COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Tuesday, April 27, 2010
10:20 a.m.

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PRESENT:
COUNCILWOMAN MARIAN B. TASCO
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN DARRELL L. CLARKE
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN BILL GREEN
COUNCILMAN WILLIAM GREENLEE
COUNCILMAN CURTIS JONES, JR.
COUNCILWOMAN MARIA QUINONES-SANCHEZ
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN BLONDELL REYNOLDS BROWN

BILLS 100115, 100116, 100117, 100118, 100131 and RESOLUTION 100141

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COUNCILWOMAN TASCO: Good morning. To those Councilmembers in their office listening, we are ready to begin our hearing this morning. We ask them to please come down, but in the meantime, we're going to begin with our hearing.

Good morning. We will now continue our hearing on the budget bills and we now recognize the Defender Association.

(Witnesses approached witness table.)

MS. GREENLEE: I'm bringing my two right arms here.

COUNCILWOMAN TASCO: Sure; two strong right arms.

MS. GREENLEE: Good morning, Councilwoman Tasco.

COUNCILWOMAN TASCO: Good morning.

MS. GREENLEE: My name is Ellen Greenlee. I am the Chief Defender of the Defender Association of Philadelphia.

With me here today are Charles Cunningham, First Assistant Defender.

MR. CUNNINGHAM: Good morning.

MS. GREENLEE: And my Controller, Selim Tawadros, and the rest of the team that manages the work from the Defender Association - Assistant Controller Kristen Muhl; Business Manager Linda Kosinski; and my assistant, Christine Adler. I feel I must introduce them because they are so integral to the process of trying to keep us afloat in these economic times.

COUNCILWOMAN TASCO: Thank you.

MS. GREENLEE: Our thanks to Council President Verna, to the other members of City Council for this opportunity to appear before you to present our appropriation request for Fiscal Year 2011, and in doing so, to thank you for your consistent support of our work for Philadelphia's poorest citizens.

You have undoubtedly been

somewhat worn down, I think, by this time with weeks of budget hearings by a parade of witnesses, all of whom need more support for their work and their programs. We too look for your support, but we differ from most supplicants inasmuch as our services for adults and juveniles charged with criminal offenses are constitutionally required to be provided by the State, which has abdicated its responsibility to fund indigent defense up to now, leaving the burden on the counties and specifically here on the City of Philadelphia.

In addition to our legal representation in criminal matters, we represent dependent children as their child advocate, just about 4,000 children, and we also represent those with serious mental illnesses in both criminal and civil matters.

As has been the case, I'm sure, with all who have appeared before you during these budget hearings, Fiscal Year

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2010 has been a very difficult year for the Association and our staff. We had a 1.3 million budget shortfall in 2010, which forced us to rescind the small salary increases given in 2008, to reduce our medical benefits, to impose a hiring freeze over the past one and a half years, and to postpone purchase of equipment and computer upgrades.

In that timeframe, over the last one and a half years, we've lost 42 staff members, 21 of whom are attorneys, 14 social workers, two investigators and five administrative staff persons. These are all positions we need to fill in order to be able to provide effective legal representation to our indigent clients.

We have, as promised to Court Administration and the City Administration, staffed all court assignments and turned away no clients this year, as we promised. This situation will have to change with the

new fiscal year, as we are seriously understaffed and walking perilously close to ineffective representation with caseloads requiring two attorneys where we now have only one.

The City's proposed budget of $35 million does not include any extra funding to cover the cost of increased operating expenses and medical insurance costs or funding to replace needed attorney staff.

The Defender Association is not a City department, though we are included in all budget cuts imposed on City departments, but rather we are a non-profit corporation operating through a contract for services with the City. As a separate entity, we must provide all expenses of running a business; that is, pay our rent, buy equipment, telephone systems, computers, supplies, pay payroll taxes, provide benefits, including health, life, disability, workers' compensation, malpractice insurance, and

business and property insurance, for starters.

Defender staff members have gone without any type of salary increase or bonus since 2007. The concept of attorney pay parity for the legal offices in the City - the District Attorney, the Solicitor and the Defender - which was acknowledged by the last Administration has been totally lost. Our employees are no different from those employed by the City and City-funded departments, and they deserve equal pay. We are proud of our hard-working staff dedicated to providing the best legal services to our poor clients.

In Calendar Year 2009, we received almost 70,000 new cases. As you can see from our workload figures included in our packet, the numbers of citizens whom we represent is staggering. As examples, we made 395,000 court appearances in 2009, which included 87,000 misdemeanor listings, 34,000

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preliminary hearings, 18,000 felony listings, 5,800 hearings in delinquency matters, 50,000 probation and parole hearings, and 25,000 social service matters. I say that not to brag, but to give you some sense of the size of the operation we have, the numbers of clients we serve, which really is astronomical in an agency the size of ours.

Despite dwindling staff and resources, we continue to be an integral part of the work of the criminal justice stakeholders in reducing the prison population and in providing services in the most economical manner. Our Probation and Parole and Alternative Sentencing Unit, along with our Adult Social Services Unit, work together to identify prisoners who qualify for alternative programs and meet with clients to discuss placement options. They identify clients for intermediate punishment programs and review inmates' commitment sheets to prepare early parole

petitions for judicial review and potentially for early release in an effort to keep the prison population at a manageable level, and part of the reason that it has dropped by about a thousand in the last year has a lot to do with these programs in which we participate and are really the moving force in identifying clients eligible for alternatives to incarceration.

The savings effected in reducing the number of days prisoners are incarcerated are enormous, and they're presented on Pages 5 and 6 of our presentation. Conservatively speaking, savings are calculated at more than $38 million in one year, which almost sounds like a joke, that it couldn't possibly be, but these calculations are, for the most part, done by the Court. This work could not get done without the Defender's Association's active participation.

So I respectfully request that Council increase our Fiscal Year 2011

appropriation by 1.7 million to enable us to hire needed staff and to meet our increased operating expenses and benefits costs.

Thank you for your attention and consideration of this request. I will certainly be happy to respond to your questions and concerns.

Thank you.

COUNCILWOMAN TASCO: Thank you very much.

How many attorneys do you have now on your staff?

MS. GREENLEE: I think we are at just about 225. We should be, by our calculation, in terms of full staffing at 246.

COUNCILWOMAN TASCO: The Chair recognizes Councilman Jones.

COUNCILMAN JONES: Thank you, Madam Chair.

I'm looking at your cuts from FY10, which resulted, if I read this correctly, in 49 layoffs.

MS. GREENLEE: Forty-two.

COUNCILMAN JONES: Forty-two. Twenty-eight of whom were attorneys?

MR. CUNNINGHAM: There were no layoffs.

MS. GREENLEE: Oh, no layoffs, no. This was by attrition. We've never had a layoff.

COUNCILMAN JONES: So it's a net loss to your department?

MS. GREENLEE: That's correct.

COUNCILMAN JONES: I was trying to understand your relationship with court-appointed attorneys, and are we forced to rely on them more because you do not have the adequate attorney staff to deal with the number of courtrooms and cases that you have? What has been the net impact of relying on court-appointed attorneys from the private sector?

MS. GREENLEE: There has not been any increase this year, because we have managed caseloads where, for instance, in a misdemeanor courtroom, we

may have 40 to 50 cases listed. We have imposed that burden on one attorney, who should be handling 20 to 25. There has not been any increase because of -- we have not given up any work or given up any cases this year, but with Fiscal Year 2011, unless there is an increase and we are able to hire more attorneys, we will have to give up cases and give up probably representation in some courtrooms. We, of course, do not decide which courtrooms we will not be able to staff, but we will have to meet with Court Administration and with the Deputy Mayor to decide how that will be effected.

COUNCILMAN JONES: And I know you'll tell me that the quality of the representation is still at a high level, but if we go forward, how is this going to impact the quality of representation that the defendants get, in your opinion?

MS. GREENLEE: Well, I would like to say that our representation is at

the high level it's always been, but in all honesty, I don't think you can impose these burdens on single attorneys and expect that they are providing the maximum that they could to a client.

We are getting by, and I'll defer to Charlie if he wants to comment, because he's the man on the ground and in the courtrooms in terms of that.

MR. CUNNINGHAM: Let me just -- Charles Cunningham, First Assistant Defender.

We have also over the past year had the assistance of some lawyers from the larger law firms, such as Ballad and Spahr and Dechert and even one lawyer who came to us from New York. Those attorneys will not be available to us next year, because all of those attorneys will be returning to their respective firms, and there's no indication that we'll have anybody this year, who basically were serving as volunteers in the sense that they were volunteers for

us, but they were actually being paid by the law firms.

COUNCILMAN JONES: Is this a result of the state of private practice in Philadelphia that --

MR. CUNNINGHAM: What happened was, a lot of the law firms last year did not want to bring on their new associates, and rather than bringing them on and paying them at the high salaries that they would have to bring them on, they decided that they would pay them a stipend and allow them to come and work in a public interest office. Those lawyers -- and fortunately for us, they have served well, but they will not be there next year and we will not have that assistance.

So to a certain extent, we were able to do some of that load that way, but even now -- to give you an example, over the last two weeks, we have lost seven attorneys, and that puts us in serious jeopardy. And, you know, you can

kind of put a load on the attorney for a while if there's some hope or some expectation that things are going to be relieved, but to look down the line and to think that they're going to have to do this continuously, you can't continue to impose that load on them, because you're going to burn people out and you're going to force those people who are dedicated to this type of representation to leave, because they simply can't deal with that kind of load. And, frankly speaking, they are very fine attorneys and they want to give good representation and they don't want to be put in a position where they feel as though when they walk into that courtroom, they can't give their client the kind of representation that that client deserves.

Our clients only have one friend, if you will, or one thing going for them when they walk into the courtroom, and that is the attorney that walks in that courtroom with them. You

can't put that kind of load on them continuously.

Last week, I walked to the CJC with a young PD who had a bag containing close to 50 files. Her bag was so heavy that I took it off of her shoulder and put it on mine and carried it over to there. Just from a physical point of view, it becomes too much of a load, but when you think that you have to walk into that courtroom day in and day out and try to handle that many cases, it's just an impossible situation.

COUNCILMAN JONES: Following that line of questioning, how has it impacted continuances? I know for every action, there's an equal and opposite reaction. Does it impact that? And if it does -- second part of the question -- how is that resulting in longer stays for people that are incarcerated waiting trial?

MR. CUNNINGHAM: Well, let me just give you one example. Because of

the low number of attorneys that we have, we're unable to do our interviewing of our custody clients. So consequently, because we can't get up and interview the clients and they're in custody, you're going to find more continuances simply from that point of view, that you're going to have to take a continuance because you can't go forward unless you have an opportunity to consult with your client and talk with your client. So this means that you're going to have a continuance.

Most of the continuances -- the shortest continuances right now seem to be three weeks. So that's three weeks that that person has to remain in custody, when possibly had that case been heard at the initial listing, it might have been disposed of and that person may not in fact continue to be in custody.

So it's going to impact on your ability to be prepared, and I think that in the Municipal Court, we try to give

our attorneys a little bit more time, but the fact of the matter is, once again, you're putting a very heavy load on people.

COUNCILMAN JONES: One of the bright spots of this whole process for me is the Criminal Justice Advisory Board, which kind of has broken down, in my opinion, some of the silos of communication. So there are people at the Judicial level and at the DA's level and the Prison and the Police Commissioner that are all listening to these problems and understanding the consequences of decisions.

What is important and the reason why I drew this out is because it's important for us as budget authorizers and lawmakers to understand that as we cut, there are unintended consequences that have impacts that we are being sometimes penny wise and then pound foolish, because we wind up shifting the cost to another line item in

another department's budget.

My final question for this round will be, I notice that you are touting $38 million in savings that can be attributed to alternative sentencing programs, and could you talk about the impact of that? And my dear project is community courts and alternate courts. We call them by many different names, but hopefully with the same result of lightening the load of incarcerated individuals that can seek punishment outside of the walls of prison. So can you talk about how that savings has happened?

MR. CUNNINGHAM: Well, the savings that Ms. Greenlee was speaking about are mainly the savings that occur by allowing, for instance, early parole petitions to be filed, and when you file those early parole petitions --

COUNCILMAN JONES: You have 2,215 of those?

MR. CUNNINGHAM: Right. And I

should mention that when we talk about filing these early parole petitions, we're not just talking about the parole petitions that went for Defender clients alone. Many of those petitions are involving clients that were represented by court-appointed counsel and sometimes they were also petitions that were filed by clients who were originally represented by retained counsel, who can no longer afford retained counsel and, in the situations with the court-appointed counsel, do not -- the court-appointed counsel, they will not continue to stay in the case. So those people, if it were not for the Defender Association, would not have those petitions filed for them, or in the alternative, the City and the Court Administration would have to take on the cost of appointing counsel for them. So those are savings that are being done by just the early parole petitions.

But there are a number of other

places that the Defender Association, frankly speaking, is saving the City money. For instance, we have sat down with the District Attorney, and I think it was about two weeks ago you had the District Attorney in, and we had the opportunity to sit and listen to his testimony as well. And I think you should keep in mind that each and every one of the programs that the District Attorney talked about that will in fact impact on the prison population and cut down on the number of people who will be entering our prison system, all of those programs the Defender Association is a vital cog in keeping going.

For instance, we're talking about now expanding Crash Court, which is basically a court that's set up to dispose of misdemeanor offenses, and rather than having the defendant brought down to the Criminal Justice Center, we'll be able to dispose of that case by way of a video. Well, if you look at the

number of cases that are going to be disposed of, you're not only getting those people out of the prison system faster, but you're also eliminating the need for the police officers to come to court and testify, and, therefore, that's going to impact on the amount of overtime that we're going to be --

COUNCILMAN JONES: That's not reflected in your --

MR. CUNNINGHAM: That's not even reflected in that $38 million. When we looked at that $38 million, that $38 million is simply the savings as a result of one function that this office does; that is, filing early parole petitions.

COUNCILMAN JONES: So, I mean, I'm -- one of the -- I'm going to let my other colleagues have another round and I'll address this a little further, but I think it's important that as we start to deliberate about this budget, it is important that when we touch something, tinker with something, cut something,

that at this point -- I think we eliminated a lot of fat before, but when we start talking about unfilled positions, that at some point we hit effectiveness, which creates other costs in other colleagues, in other departments, and I think sometimes we lose that fact in thinking that we're doing a good thing by being cost conscious, but that does not necessarily equate to cost effective.

MR. CUNNINGHAM: Right. I think what you're saying is that we always have to look down the line to see how one thing is going to impact on the other thing, and I think you're right there.

I also want to say this to you in response to what you said about the CJAB, and I think you're right, that there are more things that are being accomplished since the creation of the CJAB. I think that it's not just that people are brought together, because I

can tell you, frankly speaking, and sad to say that many of the people that are at the table today at the CJAB were at the table when the Mayor, the former Mayor, had his Criminal Justice Coordinating Committee, and for many years things were being talked about. I think the real difference today is that people are not only listening, but people are taking action, and that is why we are seeing a reduction in the prison population, that is why I think we're going to see a more efficient criminal justice system.

COUNCILMAN JONES: I think it's good leadership, except for one slight oversight, they didn't put me on CJAB.

MS. GREENLEE: I agree.

MR. CUNNINGHAM: They didn't do that?

COUNCILMAN JONES: No. We'll correct that in the future.

Thank you, Madam Chair.

MS. GREENLEE: If I might,

though, just add one thing, talking about cutting. We talk about losing 42 positions. You'll note that what we're asking for is to replace the attorney positions so that we can continue to staff the courtrooms and represent our clients. This is -- we are not asking for the whole of those 42 positions to be replaced at this point in time. We have trimmed our request to the bare minimum, that unless we have the attorneys, we can't staff the courtrooms.

We -- as Selim points out to me very carefully, there is no fat in our budget and there's no fat in our operation. We have trimmed over the last three years everything that you could possibly trim, from medical benefits to not replacing computers to being as lean and spare as we possibly can in terms of how we spend the money that the City gives us.

MR. TAWADROS: We would --

COUNCILWOMAN TASCO: Identify

yourself, please.

MR. TAWADROS: Selim Tawadros, the Controller.

We were ordered twice before checking for any fat in the budget, and the results came there is nothing to cut, and that's all what we have is essential to the business.

COUNCILWOMAN TASCO: Thank you.

The Chair recognizes Councilman Clarke.

COUNCILMAN CLARKE: Thank you, Madam Chair.

Good morning.

MS. GREENLEE: Good morning.

COUNCILMAN CLARKE: I just have a couple of quick questions. What's the acquittal rate of the Defender's Association? I know people traditionally ask --

MS. GREENLEE: He thinks we keep those figures. I can tell you --

COUNCILMAN CLARKE: Just an estimate.

MS. GREENLEE: I can tell you what the conviction rate in the Court of Common Pleas is.

COUNCILMAN CLARKE: Well, I know that.

MS. GREENLEE: Ninety-three point four percent. So ours is not anywhere near that.

COUNCILMAN CLARKE: All right.

MS. GREENLEE: Those figures that were presented in the Inquirer were made of whole cloth. They have no relationship to the reality of what's happening in the courts.

COUNCILMAN CLARKE: Why do you say that?

MS. GREENLEE: Because --

COUNCILMAN CLARKE: I know that was out of left field question, but...

MS. GREENLEE: The suggestion that only 20 percent of persons charged with a serious felony are convicted of a felony is absolutely wrong, because the conviction rate in the Court of Common

Pleas for felonies is 93.4 percent. So when you ask what's the acquittal rate, I don't mean to be -- to treat it lightly, but we don't -- we're not computerized to keep those kinds of things. But if we were winning 10 to 15 percent of our cases, we'd be very happy.

COUNCILMAN CLARKE: Okay. I mean, I ask that because I guess in some sense it determines the effectiveness of the office.

MR. CUNNINGHAM: Well, can I also say this to you --

COUNCILMAN CLARKE: I see a former --

MS. GREENLEE: -- I don't know that I buy that.

COUNCILMAN CLARKE: I'm not as verse as my colleague Councilman Jones on this whole subject matter. So I'm just asking a layperson's question.

MR. CUNNINGHAM: Let me also say this with regards to acquittals: It depends on how you define an acquittal.

Is an acquittal a complete finding of not guilty or is an acquittal being found not guilty of certain charges but guilty of other charges? So there may be times when your client may be convicted of a misdemeanor when he was actually charged originally with a felony. So it's a little harder to really break those numbers down. But I think that if you were to look at those cases that actually go to trial, I think that Judge Keogh, who is the Administrative Judge, had those figures and the First Judicial District can supply you with those figures. And if you look at the figures that they supply you with, you will find that they're nowhere close to being what the Inquirer says the number of people who are being acquitted of crime are.

COUNCILMAN CLARKE: I actually did not read the Inquirer article, so your reference to that is, frankly speaking, lost on me.

MR. CUNNINGHAM: I don't think

you'll find anybody sitting at this desk that would suggest that you do read the Inquirer's article.

COUNCILMAN CLARKE: Well, I say that particular article, because you referenced it. So I'm not asking the question based on that particular article. It was just something that I...

In terms of the appellant process, is the Defender's Association's office involved in that aspect of the justice system?

MR. CUNNINGHAM: We are involved in it with regards to our own clients.

COUNCILMAN CLARKE: That's what I'm saying.

MR. CUNNINGHAM: Yes. If there is an appeal, we have an Appeals Unit that will handle the cases that we're going to appeal.

COUNCILMAN CLARKE: How far --

MR. CUNNINGHAM: Our Appeals Unit only handles those cases that our

lawyers handle from beginning.

COUNCILMAN CLARKE: And how far does the appeals process -- is there a threshold in terms of the representation of your clients?

MR. CUNNINGHAM: They will take the appeal all the way up to whatever court they think it's necessary to appeal it to.

COUNCILMAN CLARKE: Okay. In terms of the workload associated with the appellant process, is there a breakdown on the number of clients/lawyers that are involved in that process?

MR. CUNNINGHAM: We have an Appeals Unit.

COUNCILMAN CLARKE: Is there a breakdown on the Appellant Unit in terms of --

MS. GREENLEE: Sixteen or 17.

MR. CUNNINGHAM: I think we have 17 attorneys that are assigned to our Appellate Unit.

MS. GREENLEE: So they work

full time in the Appeals Unit. They don't do trial.

COUNCILMAN CLARKE: Full time?

MS. GREENLEE: Except to fill in occasionally.

COUNCILMAN CLARKE: Okay. I'm more knowledgeable than I was before you came in today.

MR. CUNNINGHAM: And perhaps I think that I want to say to every member of City Council that you are always invited to the Defender Association and you can always come over. All right? We made that invitation before, and we extend that invitation again.

COUNCILMAN CLARKE: I actually think that's a very fair invitation, given that the new District Attorney invited members of Council to his office, and it was actually my first time in the District Attorney's Office. So I think it's appropriate for Councilmembers to find their way to the Defender's Association.

MR. CUNNINGHAM: You can see how the poorer half lives.

COUNCILMAN CLARKE: All right. I think that's a fair question. Thank you.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: Thank you.

The Chair recognizes Councilman Jones.

COUNCILMAN JONES: I think growing up in the inner city of North Philly and West Philly, we had this slight aversion, phobia to ever going into either one of those buildings, but now I think we can overcome those inner city phobias and take up that invitation.

I wanted to follow the line of questioning on the alternate sentences and also the kind of broad view of the importance of CJAB and all of those entities talking to each other.

Parole and Probation by way of alternate sentencing, does their role go up when we remand someone to an alternate

sentencing program, whether it's -- whatever the choices are? Do we usually assign a Parole/Probation person with them? Is that how this process works, to monitor their case?

MS. GREENLEE: Not usually.

MR. CUNNINGHAM: Are you asking do we or --

COUNCILMAN JONES: No, not do you. In the process, is there a court -- when someone is recommended drug treatment court or a number of other venues that have come --

MR. CUNNINGHAM: My understanding is that there's not.

MS. GREENLEE: No. I don't think that -- for the most part, there's sufficient staffing in the Probation Department for most of these programs, but a lot of the programs involve case managers and other people who work with the clients.

COUNCILMAN JONES: So they may not be a probation officer --

MS. GREENLEE: They may not be.

COUNCILMAN JONES: -- but they may be a social work or drug treatment counselor that has the authority to report back to an entity to say that my client is not complying or is complying with the prescribed sentence?

If you don't know, that's fine. I'll get somebody up here that does eventually. So you don't know?

MR. CUNNINGHAM: I'm not certain of that, Councilman, but I can find that information out for you. And, frankly speaking, had I known we were going to go down -- you were going to ask questions along those lines, we probably would have brought Byron Cotter, who is the Chief of our VOP Unit and Intermediate Punishment.

COUNCILMAN JONES: When I look at these savings of 10.8 million because of these types of alternate sentencing, it is a compelling road to want to go down, but one of the things that we are

going to have to get a grip on is true cost and where to associate and apply those costs so that if we think we are saving money but we're just shifting it, we need to monitor this in a cost accounting way so that we understand whether the City as an entire entity, not just your department, is realizing a savings based on some public policy shift that we have. And then also one of the other statistics we need to take a look at is the number of people who recidivize based on participating in those programs.

So if we are just delaying the inevitable, then maybe we should hasten that along, but if we are providing an alternate future for some of these people, then we're on the right course, and monitoring that is as important as the diversionary court.

MR. CUNNINGHAM: We have done some monitoring on our own and it's not anything that's been done in-depth, but what we found is, a lot of times in these

situations where we have been able to provide the client with some alternatives to -- in other words, we've been able to help this client find housing, help this client find possible employment, you will definitely see a reduction in recidivism, and we have seen that with some of our clients, which is one of the reasons why we look at these situations and we understand that you have to go beyond just putting somebody under control. You have to give the person the tools that they need, and that's why we're talking about programs like reentry programs and how are we going to go about putting this person in a position to succeed once he does reenter our society. And I think that you're right, we have to monitor those things, but I'm confident that when we monitor those situations, we're going to find that there's less recidivism.

If you go to Treatment Court, you will find that because they're more involved with the person, they're more

involved in what's going on in that person's life and they are helping that person go beyond what that person is going to be doing in that courtroom setting, you will find that their recidivism rate is far less than in the situations where they're not getting the same kind of attention, so --

COUNCILMAN JONES: But you need to understand that I believe you, but trust without verification --

MR. CUNNINGHAM: No. I understand that.

COUNCILMAN JONES: Listen, we -- and I mean the bigger "we" -- have to monitor this, because we are a diverse Council, we're a diverse City. There's some people who are more to the right and conservative and traditional in the crime and punishment notion. What will appeal to them is not the good that we do for society per se but the good that we do by way of budget and cost containment, and for them -- we have people that like

Budget Director Agostini who will say if it ain't measured, it ain't managed, and we need to measure those things so that we can quantify our good works.

MR. CUNNINGHAM: I don't disagree with that. As a matter of fact, I think that in most situations today whenever anything is started, people are looking for a way to implement a monitoring system as well, because that is the only way that you can really determine the effectiveness of the program.

COUNCILMAN JONES: Correct.

MR. CUNNINGHAM: I agree 100 percent.

COUNCILMAN JONES: Finally, you're a non-profit. Quickly, what was the logic in establishing a non-profit as opposed to a City department, A, and then, B, are you under our benefit pension package?

MS. GREENLEE: Don't we wish.

COUNCILMAN JONES: Okay.

MS. GREENLEE: I would have dropped out a long time ago had I had that opportunity.

COUNCILMAN JONES: We're glad you're not, then.

MS. GREENLEE: The non-profit was set up more than 40 years ago to contract with the City of Philadelphia. I think Philadelphia was carved out, because in all the other counties, the defenders are county employees, and it's before any of us were involved in the Defender Association that this non-profit was set up, and I don't offhand know the history of it, but Philadelphia because of its size, I think, was carved out as not being part of the government but being a non-profit, and then we started in the late '60s to contract with the City.

As I mentioned, we run our business ourselves, which is why we need assistance with increases in operating expenses and medical insurance and other

items that we have to purchase, because we are not part of any City plan.

COUNCILMAN JONES: Ms. Greenlee, on that thought, are your healthcare costs, I see, are projected to be increased by 15 percent?

MS. GREENLEE: Fifteen percent. That's the projection for the fall.

COUNCILMAN JONES: Now, how does that fall compared to City benefit healthcare cost increases, and is there any consideration of buying into our pool of healthcare? Was that --

MS. GREENLEE: We have never had costs that exceeded what the City is paying and the percentage that the City pays.

COUNCILMAN JONES: Well, maybe we'll buy into yours.

MS. GREENLEE: We had had discussion and the business managers had discussions some years back with the City, but they decided they didn't want us, decided to leave us alone, that

actually we are more financially in a better position than the City is in terms of our benefits costs.

COUNCILMAN JONES: Okay.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: Thank you.

Let me just ask you one question. You said in other jurisdictions their defender association is part of the county?

MS. GREENLEE: Yes.

COUNCILWOMAN TASCO: Are they under the judicial system or a separate --

MS. GREENLEE: County commissioners. County commissioners control their budget and control their staffing, actually. They're county employees.

COUNCILWOMAN TASCO: Okay. All right. Thank you.

Any other questions?

(No response.)

COUNCILWOMAN TASCO: Thank you

so much for your testimony.

MS. GREENLEE: Thank you.

COUNCILWOMAN TASCO: We appreciate it very much.

MS. GREENLEE: Thank you for your courtesy.

COUNCILWOMAN TASCO: Thank you.

Our next group would be the Law Department, but they're not scheduled until 11:30, so I guess we can come back at 11:30.

Is there anyone else here to testify on this budget of the Public Defender's budget?

(No response.)

COUNCILWOMAN TASCO: Thank you. We'll come back at 11:15.

(Short recess.)

COUNCILWOMAN TASCO: We're going to get started. We're going to now hear the testimony on the Law Department.

(Witnesses approached witness table.)

MS. SMITH: Good morning, Madam

Chairperson.

COUNCILWOMAN TASCO: Good morning. How are you?

MS. SMITH: I'm fine. Thank you. How are you?

COUNCILWOMAN TASCO: Hanging in.

Please.

MS. SMITH: Okay. Good morning, Madam Chairwoman and members of City Council. I am City Solicitor Shelley R. Smith. With me today are Donna J. Mouzayck, First Deputy City Solicitor; Elizabeth Mattioni, Chair of Litigation; Vanessa Garrett Harley, Chair of Social Services; Daniel Cantu-Hertzler, Chair of Corporate and Tax; and Nicholas Susi, Director of Administration. I am pleased to have this opportunity to testify in support of the Law Department's Fiscal Year '11 budget request.

Here is how our Fiscal '11 budget request compares to estimated

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Fiscal '10 obligations:

General Fund: The Law Department requests $10,586,545 in Class 100; 7,813,911 in Class 200; 226,759 in Class 300; and 38,265 in Class 400 funds, for a total of $18,665,480 in the General Fund, a net decrease of $882,838 from estimated obligations for Fiscal '10.

The Department will decrease its General Fund budgeted staffing levels from 203 from Fiscal '10 to 190 for Fiscal '11.

From the Water Fund, the Law Department requests $3,251,388, an increase of $100,808 from estimated obligations for Fiscal '10.

From the Aviation Fund, the Department requests $1,878,074, a decrease of $26,159 from estimated Fiscal '10 obligations.

From the Community Development Fund, the Department requests $208,789, a decrease of $6,525 from estimated Fiscal '10 obligations.

And from the Grants Revenue Fund, the Department requests $21,842,820, an increase of $1,158,820 from estimated Fiscal '10 obligations.

The mission of the Law Department is to provide high-quality and timely legal advice to all officials, departments, boards and commissions within the City. The work of the Law Department is largely responsive, as we are required under the Philadelphia Home Rule Charter to provide legal representation to all City departments, boards and commissions and to all City officials and employees in matters arising from the performance of their official duties. Consequently, the Law Department has little, if any, control over the number or types of matters it handles.

In this year's budget, we have worked with the Budget Office to allocate an amount of money that reflects the reality that the Law Department must have

sufficient resources to fulfill its Charter mandate, and we continue to work with the Revenue Department to enhance delinquent tax collections for the benefit of the entire City.

Revenue initiatives: This fiscal year we are projecting to bring in $69 million in delinquent tax collections, down considerably since some of what would be collections by Law or its collection firms will now be recorded under the City's temporary tax amnesty program and due to the continued downturn in the economy. In addition, for Fiscal '10 we expect that non-tax and environmental collections will total $3.3 million. Also, this fiscal year attorneys in the General Litigation Unit concluded litigation on behalf of the City resulting in recovery of $3.2 million in net revenues to the City, exceeding prior year recoveries by approximately $900,000. As a result of these efforts, we project that the

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overall collections by the Law Department for Fiscal '10 will total just over $75 million.

In addition to our delinquent tax collection efforts, the Law Department continues to work closely with Revenue on a number of initiatives, including updating regulations to improve taxpayer understanding and enforcement; moving toward creating a unified database for shared tax information with the Department of Revenue, with help from the Division of Technology; drafting legislation for mandatory electronic payment and electronic filing, which will lead to more timely posting and application of taxpayer payments, putting money into the City's coffers more quickly and reducing confusion for taxpayers related to delays; competitive procurement of collections firms to enhance the City's collections of all types of delinquent taxes as well as bail forfeitures; more aggressive efforts to

obtain agreements for payments in lieu of taxes from commercial tenants of properties leased from non-profit or otherwise tax-exempt property owners, an initiative that is expected to generate $750,000 annually; stepped-up efforts to contact delinquent taxpayers and corporate officers directly before bringing suit against them, an effort that has resulted in a 28 percent increase in collections by the Major Tax Enforcement Division during the first nine months of Fiscal '09; and preparation for the temporary tax amnesty program scheduled to begin in May.

The Law Department continues cost-effective representation, with General Fund indemnity costs budgeted at $34.5 million for Fiscal '10. These costs exceed the amounts spent in the prior two years due to an increase in the number of cases filed against the City and due to the fact that a few very large litigation cases were settled in Fiscal

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Years '09 and '10, impacting indemnity expenditures. For comparison purposes, in Fiscal '05, the number of new suits brought against the City totaled just 1,010. Each following year through Fiscal '08, new suits rose. In Fiscal '08, 1,487 new suits were filed, 1,324 were filed in Fiscal '09, and we are projecting new suits to rise again by the end of Fiscal '10 to 1,476.

COUNCILWOMAN TASCO: Excuse me. I'm sorry.

MS. SMITH: Should I continue?

COUNCILWOMAN TASCO: Just a second. Excuse me. I apologize.

MS. SMITH: That's okay.

COUNCILWOMAN TASCO: Got a lot of stuff going on.

MS. SMITH: I understand. I didn't want to keep speaking while you were distracted.

These additional lawsuits have resulted in an increase in payments and indemnity costs. From Fiscal '04 through

Fiscal '06, the average number of cases closed was 1,096. In contrast, from Fiscal '07 through Fiscal '09, the average number of closed cases increased to 1,313. Thus, the Law Department has closed 19.7 percent more cases over the past three years. Specifically, in Fiscal '09, 1,312 cases were closed, and we project that by the end of Fiscal '10, nearly 1,400 cases will be closed.

As of December 30, 2009, the Law Department was defending 1,597 active litigation matters. During just the first half of Fiscal '10, the Law Department closed a total of 686 cases. These cases had a total risk assessment of nearly $23.9 million, and the Law Department paid out just 27.1 percent of its risk assessment. The Law Department resolved 61.3 percent, a total of 421 cases, without payment, and 38.7 percent, 265 cases, were closed with payment. Despite the fact that a vast majority of these suits are ultimately deemed to be

without merit, the Law Department is still obligated to spend resources to defend the City and to budget funds that may be needed to pay out claims.

Last year, the Civil Rights Unit successfully defended more than ten cases at trial, including the estate of Danieal Kelly versus the City, which arose from the tragic death of a disabled child while in her abusive mother's custody. The estate brought a civil rights action against the City and others. After the City filed its motion to dismiss, counsel for the estate amended the complaint, withdrawing all claims against the City, effectively ending the City's involvement in the civil suit.

Accomplishments of the Claims Unit include six wins in the six cases that went to trial, a winning percentage of 85 percent in the cases arbitrated, and successful results in all matters taken to alternate dispute resolution.

Had this unit not been as successful, based on the injuries reported, the City would have been facing payments in the millions of dollars.

Finally, administrative improvements were also initiated this past year to make that unit more efficient, including the use of the 4D case management system to open and close files.

The Law Department has served as a major resource providing support and assistance to the Residential Mortgage Foreclosure Diversion Program in the Philadelphia Court of Common Pleas, which has received national recognition as a model government initiative. Senior attorney Lesia Kuzma provides continuing assistance to the Court and the program as Chair of the Mortgage Foreclosure Steering Committee, and we have implemented new outreach efforts for housing counseling agencies to improve the effectiveness of this program.

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Over the past six fiscal years, from Fiscal '04 to Fiscal '10, as a result of electronic filing, e-mail and the increased technological proficiency of the attorneys, the Law Department has reduced support staff on the General Fund by 16 percent, from 98 on staff in Fiscal '04 to 82 on staff in Fiscal '10. In addition, the Law Department has reduced its paper costs by 48 percent, from $77,045 in Fiscal '08 to an estimated $40,000 in Fiscal '10.

The Law Department is committed to supporting the Administration's goal of 25 percent minority, women and disabled-owned business participation in citywide contracting. Specifically, based on the Law Department's available contracting opportunities for Fiscal '11, the Department's participation goal is 25 percent of its obligations. We are proud of our continued commitment to diversity contracting, which resulted in 23 percent of contract dollars being paid to

minority and women contractors in Fiscal '09. We continued with the majority of those contracts in Fiscal '10, resulting in 42 percent of Law Department contract expenditures paid to OEO-certified vendors and, therefore, we project participation to be at 28 percent by the end of the current fiscal year.

In addition, we remain committed to the maintenance of a highly professional Law Department that both reflects the diversity and exceeds the expectations of the citizens of Philadelphia we serve. Of the total Law Department staff of 320 as of March 2009, which includes attorneys, legal assistants and support staff, 44.3 percent are minority and 66.2 percent are women.

This fiscal year, we have focused our hiring efforts in the areas of General Litigation and Labor and Employment, two areas where the greatest need for non-conflict outside counsel

arises, so that we could keep more legal matters in-house at a fraction of the cost. As we replaced staff, fewer cases were assigned to outside counsel, some matters were brought back into the Law Department, and other cases originally assigned to outside counsel have now been closed. As a result, the Law Department has been able to reduce outside counsel obligations. Excluding labor negotiation obligations, Fiscal '10 General Fund legal obligations for outside counsel are projected to decrease from $4 million in Fiscal '09 to $2.6 million in Fiscal '10, a decrease of 1.36 million, or 34 percent. We hope to see a continued decrease in Class 253 expenditures as the number of active cases handled by outside counsel are closed.

Thank you for the opportunity to testify today on the Law Department's Fiscal '11 budget request. I look forward to continuing to work with members of City Council in the

performance of my duties as City Solicitor, and should any Councilmember wish to engage in further discussion on any of these matters, my staff and I are happy to meet with Councilmembers at their convenience.

COUNCILWOMAN TASCO: Thank you very much.

On the first page of your testimony, you talk about the Water Fund, an increase; the Aviation Fund, a decrease; Community Development, a decrease; and an increase in General Fund. Could you kind of explain those to us, please.

MS. SMITH: Increase in Grants Revenue Fund.

COUNCILWOMAN TASCO: Right. What's the Water Fund increase? What does that mean?

MS. SMITH: We managed to -- what the obligations are on the Water Fund?

COUNCILWOMAN TASCO: Yes.

MS. SMITH: So the increase in the Water Fund request reflects an increase in obligations on expenditures already on that fund. All of the positions -- we have some positions that are on the Water Fund in the Law Department and we filled them all, and so that slightly increases the obligations to that fund.

And the increase in the Grants Revenue Fund reflect a cushion for amnesty as well to pay the vendor from the Grants Revenue Fund, which is how those vendors are always paid.

COUNCILWOMAN TASCO: And you have a decrease in the Aviation Fund?

MS. SMITH: That probably reflects a decrease in -- we have positions funded by the Aviation Fund as well, so that probably reflects a reduction in the positions and the salaries paid from the Aviation Fund.

COUNCILWOMAN TASCO: All right. And $6,000 from the Community

Development?

MS. SMITH: Same would be true for that. Those positions are housing positions typically, and so that reflects a decrease in the salary obligation for our Community Development-funded position.

COUNCILWOMAN TASCO: The Chair recognizes Councilman Goode.

COUNCILMAN GOODE: Thank you, Madam Chair.

Good morning, Madam Solicitor.

MS. SMITH: Good morning.

COUNCILMAN GOODE: How are you?

MS. SMITH: Fine. Thank you. How are you?

COUNCILMAN GOODE: I'm good. I'm in need of some legal advice. The first question is, does City Council have the legal authority to establish contract participation goals for disadvantaged businesses?

MS. SMITH: I believe -- could you repeat the question?

COUNCILMAN GOODE: Does City Council have the legal authority to establish contract participation goals for disadvantaged businesses?

MS. SMITH: I believe that Council's authority to do that has been effectuated through the requirement of, in various places, of the equal opportunity plans that contractors have been required to submit on various projects.

COUNCILMAN GOODE: I meant in general does Council have the legal authority to establish the annual participation goals?

MS. SMITH: Specific goals?

COUNCILMAN GOODE: Yes.

MS. SMITH: Specific numerical goals?

COUNCILMAN GOODE: Yes.

MS. SMITH: I believe it does not.

COUNCILMAN GOODE: Did City Council ever have that authority?

MS. SMITH: Let me -- can I get back to you in a moment with an answer to that? I want to review with the people who -- yes.

Dan, can you?

MR. CANTU-HERTZLER: We should discuss it.

COUNCILMAN GOODE: You might want to go to the table.

MS. SMITH: Could you?

COUNCILMAN GOODE: Let me just move to my third question.

MS. SMITH: Sure.

COUNCILMAN GOODE: The Ortiz bill, No. 030125, repealed Chapter 17-500 of The Philadelphia Code. It rewrote that section and actually gave City Council that legal authority. Then-Mayor Street signed it into law in a public ceremony. The question is, was it ever law?

MS. SMITH: Can you give me the ordinance number again?

COUNCILMAN GOODE: 030125.

It's the Ortiz bill that was co-introduced by then-Councilman Nutter. He chaired the committee hearing. He voted as part of a unanimous vote. Mayor Street signed it into law in a public ceremony. Then when he took office for his second term, there was a Law Department opinion that was issued that the bill was not legally valid. So the question is, when the Mayor, Mayor Street, signed that bill into law, was it in fact law?

MS. SMITH: I believe -- I'm not familiar with that -- with exactly what that specific bill provides. So I'm happy to go back and look at that specific bill. However, in general --

COUNCILMAN GOODE: Okay. I can read you just very quickly from the bill.

MS. SMITH: Well, I'm not sure it's necessary, because in general, the answer to your question, when that situation exists generally, is that the Law Department takes the position that

where Council enacts an ordinance that is beyond its Charter-granted authority, those ordinances are not enforceable.

COUNCILMAN GOODE: Okay. That's fine. I was just going to tell you what the specific law was, whether it was enforceable or not, which leads to my next question. Who determines which ordinances are valid?

MS. SMITH: Well, there -- valid. The Administration -- an administration can ask, as can Council, any client can ask the Law Department for advice as to whether an ordinance is enforceable. Valid is not the word I would use, because it can be validly enacted but still not enforceable.

So any client can ask for advice as to whether an ordinance is enforceable, legally binding. And even though an ordinance has been validly enacted, it may still not be enforceable, because it may have exceeded Council's authority to act as provided by the

Charter.

COUNCILMAN GOODE: Okay.

MS. SMITH: So we advise clients on that particular question. Ultimately obviously an official determination of the enforceability or the legality of an ordinance would have to be determined by a court, but the Law Department advises clients on that question.

COUNCILMAN GOODE: The word for today is "enforceable." What is legally enforceable now? In other words, what is the Administration's legal framework for establishing participation goals or what is law within the Charter, within the Code? In other words, the original Chapter 17-500 was introduced by Councilwoman Blackwell. It was actually vetoed, I believe. The veto was overridden. There's question as to under that logic whether the original Chapter 17-500 was enforceable or is enforceable. There's question about whether the

rewriting of that Chapter by Councilman Ortiz, whether that is legally enforceable.

My question is, in terms of our ability to establish participation goals for minority, women and disabled-owned business, what is legally enforceable and what is the legal framework for establishing participation goals?

MS. SMITH: When you say "we," you mean Council, right, not the Administration generally?

COUNCILMAN GOODE: I mean the City.

MS. SMITH: You mean the City? Okay.

I believe that -- I know that Michelle Flamer in our office has worked extensively with the Office of Economic Opportunity on these questions. And I don't have the Charter in front of me, nor do I have Councilman Ortiz's ordinance in front of me. So what I would like to do, if you would allow me

to do so, is go back to the materials that we've already developed on this to advise OEO and then provide you with an answer.

COUNCILMAN GOODE: I would actually love to have that in writing in terms of what provisions within the Charter and what provisions within The Philadelphia Code are legally enforceable in terms of establishing participation goals for disadvantaged businesses. I guess the only primary questions I would ask are that it's assumed that everything within the Charter is legally enforceable; is that correct?

MS. SMITH: Presumed that? In theory, there could be Charter provisions -- I haven't committed the Charter in its entirety to memory. Conceivably there could be Charter provisions that have been duly enacted by the voters that for one reason or another run afoul of other legal provisions, the federal constitution being just one

example of that.

COUNCILMAN GOODE: Preempted by the State or federal law.

MS. SMITH: Exactly.

COUNCILMAN GOODE: But aside from State and federal law, it's assumed that everything within the Charter is legally enforceable?

MS. SMITH: Well, I mean, I don't want to say that it's presumed that everything is -- assuming that it is lawfully within -- that it was lawfully within the power of the City to add a provision to the Charter, then, yes, it is presumed that those -- that the Charter provisions are enforceable, yes, but there are obviously broader legal considerations.

COUNCILMAN GOODE: Aside from getting back to me on what that legal framework is in writing and sending it through the Chair, if you can send it directly to me as well, that would be great.

MS. SMITH: Okay.

COUNCILMAN GOODE: I guess the simple question is, is the Administration following the law in establishing participation goals?

MS. SMITH: We certainly are following the law. I mean, that is one of the reasons that -- not one of the reasons, but, I mean, that is one of the -- one of Michelle Flamer's specific responsibility is to make sure that the Office of Economic Opportunity is guided by the relevant legal provisions and is pursuing the Administration's commitment to increasing diversity in a manner that is consistent with the law, because we don't want the results of that effort to be undermined by a legal challenge. So, yes.

COUNCILMAN GOODE: But you're referring to State and federal law. In other words --

MS. SMITH: Well, sure.

COUNCILMAN GOODE: -- it

actually can be challenged from both positions?

MS. SMITH: Absolutely.

COUNCILMAN GOODE: You can be challenged by contractors who believe that you cannot set goals --

MS. SMITH: Correct.

COUNCILMAN GOODE: -- if there are not certain things that are done --

MS. SMITH: Correct.

COUNCILMAN GOODE: -- in establishing those goals.

You also can be challenged by disadvantaged businesses who, based upon a disparity study, know that the availability exists at a level that the City is not actually pursuing. Therefore, the City is not actually meeting its diversity goals.

MS. SMITH: Yes, and in theory, a challenge could be brought from both ends. I find it probably less likely that a disadvantaged business would challenge the City's commitment, because

the law as it has evolved over diversity business participation is such that it's fairly difficult to hold a municipality to a particular standard. So that's why I said that Michelle has been working with OEO extensively to make sure that what we're doing is consistent with the law and, yes, that access to opportunity is provided in a manner that's sort of as equal as possible. But, yes, theoretically, a challenge could be brought in either direction.

COUNCILMAN GOODE: If the City consistently does not meet the goals that are established by a disparity study over several years, then it would not be that difficult.

MS. SMITH: But I think the challenge would not be about the failure to meet the goal. I think the challenge would be a straight-out discrimination or equal -- some sort of discrimination claim against the City. It wouldn't specifically be about the goals or the

failure to meet the goals or a disparity study specifically. It would be more likely a challenge under some federal law or the federal constitution that opportunity is being denied, particular opportunities are being denied, to a certain group of people in violation of the laws that require that opportunities be provided equally.

COUNCILMAN GOODE: That's exactly what I'm saying.

MS. SMITH: Yeah, but I'm just -- yes.

COUNCILMAN GOODE: Okay. In Fiscal Year '07, your department achieved a 55 percent DBE participation rate. The goals for Fiscal Year '08 and Fiscal Year '09 were 45 percent in both years, lower than the 55 percent that was actually achieved in Fiscal Year '07, and in Fiscal Year '08, only 16 percent was achieved, which is a 39 point drop from Fiscal Year '07. So the question is, was the 45 percent goal wrong?

MS. SMITH: I wasn't here in Fiscal '07, so I can't speak to the goal. What I can tell you is that we in the last two years have increased our participation, and as I testified, our current participation is at 23 percent in Fiscal '09 and we project it to be at 28 percent by the end of this current fiscal year, and we expect to continue to move to maintain that level of participation.

COUNCILMAN GOODE: The discussion I've been having in part, in large part, is not just about what goals were achieved, even though I've referenced that, but how goals are set and if we're following the law in terms of how goals are set. What was the goal for Fiscal Year '10, the year we're in now?

MS. SMITH: For Fiscal Year '10, the goal was 28 percent.

COUNCILMAN GOODE: The goal was 28 percent?

MS. SMITH: Yes.

COUNCILMAN GOODE: How was that goal established?

MS. SMITH: It was established based on obligations, I believe.

Is that right?

Originally it was based on obligations, and then we looked at our actual expenditures and worked with OEO and ultimately arrived at the goal of 28 percent.

COUNCILMAN GOODE: So legally you're not prepared to state right now how those goals should be set. You said Ms. Flamer will get back to us on that. I guess the question is, within the Home Rule Charter --

MS. SMITH: You mean legally how they should be set?

COUNCILMAN GOODE: Yes.

MS. SMITH: No. I would prefer to go back to the materials that -- we have already been looking at this extensively, and I just don't have those materials here, but I am happy to get

back to you on that.

COUNCILMAN GOODE: I guess at the end of the day what's in the Charter I'm concerned about whether the City is in compliance with, not just in general but specifically in terms of how it trickles down. What's in the Charter calls for, which I'm assuming is completely legally enforceable, what's in the Charter calls for an annual disparity analysis and participation goals based upon four things - the present availability of qualified DBEs, the participation of qualified DBEs on past contracts awarded by the City, a forecast of eligible contracts to be awarded within the fiscal year, and, four, the latest annual disparity study. That is actually the legal framework within the Charter for setting the goals for the entire City, and those goals are set by the executive branch that the Finance Director has identified within the Charter. That then is translated into

departmental goals, which is then translated into RFP goals.

And so the question is, are we actually making sure that the legal framework from the Charter is being followed and is it trickling down so that opportunities are actually being offered in a way that is consistent with the availability? At the end of the day, is utilization actually matching availability? And we already know through the series of budget hearings that we've had with different departments that that is not the case, that there is arbitrary goal-setting being done at the departmental level and at the RFP level. And you've told me you've identified who is responsible for that, but I'm as concerned not just holding department heads responsible but whether the Law Department is actually also holding each department head responsible legally for following that framework. So I look forward to what you will send me in

writing in terms of what you believe that framework to be, and then I'm assuming that that is also an opinion that will be shared with OEO and with other department heads and that is the framework by which we should proceed.

MS. SMITH: Well, yeah. I just want to be clear about something. The Law Department isn't -- the Law Department itself is not holding each individual operating department to any goals. What we do is advise the Office of OEO, which is the office responsible for developing the goals with the departments, and what we do is advise that office -- and I'm concerned, because you said I've identified the person who is, quote, responsible.

COUNCILMAN GOODE: I meant responsible within your office for knowing what the legal framework is.

MS. SMITH: For dealing with the legal framework, okay. I just wanted to make sure we're clear.

COUNCILMAN GOODE: And for identifying for those departments what the legal framework is.

MS. SMITH: For identifying for OEO what the legal framework is, right.

COUNCILMAN GOODE: And for the operating departments. Just identifying what the legal framework is, what they should be held accountable for.

MS. SMITH: We identify -- we worked with OEO and defined the legal framework for OEO, whose responsibility it is for effectuating this objective, right, for achieving this objective or administering it citywide, and through that and through the Mayor's Economic Opportunity Cabinet, the general discussion of the legal framework and the basis for OEO's work with the departments to establish each individual department's goals is communicated, and there are -- the Deputy Mayors are on that Cabinet, so through that process, they are advised as well.

But we don't necessarily advise each individual department of the legal framework related to the OEO goals. That's just part of the process of our advising OEO and their administration of the process overall.

COUNCILMAN GOODE: That's fine, as long as that legal opinion is available. Because if you have disparity studies that are required under the Home Rule Charter that are done on an annual basis and that's really the only legal support we have for any sort of anti-discriminatory policy, if you have that within the Charter and the participation goals are supposed to be set based upon the disparity study and the disparity study says you should be reaching a goal of 25 to 28 percent and you consistently only reach 18 percent, it's very possible that the Administration at some point, if it does not change its operation, which I believe it is doing through the OEO Strategic

Plan, it's out of compliance with the Charter, and that we should not just be concerned about getting sued by majority contractors or prime contractors, we should be concerned about being sued by people who are not being given the opportunity they should be given.

MS. SMITH: I understand.

COUNCILMAN GOODE: And having gone from the beginning of my tenure 97 percent of contract dollars going to businesses owned by white men, to at this point in my tenure 82 percent of contract dollars going to businesses owned by white men and looking at the Mayor's goal in reverse of 75 percent of contract dollars still going to businesses owned by white men, if a disparity study has been done and identified availability and it's not being matched by utilization, there should be concern legally there as well.

MS. SMITH: I understand.

COUNCILMAN GOODE: Thank you,

Madam Chair.

COUNCILWOMAN TASCO: Thank you.

The Chair recognizes Councilman Green.

COUNCILMAN GREEN: Thank you, Madam Chair.

Good afternoon, Solicitor. How are you?

MS. SMITH: Good morning. How are you?

COUNCILMAN GREEN: Oh, is it morning still?

MS. SMITH: For another minute or so.

COUNCILMAN GREEN: I'm great. So you probably, if you've been paying attention, I've been asking each department about new and unfilled positions scheduled to be filled in FY11. Specifically, I'm asking about job duties, how those duties are being handled currently, et cetera.

I do note that you have a $248,000 vacancy allowance across the

department, which obviously would offset some of these questions, but there's an unfilled Administrative Services Specialist position as of November. Has that position been filled?

MS. SMITH: It has not yet been filled.

COUNCILMAN GREEN: What are the job duties?

MS. SMITH: That person would provide assistance with personnel budget reporting and analysis, payroll and human resources functions.

COUNCILMAN GREEN: How is that being performed today?

MS. SMITH: We are just doubling up on the work that's being performed by the remaining people in the Administrative Services Unit.

COUNCILMAN GREEN: Are you paying overtime for that?

MS. SMITH: I don't believe so, no.

COUNCILMAN GREEN: So will the

sky fall if you don't fill that position?

MS. SMITH: Perhaps not in the short term, but eventually. We lost a payroll clerk and so the processing of the time sheets and payroll information has been, I think, slowed somewhat by that.

COUNCILMAN GREEN: So this is a position of someone doing data entry for time sheets, in part?

MS. SMITH: No. It's not simply data entry. It's also the processing of information in preparation for people's retirements and -- it's a comprehensive payroll function, not simply data entry.

COUNCILMAN GREEN: That's great. I mean, we are automating that in an ERP package in FY11 under the budget that will automatically calculate pension stuff, do time reporting, other stuff like that. So it may make some sense, at least in my view, to keep that position vacant to see if we can accomplish our

goals.

In the Litigation Unit, there are four new Assistant City Solicitor positions.

MS. SMITH: Yes.

COUNCILMAN GREEN: The vacancy chart we received shows that two of those have been filled?

MS. SMITH: Yes.

COUNCILMAN GREEN: For the two new Assistant positions that have not been filled, what are the job duties that you're envisioning?

MS. SMITH: One of the positions is in the General Litigation Unit. The General Litigation Unit handles all litigation. It doesn't fall into any of the other named litigation units, so that which is not claimed Civil Rights, Labor and Employment or Code Enforcement. The attorney would be needed to assume a caseload of approximately 40 files so that that -- to assist the City in defense of -- in its

defense in litigation.

In answer to the question I imagine you're going to ask, how are we doing it now, again, we double up. But particularly with attorney positions in litigation, it's risky even in the short term to allow that additional burden to fall on lawyers, because at some level they can't meet their professional obligations to defend the City appropriately if the caseloads are too high. And so we try to keep them at an even level.

Additionally, that litigation handles affirmative litigation, and because it's been understaffed for some period of time, we haven't been as aggressive on affirmative litigation as we would like to be. We've been working with the Inspector General on some particular issues, and to the extent that we have the staffing to do so, we would like to be more aggressive in that area as well. So an additional attorney there

will help us to do that.

COUNCILMAN GREEN: A general litigator where we would be the plaintiff?

MS. SMITH: Well, when I say "affirmative litigation," we would be the plaintiff, yes, but we don't -- that unit doesn't only handle matters where the City is the plaintiff. We handle every other kind of litigation but what I've already named for the City in defense as well, but additionally this unit does also handle affirmative litigation.

COUNCILMAN GREEN: So I assume you're not suggesting that the lawyers working for the Law Department are currently unable to fulfill their professional responsibility?

MS. SMITH: No, I'm not suggesting that. What I'm saying is that we try to maintain the caseloads -- over the long term, we try to maintain the caseloads at a certain reasonable level, because it happens frequently that when

people leave or whatever, staffing changes, we have to redistribute, and eventually the redistribution causes an undue burden on the attorneys, who have to pick up the extra work, and it also -- that also in the long term has kind of a negative effect on morale, because when people see that they are being excessively burdened and no help is forthcoming, they tend to get frustrated and leave, especially in an economy like this when they're not getting pay increases either. So it has a lot of impact.

COUNCILMAN GREEN: So if we fill these two positions, would we expect to save money in outside counsel fees?

MS. SMITH: Both in -- the other position is in Civil Rights, and what we -- we would expect to continue to maintain our decline in outside counsel costs, because we would have the staffing internally necessary to maintain an appropriate defense of the City and

reasonable caseload so that we have the capacity to continue to handle the volume of work that's coming in.

COUNCILMAN GREEN: But FY10 and FY11 have the same outside counsel. You're not lowering it.

MS. SMITH: Correct, but it was lowered from last year to this year.

COUNCILMAN GREEN: No. I understand, but we're doing that today. So you're saying we're providing additional resources and getting no offset in costs from outside counsel.

MS. SMITH: You're maintaining the same offset in costs.

COUNCILMAN GREEN: No. We're increasing costs by the two positions we're talking about.

MS. SMITH: But you're maintaining essentially the same offset in costs, because this incremental -- this annual cost of 99,000 -- let's call it 100 -- $100,000 is, as you are well aware from our Class 200 obligations last

year, a drop in the bucket in comparison to the extensive outside counsel costs. It's a four-to-one ratio. So keeping attorneys on staff helps us to maintain lower outside counsel costs.

COUNCILMAN GREEN: I understand, and if we keep the current staffing position, which is up two from last year, for most of last year, you will be able to maintain your current outside counsel costs. You'll just be -- what I understand from your testimony is you'll just be creating stress or poor morale among your existing City Solicitors.

MS. SMITH: Which is no small thing.

COUNCILMAN GREEN: Okay. Legal Assistant positions, there were two as of November. Have they been filled?

MS. SMITH: They have not.

COUNCILMAN GREEN: And what are the job duties?

MS. SMITH: Both of those

positions are in the General Litigation Unit, which I've already described to you, and Legal Assistants in our office, they're what we call -- they're our internal name for paralegals. So they provide litigation support in conducting case investigations and responding to drafting discovery requests and general litigation support. When those -- assist with internal case management responsibilities, entering information into -- substantive case-related information into our case management system and tracking that information and the progress of cases as it relates to the input of that information.

To the extent that we do not have Legal Assistants to perform those responsibilities, lawyers have to do it or secretaries, who really don't necessarily have the substantive expertise or knowledge to do it in the same way that a Legal Assistant would.

COUNCILMAN GREEN: So by

providing these resources, are you going to be able to lower outside counsel costs?

MS. SMITH: I would say in an attenuated way, yes, because it allows the attorneys to focus on the work of attorneys rather than the work of paralegals.

COUNCILMAN GREEN: Okay. So how much can we lower outside attorney costs if we give you these two positions?

MS. SMITH: I'm not sure, again, that it's directly dollar-for-dollar quantifiable. I would say that as with the attorney positions, it allows us to continue to maintain the reduced level of outside counsel expenditures that we have achieved over the past year.

COUNCILMAN GREEN: Okay. The Commercial Law and Regulatory Affairs Unit, there was an unfilled Assistant City Solicitor position. Has that been filled? This is the Corporate and Tax

Group subdivision.

MS. SMITH: Has not been filled.

COUNCILMAN GREEN: What are the job duties?

MS. SMITH: That is a position in the Tax Unit, and the Tax Unit collects taxes, delinquent taxes.

COUNCILMAN GREEN: And who has been performing these duties?

MS. SMITH: That position -- excuse me one second.

This is a replacement for the attorney who specifically focused on bankruptcy-related tax collection matters in our office. The attorney that used to handle that is severely ill and so a person that we hired to fill that position would resume -- would pick up that work. There isn't anybody in our office now at all who focuses on that. That person had a particular niche and he's not there any longer.

COUNCILMAN GREEN: It looks

like there are three Assistant City Solicitor positions to be filled in the Tax Unit. Have those positions been filled?

MS. SMITH: Three? Well, I have -- I mean, I have two in addition to the one that you just identified, but in any event --

COUNCILMAN GREEN: What we were talking about before was the Commercial Law and Regulatory Affairs Unit.

MS. SMITH: Okay. I think -- all right. I think I misspoke. I think I misunderstood you. The person -- so the Commercial Law position is a position for an attorney to handle telecommunications legal issues. The person who was in that position left. And, again, essentially what happens when someone leaves is that, particularly in the Finance and Contracts Unit, though, on the Commercial Law side, the number of contracts incoming is remarkable, thousands in a quarter or in half of the

fiscal year, and so what happens is, those contracts are redistributed, but that means that the contracts are slower being processed.

And in answer to your question, we don't -- that typically does not create an increase in outside counsel, because we typically don't hire outside counsel to perform transactional work, but what happens as a result of the vacancies is that it slows down the transactional work, which slows down the business conducted by the department.

COUNCILMAN GREEN: Okay. So moving on to the Tax Unit, you've described one of those positions related to bankruptcy.

MS. SMITH: Right. And the others would just focus on delinquent collections more generally.

COUNCILMAN GREEN: And how long have these positions been vacant?

MS. SMITH: From several weeks to several months.

COUNCILMAN GREEN: So there's not really additional revenue we're going to pick up by filling these positions?

MS. SMITH: I mean, I think there's the possibility. It's hard to say how much additional revenue is generated by additional people. Certainly the more people we can put on the work, the more revenue we have the potential for collecting, but that's all --

COUNCILMAN GREEN: Could you please provide the Chair with the per person City Solicitor cost of the Tax Unit and how much they are able to settle and bring in --

MS. SMITH: Sure.

COUNCILMAN GREEN: -- every year?

MS. SMITH: Yeah.

COUNCILMAN GREEN: Thank you.

I've been asking also departments about the budget reduction scenarios. The reduction scenarios we

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received from the Law Department showed cuts in three areas - 1.2 million in staffing restrictions, 587,000 in outside legal services, and $70,000 in postal services. We've talked about staffing levels a bit, so I'd like to focus on the other two cuts.

Starting with the postal services cut, the budget detail indicates the FY10 appropriation for postal services was 54,000, but the projected spend is 150. Why did postal service costs increase so much?

MS. SMITH: I believe that that number has to be corrected. I think internally our postal service costs -- another budget category was erroneously attributed to postal service costs, and so we have to adjust that. That number is incorrect.

COUNCILMAN GREEN: So 54,000 is about right?

MS. SMITH: Yes.

COUNCILMAN GREEN: Okay.

That's great. That's $96,000.

So with respect to the proposed outside legal services cut, can you describe how the department was planning to achieve that?

MS. SMITH: Well, the fact of the matter is that we have taken substantial steps to reduce our outside counsel expenditures as it is. We have little room to propose reductions because, in essence, our costs are staffing, outside counsel, litigation support services and administrative costs, like postage. If we reduce our staffing internally, it costs us on outside counsel.

We have -- so it's preferable to try to reduce expenditures in outside counsel, and so what we would do is try to figure out some other way of administering conflict cases or further reducing the number of cases that we send outside, but it is a significant challenge. It would be a significant

challenge for us to do it.

COUNCILMAN GREEN: But I mean --

MS. SMITH: Because we have so little control now.

COUNCILMAN GREEN: It was in your reduction scenario that you provided to the Administration.

MS. SMITH: It was.

COUNCILMAN GREEN: And if you had to have achieved it, you could have achieved it?

MS. SMITH: Well, if we had to have -- if we had to manage to do that budget number, we would attempt to manage to that budget number, but it's probably a difficult challenge.

COUNCILMAN GREEN: Nothing worthwhile is ever easy.

MS. SMITH: Well, you've seen our past outside counsel budget for the past two years and you've seen what the tensions are between the reductions in one category and one fund versus the

reductions in another.

COUNCILMAN GREEN: I understand, but I got you -- your testimony is --

MS. SMITH: We are like the prisons.

COUNCILMAN GREEN: Your testimony is if you were appropriated that much less Class 200, that you could achieve that or something close to that.

MS. SMITH: That's not my testimony. My testimony is if we had to manage to that budget number, we would attempt to do so, but I can tell you from past experience and past experience that you've seen yourself, it's virtually impossible to do it. We are like the prisons. We have to defend what we get, at whatever cost it requires.

COUNCILMAN GREEN: Okay. In last year's budget hearing you testified about the new case management system being developed by the Law Department to streamline workflow and thereby improve

responsiveness to clients and also the efficiency in which you're able to deal with cases, moving them quicker, et cetera. Reducing paperwork by attorneys also presumably allows them to take more cases, because there's less paperwork.

So what's the status of this initiative?

MS. SMITH: We're still working with DOT to implement it. We have worked with our consultant and we have surveyed a number of law firms to evaluate their case management systems to come up with a model that works for the Law Department, and our consultant and the Department of Technology is working to implement that system with the modifications that we've identified. And so it's in process.

COUNCILMAN GREEN: So do you believe that it will generate efficiencies once it's implemented?

MS. SMITH: Yes. I think we've already seen some improvements in claims, in opening new cases. But, yes, we do

expect -- because what it will do, ideally what it will do, is enable lawyers -- well, staff generally to have greater access across the department to documents, which our system does not allow now, which will reduce the re-creation of documents from one department to the other and allow people to access, like in a law firm, allow you to sort of go into the system and pull up a case or a document number and have access wherever you are to the current version of that document. That's sort of the general idea, to try to go to the law firm document management model.

COUNCILMAN GREEN: But it's not implemented right now?

MS. SMITH: It is not. It's in process.

COUNCILMAN GREEN: So what were those efficiencies you just talked about? You held up a card.

MS. MOUZAYCK: The improvements made in the Claims Division really allows

a case number to be assigned and the file to be opened electronically, whereas previously without the enhancement, we were unable to do that.

COUNCILMAN GREEN: Okay.

MS. MOUZAYCK: We're going unit by unit and doing sort of the incremental changes that can be made immediately, and then once we have the technology in place to do the bigger things, like get the document management system going so that you can target anything that's in the Law Department by basically entering just a few entries, that will come later, because the technology is not there, but we didn't want to hold back small changes that we can make now. And so Claims was actually the first division that they started with, because that was a small change.

COUNCILMAN GREEN: Thank you. When do you expect the implementation to occur of the document management system?

MS. MOUZAYCK: Certainly it's

going to take a full year, I think, for --

COUNCILMAN GREEN: A year?

MS. MOUZAYCK: -- everything to happen. We do require some coordination at some level with the Department of Technology. There are certain aspects of the case system that we want to interact with other programs that are already existing in other departments and that's where like Law has to wait and be responsive to that linking happening.

COUNCILMAN GREEN: And once it's implemented, you do expect there to be efficiencies within the Law Department --

MS. MOUZAYCK: Yes.

COUNCILMAN GREEN: -- in terms of --

MS. SMITH: Yes.

COUNCILMAN GREEN: Okay. Thank you very much.

COUNCILWOMAN TASCO: Are there any other questions?

(No response.)

COUNCILWOMAN TASCO: Thank you.

MS. SMITH: Thank you.

COUNCILWOMAN TASCO: Mr. Gillison is here. We're going to move right on to you, Mr. Gillison, and we can kind of be finished with this today. Thank you.

(Witness approached witness table.)

COUNCILWOMAN TASCO: Good afternoon.

DEPUTY MAYOR GILLISON: Good afternoon.

COUNCILWOMAN TASCO: Thank you very much for being here. Would you like to identify yourself and proceed with your testimony.

DEPUTY MAYOR GILLISON: I will.

Good afternoon, Councilwoman Tasco and other members of Council. My name is Everett Gillison and I expect to be joined here by other members of the First Judicial District rather shortly.

They're just running a little bit late.

COUNCILWOMAN TASCO: No, they're not late. We're early. Would you like to wait a few minutes?

DEPUTY MAYOR GILLISON: If we could. I think -- he's on his way. Can we just wait five minutes?

COUNCILWOMAN TASCO: Sure.

DEPUTY MAYOR GILLISON: Thank you.

(Short recess.)

DEPUTY MAYOR GILLISON: Thank you, Councilwoman Tasco.

COUNCILWOMAN TASCO: I'm going to be right with you.

Thank you.

DEPUTY MAYOR GILLISON: Thank you.

COUNCILWOMAN TASCO: We're early, so we appreciate you getting here. Would you please begin your testimony.

DEPUTY MAYOR GILLISON: Thank you very much. Again, my name is Everett Gillison. I'm the Deputy Mayor for

Public Safety. I'm here with Joe Evers, Prothonotary, and also President Judge Pamela Dembe from the First Judicial District, and we're here to discuss the Fiscal Year '11 budget for the Clerk of Quarter Sessions.

During the past year, the Clerk of Quarter Sessions has undergone significant structural changes. Taking the current structure and function to the office into consideration, we are seeking approval for the Fiscal 2011 budget in the amount of $4,915,313.

The budgeted positions level is 115 employees. The current filled positions are distributed as follows: Courtroom support staff, 73; file room support and record maintenance, 11; administrative and clerical, 6; financial and accounting, 16. The current employee complement, therefore, is 106.

There are nine vacancies, although there are a couple that have been filled, I believe, but I will defer

that to Mr. Evers, but totaling approximately $460,000.

COUNCILWOMAN TASCO: Would you speak into the mike and go a little slower, please.

DEPUTY MAYOR GILLISON: Not a problem.

COUNCILWOMAN TASCO: Thank you.

DEPUTY MAYOR GILLISON: There are currently nine vacancies, totalling approximately $460,000, of which six are court clerks.

The Clerk of Quarter Sessions provides support to 73 courtrooms in the Criminal Justice Center, 1801 Vine Street and the Prison. The duties of the Office of the Clerk is to record and maintain courtroom adjudications in criminal and juvenile matters in the Court of Common Pleas and Municipal Court. The office also maintains bills of information, transcripts, issues bench warrants, collects fines and costs, and issues commitments and discharges of defendants.

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As this City Council is aware, effective March 3rd, 2010, the FJD has been charged with the oversight and management of the day-to-day operations of the Office of the Clerk of Quarter Sessions. The assumption of this function was precipitated by an order of the Supreme Court of Pennsylvania, and in a subsequent order from the President Judge of the Court of Common Pleas, Pamela Dembe to my right, Joseph Evers to my left was appointed manager of all aspects of the Clerk's Office.

Since that time, much discussion has ensued about three areas of the Clerk's function that we will attempt to address. These three areas are collection and disbursement of revenue, efficiencies that can be achieved, and the status of the current employees.

Also our preliminary assessments indicate the extremely poor working conditions, particularly at 1801

Vine, that needs to be addressed - equipment that doesn't work or is incapable of processing today's software, significant training deficiencies and a workforce that needs additional direction. We need to address these issues as well as workflow processes improvements that need to occur, and Mr. Evers and his staff are still in their discovery stage and are identifying new challenges each day.

The revenue aspect is as follows: As part of the FJD's assumption of the Clerk of the Quarter Sessions' duties, we have jointly hired an independent accounting firm to review the Clerk's finances and accounts. The District is seeking a thorough audit to determine what funds are on hand, what funds need to be disbursed and to whom they need to be disbursed. Additionally, the First Judicial District is looking at the various accounts to associate current balances with bail deposits, case

dispositions and forfeitures.

Furthermore, the First Judicial District has engaged a consultant to do a professional audit to review the Clerk's operating procedures and to determine if adequate controls are in place and where policies and procedures need to be tightened.

Efficiencies: Recent testimony by Supreme Court Justice Seamus McCaffery suggests there needs to be better information transfer and record-keeping between the Clerk of Quarter Sessions, Prisons, courts and other justice partners. Better management of the City's criminal record-keeping function can result in increased remittance of collections and reduced delays in releasing defendants.

Incorporating the Clerk's function into the First Judicial District enables the FJD to utilize its resources to upgrade and properly align the Clerk's staff. An examination of the core

processes is needed to identify redundancies, eliminate duplication of efforts, and define staff roles and responsibilities and establish proper policies and procedures. With this, a framework can be put into place to achieve efficiencies which will be realized for all justice partners.

To achieve efficiencies, workplace reengineering is needed, along with employee training of case processing updates in CPCMS, which is the Common Pleas Court Management System, and in the use of current office software and technology. Standards must be established and a quality control review is needed. Defined duties and workflow processes must be established and additional training in CPCMS is necessary to establish best practices that must be shared. All of these employee training initiatives will be available to all current staff.

A management team is being put

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together, which includes the FJD and the Clerk. Staff and supervisor meetings are being held weekly to hear employee opinions and recommendations, and wholesale changes will not be immediate, but we plan to prioritize and implement recommendations from our own internal and external reviews.

We are seeking your full support and approval of this budget request so that the Clerk of Quarter Sessions can properly sustain its operation as currently envisioned. My office will work in coordination with the First Judicial District to ensure that the recently defined goals and alignment of the office will effectively serve the needs of our City.

I thank you for the opportunity to appear before Council today and present the Fiscal Year '11 budget request of $4,195,313 for the Clerk of Quarter Sessions. And I do want to emphasize that this has all been done in

a thorough and a coordinated and a collaborative way. I appreciate the time and effort Council has given us to discuss these matters and also with the partners that are sitting with me at the table, and we'll be glad to answer any questions.

COUNCILWOMAN TASCO: Thank you.

Madam President Judge, do you have any comments you'd like to make at all? I mean, you don't have to.

PRESIDENT JUDGE DEMBE: Really just to support what Mr. Gillison has said. We are actually finding it fairly exciting to get a chance to rework the Clerk operation and to do it in a way that protects the employees and gives them new opportunities in the future and that should, in the long run, generate revenues for all of us, City, State and the courts. We're looking into all kinds of ways that we can move forward and use the most modern and efficient ways to accomplish what needs to be done.

COUNCILWOMAN TASCO: Thank you.

Mr. Evers, do you have any comments?

MR. EVERS: No. I think the Judge and Mr. Gillison have both repeated what my thoughts are. We're in the process of discovering all the things that we need to do, and we'll continue to do that and perhaps give a more detailed report in some time when our audits are in.

COUNCILWOMAN TASCO: Mr. Gillison, for the record, would you please explain to us now what happens with the position of the Clerk of Quarter Session?

DEPUTY MAYOR GILLISON: Well, as --

COUNCILWOMAN TASCO: With the transition and a little more detail about that, please.

DEPUTY MAYOR GILLISON: I will. You will receive -- we are still finding out the exact language that will have to

be suggested to Council, but it is the Administration's view that we will be putting together an ordinance which will eliminate the elected position of the Clerk of Quarter Sessions and that we will end up providing a means and a mechanism for the functions to formally be absorbed by the First Judicial District. That will necessitate another ordinance transferring this particular money under a transfer ordinance to them, and it would then, as of Fiscal Year '11, just be part of the allocation to the First Judicial District.

We have not accomplished that yet. I'm sure Council knows that we have not yet transmitted the bill, but it is my every intention to have that bill hopefully to this Council for its review within ten days.

COUNCILWOMAN TASCO: What is the disposition of the employees who are in the Clerk of Quarter Session and who are currently under the Civil Service

regulations for the City and what will their future positions be?

DEPUTY MAYOR GILLISON: We are examining and making sure that the Mayor's intention in this effort is actually carried out. The Mayor made a promise to each and every one of the employees that those that wanted to go over, recognizing that the First Judicial District does not have Civil Service, that we would end up protecting all of their rights through maintaining the same union status that they have and also that we would maintain all of their pension, vacation, sick time and everything else. We have that agreement already with the First Judicial District. What we are trying to do is maintain and find places so that if people did not want to go to the First Judicial District, that we find employment for them in other City agencies. The idea is is that we are making sure that the environment that they're going to is a supportive one, is

one that is available for additional training, and we are making sure that we are transferring people to an environment that allows them to grow and to be seen as a valued member of the matter. And I know that Mr. Evers and Judge Dembe share my enthusiasm for that particular promise that has been made by the Mayor to the individuals.

COUNCILWOMAN TASCO: You have a current employee complement of 106, and in your comments just now, if there are employees who choose not to move to the Judicial department and have those skills that are needed to function -- carry those skills that they perform now in the Clerk of Quarter Session and those skills will be needed, what does that do to your complement of employees in the Judicial department? Do you fill those and still allow for the people to move to other places?

DEPUTY MAYOR GILLISON: What will happen is that -- and I will defer

to the Judge and to Mr. Evers, but what will happen is, I will sure get a list of people who do not want to go, no matter what. I will get that list, and then I will end up taking those individuals and finding employment for them in other departments in the City, as we have maintained. We are going to maintain their job and we will maintain their status as clerks if those are the persons that don't want to go.

That would mean that the First Judicial District would ultimately be the party that would end up hiring for persons that would want to perform those duties and would be responsible for training, and I would leave that to Mr. Evers' quite capable hands to do.

COUNCILWOMAN TASCO: The Chair recognizes Councilman Greenlee.

COUNCILMAN GREENLEE: Thank you, Madam Chair.

Good afternoon, everyone.

DEPUTY MAYOR GILLISON: Good

afternoon.

PRESIDENT JUDGE DEMBE: Good afternoon.

COUNCILMAN GREENLEE: Just first following along the same lines as Councilwoman Tasco asked. Madam President Judge, I think when you were here for the First Judicial District, you stated something to the effect that you thought the employees over there, in a sense, were not the problem, that a lot of them were good workers and that maybe the technology and what they were working with was the problem. Is that a fair statement?

PRESIDENT JUDGE DEMBE: Yes.

COUNCILMAN GREENLEE: Now -- and maybe Mr. Evers is the best one to answer this. In the written testimony, it talks about the training initiatives. Is there any specifics you can give like right now what you're kind of thinking about and will some of that training be mandatory?

MR. EVERS: Yes, it will. What happens, in the statewide CPCMS system, there are regular updates. Much of those -- many of those updates were not passed down to the employees. So what they learned and what they found out were things that were just sort of grapevine updates.

What we're going to do is, we're going to have regular training programs that are mandatory for all the employees on a regular basis. We're redesigning the conference room and the administrative office has a training unit for the Quarter Session staff. There doesn't seem to be a training room designated for them, so we're just doing some reengineering right now to do that. And actually we're also asking for suggestions from the employees who actually do this work for their needs. They have not been included in any of these processes. So their needs and thoughts have been paramount for me right

now, and we've made a number of instant changes in the first two or three weeks in my time there.

COUNCILMAN GREENLEE: We read a couple stories when you first went over there. How do you feel the cooperation is now?

MR. EVERS: It's completely different. I'm trying to build a consensus there that we're all working together, that this is sort of an operating room where we're all working together on a patient, and I'm teaching people new skills, skills that may have not been available to them in the past.

COUNCILMAN GREENLEE: I appreciate that.

Just one other thing. On the audit review that you mention, is there any kind of timeline on that?

PRESIDENT JUDGE DEMBE: With respect to Ernst & Young, who are auditing the various funds, we are hoping to have their report in about two weeks,

maybe a little more than that. They unfortunately got started a little late because the gentleman who was in charge of the audit came down with the flu and da, da, da, da, so we're a little behind, about a couple weeks, and we should be able to come back, and when we get that information, we do intend to send Council a report.

COUNCILMAN GREENLEE: And along those same lines, as far as like the new structure as far as that came, is there again a timeline on that, if it was a perfect world, which I know it's not.

PRESIDENT JUDGE DEMBE: One in which we all instantly lose 15 pounds?

COUNCILMAN GREENLEE: Yeah.

PRESIDENT JUDGE DEMBE: The previous management had had a performance audit done. It doesn't cover everything, but it was a good start. So that I think has made it a little easier for Econsult to get started, and we've been pushing them we're hoping within a few weeks to

have their report. That one, I think, is less crucial from all of our perspectives than the financial audit.

COUNCILMAN GREENLEE: Okay. Thank you. Good luck. Thank you.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: The Chair recognizes Councilman Jones.

COUNCILMAN JONES: A lot of the questions that I have were answered and are somewhat repetitive, but by way of this takeover, if I understand this correctly, although they were court administrative functions, it was a City independent office. What prevents you guys from doing that to the Register of Wills or one of the other independently elected bodies?

PRESIDENT JUDGE DEMBE: Don't want them.

COUNCILMAN JONES: I mean, but let's say an administration comes along that does want them. What prevents that from happening?

PRESIDENT JUDGE DEMBE: Well, actually, the Register of Wills is a somewhat different animal from the other row offices in that it's my understanding that it would take the State Legislature to remove that function as a row office.

Other than that, I guess there is no real bar. It has happened. In many counties the sheriffs are under the jurisdiction of the courts.

COUNCILMAN JONES: So the answer is basically none. I mean, if you decided that that Sheriff's Department was a police function, court function, at some point you could decide that?

PRESIDENT JUDGE DEMBE: Well, remember, this was the Supreme Court, not me.

COUNCILMAN JONES: I mean, the "you" of your branch of government. You could decide that?

PRESIDENT JUDGE DEMBE: You can't remove the row offices, but to the extent that things are court functions,

that's probably true, that the Supreme Court could order that.

COUNCILMAN JONES: So at some point we could see the Sheriff or the others in this same capacity. And that's a legal matter, but I just want to -- I was curious about it, as to the will of a body to take over the functions of another, and I just was concerned about that.

And Deputy Mayor Gillison mentioned that the Mayor gave his word that he would offer all protections. Let's say, God forbid, something happens to the Mayor and you become Mayor and you decide that you don't want to honor what the last Mayor said. What protections would they have?

PRESIDENT JUDGE DEMBE: I think if you were to do a survey, you would find that the employees who work for the First Judicial District, by and large, are experiencing a lot more job satisfaction than the folks who have been

working for the Clerk of Quarter Sessions.

COUNCILMAN JONES: I don't doubt that, but my question specifically was, if the winds of change happened and you decided, the Mayor said that and it's not in writing anywhere and it wasn't under oath and he changes his mind, what protections do they have? Because we're talking about 100 employees. We're talking about many of them are single parents. We're talking about not the richest salaries in the world, but they make a world of difference to those families.

So my question is -- you all are nice people. I know all of you, and I can say that safely, but suppose three other actors were sitting there. What protections would they have?

DEPUTY MAYOR GILLISON: If I may, Councilman. Everett Gillison, Deputy Mayor.

We have looked at the

protections, and Civil Service protection basically would extend as long as there was a -- to the individual as long as there was a Clerk of Quarter Sessions. That's why the Mayor wants to honor those that choose to stay Civil Service with keeping their legal protections if they choose not to go.

However, if the Clerk of Quarter Sessions is -- and this is where the City Council has the role to play. We are bringing and will be bringing an ordinance that will basically ask that that office go the way of most in the United States, go the way of the dinosaur and go away, what we are trying to do is modernize and to go forward. By doing that, we will need to look at the 114 positions and make sure that these people are -- basically they continue to be made whole, as best as we can.

COUNCILMAN JONES: I do not doubt your intentions. I'm going to repeat, I think all of you are character

people. I really -- I don't say it if I don't mean it, and I'm saying it. But what happens next administration if there aren't three character individuals sitting there? What protections will they have?

DEPUTY MAYOR GILLISON: It's just the law that protects them. It's their union contract that protects them.

COUNCILMAN JONES: So it's their union contract, but they're not Civil Service?

DEPUTY MAYOR GILLISON: Well, that's correct. Those that go over there, that will be transferred over, will no longer be Civil Service. That does not exist -- the Civil Service is only a function of the executive, which is why this arrangement that you see here is so unique. You have the judiciary and the executive working together towards a particular end, and we will need the permission of Council to complete the job.

COUNCILMAN JONES: So within that provision of Council, is there any provisions that we can put in to save -- listen, I'm all for efficiencies, but a lot of these people live in my district.

PRESIDENT JUDGE DEMBE: We have a written set of policies and procedures dealing with all those issues like employee discipline and termination and the like. We do not just throw thunderbolts down from the sky.

DEPUTY MAYOR GILLISON: And, Councilman, also always remember that we have been working with the same union, because they're in the same union. They're represented by the same persons, both where they are now and where they will be. So there's no difference there. And the reason why I've been trying to speak to the fear of individuals is to make sure that they understand that the sky is not dropping. The First Judicial District is not the place where all the sudden the pit is opening up and they're

just being worked, worked and worked to death, that rather we are being supportive of them in their advocation as they are getting additional training and going forward. And I think that what the Supreme Court's order allows us to do is to modernize and to go forward, and for this Administration it is important for us to make sure that we allay their fears wherever possible. But people still have to get up and go to work, and they're going to be able to get up, go to work and get to do their job that they've been doing, and doing as well as they have been able to do it, they've been doing very well, and we're supporting them as they make this transition. And I think that the Supreme Court order kind of pre-stages the fact that I think that you could see the writing on the wall, that the Supreme Court is not just looking at Philadelphia as the first and only, but rather it looks like -- and I don't know whether Justice Castille is going to

continue, but it looks like from the outside that all of this is going to happen across the State. So we're just part and parcel of modernizing the courts across the board, and we're trying to be as cooperative as possible.

COUNCILMAN JONES: Again, and I'm going to say it the third time, I know you're character people. When it comes to waylaying fears, my analogy would be the sheep's fears are waylaid on their way to becoming lamb chops by other people, not necessarily the farmer, but the butcher down the road. And so what I as the good shepherd try to be is to make sure that they are protected to every degree that we can within the roles that we play. And so when I ask these questions, it is never to impugn the character of the people at the head of this table, but only to make sure that that protection extends beyond the three people there but into perpetuity.

DEPUTY MAYOR GILLISON:

Understood.

COUNCILMAN JONES: All right.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: Thank you very much.

I'll call on Councilwoman Miller before I ask my question.

COUNCILWOMAN MILLER: Thank you, and good afternoon.

DEPUTY MAYOR GILLISON: Good afternoon.

PRESIDENT JUDGE DEMBE: Good afternoon.

COUNCILWOMAN MILLER: Most of my questions have actually been asked by other members, but I do want to echo the concerns of employee protection. Now, I guess I would consider them at-will employees?

DEPUTY MAYOR GILLISON: When they go to the First Judicial District?

COUNCILWOMAN MILLER: Yes.

DEPUTY MAYOR GILLISON: Yes.

PRESIDENT JUDGE DEMBE: Well,

except that they do have a union.

COUNCILWOMAN MILLER: They do have a union, right.

DEPUTY MAYOR GILLISON: They have a union, absolutely, but the answer I think generally would be yes.

COUNCILWOMAN MILLER: Because most at-will employees have sponsors, and I think --

DEPUTY MAYOR GILLISON: Sponsors?

COUNCILWOMAN MILLER: -- sometimes they think the sponsor can do a whole lot more than the sponsor can actually do. But, yeah, they do have sponsors. For example, I may have -- there may be people working at one of the other exempt agencies that maybe got a referral from an elected official, ward leader, et cetera. Then they're considered their sponsor.

Well, there's no point in asking the rest of my question, because I had to explain sponsors, but anyway,

that's one way we could handle some of this. I know when -- I used to work for Representative David Richardson, Jr., and when he died, a lot of the people that he had referred for employment at various agencies, I became their sponsor just because I used to work for him. So that's one way, but I was also worried too, a little concerned about the protection, but then earlier I did hear you state that these employees will have a union. So how many did you say wanted to stay and become Civil Service?

DEPUTY MAYOR GILLISON: We haven't --

COUNCILWOMAN MILLER: I mean court employees.

DEPUTY MAYOR GILLISON: We have not -- I don't know as I sit here right now. I don't know what the number is. I am hoping and I know that through the efforts of Mr. Evers to my left, that I am prayerful that it will be 100 percent. What my challenge will be is that

depending on who says that they don't want to go, then I have my work cut out for me.

I do not anticipate that it will be many. I have heard initially that there was a large number, but as I have worked over the last four weeks and as Mr. Evers has done yeoman's work to make sure that people understand that this is not a Draconian move, this is basically just modernizing an office and we need them. People who know how to do the job, we need them. We don't want them walking away. I know Mr. Evers does not want people who know how to do the job walking away at a time when they critically are in need.

So we're looking at a way of making sure that they realize how much they are needed, and provide whatever assurances they need going forward.

COUNCILWOMAN MILLER: Okay.

PRESIDENT JUDGE DEMBE: Councilwoman, if I could just expand on

that a little bit.

President Judge Dembe speaking.

You can't get around the fact that on any given day we've got 73 courtrooms running. We've got to have bodies in those courtrooms, and you have to have some spares, because people get sick, people go on vacation, people are in training. You just can't run the operation without these people. So they are vital to all of us.

COUNCILWOMAN MILLER: Yes. I know that they're a very important part of the operation of this office.

Everett, could you explain why you keep using the term "modernizing"? What does that mean, other than I read that the equipment over at Family Court, 1801 Vine, is -- but when you talk about modernizing, I immediately think about equipment, supplies.

DEPUTY MAYOR GILLISON: I can allow Judge Dembe to talk about it, but I have a specific thing in mind that we've

been dealing with for a while. The Clerk's Office has been in need of update of just their software.

COUNCILWOMAN MILLER: Okay.

PRESIDENT JUDGE DEMBE: Councilwoman, we would like to see the Clerk's operation on the criminal side within a couple of years beginning to win the kinds of national awards for modernization that we've won on the civil side.

Every time we create a piece of paper, we spend a fortune, because first -- well, when I came on as President Judge, we were spending $600,000 on toner for copiers and printers. And so every time you create a piece of paper and somebody has to put it in a file and somebody has to move it and then somebody has to move the file someplace else, all those things should all be done electronically, so that we're not creating and moving pieces of paper, so we're not trying to read each other's

handwriting, so that we're not waiting for the mails.

Our staff created an electronic system for sending out court notices and judges' orders on the civil side, and in just a few months, we saved $90,000 in postage. So that's what we mean, using technology to save cash.

COUNCILWOMAN MILLER: Okay. All right. I thought that's what you meant, but I didn't want to make an assumption, because when you're talking about moving the staff and then that's connected with modernizing, I'm like, Well, what are they going to be doing.

But anyway, thank you. Thank you.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: The Chair recognizes Councilwoman Blackwell.

COUNCILWOMAN BLACKWELL: Thank you very much.

I heard what you said, that they will still be represented by the

same union, which we respect, and certainly we ask if they will be given the same respect as you do under Civil Service when it comes to promotions and other issues that affect employees.

PRESIDENT JUDGE DEMBE: Absolutely. Some people will get an automatic raise just by moving over to the FJD, and for everybody else, we will treat them as we've treated the staff on the civil side. We actively encourage people to take up training opportunities so that they can make themselves eligible for promotion.

COUNCILWOMAN BLACKWELL: And will the union be given the same respect as if they were Civil Service employees in terms of their rights and their ability to be union representatives?

PRESIDENT JUDGE DEMBE: Yes. We have been working with the union already.

COUNCILWOMAN BLACKWELL: All right. Number three, will you maintain

contact with the President so that we are aware -- this has not happened before in our city -- so that we're aware of every step, what happens, what happens with each employee, no matter where they are?

PRESIDENT JUDGE DEMBE: Sure.

DEPUTY MAYOR GILLISON: And yes.

COUNCILWOMAN BLACKWELL: All right. And my last issue is just an old one that I mention with President Judge Dembe, and, that is, all winter long -- in fact, Tom Massaro brought the issue to us. We saw these people lined up at Broad and Arch all the way out in the street in the snow and wheelchairs and such. Summer will come and then they'll be out in the heat, and we're asking if -- I know I asked the Judge so much when I saw her, one time she just answered, because I've asked this question so much. But people who were in line for Community Court and other court issues near McDonald's there at Broad and

Arch had to line up all the way out in the street through the snow, through the rain, through no matter what the elements are, and the request has been for a long time to try to find some way for people to be inside.

Could you respond to that, and if you're not prepared today, do a written response to the Chair?

PRESIDENT JUDGE DEMBE: I can give you a more detailed written response, but after months and months of banging our head against the wall dealing with a very uncooperative landlord and not getting too far, what we have done, as I understand it, is, we have changed the scheduling of people who come to Community Court so you don't have the large numbers at one time. In other words, I guess we're spreading them out across the day so that you don't have people needing to wait outside so long.

It's not perhaps the perfect solution, but it seemed to be the best we

could come up with given the circumstances of operating in a building that we don't own.

COUNCILWOMAN BLACKWELL: All right. That's always something we can deal with. Everybody wants -- and we do have other City buildings around, that people who come to Community Court will go any place. So certainly we support making it as easy as possible for folks to get through the system, and maybe we need to look at not renting from somebody who is not user friendly.

PRESIDENT JUDGE DEMBE: I agree.

COUNCILWOMAN BLACKWELL: Would you keep in touch with Council and provide a letter to the Chair and we will know just what's going on and be responsive?

PRESIDENT JUDGE DEMBE: Thank you.

COUNCILWOMAN BLACKWELL: Thank you, Madam Chair.

COUNCILWOMAN TASCO: Thank you.

Just for the record, going back to Councilman Jones' question, what codifies this action? Where in the record will it show what happened, what took place, what should take place, what will take place? Where do we put that?

PRESIDENT JUDGE DEMBE: There are two items in writing right now. One, of course, is the Chief Justice's order absorbing the functions, and the second was my order appointing Mr. Evers to manage the whole affair.

As to the other elements, proposed ordinances, proposed Civil Service things, transfer ordinances, the City Solicitor's Office and the lawyer for the courts are working out the final details. It all seems to be going pretty well, but you know what happens when you put four lawyers in a room, they --

COUNCILWOMAN TASCO: You get four different scenarios, right?

PRESIDENT JUDGE DEMBE: If it's

only four, it's good.

COUNCILWOMAN TASCO: It's better than ten, but four can be just as bad.

Let me ask you another question just for the record. What happens if Council doesn't pass the ordinance?

PRESIDENT JUDGE DEMBE: Well, the courts will, of course, since we've been given this responsibility by Chief, will do the best we can. I have to tell you that trying to accurately record what happens in the courtroom is going to have to take priority over managing the monies, and that makes me very unhappy, because it's not going well now and I would hate to be in a position of pulling more resources away from that. We would do the best we can, but at some point we would probably have to start terminating employees. You know what our budget is for the FJD. You know how many employees that supports. It would put us in the position of choosing between clerks and

probation officers.

DEPUTY MAYOR GILLISON: In other words, Councilwoman, the idea that the Supreme Court order would have to end up being effectuated by the court itself would mean that the Administration would be in the untenable position of having to provide -- we would have 114 people that would basically -- we would be paying for and they would technically have nothing to do. That would put us in a very awkward position.

I'm sure that there will be additional time to discuss this when we talk about the ordinance and our information as we go forward. However, I'm sure the court would have to then figure out how it would end up doing the work within the budget that is currently being proposed for the court. And in addition, you would have the situation that you would have an elected official that would be in place without any responsibilities.

So the reason why we're working so hard and so well together is because we have, both the Administration and the courts, basically respecting one another, and we have also been very respectful of Council's role, which is why we've tried to go to each and as many members of Council to appraise them of what's going on as it is happening. And then as we then put forward our suggestions from the Administration, we will be able to be in consult with -- I'm sure leadership and the Mayor will be in touch with both you, the Council President and everyone else so that everyone understands what the positives and negatives would be so that Council would have an informed choice to make going forward.

COUNCILWOMAN TASCO: Again, for the record, what is, do you know, the history of the Clerk of Quarter Session and is it a function of the Charter or just a function of the county, a county role?

PRESIDENT JUDGE DEMBE: It's a county role.

COUNCILWOMAN TASCO: And I guess the other part to that, so I won't have to come back, I guess based on the jurisdiction, how does the Supreme Court have sway over where that office belongs?

PRESIDENT JUDGE DEMBE: The Home Rule Charter gives City Council the power to direct what will be and to change the form of or abolishment of the office itself. There's nothing in there that speaks really to the functions of the office as a function of the Home Rule Charter. That is one of those functions that comes to us from, I think, midieval French law into English law and was brought over with the colonists and eventually made a part of State government on a county level. It is -- and it's worked that way in most states and commonwealths. It is a court function more and more. In most states it's one more department within court

operations. So the functions itself which are court functions are the only things that the Chief Justice addressed in his order.

DEPUTY MAYOR GILLISON: If I may just add, the way that we have come to this is that when you recognize that Council has the role of determining the structure of government via the Home Rule Charter, the functions of the court are still the functions of the court. Back in, I think, our historical review of when this happened, they ended up -- the court pretty much deeded the right because of the historical nature of the office. They allowed the functions that are core court functions to be done by an elected official. And then it was just brought into the functions during the 1950s when the Home Rule Charter was put forward.

When we were looking at the analysis of how to respond to the court's proposed order, one of the things that we

did come to -- and the Law Department was part and parcel of advising me as representative of the Mayor -- what would happen if we said no, and we actually thought through the blow-back and see exactly what was going on.

The bottom line, though, is that when you put your eye on the side of looking at the modernization of all functions of government, we felt that this is one of those functions that needed to be both modernized and put where all other states and all other experience in courts have left us, which is this is a core court function. The court should be responsible. The court should actually have the power to do the things that it needs to do to function in an efficient way. This is one of those anachronisms that need to go away, quite frankly. And we think that we will be able to protect everyone, including respecting the rights of the court, respecting the rights of Council and also

respecting the rights of the Mayor when looking at how we have to deal with the government, which is why we haven't just rushed in here and said, Please do something, but we've been very thoughtful in our approach and respectful of all functions of government as we proceed down this road. It is not something we're just doing willy-nilly, but rather something that we are taking our time to make sure we get it done right, so we don't get to the ultimate question hopefully that you have posed us. We have thought through the answer. We'll be ready to talk about it at the appropriate time, but I am quite hopeful that we will never have to get to that particular matter in reality.

COUNCILWOMAN TASCO: Thank you very much.

The Chair recognizes Councilman Greenlee.

COUNCILMAN GREENLEE: Thank you, Madam Chair.

President Judge Dembe, I admit this question isn't directly related to the Clerk, but a Councilmember asked me to relay this, because I don't think it was asked when you were here before. Since you're here, we'll ask it.

Mediation costs, private attorneys, is there -- do private attorneys do mediation through the court?

PRESIDENT JUDGE DEMBE: I've been out of town. I just got back late last night, so I only found out about this one.

There are a couple areas where we do pay people. We pay arbitrators who come in and hear the smaller civil cases. I think they get $200 a day. We have been moving toward getting law clerks and volunteer attorneys to handle that, and the bill for that has gone way down.

There are -- we use judges pro tem, who are experienced lawyers, who come in and without charge for several hours will try to resolve a civil matter.

After a certain number of hours, I believe they are, with the agreement of the parties, able to charge them on an hourly basis, and it's just a way of keeping it from getting way out of control. And, of course, there are -- in many instances people can choose if they don't wish to take their dispute through the civil court system, they can choose to use a private arbitration or mediation service like Carasbox (ph) or something like that and pay for it.

COUNCILMAN GREENLEE: And they would pay themselves for that?

PRESIDENT JUDGE DEMBE: Right. That has become -- that was very popular at one point. It kind of rises and falls. As cases in the Philadelphia civil system began moving with great speed and efficiency, the impetus to use those services declined somewhat. I'll be willing to bet that you'll find that they're booming in places like Montgomery County where the civil case sort of

enters a Bermuda Triangle once filed.

COUNCILMAN GREENLEE: Okay. And just finally, if there was a way you could or someone for you could just give a breakdown on the cost --

PRESIDENT JUDGE DEMBE: Yes.

COUNCILMAN GREENLEE: -- and get it through the Council President, we'd appreciate it.

PRESIDENT JUDGE DEMBE: Yes. We're working on that.

COUNCILMAN GREENLEE: And I apologize. I know that wasn't directly to the Clerk, but it's a question that came up.

PRESIDENT JUDGE DEMBE: Mr. Kenney owes you a lunch, I know that.

COUNCILMAN GREENLEE: No, no. It wasn't -- no.

Thank you.

COUNCILWOMAN TASCO: Thank you.

Any other questions?

(No response.)

COUNCILWOMAN TASCO: There

being none, we thank you so much for your testimony.

PRESIDENT JUDGE DEMBE: Thank you for your time.

DEPUTY MAYOR GILLISON: Thank you.

COUNCILWOMAN TASCO: Is there anyone else here to testify?

Would you please come forward, please.

(Witnesses approached witness table.)

MR. DAVIS: Madam Chair, respectable leaders of City Council, my name is Bobby Davis. I'm the Vice-President of District Council 33 and the President of Local 696, and I sit with Lillian Randolph, who is the Business Agent of Local 696.

It was not our intention to testify today, but there was a couple of things that was mentioned, and we just felt as though we just need to make sure it becomes a matter of record.

We are working as diligently as possible to try to reserve the jobs of those 106 people that was talked about here today to assure that they maintain their benefits and their level of employment with the City of Philadelphia, as well as pay and pension and all the benefits that goes with that package. The concern that I have is that some of these promises that are being made need to be cautioned as to how they are being presented to these employees.

They are being told and many employees are now looking at taking the package in which the City is presenting, and I think that they're presenting that in a false sense of security. You have to understand something. These are some special individuals in terms of their pay scale. They are pay range 14, which is the highest paid clerks in the City of Philadelphia. There are no other positions in the City of Philadelphia that will allow them to maintain that

level of employment with the City of Philadelphia without protecting that in the forefront of these discussions that are going on. And when people come to those employees and make it seem like it's going to be an easy task for them to get employment outside the First Judicial system, that is not going to be something that is going to be done, and we just want to make sure that City Council understands that. And we also would like to let the City officials that are going out informing these members, our members, the employees of the City of Philadelphia, that there are no pay range 14 jobs that are going to be able to accommodate about 73 of those people, and if you're making them feel as though that that can happen, then I just felt as though I needed to come up here and explain that to City Council, that it won't be able to be done.

The highest clerical position in the City of Philadelphia is a pay

range 11, and in order for you to be able to be something else, you would have to be qualified for those positions. So unless the City is willing to change some additional City Charter laws and regulations, then we're giving these people false hope, and I think we should do a better job in letting them know the truth, that if you decide -- because what we're doing in Local 696 is trying to encourage those employees to stay put. We're going to do everything that we possibly can to work along with the First Judicial to maintain all benefits. And we're not even ruling out Civil Service at this time. We believe that if you're looking to do something different, then think outside the box. Just because you don't have Civil Service employees in your system at this present time doesn't mean you can't have them. It just means that there have to be some language that is incorporated that even if you don't call them Civil Service employees within

the titles in which they're going to hold, do not let them lose the Civil Service respect that they have gained over the years.

So we just want to make sure that there is proper language in all aspects of this as we move forward with this, and I just thought that as leader of that union, Local 696, I needed to go on record and say that.

COUNCILWOMAN TASCO: We appreciate those comments. Are you working with the judicial system as well as Mr. Gillison and have you had this conversation with both parties?

MR. DAVIS: Well, I'm just finding out about the promise that was made in terms of promising them positions outside the City. I believe they're going to do everything they can to keep that promise. However, they're not telling them the full extent of it. The full extent of that is that you are probably not going to be able to maintain

your status as a pay range 14, because there are no jobs in the City of Philadelphia that will pay that range.

COUNCILWOMAN TASCO: So if they remain with the judicial system, they would maintain that range?

MR. DAVIS: That's what I'm going to encourage them to do. And everything that we've talked to the First Judicial management core is that they maintain that, and we think that we could pull that off, yes.

COUNCILWOMAN TASCO: Okay. All right. Thank you very much for your testimony.

MR. DAVIS: Thank you.

COUNCILWOMAN TASCO: We appreciate it.

Councilwoman Sanchez.

Just a second.

COUNCILWOMAN SANCHEZ: For the record, what is the difference between the 11 and the 14 in terms of pay?

COUNCILWOMAN TASCO: And/or

responsibility, I would imagine.

MR. DAVIS: We're talking about at least maybe anywhere between $4,000 to $7,000.

COUNCILWOMAN SANCHEZ: Okay. I just wanted that for the record.

Thank you.

COUNCILWOMAN TASCO: Thank you very much.

Is there anyone else here to testify?

(No response.)

COUNCILWOMAN TASCO: We certainly encourage all parties to get together so that we're very clear on what is being said and what is being promised and that all parties are on the same page.

There being no further testimony, this Council is adjourned until today at 4:00 p.m. at the Mt. Airy Church of God in Christ at Ogontz and Stenton Avenue for a public hearing.

Thank you very much.

4/27/10 - WHOLE - BILL 100115, etc.

(Committee of the Whole adjourned at 1:25 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on April 27, 2010, and that this is a true and correct transcript of same.

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MICHELE L. MURPHY

RPR-Notary Public

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