave that up to the board for
6 discussion. How I feel about it is not
7 the critical issue but what the board
8 will determine.

9 And we welcome -- we're going
10 to discuss this at our Wednesday meeting
11 and certainly welcome to have anyone
12 present for that discussion.

13 COUNCILMAN GOODE: Okay. Thank
14 you, Mr. Glazer.

15 MR. GLAZER: Thank you.

16 COUNCILMAN GREENLEE:
17 Councilman Green.

18 COUNCILMAN GREEN: Thank you
19 for your testimony.

20 Just a brief question: Do you
21 think it's appropriate for the Board of
22 Ethics to weigh in at all on pending
23 Charter changes or legislation,
24 considering the fact that, you know, what
25 you were commissioned to do by the

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2 Charter is enforce and interpret the
3 laws?

4 This seems like maybe staff
5 resources should be spent on your mandate
6 rather than telling us what you think
7 about every piece of legislation. You
8 know, you're -- that's basically my
9 point.

10 MR. GLAZER: Is that the
11 question?

12 COUNCILMAN GREEN: Yes.

13 MR. GLAZER: It doesn't really
14 matter what I think, and it may well turn
15 out that the board, when they meet,
16 totally agrees with you, that it is not
17 our prerogative to opine in any way.

18 However, I will tell you that
19 as part of the creation of the Board of
20 Ethics, the Charter did provide that we
21 were supposed to make legislative
22 recommendations. So I see that that is
23 part of it.

24 Whether this falls within that,
25 we'll leave it up to the board to

1 3.15.10 LAW & GOV'T - BILL 100121, RES. 100139

2 discuss.

3 COUNCILMAN GREEN: I think in
4 your annual report, you are required to
5 make any legislative recommendations you
6 might have, that's correct.

7 Thank you.

8 MR. GLAZER: Thank you.

9 COUNCILMAN GREENLEE: Any other
10 questions?

11 (No further questions.)

12 COUNCILMAN GREENLEE: Thank you
13 both.

14 MR. CREAMER: Thank you.

15 MR. GLAZER: Thank you.

16 COUNCILMAN GREENLEE: Last on
17 my list, the Committee of Seventy.

18 (Witnesses come forward.)

19 COUNCILMAN GREENLEE: Good
20 afternoon again.

21 MR. STAHLBERG: Mr. Chairman,
22 thank you. Zack Stahlberg again and
23 Ellen Mattleman Kaplan.

24 I'll try to make this simple.
25 You've seen our testimony.

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2 I appreciate the fact that
3 you're aiming toward the November ballot,
4 that there will be an extended hearing on
5 this question.

6 I hope that all of the
7 questions -- all of the issues in the
8 package of ethics bills get extended
9 hearing and separate hearings if that's
10 practical.

11 Our position may be affected by
12 the idea of bifurcation, which, I think,
13 came up officially today for the first
14 time.

15 So, in other words, I really
16 appreciate the decisions today and will
17 try to respond accordingly.

18 The only thing I would add
19 really as to Councilman Kelly is that my
20 organization has a great deal of respect
21 for committee people and ward leaders and
22 deals with them and serves them every
23 day.

24 COUNCILMAN KELLY: I'm glad to
25 hear that.

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2 COUNCILMAN GREENLEE: Okay.

3 Thank you.

4 Councilman Goode.

5 COUNCILMAN GOODE: Thank you,

6 Mr. Chairman.

7 Mr. Stahlberg, there are two
8 different views or types of authority.
9 One is being an authority, which means
10 you have a command of the subject matter;
11 the other's being in authority, which
12 means you have the actual power to make a
13 decision.

14 How should ethics policy be
15 made in Philadelphia?

16 MR. STAHLBERG: Well, I'm not
17 sure how the two parts of your question
18 relate.

19 COUNCILMAN GOODE: Who is an
20 authority on ethics and who in authority
21 on ethics?

22 MR. STAHLBERG: Well, we --
23 it's our belief that the citizens of
24 Philadelphia decided that they were an
25 authority and that they decided that

1 3.15.10 LAW & GOV'T - BILL 100121, RES. 100139

2 political-activity rules --

3 COUNCILMAN GOODE: Mine is a
4 broad question.

5 MR. STAHLBERG: I'm sorry?

6 COUNCILMAN GOODE: Mine is a
7 broad question. It's not specifically
8 related to this. It's related to this
9 matter but in general.

10 MR. STAHLBERG: I'd appreciate
11 it if you could give it to me again,
12 then.

13 COUNCILMAN GOODE: All right.
14 Who is in authority in terms of
15 policy-making ethics? And who is an
16 authority in terms of policy-making
17 ethics? Describe to me how ethics
18 policy-making should happen in
19 Philadelphia.

20 MR. STAHLBERG: As it relates
21 to this question --

22 COUNCILMAN GOODE: I'm asking
23 in general.

24 MR. STAHLBERG: I'm not sure
25 how to answer that, really.

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2 COUNCILMAN GOODE: Okay, thank
3 you.

4 Thank you, Mr. Chairman.

5 COUNCILMAN GREENLEE: Thank
6 you.

7 Any other questions?

8 (No further questions.)

9 COUNCILMAN GREENLEE: Thank you
10 both.

11 MR. STAHLBERG: Thanks.

12 COUNCILMAN GREENLEE: Anyone
13 else here to testify on this bill and
14 resolution.

15 (No response.)

16 COUNCILMAN GREENLEE: Seeing
17 none, after a snappy three-and-a-half
18 hours, that will conclude the hearing of
19 the Committee on Law and Government. We
20 will now go into the public meeting.

21 Again, for the record, as I
22 mentioned earlier, Bill No. 100123 and
23 Resolution 100140 are being held to the
24 call of the Chair.

25 The Chair now recognizes

1 3.15.10 LAW & GOV'T - BILL 100121, RES. 100139

2 Councilman Green regarding an amendment
3 for Bill No. 100121.

4 COUNCILMAN GREEN: Thank you,
5 Mr. Chairman.

6 I move the amendment which has
7 been circulated to all members to Bill
8 No. 100121, and I move that it be
9 approved.

10 (Motion duly seconded.)

11 COUNCILMAN GREENLEE: It's been
12 moved and seconded.

13 All those in favor, please say
14 aye.

15 Opposed?

16 Hearing none, the amendment has
17 been adopted.

18 Again, the Chair recognizes
19 Councilman Green.

20 COUNCILMAN GREEN: Thank you,
21 Mr. Chairman.

22 I move that Bill No. 100121, as
23 amended, be approved by this committee
24 and that we have a suspension of the
25 rules to enable first reading at our next

1 3.15.10 - LAW & GOV'T - PUBLIC MEETING

2 session of Council.

3 (Motion duly seconded.)

4 COUNCILMAN GREENLEE: It's been
5 moved and seconded.

6 All in favor, say aye.

7 Opposed?

8 Hearing none, Bill No. 100121,
9 has amended, has been reported out of
10 this committee with a favorable
11 recommendation, and the rules of Council
12 have been suspended to allow for first
13 reading at our next session of Council.

14 Again, the Chair recognizes
15 Councilman Green.

16 COUNCILMAN GREEN: I move that
17 Resolution No. 100139 be reported out of
18 committee with a favorable
19 recommendation.

20 (Motion duly seconded.)

21 COUNCILMAN GREENLEE: All in
22 favor please, say aye.

23 Opposed?

24 Hearing none, Resolution 100139
25 is being reported out of this committee

1 3.15.10 - LAW & GOV'T - PUBLIC MEETING

2 with a favorable recommendation.

3 That concludes the business of
4 the Committee on Law and Government.

5 Thank you all very much.

6 (Proceedings end at 4:30 p.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the
proceedings of the City of Philadelphia
Council Committee on Law and Government are
contained fully and accurately in the
stenographic notes taken by me on Monday,
March 15, 2010, and that this is a true and
correct statement of same.

JOSEPHINE CARDILLO
Registered Professional Reporter

(The foregoing certification of
this transcript does not apply to any
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