COUNCIL OF THE CITY OF PHILADELPHIA

SPECIAL COMMITTEE ON CRIMINAL JUSTICE REFORM

Room 400, City Hall
Philadelphia, Pennsylvania
Friday, March 24, 2017
10:18 a.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR.
COUNCILMAN KENYATTA JOHNSON
CHIEF DEFENDER KEIR BRADFORD-GREY
KEVIN BETHEL, SENIOR POLICY ADVISOR
HONORABLE BENJAMIN LERNER
DEAN JOHN F. HOLLWAY, ESQ.
WILFREDO ROJAS, OFF. OF COMMUNITY JUSTICE &
                OUTREACH

RESOLUTIONS: 160101

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2        COUNCILMAN JONES:  Good morning,

3  everyone.  This is a hearing called to

4  order.  We are reconvening the Special

5  Committee on Criminal Justice Reform.

6        I recognize the presence of a quorum.

7  And we will like the clerk, Ms. Williams, to

8  read the title of the resolution.

9        CLERK:  Resolution No. 160101:  A

10  Resolution appointing members to the

11  "Special Committee on Criminal Justice

12  Reform," who will conduct public hearings

13  examining the Philadelphia criminal justice

14  system for the impact of current policies,

15  and offer recommended strategies for reform

16  that are in the best interest of public

17  safety and the public good.

18        COUNCILMAN JONES:  I'm here also with my

19  co-chairs, former Deputy Commissioner --

20  what is your new official title -- Kevin

21  Bethel and Kier Grey from the Defenders

22  Association.  Would either of my co-chairs

23  like to give opening remarks.

24        MS. GREY:  I will start.  Thank you so

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 1   much, Councilman Jones.  This has been a

 2   wonderful, I think, year and a half

 3   initiative for me because we have been

 4   looking at ways to truly reform our justice

 5   system so that it promotes certain goals.

 6   One, that our system is fiscally

 7   responsible.  It is fundamentally fair where

 8   people are treated with the same respects

 9   and courtesies regardless of what their

10   economic status or their racial makeup is.

11   And three, one that promotes public safety.

12        So when we're talking about those words

13   or those phrases that everybody likes to

14   talk about, mass incarceration.  We are

15   actually putting a practical analysis to

16   that.  And by looking at reforming our cash

17   bail system, I believe is the first step to

18   ending what we call mass incarceration.

19   Pretrial detention is the gateway to mass

20   incarceration.

21        So, I am really fortunate to have this

22   opportunity presented to me by Council

23   President Clarke and to work with Councilman

24   Jones.  Because I'm looking at these
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  1    initiatives from different vantage points,

  2    not just from a practitioner in the criminal

  3    justice system, but from the public's

  4    vantage point as well as other stakeholders.

  5         So, I really do thank you for sharing

  6    the knowledge of what you have been engaging

  7    in for about a year now -- two years, great,

  8    thank you -- and helping us understand all

  9    the collateral benefits that will help us

 10    move to a system that promotes those goals

 11    that I just stated, so thanks a lot.

 12    COUNCILMAN JONES:  So, I would echo my

 13    co-chair's remarks.  For me it is a steeper

 14    learning curve as an elected official as

 15    opposed to a legal practitioner either in

 16    law enforcement or in courtrooms or in the

 17    defense of defendants.

 18         My view in representing the other 17

 19    Members of Council has been from a budgetary

 20    impact.  Yes, we have social concerns.  Yes,

 21    we want public safety in keeping people

 22    safe.  But the balance of that also impacts

 23    our budget.

 24         Criminal justice, the courts and

1   policing represent about 25 percent of our

2   budget.  Inflexible almost if you don't take

3   a deeper dive into some of the reforms,

4   repetitive nature of things and some of the

5   social inequities that cost.

6        And so, I've enjoyed this year and a

7   half journey with my members on this

8   committee.  I'm thankful to be a part of

9   this group to learn and translate that to

10  some of my members.  And hopefully, we put

11  our money where our mouth is by way of

12  committing to this reform along with the

13  other stakeholders in the City of

14  Philadelphia.

15       So with that, Ms. Williams, will you

16  read the names and title of the first group

17  to testify.

18       CLERK:  The witnesses on the first panel

19  are Judge Grant, Geoffrey Soriano, Angelo

20  Onofri and Margaret Butler.

21       COUNCILMAN JONES:  So, welcome to the

22  City of Philadelphia.  Pull your mics close

23  to you.  State your names for the record so

24  that we can record them and begin your

 1  testimony.

 2      MR. ONOFRI:  Angelo J. Onofri, Mercer

 3  County Prosecutor.

 4      COUNCILMAN JONES:  So first thing, pull

 5  the -- there you go.

 6      MR. SORIANO:  I'm Geoffrey D. Soriano.

 7  I'm an Assistant Attorney General with the

 8  New Jersey Division of Criminal Justice.

 9      JUDGE GRANT:  Glen Grant, Acting

10  Administrative Director of the New Jersey

11  Court System.

12      MS. BUTLER:  Margaret Butler, the

13  Assistant Deputy Public Defender.

14      COUNCILMAN JONES:  It's okay to pull a

15  chair up, too.

16      MS. GREY:  That title is important,

17  wouldn't you say?

18      MS. BUTLER:  Assistant Deputy Public

19  Defender.

20      COUNCILMAN JONES:  I'm sensing bias

21  already.

22      MS. GREY:  Balance.  I love balance.

23      JUDGE GRANT:  So, I want to thank you

24  for inviting us to present the New Jersey

 1   story to the Philadelphia City Council.

 2       New Jersey began this process probably

 3   in the early 2010s.  Our governor who had

 4   worked as a U.S. attorney recognized the

 5   benefit of having pretrial detention in our

 6   state.  We did not have that capability

 7   under our prior constitution.  And

 8   Ms. Scotty, who you will hear from later,

 9   was involved with an analysis that was

10   financed by the Drug Policy Alliance that

11   indicated that 12 percent of the individuals

12   that were housed in our jails were housed

13   for bails of less than $2,500.  That

14   represented 1 in 12 individuals.

15       And so my boss, Chief Justice Stuart

16   Rabner, convened a committee that included

17   all of the actors in the criminal justice

18   system:  Executive branch, partners

19   including attorney general, the public

20   defender, county prosecutors, legal

21   attorneys from across our system as well as

22   the administrative side of our organization.

23   About four or five months later, there was a

24   joint report that was unanimously approved

1    by all members of the committee, and it

2    recommended several things.  And I will

3    highlight some of the things that were

4    recommended, which we actually were able to

5    accomplish two years later.

6        So number one was the elimination of

7    bail as the primary release feature.  New

8    Jersey, prior to this constitutional

9    amendment in 2014, had a provision which

10   said that everyone was entitled to bail

11   unless charged with a capital offense.

12       Number two was to utilize an

13   evidence-based risk assessment tool, we call

14   it a PSA, to determine the likelihood of the

15   person reoffending while they're out on

16   release.  We also coupled that tool with

17   what we call the Decision Making Framework,

18   saying that there are certain crimes which

19   are so significant that the recommendation

20   will not be to release those individuals.

21       Number three, there was established a

22   hierarchy of release determination.  In the

23   statute enacted in 2014 created a hierarchy

24   which says that the first option, the least

 1    restrictive option should be ROR, the next

 2    one to be released on conditions, the next

 3    can be bail and bail with money.  So, bail

 4    is still in our system.

 5         What was also created was to allow for

 6    pretrial detention.  In 2014, approximately

 7    63 percent of the citizens of New Jersey

 8    approved a constitutional amendment allowing

 9    for the pretrial detention of certain

10    individuals, high-risk individuals.  Our

11    system now allows on motion of the

12    prosecutor for a judge to determine whether

13    these individuals should be pretrial

14    detained or not.  We also created a pretrial

15    service organization that had staff created

16    that would assist in all of the processes

17    associated with this effort as well as

18    managing or supervising those out on

19    release.

20         Also, because people are now going to be

21    pretrial detained, there were specific time

22    frames for the prosecution to move these

23    cases.  90 days from arrest, there has to be

24    an indictment.  And within 180 days

 1   thereafter, the case has to move to trial.

 2   There are certain exclusionary factors

 3   that -- exclusionary factors that can reduce

 4   the time frame such as a defendant filing a

 5   competency application such as a defendant

 6   filing for drug court or PTI.  All of those

 7   factors can delay the moving of the case,

 8   but they're all based upon the defense side.

 9       And finally, we were able to create a

10   fully automated technological infrastructure

11   for our entire criminal system.  New Jersey

12   had decades of cross collaboration and

13   partnership with law enforcement.  So from

14   the time a defendant is arrested, they are

15   done -- their fingerprint is taken by a

16   computer.  It's called a live scan system.

17   That information is electronically put into

18   our complaint system.  The information then

19   generates what we call a PSA, which is all

20   done electronically in a matter of minutes.

21   The judge is then able to make a

22   determination where a probable cause -- I'm

23   sorry.

24       MS. GREY:  Can I ask you one favor?

 1   Because we are not familiar with the

 2   acronyms that you are stating, so if you

 3   can --

 4        JUDGE GRANT:   Sure.   We start out with

 5   an arrest.   The arrest is done

 6   electronically.   We start out with a

 7   fingerprinting.   That is to verify the

 8   identity of the individual.   When that

 9   individual is arrested, that information

10   goes to both our State Police as well as the

11   Federal Government National Crime

12   Information Center to determine whether the

13   person has any criminal history outside of

14   the State of New Jersey.

15        When the case then moves from the

16   processing of the electronic complaint, it

17   then has a judge -- judicial officer

18   determine whether there's probable cause.

19   The prosecutor at that point in time has the

20   ability to file a motion for that particular

21   individual.   The law was enacted which

22   requires judges to make a determination as

23   to whether a person should be released or

24   detained within 48 hours.

1        So, we have moved the time frame

2    forward.  And I've already explained to you

3    the time frame for moving to take an

4    individual -- motion for pretrial detention.

5        Here are the significant negative

6    factors that take place when an individual

7    is pretrial detained for any reasonable

8    period of time.  They plead guilty more

9    often.  They are convicted more often.  They

10   are sentenced to a longer prison term.  They

11   receive harsher sentencing.  And obviously,

12   when they're pretrialed detained, they are

13   likely to lose their homes, their jobs, and

14   in certain cases, custody of their children.

15   So, the impact on society is very

16   significant.

17       The system of a money-based pretrial

18   release has what we call dual-system errors.

19       One, you can be a significant risk to

20   the community and still have access to

21   money.  Two, you can be very poor and not

22   pose a significant risk to the community.

23   And as the Drug Policy Alliance report

24   shows, you can be in jail during that period

1    of time.

2        So, what the risk-based system or the

3    new system that New Jersey implemented two

4    years after the statutory change in 2014,

5    it's designed to do the following:  Detain

6    the highest risk individuals, release

7    moderate risk individuals and release low

8    defendants, if you will, with minimal or no

9    conditions.

10       Our system is designed to do two things.

11   It is designed to measure the risk and

12   manage the risks.  Under the old system or a

13   money-based system, it has been demonstrated

14   that money does not provide that level of

15   security or concern.  So when you're trying

16   to assess whether an individual poses a risk

17   to your community and the individual only

18   has to pay his or her release, you're not

19   managing the risk.  You're not measuring the

20   risk.

21       What we are attempting to do with those

22   two factors, what we call a Public Safety

23   Assessment, which is this objective tool

24   that goes into all our systems and pulls the

 1   defendants information and to determine --

 2   it comes up with a number.  I will be candid

 3   with you.  It's a number of 1 to 6.  There

 4   is 1 to 6 on your failure to appear; 1 to 6

 5   on your likelihood of committing new

 6   criminal activity.  And we have a flag if

 7   there's a likelihood that you will engage in

 8   violent criminal activity.  So, that's the

 9   structure of the program.

10       As I indicated to you, the prosecutor

11   must file a pretrial detention motion.

12   Court is obligated to hold that detention

13   hearing within either three to five days

14   based upon motions of either the prosecution

15   or the defense.  And the rules do not -- the

16   evidentiary rules of hearsay are not here.

17   We most recently had a court case which

18   established the proposition that the state

19   can submit its evidence by proffer.

20       Lastly, I just want to give you some

21   statistical information on what has occurred

22   since January 1.  Since January 1, the

23   prison population across our state has been

24   reduced by over 15 percent.  Since

 1   January 1, approximately 55 percent of the

 2   motions for pretrial detention have been

 3   granted.  We -- this PSA is not, I must

 4   repeat, is not the final decision maker with

 5   regards to whether the person gets released

 6   or detained.  It is part of the calculus

 7   that the judge must utilize in order to

 8   determine whether the State has proved its

 9   case, whether the arguments of the defense

10   or the State merit this person being

11   pretrial detained.  So, it's just one tool

12   in a series of tools including the argument

13   of counsel, by which the judge will

14   determine whether a person should be

15   pretrial detained.

16      We've also seen that there have been a

17   significant decrease in the number of people

18   that have warrants on file.  In New Jersey,

19   if you are issued a summons, you are

20   released ROR.  In New Jersey, if you are

21   given a warrant, you are brought to our

22   county jails.  There has been a substantial

23   decrease in the number of warrants issued in

24   our system.  And I believe it's because

1    county prosecutors are now providing greater

2    oversight and review of the charges being

3    filed by local police.

4        That completes my report.  I will allow

5    my other colleagues to address other aspects

6    of the program.

7        COUNCILMAN JONES:  Can we -- so what we

8    usually do, is we let the whole panel

9    testify.

10       JUDGE GRANT:  Okay.

11       COUNCILMAN JONES:  And then we engage in

12   questions.  But you gave us so much

13   information, if it is the pleasure of the

14   group, we can kind of take this along.  And

15   probably, had we been patient, they'll get

16   answered in further testimony.

17       But I just -- I'm at the age where I

18   want to get it out.  I've come full circle.

19   I should also recognize that we have

20   Mr. Hollway, Mr -- Judge Lerner, and

21   Mr. Rojas also on this panel, all

22   distinguishing the legal community and our

23   experts in their various fields.  I guess

24   the first thing -- you know I can't see

1    that.  Give me some small print.  Oh, those

2    are questions?  I have my own.

3        All right.  This happened has since

4    January, so the jury is still kind of out in

5    the sense of measurables.  But the

6    measurables that you have seen have been

7    dramatic as I see it.  And if I can repeat a

8    couple, the population in custody is down

9    15 percent, correct?

10        JUDGE GRANT:  Correct.

11        COUNCILMAN JONES:  And I would imagine

12    at some point this is going to have a

13    budgetary impact that ripples.  If you have

14    less warrants and less detainees, there are

15    less expenditures that are accompanying

16    that.  And I am going to anxiously, you

17    know, kind of check in with you as you hit

18    the fiscal year and see what the true impact

19    is.

20        So, A couple of questions that jump to

21    mind are what is your crime like?  What

22    impact has that had on actual citizens'

23    safety?

24        And so if there -- if that's going to

1    come up in further testimony, I withdraw

2    that question.  But it's just something that

3    I didn't hear in the first presentation.

4        Is the answer coming up?

5        JUDGE GRANT:  So, judges don't focus

6    their time and attention on the crime rate.

7    And we have two law enforcement experts here

8    that can detail that.

9        I would also say, though, that it is

10   still preliminary for any broad-based

11   findings to be made about this program.  We

12   are talking about changing a system that was

13   inexistent in New Jersey for over 70 years,

14   at least 70 years.  So when you're talking

15   about that kind of systemic change, you need

16   to have long term measurables in order to

17   success -- assess its change.

18       COUNCILMAN JONES:  True.

19       JUDGE GRANT:  I also would address your

20   issue with regards to long term reduction in

21   the jail population.  There are certain

22   infrastructure costs that are built in.  And

23   so, you need to see those costs stay down

24   for a significant period of time.  I'm

1  talking about years before you were able to

2  say that we can reduce, you know, our prison

3  budget, for example.  So, you really need to

4  see that from that perspective.

5      COUNCILMAN JONES:  We totally agree with

6  that.  We -- we got excited when we reduced

7  ours.  And they said, well, the ledger still

8  has to be on whether you shine on one or one

9  hundred.  And we -- so we understand that.

10     Maybe something that you -- the average

11  stay in detention pretrial, how has that

12  been impacted?

13     JUDGE GRANT:  So, what we used to have

14  was a significant percentage of our

15  individual, as a saying, staying in jail

16  for -- we averaged about 256 days to have a

17  case disposed of.  And what you saw in my

18  early or heard in my earlier remarks was at

19  least 12 percent of those individuals in the

20  study done in 2013, they stayed in jail the

21  entirety of that time because they couldn't

22  make bails of less than $2,500.

23     We do have a percentage of individuals

24  that are in our jails awaiting trial for

 1   more than two years, about 5 percent.  But

 2   what we now see is that the vast major --

 3   not the va -- a significant percentage of

 4   those individuals are now being released ROR

 5   or released with conditions.  About

 6   55 percent of those individuals are now

 7   being done that way.  So, we've dramatically

 8   changed that population in the jail.  So,

 9   that's why you see that reduction.  And

10   we're interesting to see is it sustainable.

11       What will happen over the next few

12   months as police become more familiar with

13   it, as prosecutor become more familiar with

14   it?  What will happen in our system?  But

15   we've seen very sustainable trends over the

16   first two, three months.  We want to see

17   whether it will carry through.

18       COUNCILMAN JONES:  One other question,

19   and then I'm a let you go -- not let you go,

20   but let them go.

21       Is by a way of risk assessment, you

22   touched on it.  Pre and post action of New

23   Jersey, how did you adjusts your risk?

24       So, you mentioned how the ROR --

 1      JUDGE GRANT:  Yes.

 2      COUNCILMAN JONES:  So when you looked at

 3   a defendant before, your risk assessment was

 4   based on a cash model.  How did you -- how

 5   did it adjust itself when you went to this?

 6      JUDGE GRANT:  Under our old system,

 7   which was a constitutional provision which

 8   says everybody is entitled to bail,

 9   everybody except for capital offense in our

10   constitution.  And in 2007, we got rid of

11   the death penalty.  So, everybody was

12   entitled to bail.

13      And our constitution only allowed you to

14   take into consideration, excuse me, whether

15   the person would fail to appear in court.

16   There was no consideration about safety.  No

17   really intellectually honest conversation

18   about safety or risk to the community.  And

19   I will tell you that prosecutors and judges

20   would say this is a significant crime.  And

21   the question is, I'm going to put a

22   $1 million bail on this individual.

23      Did $1 million bail demonstrate that the

24   person was going to show up as opposed to

 1   900,000?  We all know that's really a

 2   fictional analysis.  And so, the old system

 3   didn't really have a true and honest

 4   conversation about whether the person posed

 5   a risk to the community or not.

 6        The new system says, look at the

 7   person's crime.  Look at his actual crime.

 8   Look at their history.  There are nine

 9   factors which we can detail to you which

10   allows for a direct conversation between

11   both the State and the defense as to whether

12   the person poses a risk to intimidate

13   witness, show wrong the criminal process or

14   otherwise not show up in the court.

15        We believe that that's a more fair and a

16   more objective way to assess the risk that

17   the individual poses to the community.

18        COUNCILMAN JONES:  So, how did you come

19   to that nine factor?  Was that negotiated?

20        JUDGE GRANT:  We entered into -- the

21   judiciary entered into a contract with an

22   organization called the Laura and John

23   Arnold Foundation.  They are a national

24   eleemosynary organization that has been

1    dedicated to using analytics to enhance the

2    criminal justice system.  And so, they have

3    a national tool that is probably the most

4    researched-based tool in the country.  They

5    have researched about more than a million

6    cases to ensure the accuracy of the tool.

7    And the tool has nine factors.

8        Almost all of those factors relate to

9    your prior criminal history.  What is your

10   record of failing to appear in court?  Were

11   you ever incarcerated?  What was the nature

12   of the crime?  You know, have you missed

13   court in more than two years or less than

14   two years?  So, those nine factors are

15   designed to provide an objective

16   evidenced-based assessment as to whether you

17   pose a risk of either reoffending or not

18   showing up into court.

19       COUNCILMAN JONES:  Rojas.

20       MR. ROJAS:  Yeah.  I have a question.

21       COUNCILMAN JONES:  Then I'll go to you.

22       MR. ROJAS:  First of all, I commend

23   everything that's being done in New Jersey.

24   My question is, when you do your risk

1   factor, do you have a place there for

2   suicidal ideation?

3       JUDGE GRANT:  No.

4       MR. ROJAS:  Because what -- are you red

5   flagging anyone that presents with that?

6   Because one of the costs that's driven up is

7   the number of suicides, and they are usually

8   pretrial status.  People who go to jail and

9   commit suicide.

10      MS. BUTLER:  I can take that.

11      MR. BETHEL:  Take the mic and identify

12  yourself.

13      MS. BUTLER:  So, the risk assessment

14  does not take into consideration danger to

15  self.  But I do note that our county jails

16  are very familiar with that issue.  And if

17  someone is released and they are in crisis,

18  instead of being released to the street,

19  they are automatically taken to crisis which

20  is probably more beneficial to -- to the

21  defendant than being held at the jail.

22      I think that it's more therapeutic.  And

23  I don't -- the jail isn't -- shouldn't be a

24  place to hold mentally ill people.  And I

 1   think that our new system is helping

 2   streamline that into putting those people

 3   into more appropriate situation.

 4        JUDGE GRANT:  I want to specifically

 5   read to you the nine factors.  One is the

 6   age at the current arrest; current violent

 7   offense, that is the offense that you are

 8   being charged with, was it a violent

 9   offense; were you 20 years or younger when

10   the violent offense was committed; what was

11   the pending charge at the time of the

12   offense; did you have a prior, what we call,

13   a misdemeanor or low level conviction; did

14   you have a prior indictable conviction; were

15   your indictable convictions, depending on

16   the level, we have first, second, third and

17   fourth; did you have a prior violent

18   conviction; did you fail to appear in court

19   in the past two years; did you fail to

20   appear in court other than two years; and

21   did you have a prior sentence to

22   incarceration.

23        Those are the only nine factors that are

24   considered when we make those

1    recommendations in those three areas.

2        One, what's your likelihood to

3    recidivate.  Two, what's your likelihood to

4    not show up in court; and do you have a

5    violent flag.

6        Those are the three things that we

7    considered.

8        COUNCILMAN JONES:  Thank you.

9        Ms. Grey, and then you in that order,

10   please, Your Honor.

11       JUDGE LERNER:  Thank you.

12       COUNCILMAN JONES:  No, wait a minute.

13   Ms. Grey and then you.

14       JUDGE LERNER:  Oh, okay.

15       COUNCILMAN JONES:  Are all judges like

16   that.

17                 (Laughter)

18       MS. GREY:  You know what, I have to pay

19   honor to the First Chief Defender -- first

20   living Chief Defender that's here that I --

21   came before me.  But I will just take this

22   opportunity to ask one question.

23       JUDGE LERNER:  Please do.

24       MS. GREY:  I listened to the factors.

1    And in your factors, you don't have arrests.

2    Was that a conscious design?  And was it a

3    design to eliminate bias in those tools?

4    And in that discussion of elimination of

5    bias, how did you create with the foundation

6    a risk assessment tool that took into

7    account some of the bias that could seep

8    into some of these algorithms or, you know,

9    types of --

10          JUDGE GRANT:  The answer to your

11   question is yes, because arrests can create

12   an arbitrary factor.  Again, since it's not

13   a permanent disposition, it would be unfair

14   to certain segments in the population.

15          The philosophy of the foundation is it

16   needs to be researched based.  It needs to

17   be checked and checked.  And as I said to

18   you, they tested the system across multiple

19   jurisdictions.  They've tested it in

20   Chicago.  They tested it in Arizona.

21   Kentucky is being used statewide.  Arizona

22   is being used statewide.  And Pittsburgh,

23   your sister city, is using the same tool.

24          And so, before we could roll out this

 1  tool, we had to give them all of our

 2  criminal information.  They then had to run

 3  these factors against it and then assess

 4  does it sustain its evidence.  It's really

 5  been very successful in that regard.  It's

 6  evidence-based system.  And therefore, you

 7  remove the arbitrary factors of gender,

 8  race, ethnicity, income in terms of the

 9  objective determination.

10      So yes, you are correct.

11      MS. GREY:  Thank you.

12      COUNCILMAN JONES:  Your Honor.

13      JUDGE LERNER:  Thank you.  Judge Grant,

14  thank you very much.  As a, among other

15  things, a formal trial judge who had the

16  responsibility over many years of deciding

17  whether or not to set bail and what amount

18  in the most -- for people charged with the

19  most serious offenses, I particularly

20  appreciated your shining a light on the sort

21  of the fraudulent nature of our lack of a

22  direct conversation about dangerousness to

23  the community.  And instead, hiding that

24  behind what we would think would be

1   ridiculous amounts of bail as a way of

2   getting preventive detention without talking

3   about that doing it that way.  That's a

4   problem and an issue that we still have in

5   our system, and one of the things that we're

6   addressing here.

7        On the other end of the scale, though, I

8   was particularly interested in your

9   description of release with conditions as

10  the sort of second choice under your system.

11  And I'm wondering what kind of conditions do

12  you use when or are available to the issuing

13  authority when the decisions made to release

14  somebody with conditions?

15       JUDGE GRANT:  So, we have a pretrial

16  service unit that's involved in monitoring

17  individuals that are released.  And what we

18  have done is this decision making framework

19  that I talked to you about, so the first

20  level -- if you are ROR, you have no contact

21  with our system other than getting a text

22  message week before, day before your trial.

23       If you are level one, you're going to

24  have to call the pretrial services unit once

1    a month or once every other month.  If you

2    are level two, you are going to call once a

3    week, and you are going to come in the other

4    week.  So, you are going to report by phone

5    two times a month.  And you are going to

6    report in person two times a month.

7        The next level is a level which says

8    pretrial house arrest with electronic

9    monitoring.  And those are our three levels.

10   We go level one, two, three, plus three-plus

11   which is a level where you have house arrest

12   and electronic monitor.

13       I will be candid with you.  The

14   electronic monitoring piece still needs to

15   be more researched based.  There needs to be

16   more evidence as to its ability to enhance

17   the safety of the community.  So as we are

18   engaging in this embryotic stages of our

19   tool, we are trying to assess its

20   effectiveness in that way.  But judges have

21   all of those options.

22       In addition, the statute allows for

23   judges to impose the obligation to go to

24   drug treatment, to go to mental health

1    therapy, to become employed and those sorts

2    of things.  Candidly -- I will be candid

3    with you.  The statute doesn't provide money

4    for those things.  And so, we are challenged

5    unless we can get individuals who are

6    Medicaid eligible; and therefore, they can

7    get those resources.

8         JUDGE LERNER:  That's the challenge that

9    is based primarily on the availability of

10   resources, I take it?

11        JUDGE GRANT:  Yes.

12        JUDGE LERNER:  Rather than the existence

13   of -- of the possibility of setting those

14   conditions.

15        JUDGE GRANT:  That's correct.  Well,

16   there are some -- some counties that have

17   more resources with respect to that than

18   others.  More -- in northern part of the

19   state, we have obviously more drug treatment

20   and more mental health treatment than we do

21   in the southern part of the state.  But we

22   do have some resources and we worked with

23   our community-based providers to try to make

24   those resources available when possible.

 1      JUDGE LERNER:  One brief follow up.

 2  With regard to electronic monitoring, does

 3  your Level 3 electronic monitoring permit

 4  the judge to sort of move the dial up and

 5  down depending on the individual defendant

 6  as to the freedom of movement for school,

 7  work, religious observements, whatever?

 8      JUDGE GRANT:  Yes.  We work with a

 9  company called BI.  The tool allows you to

10  create exclusionary zones.  It allows you to

11  establish the parameters by which the

12  individual can be monitored.  It may say

13  you're on house arrest with electronic

14  monitoring with the exception that you can

15  go to employment or you can go to school.

16  It does have that functionality, if you

17  will.

18      JUDGE LERNER:  Thank you.

19      Thank you, Mr. Chairman.

20      COUNCILMAN JONES:  You're welcome, Your

21  Honor.  John Hollway, Esquire who I failed

22  to recognize earlier.

23      MR. HOLLWAY:  You said hi.  That was

24  fine.

1      Judge thanks very much for that

2   presentation.  And I want to tip my hat to

3   you and your colleagues for engaging in this

4   experiment and doing so in a principled and

5   data-driven way and a transparent way, which

6   is, I think, the only way we are going to

7   really understand what's going on and make

8   real progress here.  It's a credit to you

9   and everybody who both put this legislation

10  together and then has enacted in this way.

11      I have one question that's really just a

12  simple mechanical one.  Page 7 of your slide

13  says CDR-2 warrants.  I don't recognize the

14  acronym.

15      JUDGE GRANT:  The first one is, CDR-1 is

16  a summons.  CDR-2 is a warrant.

17      MR. HOLLWAY:  So it's just warrants?

18      JUDGE GRANT:  Exactly.

19      MR. HOLLWAY:  Okay.  Are you applying

20  the pretrial release principles and the risk

21  assessment tool to all charges.

22      JUDGE GRANT:  No.  We are applying to

23  the individuals that are arrested on a

24  warrant.  So if you are arrested on a

 1  summons, whether it's traffic, whether it's

 2  a disorderly person and the cop just let you

 3  go from the police station, that's not being

 4  included in our system.

 5      MR. HOLLWAY:  Okay.  But any -- I mean,

 6  from murder one down to misdemeanors, all of

 7  those --

 8      JUDGE GRANT:  I will let my colleague

 9  answer the question.

10      COUNCILMAN JONES:  Please say your name

11  again for the record.

12      MR. SORIANO:  I'm Jeff Soriano.

13      The offenses that are applicable, any

14  offense that's charged by way of an

15  indictable offense or a disorderly persons

16  offense could be subject, could be a

17  quote/unquote, eligible defendant under the

18  reform bail law itself.

19      So, I don't know that you have

20  disorderly person offenses here.  But those

21  are, as Judge Grant referred to them, the

22  misdemeanor charges, your equivalence

23  essentially.

24      MS. BUTLER:  Meg Butler from the Public

 1   Defender's Office.  But just to be clear,

 2   while disorderly persons' offenses are

 3   eligible defendants, under our statute only

 4   domestic violence disorderly persons can be

 5   detained pretrial.  Otherwise, if it's a

 6   shoplifting, you know, possession of syringe

 7   those kind of offenses, while they may be

 8   arrested on a warrant, they cannot be

 9   detained pretrial.  They must be released on

10   a set of conditions or ROR.

11      MR. HOLLWAY:  Do you have any data on

12   changes in terms of the number of FTAs,

13   failure to appears that you are seeing,

14   since this has been implemented?

15      JUDGE GRANT:  Again, too early.  We are

16   involved in this comprehensive data

17   collection effort.  These are our first four

18   reports that we've completed.  We go to this

19   rigorous data integrity analysis to make

20   certain that it's accurate before we give it

21   out to anybody.  But we are anticipating

22   probably 200-odd reports that we will be

23   utilizing in some fashion or another.

24      MR. HOLLWAY:  As you know, data is

 1   addictive.  So then, I guess my other

 2   question is, how large is the pretrial

 3   services unit?  And what is it's annual

 4   budget?

 5        JUDGE GRANT:  The annual budget by

 6   statute is $22 million.  Right now we have

 7   hired about 60 percent of that staff

 8   because, obviously, we are only in the first

 9   quarter of the year.  The interesting

10   situation with New Jersey with regards to

11   funding, this program is being funded by

12   legal fees -- increases in legal fees.

13        MR. HOLLWAY:  Can you explain that a

14   little bit more.

15        JUDGE GRANT:  So, the bill has three

16   components.  The first component is to

17   provide for the creation of a pretrial

18   services unit under the auspices of the

19   administrative director.  That is

20   $22 million.

21        The next component is a fee for our

22   legal services organization, which is about

23   $10.1 point million.  And then the last

24   component is the information technology

1   budget, which is $10 million.  So those are

2   the three of about a $42.1 million increase

3   in filing fees.

4        And as you can anticipate, it is subject

5   to the fluctuations of filings.  Ideally,

6   the fund -- we would like the fund to be in

7   the State's general budget, but it's not

8   yet.  And so, that's the funding mechanism

9   that the legislature and the government has

10  established.

11       MR. HOLLWAY:  And the filing fees, then,

12  are paid by the defendants?

13       JUDGE GRANT:  Paid by attorneys who file

14  all documents.  The court in 2014 passed a

15  series of fee increases across civil, family

16  and other docket filings to generate the

17  $42.1 million.

18       MR. HOLLWAY:  Across all?

19       JUDGE GRANT:  Across all the fees.  We

20  have very limited fees in the criminal area.

21  So, it wasn't a big fee generator.  And that

22  was authorized by statute.  There was a

23  sunset date of March 2015 where the governor

24  and the legislature gave the court the

1    ability to do so.  I should be -- I should

2    note that, obviously, with any sort of

3    legislation, there is a likelihood of

4    challenge.  We are now -- there's a bill

5    challenge or litigation challenging that

6    structure.

7         MR. HOLLWAY:  And so my last question,

8    Your Honor, is kind of a soft metric.

9         I have had conversations with judges in

10   other jurisdictions who have been very

11   concerned about relaxing pretrial detention

12   for a variety of reasons.  And I'm just

13   curious about whether your colleagues like

14   this system?

15        What's the sort of qualitative reaction

16   been from your colleagues?

17        JUDGE GRANT:  I would say that the

18   qualitative reaction is this is a better

19   structure for judges.  We are now pulling

20   together information in a matter of minutes

21   for judges to make that decision.  Under the

22   old system, we were printing out paper,

23   typing in the charges.  And you know, it was

24   in a conversation solely on money.  Now you

 1   can have a direct conversation about the

 2   risk.

 3        So I think overall, people will like it.

 4   But with any change, there may be people who

 5   say I really don't like.  But overall, I

 6   think it's been well received and embraced

 7   by our membership.

 8        MR. HOLLWAY:  So without wanting to put

 9   words in your mouth, is it fair to say that

10   the -- that in general, judges do the same

11   job they do, but feel like they have more

12   data to do it with?

13        JUDGE GRANT:  Absolutely.

14        MR. HOLLWAY:  Thank you.

15        COUNCILMAN JONES:  Thank you, John.

16        So -- so what we -- what we like to do,

17   I'm going to ask two questions.  Then we

18   going to let those of you who have been

19   patient enough with our impatience to speak.

20        So if I understood your model correctly,

21   your social service in monitoring was paid

22   for by increases in fines 122 million.

23        JUDGE GRANT:  Yes.  The pretrial

24   services unit.  Now remember, these are

1    people that have not been determined to have

2    committed a crime.  So, it's different from

3    probation.  It is predispositional.  So, the

4    level of scrutiny, the level of oversight

5    that you have in these individuals is

6    remarkably different than probation.

7    Probation, you have been adjudicated either

8    by a judge or by a jury to have committed a

9    crime.

10        Here we got a constitutional provision.

11   Every state has it which says there's a

12   presumption of innocence.  So, it is

13   remarkably different in the way we supervise

14   and monitor these individuals.

15        COUNCILMAN JONES:  So, you are supervise

16   -- so in effect, they are saying we can hold

17   you or we can monitor you?

18        JUDGE GRANT:  Yes.

19        COUNCILMAN JONES:  You know --

20        JUDGE GRANT:  There is third one.  We

21   can just release you.

22        COUNCILMAN JONES:  We can just release

23   you.

24        JUDGE GRANT:  Right.

 1      COUNCILMAN JONES:  So in that graduated

 2   level of monitoring, are you able or do you

 3   choose to, can you legally say, and by the

 4   way, you need go to anger management?  That

 5   might be a good idea during your time out,

 6   or we'd like you to look and seek help by

 7   way of your addictions?

 8      Can you put those stipulations, can you

 9   define the range of stipulations considering

10   the presumption of innocence?

11      JUDGE GRANT:  The statute clearly

12   provides for referral for drug treatment,

13   clearly provides for referral for mental

14   health.  Don't know about referring people

15   for anger management.  And there is two

16   reasons why I say that.

17      One, there is not really been any strong

18   proof that the domestic violence, anger

19   management counseling really works.  And so,

20   you are doing that.

21      And two, there are very few places that

22   have the scientific research-based

23   foundation to provide that training.  So, I

24   know court systems across the country do it.

1    But again, the efficacy of such efforts

2    remain in doubt.  But clearly, you can refer

3    to drug treatment.  We can refer them to

4    mental health.  You can refer them to

5    getting school employment.  All of those

6    options are available to the judge at the

7    time of the release decision.

8        COUNCILMAN JONES:  And those aren't --

9    so the -- when they get to court and they

10   have completed some of these, it can weigh

11   in your decision as to, you know, not guilt

12   or innocence but at least willingness to

13   try?

14       JUDGE GRANT:  Well, I will -- I will say

15   this.  The whole idea of the pretrial

16   services program is to do two things.  One,

17   make certain that the person shows up in

18   court; and two, that the person does not

19   offend while out on release.

20       The ancillary efforts associated with

21   rehabilitation is really not a primary focus

22   of pretrial services.  So, it would be nice

23   if the person gets employment.  It would be

24   nice if the person goes to school.  But

1    those are really ancillary issues.  And I

2    will tell you, in the creation of this unit,

3    and I'm responsible for it, that's not been

4    a primary focus of ours.  Those two things.

5    Stay out of trouble and show up for court.

6    And the other things will fall in place.

7         COUNCILMAN JONES:  So the 122 million

8    goes particularly emphasized towards

9    monitoring?

10        JUDGE GRANT:  Well, I wish it was

11   122 million as opposed to -- it was

12   22 million.  So, 22 million.  It goes to

13   staffing costs for those employees.  Now if

14   you recognize that 22 million is even if we

15   were to get it every year, employees get a

16   raise, get increases.  So, that's also part

17   of that analysis that we have to deal with.

18        COUNCILMAN JONES:  Thank you so much.

19   If there are no other questions, we are

20   going to proceed with testimony.

21        MR. SORIANO:  Good morning.

22        COUNCILMAN JONES:  Good morning.

23        MR. SORIANO:  As I said, my name is

24   Geoffrey Soriano.  I'm an Assistant Attorney

 1   General with the New Jersey Division of

 2   Criminal Justice.  That's a division within

 3   the Office of Attorney General in the State

 4   of New Jersey.  I've been criminal justice

 5   for just under one year.  And prior to that,

 6   I served as the Somerset County Prosecutor

 7   in Central Jersey.  My responsibilities here

 8   at CJ typically focus on bail reform or

 9   criminal justice reform as it's more broadly

10   referred to in New Jersey.

11       While I was the Somerset County

12   Prosecutor, I had the good fortune to work

13   on the Supreme Court Joint Committee on

14   Criminal Justice Reform, just as you all are

15   on your own committee.  So, I have had an

16   opportunity to see this reform initiative

17   from the ground up.  And I'm currently

18   deeply involved in this fantastic effort to

19   implement criminal justice reform from the

20   law enforcement perspective, on the law

21   enforcement side to include Division of

22   Criminal Justice, the 21 county prosecutors'

23   offices, the New Jersey State Police and

24   over 550 municipal, state and law

 1   enforcement agencies scattered throughout

 2   the State of New Jersey.

 3        So, to bring about the reform initiative

 4   as the Judge has said in the State of New

 5   Jersey, it was exceptionally collaborative.

 6   There were all sorts of players in this.  It

 7   was a perfect storm, if you will, including

 8   all branches of state government, all

 9   players in the criminal justice system.  And

10   once the constitutional, and there was a

11   constitution change amendment and the

12   legislative authority was in place, it was

13   up to the New Jersey Attorney General to

14   take action.  And act he did in October of

15   2016.  The Attorney General issued AG Law

16   Enforcement Directive 2016-6, which was

17   establishing interim policies, practices and

18   procedures for criminal justice reform.

19        The directive consists of an 84-page,

20   one of the larger AG directives that we put

21   out, playbook for law enforcement to carry

22   out its responsibilities under criminal

23   justice reform.  The directive sets forth

24   the law enforcement decision making

1    framework.  There is a different decision

2    making framework for the courts.  Law

3    enforcement has its own.  At times were

4    consistent.  Sometimes we take a little bit

5    of a harsher look at some of the criteria

6    that we look at.

7        But the framework was set up for

8    critical determinations, which include

9    whether to issue a complaint summons, as the

10   Judge talked about, or apply for a complaint

11   warrant when charging a defendant.  What

12   release conditions might be best applied to

13   an eligible defendant who is released after

14   a risk assessment is performed, and whether

15   to file a motion for pretrial detention for

16   any given defendant.  And that's really with

17   my time here this morning, the three things

18   that I would like to focus on:  Summons

19   warrants, release conditions and pretrial

20   detention.  Because as the Judge has

21   highlighted some of the statistics that you

22   people had an opportunity to take a look at,

23   I will refer back to just a few of those.

24   We don't want to stat you to death, but just

1    a few of those I think are important in the

2    mission of keeping folks that don't

3    necessarily need to be in jail out of jail

4    pretrial.

5         So, we've all heard about CDR-1 and

6    CDR-2 complaint summons versus complaint

7    warrants.  These are as Judge Grant has

8    said, the charging documents that when

9    coupled with a criminal complaint, define

10   the manner in which a defendant will proceed

11   through our criminal justice system.  All

12   right.  There are indeed some really

13   important differences.

14        Now a comparison of the former system.

15   Our New Jersey former system, which was the

16   money-based bail system with the current

17   reform initiative probably is helpful.

18   Under our money-based system of bail, when a

19   defendant was charged on a complaint

20   summons, he or she was given a day to

21   appear.  And immediately after processing,

22   printing and all the other stuff that a

23   police officer does, they were released

24   immediately after processing.  There was no

1    condition, no conditions were imposed.

2    There was no county jail whatsoever.

3         That doesn't change under criminal

4    justice reform.  If you are charged by way

5    of a complaint summons, you are released

6    after processing, all right?  Under the

7    money-based system of bail, when a defendant

8    was charged on a complaint warrant, monetary

9    bail was typically set.  And if the

10   defendant could make bail, he or she was

11   released.  However, when those defendants

12   could not make bill, and even modest amounts

13   as Judge Grant has said, they were lodged in

14   the county jail.  And in many instances

15   until their matters could be resolved by way

16   of either plea or trial.

17        Under the criminal justice reform

18   effort, there are some dramatic changes for

19   CDR-2s or complaint warrants.  When someone

20   is charged by way of a complaint warrant, he

21   or she is transported to the county jail

22   automatically after processing.  And they

23   are detained for a maximum period of time of

24   48 hours.  Now the goal from the judiciary

1    is let's make that 24 hours.  And I think we

2    have been hitting that goal in a great

3    majority of cases.  Folks are transported to

4    the county jail.  They sit in jail for a

5    period of no more than 48 hours of time,

6    during which pretrial services engages in

7    the finalization of the risk assessment

8    process.  The finalization of the public

9    safety assessment or the PSA.

10        At the first appearance, unless the

11   prosecutor has filed a motion for pretrial

12   detention, they are going to be released,

13   right?  And they may be released on their on

14   recognizance or released subject to

15   conditions that you have heard about or the

16   monitoring that you have heard about.  And

17   it's critical to understand that under the

18   reform initiative, only those that are

19   charged by way of complaint warrant are

20   subject to this temporary detention and are

21   eligible for either release or pretrial

22   detention pursuant to criminal justice

23   reform.

24        And so at the earliest stage of the

 1  criminal justice process, police and

 2  prosecutors must -- must decide whether the

 3  arrestee should be released immediately or

 4  whether an application for a warrant should

 5  be made so as to place the arrestee within

 6  the universe of bail reform.  That's a

 7  critical determination, right?

 8      So again, not wanting to inundate you

 9  with too many statistics, Judge Grant has

10  already said that there has been a

11  significant reduction in the number of

12  complaint warrants issued.  So, to the tune

13  of nearly 42 percent when compared to the

14  first two months of 2016.  That is, I

15  believe, a very telling statistic.  And

16  thus, the pool of those defendants who might

17  be subject to pretrial detention has been

18  greatly reduced right off the bat.

19      Release monitoring.  I'm sorry --

20  release conditions and monitoring.  If the

21  first -- if at the first appearance the

22  prosecutor has not already moved for

23  detention, pretrial detention, the

24  defendant's going to be released.  It really

 1   comes down to the PSA scores and the

 2   pretrial services programs recommendation

 3   with regard to level of monitoring,

 4   conditions of release coupled with the

 5   prosecutors' argument.  And we will get into

 6   that later.  The prosecutor's argument as to

 7   release conditions that are imposed and

 8   monitoring levels that are imposed.

 9       As the Judge said, there are currently

10   four levels -- one, two and three and then

11   three-plus levels for monitoring.  And we

12   have talked about the specific conditions

13   that can be imposed.  The number of

14   defendants currently, currently in pretrial

15   monitoring system.  And I say currently, as

16   of March 1, was approximately 4,500 people.

17   So, it's a significant number that are in

18   the monitoring who would -- could be under

19   our monetary system, you know, our prior

20   monetary system.  They could be lodged in

21   the county jail right now.

22       So again, another -- another telling

23   statistic in that regard.  And then finally,

24   pretrial detention and the concept of

 1   detaining somebody without bail is certainly

 2   new to law enforcement in the City.  And

 3   that's particularly since the repeal of the

 4   death penalty.  Under the Bail Reform Law

 5   Release, not detention is presumed except in

 6   a case where defendant is charged with

 7   murder or faces a sentence of life

 8   imprisonment.  And so too, under the

 9   Attorney General directive, a prosecutor is

10   directed that detention is the exception.

11   It is not the norm.

12       As with the Bail Reform Law, the AG

13   directive focuses on certain identified risk

14   factors.  Which include the risk that a

15   defendant will not appear in court, will

16   pose a danger to an individual or community

17   at large, or will undertake to obstruct the

18   criminal justice system.  That's what we

19   focus on.  We need to demonstrate in order

20   to prevail clear and convincing evidence

21   that no conditions, there is not a condition

22   or any -- any combination of conditions that

23   can adequately address these risk factors.

24   And it's a mighty burden.  And it's also

1   important to note that if individual is

2   detained, as the Judge said, there are

3   speedy indictments and speedy trial

4   components that then apply to that segment

5   of cases.

6       Statistically, we have seen that for the

7   first two months of criminal justice reform,

8   there were 2,166 pretrial detention motions

9   filed.  And as the Judge said 54, 55 percent

10  of the time those motions were granted.  Now

11  a number of those also you should understand

12  are withdrawn.  The defense attorney and

13  prosecutor will get together and make, you

14  know -- come to a determination as to

15  appropriately release conditions and,

16  essentially, settle that matter and let the

17  judge know that, Your Honor, the motion has

18  been withdrawn.  These are the conditions

19  that we have all agreed upon.  And subject

20  to the judge's discretion and acceptance of

21  those conditions, they are -- they are

22  imposed.

23      One thing I did want to touch on is this

24  public safety assessment.  I think the

1    concern from law enforcement both

2    prosecutors and police alike was that I am

3    now a robot.  I am reliant upon certain

4    scores from this infamous PSA.  And in large

5    measure, the PSA again was incorporated into

6    the AG directive to guide prosecutors'

7    decision at these most critical stages of a

8    criminal prosecution whether to proceed by

9    way of complaint warrant as we talked about

10   and whether to seek pretrial detention.

11       And from a law enforcement perspective,

12   and at least the way we taught it, the CJ

13   was responsible to train all police and all

14   prosecutors throughout the State of New

15   Jersey.  We noted as the judge went into the

16   nine factors that -- that -- that are

17   measured through the PSA, we noted that the

18   more important factors, the more important

19   criteria are those that are not taken into

20   account in these PSA scores.  And I will go

21   over a couple of those, because I think they

22   are relatively significant.  And I think

23   they really define what police and

24   prosecutors do these days at these critical

 1   stages.

 2        The manner in which the present offense

 3   was committed, was it a particularly heinous

 4   crime?  How was it committed?  Was it

 5   really, really violent?  The strength of the

 6   case, out of state charges or convictions,

 7   juvenile justice history, restraining order

 8   information, expunged records, threat of

 9   future harm made to victims or witnesses,

10   involvement with gang or organized crime,

11   alcohol and drug dependence or mental

12   illness and criminal history information

13   missing in the databases.

14        COUNCILMAN JONES:  I'm sorry.

15        MR. SORIANO:  Yes.

16        COUNCILMAN JONES:  Expunged records and

17   juvenile records, you're piercing certain

18   veils that I thought were there.  And what

19   was your rational?

20        MR. SORIANO:  The Bail Reform Law and

21   the Expungement Statute specifically allow

22   you to delve into the -- this information --

23   to delve into that information.

24        MS. GREY:  I think the difference here

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 1   is that you can expunge convictions in New

 2   Jersey.

 3        MR. SORIANO:  Yes.

 4        MS. GREY:  And we cannot --

 5        MR. SORIANO:  Yes.

 6        MS. GREY:  -- in Pennsylvania at this

 7   point.  This is why -- where the disconnect

 8   is lying because where people are eligible

 9   for expungement here, there is some clear

10   rational that is deserving a person to not

11   have this label on them because they were

12   never found guilty of anything.  And so,

13   that's why I think the fundamental

14   unfairness of that, saying you're looking at

15   expunged records go towards what we

16   understand expungement process and the

17   eligibility of expungements are here in our

18   jurisdiction.

19        So, I think there is -- there is a

20   difference where felony convictions can be

21   expunged in New Jersey convictions.

22        COUNCILMAN JONES:  So, the juvenile

23   side?

24        MR. SORIANO:  Juvenile records are fair
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1    game when addressing either release

2    conditions or an application for pretrial

3    detention.  And we just had a -- an

4    appellate case.  It was State vs. CW.  A

5    relatively high profile case in the State of

6    New jersey where the appellate panel in that

7    instance approved the inquiry into juvenile

8    records.

9        COUNCILMAN JONES:  And the Defenders

10   Association is okay with that?

11       MS. BUTLER:  Well, I think -- I mean,

12   obviously we argue plenty of things that are

13   not considered in the public safety

14   assessment, too, like, employment, ties to

15   the community.  There are lots of things

16   specific to the individual defendant that we

17   argue that are outside of the confines of

18   the public safety assessment.

19       Before January 1 in the old bail system,

20   juvenile adjudications were considered by

21   the judge in setting bail.  And now they are

22   considered in -- although, they are not

23   considered in the public safety assessment,

24   the score doesn't -- that's because of the

 1    research -- it wasn't researched based.

 2    There wasn't enough information to include

 3    it.

 4        But if you think, I think, just fairly

 5    perhaps about a 18, a 19-year-old defendant

 6    who has a long juvenile history, their score

 7    is going to be very low.  They are going to

 8    be a 1, 1.  They are very low risk because

 9    they have no adult history.  And I think

10    even from -- as a public defender, I can see

11    the fairness in the judge being able to

12    consider that as a juvenile adjudications;

13    although, perhaps less relevant for a 40

14    year old who has no intervening convictions.

15        COUNCILMAN JONES:  I just want you to

16    know on this side of the water in

17    Pennsylvania, this defender she don't --

18        MR. SORIANO:  We appreciate your

19    frankness.

20        JUDGE LERNER:  Well, this ex-defender

21    has a different point of view about that.

22    And I think that this goes to the key point

23    that I think you made, Judge Grant, and

24    Mr. Soriano, you're making.  The PSA is

1  important, but it's not everything.  And

2  there are individual factors, some of which

3  may cut in the prosecutor's favor, some of

4  which may cut in the defendant's favor which

5  need to be presented by effective, well

6  prepared counsel and need to be carefully

7  considered by the bail setter.

8      There is no -- this is not a mechanical

9  process in any way even with the best

10  research tool that you can get at hand.

11      Is that a fair statement?

12      MR. SORIANO:  Absolutely.

13      MS. GREY:  May I, may I -- as I did not

14  state a position.  To disagree with my

15  non-statement of position, I am just letting

16  you know I didn't state a position.

17  Advocacy is advocacy.  I am glad to hear

18  it's not a tool.  However, I want to ask

19  this question.  And this really goes to my

20  understanding of moving to a system of

21  reform where fundamental fairness is at the

22  forefront, as well.  And that really comes

23  into the bias that seeps in.

24      How can any tool take into consideration

1    the false negatives or false positives that

2    are related to that tool?

3        For instance, recently in the news

4    coverage we have seen that people of color

5    have more -- are more likely to be perceived

6    to be a high risk while non-people of color

7    are more likely to be given a kind of

8    assessment on the err of release.

9        Does Jersey take into effect or look at

10   the impact of false positives and false

11   negatives of the assumption of risk or the

12   assumptions of a non-risk factor?

13       JUDGE GRANT:  Ms. Scotty who is going to

14   testify was a champion of a portion of the

15   statute which says that administrative

16   directors shall make a report to the

17   legislature on an annual basis, which shall

18   provide information on the unanticipated

19   disparities that exist under the old system.

20   So issues associated with race, issues

21   associated with gender, we are monitoring

22   those in our system.

23       Right now we -- we spend a great deal of

24   time checking the accuracy of the PSA.  And

1   as both prosecutors and public defender will

2   tell you, when there is something that is

3   brought to our attention, we will

4   investigate it.  We will try to make certain

5   that the information is accurate.  As I

6   talked to you earlier, I think it's very

7   hard for the system to have false negatives

8   or false positives because your information

9   is your information.

10      And where we find that the information

11  is accurate, for example, New Jersey

12  historically didn't fingerprinting a lot of

13  people.  Got to be candid with you.  So, we

14  will get people who have three or four

15  fingerprints -- four SBI numbers.  They

16  didn't pay much attention to the accuracy of

17  those numbers.  Now we do.  And when we

18  get -- we designed this public safety

19  assessment.  It will say this individual has

20  four SBI numbers.  Maybe the cop inverted

21  the birth date or inverted a particular date

22  or maybe they comingled the charges against

23  another defendant.

24      We go into those systems.  We have our

1    pretrial services go into their system and

2    conduct an investigation to determine

3    which -- which of those charges should be

4    applied to that particular defendant.  But

5    when you say false positives in terms of the

6    system, New Jersey system, I got to be

7    candid with you, is remarkably stronger than

8    that.

9         MS. GREY:  Well, I am really talking

10   about those that have been given the benefit

11   of the doubt by being low risk, actually

12   recidivated.  Those people who are of color

13   who may not have been given the benefit of

14   doubt or labeled high risk, I don't know how

15   you would figure out whether or not they

16   would recidivate because they have been

17   detained.

18        But those people who have recidivized

19   who have been labeled low risk, do you look

20   at who has gotten the benefit of that --

21        JUDGE GRANT:  So, the answer to your

22   question --

23        MS. GREY:  -- analysis.

24        JUDGE GRANT:  The answer to your

 1   question is yes.  We will be looking at

 2   race.  Yes, we will be looking at gender.

 3   Yes, we will be looking at ethnicity.  So

 4   when we compare the numbers, as to those

 5   people who have been pretrialed detained, we

 6   will be looking at age, as well.  So, we

 7   will have what we call pivot tables that

 8   will provide the information to be analyzed

 9   in multiple ways to determine whether there

10   are any unintended consequences that have

11   been generated by the use of this tool.

12        But I'm telling you, this tool is the

13   most researched-based tool in the country.

14   And we have great confidence in its ability

15   not to create those false negatives.  Not to

16   create those false positives.

17        MS. GREY:  Sure.  But any tool is not

18   perfect.

19        JUDGE GRANT:  I agree.

20        MS. GREY:  And so, in terms of

21   understanding the bias that can be baked

22   into the assumptions that are made, I just

23   want to make sure that there was some kind

24   of mechanism where there is some review and

 1   careful consideration in understanding that.

 2   Because that is a huge part of reform, as

 3   well.  Making sure one segment of the

 4   population is not unfairly impacted by

 5   procedural things and practices that another

 6   segment of the population will never have to

 7   endure.

 8       JUDGE GRANT:  If you look at each of

 9   those factors that are up there, a

10   percentage of people that have been pretrial

11   detained, we have the ability to go in and

12   do comparative analysis as to what's the

13   race?  What's the ethnicity of that

14   individual?  What's the gender?  What is the

15   age groups?  We can do it by groupings, you

16   know, 40s, 50s, 60s, under 20.  We can do

17   all of those things.

18       So, we have got this remarkable 30-year

19   history of working together in a

20   collaborative partnership with law

21   enforcement, with county jails, with the

22   FBI.  It's really -- it's so foreign to you

23   guys because you have -- you are all county

24   based, but they don't talk together.  You

 1   don't talk to Allegheny County.

 2   Philadelphia County doesn't talk to those

 3   counties.  All 21 counties in New Jersey are

 4   coming across in a statewide system.  So, we

 5   are able to pull together information that

 6   probably no other state in the country could

 7   do.  So, it's remarkable from that

 8   perspective.

 9        MS. GREY:  Thank you.

10        MS. BUTLER:  I would just note there

11   are -- there were -- there are factors that

12   are statistically relevant to someone's

13   failure to appear or someone's likelihood to

14   commit a new offense that are not considered

15   in the public safety assessment for the

16   specific reason that they -- because of

17   their bias with race or gender.

18        Like for example, the one I can think of

19   off the top of my head is age at first

20   arrest.  That is statistically linked to

21   your failure to appear and failure to commit

22   new offense.  However, it's unfairly biased

23   against minorities.  It was not included in

24   the PSA.  So, a lot of that research was

1    done ahead of time.  As Judge Grant

2    indicated, especially my office is keeping

3    track of the statistics as it goes along to

4    see if any of the factors that we are using,

5    you know, to have that unintended effect.

6        MS. GREY:  Thank you.

7        COUNCILMAN JONES:  Judge, do I see

8    your -- oh, Mr. Rojas.

9        MR. ROJAS:  Can I pivot back to

10   something Mr. Soriano said?  I view the

11   criminal justice system as a system where we

12   get, we facilitate individuals not

13   reoffending.  And when I listen to your

14   overall effort about the players that were

15   involved in the efforts in New Jersey, I

16   just want to ask, how you coordinate with

17   the probation and parole department in the

18   treatment side of corrections?

19       COUNCILMAN JONES:  Good question.

20       MR. SORIANO:  Well, I mean, I think what

21   speaks to that first and foremost,

22   forgetting about the probation side, if you

23   are familiar with New Jersey's drug court, I

24   mean, that's one of the biggest initiatives

1    that Governor Christie put forth during his

2    term -- two terms.  You know, we have a --

3    an extremely comprehensive drug court first

4    and foremost, which is a diversion out of

5    the regular criminal justice system.

6         So, I think there's a lot of emphasis

7    put on that at the outset, at the very

8    outset.  And then I -- you know, law

9    enforcement doesn't necessarily coordinate

10   with probation.  Probation is an arm of the

11   court, not an arm of law enforcement.  And

12   we will -- when someone has violated, we

13   will get involved in the prosecution of the

14   violation of probation.  But I think, and

15   perhaps Judge, I'm not sure if you can speak

16   to this, but we are not the primary

17   collaborators with the probation division.

18        MR. ROJAS:  But what I'm getting at is

19   it's more enforcement as opposed to

20   treatment.  What is the treatment?

21        JUDGE GRANT:  No.  The treatment

22   component, as Mr. Soriano said, is really

23   significant in the probation in a

24   post-dispositional environment.  Our statute

 1   provides -- we get funding from the other

 2   two branches of about $30 million for drug

 3   treatment for people in drug court.  That

 4   money put into the judiciary's budget.  The

 5   judiciary passes that onto the Division of

 6   Addiction and Mental Health Services.

 7        And as Mr. Soriano has talked, we

 8   have -- the State of New Jersey has expanded

 9   its voluntary drug treatment program to a

10   mandatory program under the Christie

11   Administration.  A bill was passed a number

12   of years ago, about six years ago.  We

13   rolled it out over a five-year period.  And

14   now if you are charged with certain eligible

15   offenses, you must undergo a substance abuse

16   evaluation.  And the judge is obligated to

17   make a determination as to whether you can

18   be required to go into drug court or you can

19   proceed to trial.  And so, those are the way

20   the statutory scheme operates.

21        With also with respect to regular

22   probation, unconnected to a drug court

23   program, probation has mental health

24   services and drug treatment services

1   available to individuals as well as job

2   placement services.  We have another program

3   called intensive supervised probation or

4   ISP.  And that takes prisoners out of jail.

5   And it works with certain trained probation

6   officers and provides, again, drug

7   treatment, mental health, employment and

8   other kinds of services.  And we probably

9   have on any annual basis about 1,400 people

10  that come into that program on an annual

11  basis.

12      So again, as part of the reason that New

13  Jersey over the last number of years have

14  closed some of its state prisons because the

15  populations have been reduced both as it

16  relates to drug treatment and also as it

17  relates to ISP.

18      COUNCILMAN JONES:  Thank you.

19      You may proceed again.

20      MR. SORIANO:  I just like to finish up,

21  actually.  By saying last night --

22      COUNCILMAN JONES:  We get excited.

23      MR. SORIANO:  I did a little surfing on

24  the internet.  My daughter would refer to it

 1   as creeping.  I looked at your committee.  I

 2   saw your press conference from February of

 3   2016.  And it was exciting.  I saw the

 4   passion at which many of you spoke.  And I

 5   would say that you're on a roller coaster

 6   ride.  It's going to be a great time.  I was

 7   on that.  And you know, you just don't get

 8   to do this kind of work that many times in

 9   your life.  I commend you all and wish you

10   great success.

11       MS. GREY:  Thank you.

12       COUNCILMAN JONES:  Thank you.  Are you

13   done?

14       MR. SORIANO:  I am all done.

15       COUNCILMAN JONES:  Oh, that was your

16   closing?

17       MR. SORIANO:  That's it.

18       COUNCILMAN JONES:  That's a great

19   closing.

20               (Laughter)

21       MR. ONOFRI:  If anybody wants to talk

22   about Jeff stalking you guys on the

23   internet, we could put a lot of conditions

24   on that so it doesn't happen again.

1        Good afternoon -- good morning.  My name

2    is Angelo Onofri.  I'm the Mercer County

3    prosecutor.  I've been with the county

4    prosecutor's office for 21 years.  And

5    served as a line assistant prosecutor, then

6    the first assistant.  I was the acting

7    prosecutor for 22 months.  And I was sworn

8    into a full term on December 28.  So, I'm a

9    career prosecutor.

10       Little bit of an overview from Mercer

11   County.  We are located in central New

12   Jersey.  We have a population of about

13   375,000 people with over half the population

14   concentrated in Hamilton Township and the

15   City of Trenton, which is our largest

16   criminal complaint producer.  Each year we

17   deal with about 6,500 indictable or what you

18   would call felony complaints.  And my office

19   has a staff of about 200 people, including

20   task force members.  And that's also 48

21   assistant prosecutors and 61 investigators

22   and superior officers.

23       In general, bail reform at Mercer County

24   is working extremely well.  Although we are

 1   experiencing some growing pains, we are

 2   constantly reassessing how resources get

 3   utilized.  As Judge Grant and Jeff Soriano

 4   spoke about the PSA created by the Arnold

 5   Foundation, as a career prosecutor, I was a

 6   little bit concerned there were a lot of

 7   factors that weren't being taken into

 8   account.  However, our practical experiences

 9   been that we have disagreed with the public

10   safety assessment in very few instances.

11       Our office has move for detention about

12   a hundred times.  And according to the

13   statistics that were generated by the

14   administrative office of the courts, it's

15   been granted about 90 percent of the time in

16   Mercer County.  We are fairly judicious in

17   when we move.  And we have had the

18   experience of really working with the public

19   defender's office.  We are resolving a lot

20   of cases at the first appearance.

21       Additionally, I would report that the

22   truly violent offenders and those who seek

23   to subvert the system, those who are the

24   chronic failure to appear folks are the ones

1    being detained.  And the truly violent folks

2    are off the street.  Jeff and Judge Grant

3    had mentioned a little bit about the

4    electronic monitoring.  We are finding that

5    particularly helpful in domestic violence

6    cases.  And as Judge Grant mentioned, there

7    are -- the zones of exclusion are being able

8    to be programmed into the electronic

9    monitoring device, which can include the

10   victim's home, the victim's place of

11   employment, children's schools.  So, it

12   really is a good bit of protection for the

13   domestic violence victim that actually

14   wasn't there before.

15       Additionally, the monitoring system that

16   the administrative office of the court

17   selected is a monitoring system that allows

18   for real time alerts to the police if those

19   zones of exclusion are violated.  So, I

20   think it's an additional layer of protection

21   for the victim.  Our office developed an

22   escalating lea policy, which I think is part

23   of the reason why we are resolving cases at

24   the first appearance.  It's our best offer

 1   ever.  And as I said, we are getting rid of

 2   a good number of cases based on that at the

 3   first appearance.

 4        Since January, bail reform in New Jersey

 5   has really been constantly evolving.  Case

 6   law decisions have impacted on the way that

 7   we proceed.  Perhaps the biggest is a case

 8   that's going to be argued in the New Jersey

 9   supreme court next week, State vs. Robinson.

10   The Appellate Division in New Jersey in that

11   case said that everything that is mentioned

12   in the probable cause affidavit and a report

13   that was created called the PLEIR,

14   Preliminary Law Enforcement Investigation

15   Report, anything mentioned in there from

16   video footage, surveillance footage, street

17   cameras, body worn camera footage, any

18   reports, statements all has to be able to

19   turn over to the defense.  That is probably

20   the one area where it is draining the

21   resources of our office.

22        The body cam footage has to be reviewed

23   to make sure that there's no privileged

24   information in there, that innocent

 1   bystanders are redacted out.  So, it is very

 2   labor and time intensive.  And the example I

 3   can give you is in a recent case, the City

 4   of Trenton Police Department, which is

 5   really strained for resources, spent about

 6   $6,000 reviewing in overtime just to get the

 7   body cam footage ready for detention

 8   hearing.  And from there my office has to

 9   review it both a detective and assistant

10   prosecutor just to make sure that any of

11   this privilege or confidential information

12   doesn't go out.

13       We know that we have to turn it over.

14   It's really just that time frame, then

15   turning it over within that initial 4800

16   hours that really puts a dramatic time

17   strain on the office.  We are also -- but on

18   the good news front, the -- the ability to

19   proceed at the detention hearing by proffer,

20   which is the probable cause affidavit and

21   the PLEIR, have really saved the

22   municipalities a dramatic amount of money in

23   the potential overtime cost.  That has been

24   one of the benefits of our system.

1      Judge Grant and Jeff mentioned that we

2    are constantly evaluating the information

3    that goes into the public safety assessment.

4    One of the examples that I can give you is

5    that we had a recent case, and this also

6    really goes to the discretion issue.  And we

7    don't have to be robotic with it.

8      We had a recent case where there was a

9    strong arm robbery, which in New Jersey

10   would be a second degree crime.  It could be

11   anything from a simple push to actually, you

12   know, beating the person up to hospitalizing

13   them, to a shooting or whatever it may be.

14   The individual in that case came up with a

15   1, failure to appear score.  Meaning, that

16   he was very likely to appear; and a 1, new

17   criminal activity score.  Meaning that the

18   person was very unlikely to commit a new

19   crime.  Person was 56 years old.  And

20   unusual to have your first convic -- your

21   first arrest at 56 years old.

22     When we ran the criminal case history,

23   the reason the person had such a clean

24   record for that time was two weeks before

1   that, he had just been released from a 30

2   year jail term for a homicide.  So, that was

3   a case that we did move on for detention

4   despite the public safety assessment score

5   being a 1 and a 1.  So again, you don't

6   really have to be robotic with it.

7       Just turning to the jail population for

8   a minute, particularly in Mercer County, I

9   would note in Mercer we are paying about

10  $169 a day to house an inmate and that's

11  before medication and any treatment that the

12  person may need.  In February of 2016, the

13  Mercer County jail population was about 550

14  individuals.  In February of 2017, that

15  population was reduced to 381 people, which

16  is a 30 percent reduction from the previous

17  year.

18      The one thing I wanted to talk about a

19  little bit was really just some of the

20  lessons that we learned from a county

21  prosecutor perspective.  The first is

22  training is critical.  The police,

23  prosecutors and, quite frankly, community

24  outreach so the public understands what this

1    system is.  Additionally, with the police,

2    we've also provided not only training on the

3    actual bail reform, but we also -- we also

4    provided training on how the live scan

5    system, the fingerprinting system needs to

6    work to generate all of the electronic

7    information that needs to be generated.

8    Having had the experience of having to

9    appear in front of Judge Grant twice to

10   explain why some of our municipalities had a

11   low compliance rate, we had a -- we had a --

12   we had a big push.  I'm proud to report we

13   have got a 91 percent compliance level with

14   live scan in Mercer County.

15       Additionally, the resources are a little

16   strained.  Someone mentioned about how is

17   the pretrial services unit staffed.  In

18   Mercer County, we have been approved for 15

19   pretrial service workers.  We have eight

20   working right now.  I think the additional

21   folks would help, and if it were fully

22   staffed.

23       The timing issue, you have to get out in

24   front of it really quick just simply to get

1    all this information out.  I know you've

2    been -- been involved with this for a

3    significant period of time.  In New Jersey,

4    it seemed like we had been doing it for a

5    long time.  But that last year, those last

6    six months, the last three months, there was

7    still a really big time pressure for us to

8    make sure everybody understood their new

9    role in the criminal justice system.

10        Additionally, we've -- one of the things

11   that's probably more for the District

12   Attorney's Office and Defender's Office, we

13   realized as of January 1, people who are

14   incarcerated on December 31, they weren't

15   really going to be considered in the system

16   because of the new time constraints that

17   were being placed on prosecutors to public

18   defenders and the courts.

19        My office, starting in May of 2016,

20   began a big push with the Public Defenders'

21   Office as well as our presiding criminal

22   judge to try to clear up a lot of those

23   existing complaints so that we can get those

24   people out of jail so that they weren't

 1   staying in their undue -- for undue periods

 2   of time.

 3       In a lot of cases, it wasn't a fire sale

 4   by any stretch of the imagination.

 5       COUNCILMAN JONES:  You are reading my

 6   mind.

 7       MR. ONOFRI:  It wasn't a fire sale.  A

 8   lot of times, it was really just a

 9   difference in -- in what the sentence was

10   going to be and what was provable.  So, I

11   had all the senior people from my office

12   meet with each of the trial teams, the

13   private counsel, the public defender's

14   office.  And we resolved a really good

15   number of cases.  At the beginning of the

16   year, we were up over a population of about

17   700.  As I said now, we are down to about

18   381.

19       So, it is something that needs to be a

20   focus and needs to be concentrated on.

21       COUNCILMAN JONES:  What I would like to

22   do, if it's okay, we have been joined by my

23   colleague Councilman Kenyatta Johnson.  And

24   what I would like to do, if we could, is

1    hold your testimony.  But allow my colleague

2    and friend to update this committee about a

3    serious piece of work.  And Councilman

4    Johnson has worked with the Temple Law

5    students and the Department of Human

6    Services to do something that I think is

7    truly appropriate to talk about on this

8    committee.  And in fact, Former Commissioner

9    Bethel testified at the hearings that we

10   did.

11       And if I could, if you would indulge me,

12   allow my colleague to give us an update

13   about something he is passionate about.

14       COUNCILMAN JOHNSON:  Sure.

15       COUNCILMAN JONES:  Councilman Johnson.

16       COUNCILMAN JOHNSON:  Thank you,

17   Mr. Chair.  And also, I want to welcome the

18   representatives from New Jersey to

19   Philadelphia City Council as you do your

20   presentation on how we can better improve

21   our bail system here in the City of

22   Philadelphia.  So, I want to personally just

23   say thank you.  And thank all of the

24   Committee Members as well for your diligent

 1   and consistent participation.

 2        Back on -- well, I'm going to go back to

 3   maybe -- maybe October I was approached by

 4   Former Deputy Commissioner Bethel with this

 5   report called Debtor's Prison For Kids.  And

 6   when I started reading the report, I began

 7   coming across all of the information that

 8   really prevent our young people and our

 9   families of young people who go through the

10   juvenile justice system from moving forward.

11        And one of the first things came to my

12   mind was a city of -- was a City of

13   Ferguson.  And how when the justice

14   department came in after the shooting of the

15   young man Michael Brown and began looking at

16   how the City was basically balancing the

17   budget on the backs of those who are being

18   arrested, particularly people who are poor,

19   people primarily in the African-American

20   community.  I thought about how this is the

21   City of Philadelphia.  And this is a

22   practice that we should begin looking at

23   abolishing.

24        And so, my staff began working with

 1   students from the Temple Law Justice Lab as

 2   well as the Youth Sentencing and Reentry

 3   Project and the Juvenile Justice Center to

 4   begin looking at how can we eliminate this

 5   practice here in the City of Philadelphia.

 6       We begin to do the research.  We begin

 7   to put a hearing together which took place

 8   on March 3.  But most importantly, begin to

 9   engage the Department of Human Services.  I

10   want to give credit to Commissioner Figueroa

11   for working with our office.  But also, I

12   want to say that, you know, at the end of

13   the day, we were staying on top of it

14   holding the administration accountable on

15   figuring out a way that we can help rebuild

16   our young people lives without putting their

17   families in debt, and also looking at how

18   one testimony a gentleman gave was how he

19   had a decision to make.  Either his son

20   going into the adult prison system or

21   staying in the juvenile justice system.  But

22   he knew that he couldn't deal with the

23   actual fines, fees and restitutions that

24   came along with keeping his son in the

 1   juvenile justice system.

 2       So, the elimination of this process was

 3   the first thought for those who are

 4   receiving the child support component under

 5   DHS.  To date, they have vacated more than

 6   400 petitions.  I am waiting for actual

 7   dollar amount to be attached to that 400

 8   petitions that have been vacated.  But this

 9   is the type of the iceberg.  But I am a firm

10   believer.  I'm never shy to talk about my

11   path through the juvenile justice system.

12   But again, I'm a Councilperson, 2nd

13   Councilmanic District.  One of -- one of --

14   one of the biggest and most economically --

15   economic asset districts here in the City,

16   one of them.

17       And -- but most importantly, it's an

18   issue I'm passionate about, when we talk

19   about criminal justice reform, we talk about

20   the adult system, right?  But we also want

21   to be proactive in focusing on these

22   juveniles before they become adults.  And

23   growing up in South Philadelphia, I know

24   about my friends who went to juvie hall.

 1   They went to Glen Mills.  They went to

 2   Sleighton Farms.  And a lot of them came

 3   back home and they became the career

 4   criminals in the neighborhood.

 5        So therefore, the grace of god that I

 6   had a judge named Abram Reynolds, right, who

 7   said, okay, because you go to school, you

 8   going to get probation and you going to get

 9   a chance.  From there, I focused on going

10   away to college and getting myself together.

11   But when I think about the mom who came and

12   gave testimony about how all of her taxes

13   were -- her taxes were garnish -- her wages

14   were garnished this year as a result of some

15   poor decisions that her son made, I mean at

16   the end of the day, I'm all for holding

17   young people accountable, helping them build

18   their lives.  But at the end of the day, we

19   have to do it in a way we are not putting

20   people in poverty and we're not separating

21   families based upon the practice.

22        And so, I want to say hats off to the

23   Commissioner Bethel because we came to me

24   and said, Councilman, this is unacceptable.

1   We didn't hesitate to say, look, you know

2   what, we are a better city than this.

3       I thank the Administration for stepping

4   up and saying -- because some of these

5   issues, sometimes we fight back and forth.

6   Administration has a position.  We have a

7   position as Members of Council.  But in this

8   particular situation, we were able to come

9   to a resolve that benefitted the children.

10      And so, we will -- and want -- and I

11  told my staff to make sure all of you get

12  some of this information.  One report is

13  Debtor's Prison For Kids, the High Cost of

14  Fines and Fees in the Juvenile Justice

15  System.  This is from the Juvenile Law

16  Center.  And this project -- this next

17  report is called Double Punishment:

18  Philadelphia's Practice of Charging Parents

19  For Their Child's Incarceration Costs.  And

20  that's by the Youth Sentencing Reentry

21  Project.

22      And so, we will never be a great city

23  until we provide opportunities for our young

24  people to follow their goals, dreams and

 1   aspirations.  I want to acknowledge my two

 2   staff members, Dillon Mahoney and Harris for

 3   staying on the case and making sure that all

 4   of the parties that we were working with

 5   came to the table so we can come to some

 6   type of resolve on this issue.

 7       So, just want to thank you, Mr. Chair,

 8   for allowing me to come and give a brief

 9   update.

10       COUNCILMAN JONES:  The co-chairs would

11   like to also --

12       COUNCILMAN JOHNSON:  Sure.

13       COUNCILMAN JONES:  -- thank you.

14       MS. GREY:  I want to thank you,

15   Councilman Johnson, for taking this issue

16   up.  But I definitely want to thank Past

17   Commissioner Bethel for always being a

18   tireless advocate for juvenile -- is that

19   the right term -- current Bethel for being a

20   passionate advocate for better outcomes for

21   our youth.

22       But I also want to do one thing, and

23   this is not to toot any horn.  But I do want

24   to thank the members of the Defenders

1   Association who work tirelessly behind the

2   scenes to provide information to the Justice

3   Lab of Temple University as well as YVSP --

4   YVSP.  You know, we do work closely.  And

5   this is the benefit of having a lot of

6   organizations in partnership to bring about

7   different things.  Everyone has a role to

8   play.  And I just -- I appreciate the fact

9   that we are communicating more.  We are

10  collaborating more.  And we are bringing

11  about information from each person's vantage

12  point to bring about better outcomes.

13       Thank you for taking all of that into

14  consideration.

15       COUNCILMAN JOHNSON:  Thank you.  For

16  your hard work.

17       COUNCILMAN JONES:  If that is --

18       JUDGE LERNER:  May I?

19       COUNCILMAN JONES:  Yes, Your Honor, and

20  Mr. Rojas.

21       JUDGE LERNER:  Councilman, I want to

22  both a professional and a personal level,

23  owe a huge debt of gratitude to you and to

24  Commissioner Bethel.  I first became aware

1    of this problem shortly before I left the

2    bench where, as you know, part of my

3    assignment was to conduct the

4    decertification hearings for all of the

5    juveniles in the City that the DA had

6    originally charged as an adult.

7         COUNCILMAN JOHNSON:  Yes.

8         JUDGE LERNER:  And it -- this was

9    brought to my attention by the Director of

10   the Youth Sentencing and Reentry Project.

11   And I came to my present position with the

12   City about a year ago with a determination

13   to put an end to this practice.

14        And one of the first things -- first

15   meetings of the enumerable meetings a job

16   like mine entails was with representatives

17   of the justice lab and YSRP dealing with

18   this very issue.  And I thought at the time

19   that everyone in the room, including all of

20   the government officials there, agreed that

21   this contract and this system did not pass

22   the smell test.

23        COUNCILMAN JOHNSON:  Yes.

24        JUDGE LERNER:  And were committed to

 1  doing away with it.  And I have to say --

 2  maybe I shouldn't say this.  But I'm --

 3      MR. BETHEL:  You're the judge.  You can

 4  say it.

 5      JUDGE LERNER:  I'm too old not to.  I

 6  have to say, that I am not certain that

 7  without Commissioner Bethel bringing this to

 8  your attention and the work of your

 9  committee and the attention that it

10  generated, that we wouldn't still be here

11  sitting saying, gee, I wonder when we're

12  going to put an end to this.  So thank you

13  very much.

14      COUNCILMAN JOHNSON:  Thank you, sir.

15      COUNCILMAN JONES:  So, when I asked the

16  Councilman to come down as -- officially

17  present this to this committee so that we

18  can make a motion to adopt it in our

19  recommendations for justice reform.  Justice

20  reform should be reformed, true, moving in

21  the right direction whether it is bail

22  reform, whether it is fines and fees reform,

23  whether it is protection of witnesses

24  reform.  And so, if you would Former

1    Commissioner, Current Fellow Bethel, would

2    you make a motion that we adopt this?

3         MR. BETHEL:  Do I have to read this --

4         COUNCILMAN JONES:  You can ad lib.

5         MR. BETHEL:  I can ad lib.  I guess I

6    will ad lib.  But before I do that, just

7    very quick comment.  I don't want to take --

8    get too much credit for something I just

9    kind of facilitated, you know.  Coming

10   from -- I been a cop for 30 years.  They

11   know this is a new space for me.  But I

12   became very impassionate about working with

13   young people and how we can change their

14   trajectory.

15        So Mr. Soriano, I hear you talk about

16   being a part of the committee and being a

17   part of this work, I was like, are we ever

18   going to really get some of the things done

19   that we want to get done.  And so, it was

20   exciting when I partnered with Councilman

21   Johnson and Councilman Curtis Jones and,

22   obviously, the team up here to say, hey, we

23   can move things around.  Because so much of

24   this is caught in policy.  So much is, yeah,

1    we had these polces that we never took back

2    and took a look at and say, can we change

3    that.  I am excited to hear you are removing

4    that.  Your juvenile are not fined in

5    Jersey?

6         JUDGE GRANT:  That's correct.

7         MR. BETHEL:  That's why --

8         JUDGE GRANT:  The parental piece, we

9    don't have.  We don't have that.

10        MR. BETHEL:  That is why I was excited

11   to hear that.  That is when Councilman Jones

12   jumped on that.

13        I would put forth a motion that we adopt

14   into our recommendations that we eliminate

15   fees across the board for our juveniles and

16   their families as we move forward in the

17   process because I believe that is a

18   significant impediment to the young people I

19   meet who struggle to get out of the system

20   only because of the same issue we had with

21   bail.  They just don't have the funds to do

22   that.

23        I ad libbed that motion.

24             (Duly seconded.)

 1      COUNCILMAN JONES:  I kind of understood

 2   it.

 3      MR. BETHEL:  And my good friend seconded

 4   the motion.

 5      COUNCILMAN JONES:  It's been moved and

 6   properly seconded.

 7      All those in favor of adopting the

 8   recommendations of Councilman Johnson's

 9   hearing on the elimination of the use of

10   fines and fees for juveniles who are in our

11   system and place the burden of payment on

12   the parents, signify by saying aye.

13                  (Ayes.)

14      COUNCILMAN JONES:  All those opposed?

15         (No opposition stated.)

16      COUNCILMAN JONES:  The ayes have it.

17   And it is so moved and included in our

18   recommendations and adopted as part of our

19   report.  Again, colleague, reason I moved

20   next to you was the synergy of making things

21   happen.  So, I am glad it's happening.

22   Thank you, sir.

23      And we will now go back to our original

24   testimony.

1           MR. ONOFRI:  Thanks, Councilman.

2           I think the final thing that I just

3     wanted to add was in Mercer County we are

4     really lucky.  Our county executive say the

5     need for additional funding for my office to

6     hire additional assistant prosecutors and

7     staff to meet our obligations under bail

8     reform.  It is a little time intensive.  We

9     have the assistant prosecutors on call.

10          I think part of the reason Judge Grant

11    mentioned and Jeff the number of complaint

12    warrants have been going down is there is

13    now assistant prosecutor approval required

14    before a complaint warrant can be issued.

15    And I think that's helped to cut down on

16    that number, also.

17          Thank you.

18          COUNCILMAN JONES:  Okay.  Mr. Rojas.

19          MR. ROJAS:  Yeah, I have question.

20    Mercer County is a very diversified county.

21          MR. ONOFRI:  Yes, sir.

22          MR. ROJAS:  Do you have any research on

23    the number of -- of African-Americans and

24    other minorities versus the dominant culture

 1   in terms of the January 1 executive order in

 2   terms of release?

 3      MR. ONOFRI:  I think it's still too

 4   early for those numbers.

 5      JUDGE GRANT:  We will.

 6      MR. ONOFRI:  Yeah.

 7      JUDGE GRANT:  We will have that

 8   information, but not yet.

 9      MS. GREY:  All right.  Well, since our

10   Chair had to excuse himself for a moment, we

11   will move along to the, I guess, last

12   testimony of the morning session.

13      MS. BUTLER:  Good morning.  I think it's

14   still morning.  Meg Butler.  I'm an

15   Assistant Deputy Public Defender in New

16   Jersey.  In New Jersey, the Public

17   Defender's Office is a statewide agency.

18      I'm currently assigned to Camden County.

19   I've been there for the past four years.

20   But prior to that, I was assigned to Mercer

21   County.  And I was there for about four

22   years.  I was not involved with criminal

23   justice reform before it was enacted.  I was

24   wasn't part of that, but I can give a little

1   insight as to how it's been working from the

2   public defender's perspective.

3       It's really difficult for me to

4   overstate how beneficial this is to the

5   clients of the Public Defender's Office.

6   Our clients were, as Judge Grant indicated,

7   a lot of them were held in jail pretrial

8   simply because they could not afford nominal

9   bails.  That is just simply no longer the

10  case.  Low level offenders, like, car

11  burglaries, drug offenses, those kind of

12  offenders are typically now being released

13  on conditions when they would have just sat

14  in jail pending the resolution of their

15  case.

16      I will explain a little bit about how

17  the public -- at what point the public

18  defenders gets into the -- involved and how

19  our representation works.

20      The Public Defender's Office in New

21  Jersey represents people -- typically,

22  represents only people charged with

23  indictable offenses, misdemeanors or

24  disorderly persons' offenses are handled by

1    the Municipal Court and appointed public

2    defender in that township or city.  However,

3    because of the way that this system works,

4    people can be arrested on a complaint

5    warrant and can be going through criminal

6    justice -- bail reform even on a municipal

7    level offense.

8        My office has agreed to represent

9    everyone at the first appearance, which

10   happens 24 to 48 hours.  I think the goal is

11   within 24 hours of arrest.  And it

12   typically, in Camden, has been happening

13   with about 24 hours later.  So, we represent

14   everyone.  And that is regardless of ability

15   to pay.  So typically, obviously, the Public

16   Defender's Office is only representing

17   indigent clients.  However, at the first

18   appearance, we have made an agreement to

19   represent everyone even if they wouldn't

20   otherwise qualify for services.

21       And unlike in Mercer County, we are

22   not -- in my county, we are not resolving

23   cases at the first appearance.  Camden is --

24   the volume is just way too high.  It's not

 1   realistic.  We only have one public defender

 2   assigned to first appearances on each day.

 3   And there just wouldn't -- it's not

 4   feasible.  I'm interviewing 25 to 30 people

 5   in a morning.  It wouldn't be possible to

 6   also review discovery and work out a plea

 7   agreement.  But we are doing our best to

 8   negotiate conditions of release so that the

 9   person can be released then as opposed to a

10   hearing three business days later.  Since my

11   clients are dramatically affected by the

12   additional three days in jail.  If they are

13   likely to be released at this hearing, we

14   try very hard to negotiate for their release

15   at that first appearance.

16        I would note that I have seen --

17   overall, our clients are -- the clients of

18   the Public Defenders' Office very much like

19   the system because most of them wouldn't

20   have been able to afford most bails.  I have

21   now represented people who perhaps I

22   wouldn't have otherwise represented at these

23   first appearance.  We do see people who I

24   think are repeat offenders who are used to

1    getting into the jail and bailing out right

2    away.  And because of, you know, access to

3    funds.  They have more money.  And I think

4    that those people are the ones who are

5    probably -- are likely -- don't know how

6    else to phrase this.  I see people who would

7    say, just get me a $500,000 bail.  I can

8    post a $500,000 bail.  And those are the

9    people who ultimately likely will be held

10   without bail if their scores are such that

11   they should be.  And I have never, as a

12   public defender, have had very little

13   interaction with those kinds of people

14   before.

15       But my point is that, I think that it --

16   from -- from representing everybody at the

17   first appearances, you can see that it is

18   working in that way.  The high risk

19   offenders are -- are going to ultimately be

20   held; but the more lower risk offenders are

21   mostly being released.

22       I can say that before January 1, which

23   is when this statute came into effect, my

24   office did have -- you know, there was a

1    pretty extensive training by somebody at

2    AOC, somebody by the Lauren and John Arnold

3    Foundation and some individuals within my

4    own office.  And it took a lot of

5    coordination with the county jail.  I think

6    that the -- our efforts prior to January 1

7    and coordinating with the county jail is

8    what made this much more successful.  I

9    think it could have gone -- could have gone

10   very -- could have been a lot worse had we

11   not done.  And that -- we have their

12   cooperation with interviewing our -- with

13   their interviewing our clients.  They set up

14   an interview room.  They've done -- their

15   assistance has dramatically affected our

16   ability to advocate for our clients.

17       I think that there are things that my

18   office could have done better.  If we,

19   obviously, had to do it all over again in

20   this most -- I think the biggest thing would

21   be the education or outreach to our clients.

22   I would say that very few, if any, of our

23   clients knew that this was going -- this

24   change was coming or understood it.  So,

 1   it's been an education on the back end.  So,

 2   every day when I go in to do first

 3   appearances, I meet with everyone that's on

 4   that day.  And I give them a quick 10-minute

 5   overview of the new law and how it is

 6   affecting them.  But certainly, I think that

 7   would have been helpful to have done prior

 8   to January 1.  Although, you know, it

 9   wouldn't be everybody.  We can't reach

10   everybody.  But a lot of the county jail

11   inmates become county jail inmates in the

12   future.  You know, so somewhat some sort of

13   outreach to our clients.

14       We talked a lot about the public safety

15   assessment.  And I would highlight that

16   there are factors outside of the public

17   safety assessment that are considered by the

18   courts.  And I think that the judges have

19   been -- although, I think this is true in

20   every county.  The law is not consistently

21   applied among the individual judges on

22   the -- in each trial county.  But the judges

23   have been considering things outside the

24   public safety assessment.  That's mainly the

1    role of the Public Defenders' Office is to

2    argue the things outside of the confines of

3    that public safety assessment.  Or if the

4    public safety assessment is favorable to our

5    client, to really highlight why it's

6    favorable.  I would just -- things --

7    specific things like employment and our

8    investigators have been helping in our

9    office to verify employment, to give proof

10   of employment.  We bring employers in to sit

11   in on these hearings, ties to the community,

12   children, their responsibilities with their

13   children, those sorts of things which are --

14   the history of that particular defendant and

15   their connection to the community.  And

16   that's one of our biggest roles.  I think

17   without that, the trial court would have an

18   incomplete picture of the person's -- the

19   individual defendant's risk to the

20   community.

21       I would just like to respond.  We had

22   some discussion about -- about the -- the

23   conditions of release.  Our statute requires

24   that the least restrictive means necessary

 1  be imposed.  And that's also another part of

 2  my job as the public defender is to -- is to

 3  argue for the least restrictive conditions.

 4  And the -- the reason that is in part of the

 5  statute, I think Judge Grant can correct me

 6  if I'm misstating that, is because the

 7  research shows that over-conditioning people

 8  who are out on pretrial release leads to

 9  failure.  So, the less restrictive the

10  conditions are, the more likely they are to

11  appear and the more likely they are to stay

12  out of trouble.

13      So, I think that we have talked about,

14  you know, mental health referrals and drug

15  treatment referrals.  As public defenders,

16  we are actually advocating that they not be

17  conditions of release because they are not

18  the least restrictive means necessary to

19  ensure their appearance in court and to

20  ensure the don't commit any offenses while

21  on release.  Although, they certainly would

22  be some things that perhaps we would be

23  advocating for on the disposition.  And in

24  terms of probation as terms to present.

1        But it's not -- we do -- we are

2    typically, you know, I think that also the

3    monetary restrictions are important to keep

4    in mind.  That the court actually -- the

5    pretrial services don't really have the

6    funds to be supervising, you know, to be

7    given urine tests and to be supervising drug

8    treatment.  Although, those are occasionally

9    conditions that have been requested by the

10   public -- I mean, the prosecutor's office.

11   I would note that in Camden County as

12   opposed to Mercer County, I believe in

13   January, there was 150 pretrial detention

14   motions filed where only 35 of those were

15   detained.  So in Camden County, the practice

16   has been a little bit different than in

17   Mercer County where they are being more

18   selective in cases where they are seeking

19   pretrial detention.

20       In Camden, I think it's very, very

21   slowly going towards the direction of Mercer

22   County.  However, they are filing in a very

23   large number of cases.  And we are having to

24   have full hearings on those cases.  But the

1    percentage of people that are big held out

2    of the ones filed is much lower than the

3    statewide, which I believe is 50 percent.

4    In Camden, it's around 30 percent now.  And

5    it was even less than that at the beginning.

6    And that's just because of the volume.  The

7    State's filing on more cases.  And again, I

8    do think that that will get -- that will get

9    better as the prosecutor's office is more

10   responsive to how the judges are ruling in

11   these cases.

12       I did just also want to quickly comment

13   on the case law that has come out.  In New

14   Jersey, Mr. Onofri mentioned that the state

15   is able to proceed by proffer at these

16   detention hearings.  Meaning they can -- our

17   law requires that the judge find probable

18   cause exists in order to detain the person.

19   And they are able to establish probable

20   cause by a written statement of the police

21   officer or the arresting officer, written

22   summary.

23       And our -- my office, I was actually the

24   attorney of record on the case, that was

 1   State vs. Ingram.  The appellate division

 2   ruled against me that the state can proceed

 3   by proffer.  We were asking the court to

 4   require a live witness to establish probable

 5   cause.  That case is motion for leave to

 6   appeal has been filed to the New Jersey

 7   Supreme Court.  But we do anticipate it may

 8   go in the state's direction.

 9       But the other case -- the other cases,

10   State vs. Robinson, which I was not

11   personally involved, but it is with regard

12   to the discovery.  The statute and the court

13   ruled -- more importantly, the court rule

14   requires that the prosecutor's office turn

15   over discovery related to the detention

16   application such things as assistant

17   prosecutor mentioned things such as reports,

18   witness statements, surveillance footage.

19   But it's important to keep in mind, it is a

20   heavy burden.  It is only required in cases

21   where they are moving to detain someone

22   pretrial.  So to hold someone without bail,

23   there is a discovery obligation in order to

24   assist defense counsel in preparing for that

1    detention hearing.  Again, keeping in mind

2    that the strength of the case, the nature of

3    the circumstances are things to be

4    considered by the trial court.

5        And so, the position of the Public

6    Defenders' Office is, obviously, that's it's

7    very difficult for us to argue the strength

8    of the case, the nature and circumstance of

9    the offense with the very limited

10   information provided within the affidavit of

11   probable cause.  But we can perhaps argue, I

12   mean, maybe not.  A lot of times discovery

13   strengthens the State's case.  In the case

14   where there is a real issue with regard to

15   the strength of the case, we are able to

16   find that out through the discovery.

17       And I think -- I don't know if there is

18   any questions more about the public

19   defenders role in this.

20       COUNCILMAN JONES:  There are questions.

21       So, the next panel should be tee'd up.

22   I guess they are so that we can --

23       MS. STEVENSON:  Just going to set the

24   slides up here while you guys are --

 1      COUNCILMAN JONES:  Okay.  Cool.  Thank

 2  you.

 3      MS. GREY:  Good afternoon -- I guess

 4  it's afternoon.  From a public defender's

 5  perspective, I do appreciate the role the

 6  defenders play in this reform effort.  I

 7  think you were really going through the

 8  mechanics.  But I really want to talk about

 9  the overall role in reform.  Because we are

10  talking about putting humanizing factors

11  into the process, which sometimes based on a

12  system's structure, was not there.  We look

13  at elements of offense.  We look at

14  accusations.  And we look at current

15  history.

16      And so, I think I do want to talk about

17  that shift that has to employ -- be employed

18  by the Defenders Association or whatever

19  your statewide system is, who represents a

20  good amount of those people that we're

21  talking about were sitting in jail based on

22  low level bail.  Because we are talking

23  about those who are sitting, we are not

24  talking about those who generally could

 1   afford to hire private attorney.  We are

 2   talking about people who defenders

 3   represent.

 4       The mindset, though, to look at that

 5   case and I think you said it as well, on the

 6   front end is really where it is.  Where the

 7   reform ends -- is, is looking at a lot of

 8   these opportunities to understand the

 9   person, the needs at these critical decision

10   making points so that the case outcome is

11   based on understanding the individual versus

12   just what they're accused of.  And I think

13   that as me as a public defender, I really

14   appreciate that and what resources it takes

15   to put on that front end analysis.  Because

16   we used to wait until the back end after

17   they were found guilty or pled guilty.  Now

18   we are trying to figure out who they are and

19   what they need to rehabilitate.

20       And so, there are things I wanted to ask

21   you as a public defender, in terms of

22   looking at needs and funneling people into

23   those treatment opportunities very early on

24   even though they are not found guilty, maybe

 1   it's not a condition of the release, but it

 2   is kind of like a new strategy and a new

 3   methodology that the defenders are

 4   employing --

 5       MS. BUTLER:  Oh, absolutely.

 6       MS. GREY:  -- to be problem solvers.

 7       MS. BUTLER:  Absolutely.  I think -- we

 8   are -- I think it starts with the fact that

 9   we are meeting with these people much

10   earlier in the process than we ever have

11   been before because of the way the law

12   requires this being so speedy and they're

13   entitled to counsel at this first

14   appearance.  So, we are able -- I've never

15   been in the jail with somebody 12 hours

16   after someone had been arrested.  Our system

17   didn't allow for that.  But now -- so, I'm

18   seeing people at a much -- much earlier

19   stage.  People who haven't been medicated

20   who are off their meds, people who are dope,

21   sick, but very obvious signs that there is

22   another issue here that could be addressed.

23       And our -- my office, and I think with

24   the assistance of the court, has gotten --

 1    we have a whole book of referrals.  We have

 2    worked with to -- well, not make it a

 3    condition of release to not restrict them in

 4    that way.  We have been, obviously, very

 5    much at a much earlier process able to

 6    identify and use that as a strategy to

 7    perhaps get someone into the drug court

 8    program, to get -- to see if people have

 9    means or to get them Medicaid so they can

10    get themselves to a drug treatment program

11    or mental health program and to seek an

12    alternative resolution that involves those.

13        MS. GREY:  Do you find it is -- I don't

14    know what your research or what data you

15    guys collect.  But do you find in terms of

16    your case, disposition case outcomes, that

17    it has been better overall in terms of

18    trying to reduce recidivism.  I don't know

19    how far out you look at your recidivism

20    rates.  But in terms of getting what we

21    would call more creative approaches to

22    dealing with social issues versus the

23    punitive approaches we apply.

24        I will ask this, please, don't

1    underestimate or understate the important

2    role defenders have in this.  I know we hear

3    a lot and people say, this is a law

4    enforcement driven type of initiative.  But

5    if you don't have people on that other side

6    talking about the other factors that are

7    very relevant to now what we are knowing

8    reform requires, humanizing,

9    individualizing, then this is not going to

10   work.

11      And I think that as defenders sometimes,

12   we take a reactive approach rather than a

13   proactive approach.  And reform requires

14   more involvement by defenders, more voice,

15   more -- different types of analysis by

16   defenders than traditionally.

17      MS. BUTLER:  I agree.  Well, I can --

18   there is a couple of things there.  One I

19   think --

20      COUNCILMAN JONES:  Spoken in a

21   nonpartisan.

22      MS. GREY:  No.  I want to get to the

23   truth.

24      MS. BUTLER:  I think it is too soon in

1    terms of -- in terms of this just went into

2    effect in January.  And very few of the

3    cases of people who are arrested in early

4    January have already been -- are already at

5    the disposition stage.  It's kind of

6    difficult to see that so soon.  I would note

7    that the public defender in New Jersey

8    had -- whole state joked -- was a big

9    proponent of bail reform and was one of the

10   main driving forces behind it.  So, it did

11   come not just from a law enforcement

12   perspective but also from the public

13   defender.  I personally wasn't involved in

14   that statement.

15       JUDGE GRANT:  Let me echo the statement

16   that you just made.  That without both sides

17   of the criminal justice system, that is the

18   Attorney General, the prosecutors and the

19   public defender agreeing to these series of

20   changes, we would not be here today.  So, it

21   takes all of the criminal justice system for

22   this kind of systemic change to occur and to

23   be successful.

24       So, she's absolutely correct that our

1    four attorney generals that were involved in

2    it and our public defender have been

3    critical to the success of this program.  I

4    will add this.  This change is still in its

5    embryotic stages.  And when you're dealing

6    with change of this systemic nature, you

7    have a long hurdle to go.

8        So one of the -- I will give you four

9    Cs.  The first thing is to get the

10   commitment of all the principal players

11   there.  You really got to get the commitment

12   and the sustainable commitment because

13   people will change.  Commissioners will

14   change.  Public defenders will change.  And

15   so, if you don't have the sustainable

16   organizational commitments to this, you're

17   going to lose it.

18       You'll also need associated with that is

19   the collaboration that we have had with all

20   -- all of our criminal from prosecutors,

21   county jail, county.  There are some people

22   complaining about money.  But at the end of

23   the day, they have all stepped up to provide

24   a very sustainable funding level to make

 1   this process possible.

 2       And the other thing is just change

 3   itself.  People by nature are reluctant to

 4   change.  Right?  We get into our own habits.

 5   You know, we get -- driving to work a

 6   particular way.  We do it all the time.  And

 7   so when you change that, you also have to

 8   deal with that.  That's where the muscle

 9   memory of saying we are committed to it.  We

10   are going to continue to collaborate become

11   so critically important.

12       I would say those were the foundational

13   principles that you guys need to face.  This

14   work is going to be a heavy lift.  It's not

15   going to be a light lift if you are talking

16   about doing something similar to what we did

17   in New Jersey.  It's going to be very, very

18   significant.  And you should expect the

19   opponents to change to come out in

20   significant ways, as well.

21       COUNCILMAN JONES:  John Hollway.

22       MR. HOLLWAY:  Thank you.  Judge, I thank

23   you for those comments.  I think the main

24   reason that I'm on this panel is that Madam

 1   Chairwoman knows that I believe very

 2   strongly that all change has to be

 3   multi-stakeholder in the criminal justice

 4   system.

 5       To that end, Mr. Onofrio -- did I

 6   pronounce that right?

 7       MR. ONOFRI:  Onofri.

 8       MR. HOLLWAY:  Sorry.  You mentioned that

 9   there is a plea escalation policy that you

10   have in place.  And I'm curious how the

11   interplay is with that and the risk

12   assessment tool?  It seems to me that that

13   might be two variables in play.  It might

14   make it harder for us to understand really

15   the causation of the risk assessment tool.

16       MR. ONOFRI:  Really, it's -- the

17   escalating plea policy comes in at the

18   various stages.  So, your best offer is

19   going to be at the first appearance, which

20   is within the first 48 hours of arrest.  The

21   next best offer comes at the detention

22   hearing.  Then another offer after

23   indictment.  And then another after it's

24   scheduled for trial.

 1        MR. HOLLWAY:  Is it guaranteed to step

 2  up?

 3        MR. ONOFRI:  Yeah, it is.

 4        MR. HOLLWAY:  Okay.

 5        MR. SORIANO:  Can I just add to that?

 6  Because having participated in the writing

 7  of the Attorney General Directive, I can

 8  shed a little light on this.

 9        So, we now know and we anticipated that

10  more people would be charged by way of

11  complaint summons.  So, they're out on the

12  street in their communities without the

13  incentive -- if we're going to be

14  intellectually honest -- the incentive that

15  they used to have while they were sitting in

16  the county jail to resolve their case.  And

17  it's a tremendous number.

18        So in formulating our policies, we came

19  to a determination that it made sense to

20  engage with these people as early as

21  possible, make your best offer as early as

22  possible and then maintain that position.

23  As time went on, as stages of the criminal

24  justice process went on, the offer got worse

1    from a defense perspective.  So, you were

2    trying to incentive people to pay attention

3    to their cases early.  Because what favors a

4    defendant when he or she is out on the

5    street is time, right?  Prosecutor's case

6    never gets better with time.  And our

7    concern was that these were going to go on.

8        There are no speedy indictment

9    requirements on cases charged by way of

10   complaint summons.  No speedy trial

11   requirements on those cases.  And we need it

12   to undertake a policy that would cause both

13   defense counsel and defendants to pay

14   attention to our early offers.

15       MR. ONOFRI:  If Jeff promises not to

16   listen, Mr. Hollway, I'll -- really.

17       MR. HOLLWAY:  The microphones are just

18   for volume.

19       MR. BETHEL:  The cameras, disregard

20   them.

21       MR. ONOFRI:  There is a lot of factors

22   involved that could cause us to deviate from

23   that.  If one of your witnesses, you

24   suddenly can't find them, that would cause

 1   us to deviate from the escalating policy.

 2   If there is an issue with the evidence or

 3   something gets suppressed, that would also

 4   cause us to reevaluate the situation.  And

 5   the Attorney General's Directive gives us

 6   that kind of flexibility to accomplish that.

 7        MR. HOLLWAY:  So, I didn't really intend

 8   the question to -- to turn into a

 9   conversation about plea escalation policy.

10   But I guess what I would wonder is

11   whether there's the possibility, then, that

12   the plea escalation policy is incentivizing

13   people rather than getting -- taking

14   advantage of the new detention or the new

15   release policies to plead at this early

16   stage.  And therefore, it might be skewing

17   your data as to the impact of the policies.

18        MS. BUTLER:  I can just comment that

19   that does not happen in Camden County.  We

20   don't have plea offers at first appearance,

21   and we don't have plea offers at detention

22   hearings.  So we, at least in Camden County,

23   we do not have people leading guilty to

24   avoid a detention hearing.  It's just --

1    it's a much bigger county.  And the volume

2    would never allow for us to have that kind

3    of time to -- that would require me with my

4    client in order to go through a plea form.

5    And to, you know, review discover.  I just

6    don't know if it's happening in every

7    county.  I think that it's certainly not in

8    Camden County.

9        MR. HOLLWAY:  My other question would

10   be, obviously as we implement these

11   policies, three are always unintended

12   consequences or consequence that we -- we

13   then decide we want to change.  Given what

14   you guys know now, I would ask each of you

15   what's the one thing you want to modify from

16   where you are today?

17       COUNCILMAN JONES:  That's good.

18       JUDGE GRANT:  My only comment would,

19   again, be the community outreach.  And it

20   was raised by Prosecutor Onofri.  The issue

21   of engaging in the community outreach

22   becomes critically important.  There is no

23   risk or, excuse me, there is no pretrial

24   release program, whether it's money bail or

 1   whether it's a program based upon a PS --

 2   PSA that would be a hundred percent

 3   successful.  Every release program, the only

 4   way you can ensure that anybody who is

 5   charged with a crime will not commit another

 6   offense while out on release is you detain

 7   that individual.

 8       So, the community needs to know that

 9   there are risks associated with any release

10   of an individual.  And what we are able to

11   do with this new program is to measure that

12   risk and to manage that risk better than the

13   other way.  As you hear now, many of the

14   defendants don't even know it.  Much of the

15   community doesn't even know it.  This

16   outreach becomes critically important to

17   understand that.

18       We have people on bail that have done

19   horrible things.  We will have people on

20   this release program that will do some bad

21   things as well.  It is a risk-release

22   program.  It's saying you have the

23   constitutional right to presumption of

24   innocence.  We are releasing you and trying

 1   to do best we can.  But it's not a hundred

 2   percent guarantee.  That's really the

 3   challenge you got to educate and inform the

 4   community about.

 5       COUNCILMAN JONES:  Let me ask the

 6   elephant in the room question.  Since this

 7   program has begun, what statistics of people

 8   no show or reoffending are there?

 9       MR. ONOFRI:  I can answer from the

10   county perspective, Councilman.  We have had

11   very few people who have been released

12   pretrial that have reoffended.

13       MR. SORIANO:  We collect data at

14   criminal justice.  And the -- what we're

15   looking for is significant crimes committed

16   while on release.

17     (Committee Member's cell phone rings.)

18       MR. SORIANO:  And I can say that we

19   haven't seen a whole lot of reported

20   significant crimes.

21       COUNCILMAN JONES:  You can tell a lot

22   about a person by their ring tone.  Looking

23   forward to the draft, huh?

24       MR. BETHEL:  I had one quick question,

1   maybe outside the scope of what we're

2   talking about.  But you mentioned body

3   cameras and impact it's having on -- across

4   your entire process.  The Attorney General's

5   Office has the policy for the State.

6       Is there going to be changes around the

7   policy as relates this?  Or you guys -- I

8   know you guys have one big county.  North

9   getting ready to come on with cameras and

10  the like.

11      MR. SORIANO:  If we are going to be

12  really frank about this, Meg mentioned -- I

13  think you mentioned a decision coming up on

14  Robinson.  We have a Supreme Court argument

15  coming up on the 12th of Wednesday.  And

16  that will weigh in heavily as to what

17  happens with body cameras.

18      And I say that sincerely in the sense

19  that if it becomes overly burdensome to be

20  able to review and produce the footage at a

21  -- at the time of first appearance, which

22  happens in many instances, it's a double

23  edged sword.  We want to get these people

24  into the county jail and then out of the

1    county jail at their first appearance as

2    quickly as possible, right, in fairness to

3    them.  But then that creates a burden on law

4    enforcement because we have a discovery

5    obligation that matures at the first

6    appearance.

7        Sometimes they are picked up, arrested,

8    processed.  They hit the county jail at

9    2:00 a.m.  And on a Saturday afternoon at

10   1:30, they are there at their first

11   appearance.  It's impossible to review the

12   body-worn camera footage, redact that

13   footage and then supply it to a defense

14   attorney within that amount of time.

15       If -- if the decision comes out in a

16   certain way --

17       COUNCILMAN JONES:  What is at risk in

18   this decision?  What is being --

19       MR. SORIANO:  The scope of discovery at

20   the first appearance.  If the State moves

21   for detention -- and again, that's the

22   exception that's not the norm.  If the State

23   moves for detention, the State has a

24   discovery obligation that matures at the

1    first appearance.  So how burdensome might

2    that be, I mean, stay tuned.  Follow the

3    decision.

4        MR. ONOFRI:  But in general, the police

5    departments are very happy with the body

6    worn cameras.  It's really cut down on the

7    number of demeanor complaints against police

8    officers.  It has picked up a lot of

9    information, particularly in domestic

10   violence cases.

11       As you may be aware, a lot of the

12   body-worn cameras are in high def.  So

13   instead of that Polaroid picture of the

14   victim, you are have now having a high def

15   picture of the victim's injuries.  Sometimes

16   the defendant says some things on there that

17   are helpful to us.

18       And -- it happens.

19       MR. BETHEL:  We will strike that from

20   the video.

21       JUDGE GRANT:  I want to add one other

22   commercial for the New Jersey system.  We

23   were concerned about having to start court

24   on a Saturday.  We were concerned about the

1    cost to the counties.  Counties have

2    Sheriff's officers that open our courthouse.

3    What we created is what we call a virtual

4    courtroom.  The judge is from his or her

5    house.  The public defender can be at the

6    county jail having a conversation with his

7    or her client.  And the pretrial services

8    officer is available at the courthouse.

9         We, therefore, were able to do that in

10   18 of our 21 counties right now.  And we

11   saved the counties a substantial amount of

12   money by creating and utilizing technology.

13   Again, shows New Jersey's sophistication and

14   strong technological background.

15        That's my commercial.

16        COUNCILMAN JONES:  That's another

17   independent --

18        MS. BUTLER:  I would just note as a

19   public defender, it's much more difficult

20   for us to do our job virtually.  So, we are

21   typically the ones who have to have be able

22   to have the face-to-face interview with our

23   clients.

24        COUNCILMAN JONES:  So, we are at the --

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 1   I am just going to tell my fellow members,

 2   we are at the two-hour mark for this one

 3   panel.

 4       MR. ROJAS:  I have one question.

 5       COUNCILMAN JONES:  Okay.  Go ahead.

 6       MR. ROJAS:  In New Jersey, the voters

 7   vote on a referendum to get to the criminal

 8   justice.  What advice would you have for us,

 9   what strategies did you use to get the

10   voters to actually vote for this referendum?

11       JUDGE GRANT:  So, we had -- we had many,

12   many executive branch leaders including the

13   governor.  We had senators, senate

14   president, speaker, all were involved in the

15   creation of the legislation to put a

16   constitutional amendment on the ballot.

17   They were responsible for putting the

18   statutory changes on the legislative floor

19   for vote and approval.

20       So again, it starts out with the

21   commitment of leadership.  So if this is a

22   Philadelphia ordinance that is trying to be

23   implemented, you need to make certain that

24   you've got all of the significant players:
```

 1    The Mayor, the Council President, a

 2    significant body of the Council leadership

 3    all invested as well as the administrative

 4    agencies, including the police department,

 5    particularly including police department in

 6    this initiative.

 7        MS. GREY:  I just have a quick question.

 8    Before you guys went to video, I guess,

 9    arraignment, it's not a -- and that's where

10    the probable cause hearing --

11        JUDGE GRANT:  Yes -- no.

12        MS. BUTLER:  So, probable cause is

13    only -- probable cause, we only have a

14    probable cause hearing in cases where the

15    State has moved to detained.  The other

16    ones, probable cause is left for the grand

17    jury.  It's at a detention hearing which is

18    typically three business days after the

19    first appearance.  The State -- the State

20    must first establish probable cause, and

21    then the actual judge will hear about the

22    detention.

23        MS. GREY:  Are those hearings done via

24    video?

 1       MS. BUTLER:  They are not.  They are in

 2  person.  The defendant is in person.

 3       MS. GREY:  Okay.

 4       MS. BUTLER:  Everything else -- the only

 5  thing done by video is the first appearance.

 6  In my county, I'm actually within the jail

 7  with my client.  I am appearing remotely

 8  with them.  I know in some other counties,

 9  the public defender goes to court.

10       MS. GREY:  When you say first

11  appearance, for the people who are not --

12       MS. BUTLER:  It's like an arraignment.

13  It's very quick, you know, they read them

14  their rights.

15       MS. GREY:  Is your arraignment just a

16  reading of the charges to inform the person

17  of what the actual charges are against them.

18       MS. BUTLER:  Right.  And now the judge

19  will explain if you are going to be

20  released, the judge will explain the

21  conditions of your release.  If the State

22  has filed to detain, he'll schedule the

23  detention hearing.

24       COUNCILMAN JONES:  Thank you.  And I

1   just want to say we appreciate sharing your

2   experience here with us.  And we are

3   thankful that you went through a lot of the

4   learning curve for us.  And hopefully, we

5   will be able to stand on the shoulders of

6   giants because of it.

7       So thank you all for your testimony.

8       MR. ONOFRI:  Councilman, if I just

9   could, one of the things that our office and

10  several of the county prosecutors office

11  found to be very help was we spent three

12  days in Washington, DC, which was one of the

13  innovators of the bail reform measures.

14  They have been doing it since 1992.  The

15  system is excellent there.  And I would just

16  encourage if you do that.

17      COUNCILMAN JONES:  We spent some time in

18  DC, as well.  We wanted our Jersey cousins'

19  opinion, as well.

20      MS. BUTLER:  You're welcome across --

21  you're welcome right across the bridge in

22  Camden.  Come in any time.

23      MS. GREY:  We keep hearing that -- we

24  keep hearing that DC has too much money, and

1   that is why it works fine.  I am glad that

2   you talked about creative ways to fund these

3   initiatives.

4       COUNCILMAN JONES:  They taut the fact

5   that they spend a lot of --

6       JUDGE GRANT:  $50 million.

7       COUNCILMAN JONES:  There you go.  And

8   so, we heard that number and it spun around.

9   Is that the Mercedes Benz version?  Where is

10  the Ford version?

11      JUDGE GRANT:  So, the District of

12  Columbia's population is what, probably

13  400,000.  New Jersey has 7-million plus

14  population.  And so, their pretrial services

15  budget is $50 million.  Our is 22.  And look

16  at the population difference.  So, that

17  explains that.

18      They really do have the Cadillac or

19  Mercedes Benz model as you say.

20      COUNCILMAN JONES:  That's all right.

21  again, if there are no questions for this

22  panel, we just want to express our thanks

23  and gratitude.

24      Ms. Williams, are you there?

1      CLERK:  I'm here.

2      COUNCILMAN JONES:  Could you read the

3  next panel of witnesses to testify.

4      CLERK:  The last panelist is Megan

5  Stevenson from University of Pennsylvania.

6      COUNCILMAN JONES:  Thank you for your

7  patience.  We appreciate you doing that.  I

8  hope you were able to benefit from some of

9  the information shared.

10      And with that, would you state your name

11  for the record and please begin your

12  testimony.

13      MS. STEVENSON:  My name is Megan

14  Stevenson.  I'm an economist and a legal

15  academic who studies bail reform among other

16  things.  And thank you so much for the

17  opportunity to present to you today.

18      An influential supreme court ruling,

19  Chief Justice Renquist wrote:  "In our

20  society, liberty is the norm.  And detention

21  prior to trial or without trial is the

22  carefully limited exception."

23      While this may be an aspiration, it is

24  not remotely true in fact.  Of the

1    2.2 million people currently incarcerated in

2    the United States, one out of five of them

3    are detained pretrial.  Pretrial detention

4    is not only the gateway to mass

5    incarceration, it is mass incarceration.

6    There are more detained pretrial then there

7    are currently serving time due to a drug

8    sentence.

9        Concerns over these high human and

10   taxpayer costs have prompted a surge of

11   reform around the country.  While bail

12   reform has many prongs, one important part

13   of it has been reducing or eliminating the

14   use of money bail.  The idea behind this is

15   that detention should be based on the risk

16   of crime or flight, not based on whether or

17   not you can afford the amount of bail that's

18   been set.

19       Now bail reform comes from a variety of

20   sources.  First, some of the pioneers in

21   reducing or eliminating cash bail, as we

22   have mentioned already, Washington, DC, a

23   large urban area with large crime rates has

24   been very successful in operating without

 1  cash bail for several decades.  Other early

 2  pioneers are Kentucky and now New Jersey.

 3      At least half a dozen states around the

 4  country are currently considering

 5  legislation to reduce or eliminate cash bail

 6  entirely at the State level.  But reform is

 7  not only coming from legislation, it's also

 8  coming from the judiciary.  And a handful of

 9  states recently, the highest courts have

10  passed down a rule moving against the use of

11  money bail.  Saying money bail essentially

12  should be used as a last resort after other

13  means of ensuring appearance and public

14  safety have been exhausted.  It can also

15  come from outside the system.

16      There's a group called Equal Justice

17  Under the Law that have been filing lawsuits

18  against municipalities small and large

19  around the country.  This is including both

20  rural counties and big cities like Houston

21  and San Francisco.  So far, they've been

22  very successful in getting jurisdictions to

23  change their policies.  Now, this is just a

24  handful of bail reform around the country.

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 1   It's -- it's happening in lots of different

 2   places.  It's coming about from a variety of

 3   different sources.  Some of them surprising.

 4   In some jurisdictions, it's the sheriff or

 5   the district attorney that's pushing for

 6   reform.  There is support for reform on both

 7   the left and the right.

 8       One of the main goals of reducing money

 9   bail is lower jail populations.  Jails

10   around the country are bursting at their

11   seams.  About three quarters of them are

12   jail inmates are awaiting trial.  And the

13   annual estimated cost of pretrial jail bids

14   is about $14 billion.  Now this cost is not

15   just borne by the taxpayer, of course, there

16   is large human costs of pretrial detention,

17   including besides the loss of liberty, loss

18   of job, housing, child custody as a variety

19   of recent research has shown, including some

20   of my own research here in Philadelphia.

21   Pretrial detention makes you more likely to

22   plead guilty and plead to unfavorable terms.

23       I wanted to show you some data from here

24   in Philadelphia.  This graph here shows the
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1    fraction of defendants that are detained

2    pretrial at various bail amounts.  Now, I

3    want to draw your attention to the column at

4    the left which shows the fraction of

5    defendants that are detained for more than

6    three days after their bail hearing who have

7    bail set at $500.  Now once again, in

8    Philadelphia, if your bail is set at $500,

9    you only need to pay a $50 deposit in order

10   to get out.  And yet, 40 percent of these

11   people that have bill set at $500 remain in

12   jail four days after the bail hearing.  And

13   the majority are there until the time of

14   disposition.

15        Now for the purposes of this exercise, I

16   have removed from the sample any defendants

17   that have a detainer or some sort of hold on

18   them that would prevent them from going home

19   even if they have paid the bail amount.

20   While there may be a few defendants who

21   are --

22        JUDGE LERNER:  Pardon me?

23        MS. STEVENSON:  -- whatever personal

24   reason prefer to remain in jail -- let me

 1   just finish this, this last point.

 2        JUDGE LERNER:  Pardon me for this

 3   interruption.  But you just gave the

 4   statistic about the percentage of people or

 5   the number of people in Philadelphia County

 6   prison on low money bail who are still in

 7   custody.

 8        How many of those people, if you know,

 9   are there because of another hold in

10   addition to their bail?  A probation

11   detainer being the most common possibility.

12        MS. STEVENSON:  In this exercise, I have

13   removed from the sample anybody who has a

14   detainer or a hold.  This is just people

15   that do not have any detainers or holds on

16   them.  And let me be clear.  I'm not saying

17   the fraction of people in jail.  I'm saying

18   the fraction of defendants who spend four

19   days or more in jail after the bail hearing,

20   because that's the data I have access to.

21   It's a slightly different number but similar

22   idea.

23        JUDGE LERNER:  Okay.  Thank you.

24        MS. STEVENSON:  So as I was saying,

1    while it may be that a fraction of these

2    people prefer to remain in jail for whatever

3    personal reason, I think it's safe to say

4    that many or the majority would prefer to go

5    home if they could afford to pay their bail

6    amount.

7        To give you some aggregate numbers, and

8    once again these numbers are referring to a

9    group of people that spend four or more days

10   in jail after the bail hearing at least,

11   about a third of them are being held on

12   $5,000 or less.

13       Another goal of reducing money bail is

14   reducing racial or socioeconomic disparities

15   in detention.  Requiring people to pay in

16   order to get out of jail is, in effect,

17   discrimination on the basis of wealth.  And

18   since race and wealth are highly correlated

19   in this country, this results in disparate

20   impact on communities of color.

21       This chart here is also data from

22   Philadelphia.  The red bar shows the

23   fraction of defendants of -- defendants that

24   are labeled Black in the arrest report that

1   are detained pretrial.  And the blue bar is

2   the fraction of non-Black defendants, that's

3   Whites or Asians or mixing race defendants

4   who are detained.  You can see from this --

5   this chart, that Black defendants are

6   40 percent more likely to be detained

7   pretrial then non-Black defendants.  Now

8   part of this is coming from the fact that

9   Black defendants are facing more serious

10  charges and have a long criminal record.

11  And accordingly, they have higher bail set.

12  But another part of this disparity is coming

13  from the fact that for a given amount of

14  bail, Black defendants are less likely to

15  post.

16     So for example, for bail amounts of

17  $5,000, 56 percent of non-Black defendants

18  post bail and are able to go home.  Whereas,

19  only 46 percent of Black defendants post

20  bail.  Average household income for Black

21  households in Philadelphia is about

22  two-thirds that of White households.  I

23  think it's likely that disparity in posting

24  a given amount of bail is due to differences

 1   across races and income, wealth and access

 2   to credit.

 3       Just to complete, this green bar here

 4   shows the fraction of Black defendants that

 5   would be detained pretrial if they posted

 6   bail at these higher rates similar to

 7   non-Black defendants.  The difference

 8   between the green bar and the red bar can be

 9   thought of as sort of the discriminor --

10   wealth discrimination effect of money bail

11   which accounts for about half of the total

12   of racial disparities in detention rates.

13       The final goal in reducing bail is

14   improved public safety.  And this might seem

15   a little surprising at first.  You think you

16   are putting more people out on the streets.

17   The more people you have in the streets, the

18   more crime you are going to have.  That

19   might be -- that's one argument.  But the

20   other story is, you are not just releasing

21   more people pretrial.  You are making

22   smarter decisions about who is being

23   detained.  As the gentlemen have discussed

24   earlier, what you are doing is able to keep

1    the high-risk defendants who happen to have

2    the resources to post bail behind bars, but

3    you are letting free the low-risk defendants

4    who are being held because they can't afford

5    a few hundred or a few thousand dollars in

6    bail amounts.

7        Now, these are the goals.  There are

8    some concerns about reducing money bail.

9    And the -- one of the concerns, one of the

10   top concerns is increased crime.  And I

11   think the jury is out on the extent to which

12   reducing money bail affects crime.  There

13   are these two factors.  You are releasing

14   more people, but you are making smarter

15   decisions on who to release.  And how it

16   works on net I think will depend a lot by

17   jurisdiction and by how it's implemented.

18       The second concern with reducing money

19   bail is decreased appearance rates.  You

20   know, if you no longer have a financial

21   incentive to show up, you may be less likely

22   to show up.  I think this is also a valid

23   concern and part of the -- part of the

24   package of concerns that decision makers are

1    faced when implementing such types of

2    reform.

3        However, there are strategies that can

4    help mitigate these concerns.  One is using

5    risk assessment tools to help improve

6    decision making as a supplement to, you

7    know, the discretion of a judge.  And the

8    idea here is, again, you are helping to make

9    smarter decisions about who to release so

10   that we can ensure that there is a broad

11   access to liberty among defendants while

12   also protecting public safety and appearance

13   rates in course.

14       A second one is providing court

15   reminders.  And this can go beyond the

16   automatic robo calls.  I know the

17   Philadelphia Defender Association is moving

18   towards developing a system of automated

19   interactive customized text message.  This

20   is a very hi-tech advancement that they are

21   interested in putting forth.  I think these

22   are the types of things that can be done to

23   help increase appearance rates and stay

24   connected with defendants while they're

 1   released.

 2       Another piece is connecting defendants

 3   to services that they need.  I think as

 4   anybody who has worked in the courts know,

 5   that a lot of the frequent flyers are

 6   dealing with a lot of issues.  They are

 7   dealing with mental health issues,

 8   homelessness, troubles with employment and

 9   so forth.  So if you can connect defendants

10   to the services that are going to help

11   address some of these root causes of -- of

12   crime and nonappearance, that is going to be

13   an important part of the package.

14       I don't have this listed up here.  But

15   the other -- another thing that can be used

16   instead of bail that requires a deposit is

17   unsecured bail.  So that creates, you know,

18   sort of a middle ground.  It retains some of

19   the incentive for defendants to show up at

20   their court appearances while at note, at

21   least, putting any discrimination on the

22   front end in terms of who is jailed and who

23   isn't.

24       And then finally, you can selectively

 1   use evidence-based pretrial supervision

 2   practices.  I want to highlight selectively

 3   because a lot of the pretrial supervision

 4   practices do create serious intrusions upon

 5   the defendant's liberty and come at

 6   significant cost.  And I want to highlight

 7   evidenced-based because there are a number

 8   that are being used currently that do not

 9   have evidence to support them.

10        And I can talk more about that if you

11   are interested, but these are the -- that's

12   the main gist of what I wanted to say.  But

13   just to summarize a few of the key

14   takeaways.  In Philadelphia, many defendants

15   are currently being detained pretrial solely

16   for an inability to pay low amounts of bail.

17   Money bail is contributing to racial and

18   socioeconomic disparities in detention.

19        If Philadelphia decided to move to a

20   reduced or eliminated use of money bail,

21   they would not be the outliers.  This is --

22   this is going on across the country.  And in

23   fact, you can even say that changing money

24   bail policies preemptively might avoid an

1    expensive lawsuit in the future such as what

2    Houston and what San Francisco are

3    experiencing.  And while there are concerns

4    with the reducing or eliminating the use of

5    money bail, there are also a number of

6    strategies that can help mitigate these

7    concerns and make this is a successful

8    practice.

9         COUNCILMAN JONES:  Excuse us.

10        My co-chairs are very excited about your

11   testimony, so I might have to flip a cone on

12   who went first.

13        MR. BETHEL:  We're going to defer to the

14   Judge first.

15        COUNCILMAN JONES:  We're going to defer

16   to the Judge.

17        JUDGE LERNER:  I know you're an

18   economist and John's the lawyer, but I need

19   to ask this question at the outset.  Has any

20   of the research that the Quattrone Center

21   has been doing on this issue also considered

22   the legal aspect of just what Philadelphia

23   has a right to do considering that most of

24   our criminal justice system is governed by

 1   state law?

 2        MS. STEVENSON:  Yeah.

 3        JUDGE LERNER:  Even if we chose to

 4   reform dramatically this area of our

 5   criminal justice system, where does our

 6   authority start and stop and the state's

 7   authority supercede us?

 8        MS. STEVENSON:  So with the caveat that

 9   I'm not a lawyer -- my understand -- one of

10   the -- one of the components of a dramatic

11   reduction of money bail or an elimination of

12   money bail has been giving the jurisdiction

13   the ability, the legal ability to detain

14   someone who they consider poses a serious

15   risk without the use of money bail.  And

16   that is why New Jersey's reform came with an

17   amendment to their constitution, same as New

18   Mexico.  My understanding is that would be

19   required in Pennsylvania, as well.

20        That means that eliminating money bail

21   is unlikely to be -- entirely unlikely to be

22   feasible at this stage.

23        JUDGE LERNER:  I'll say.

24        MS. STEVENSON:  However, you could

1  easily make a rule saying that to eliminate

2  money bail among misdemeanants, among people

3  charged with non-violent offenses that have

4  non-violent history and saving money bail

5  really just for people that are really at

6  high risk of reoffending.

7      JUDGE LERNER:  I doubt that.

8      MS. STEVENSON:  But actually --

9      COUNCILMAN JONES:  Why, Your Honor?

10      JUDGE LERNER:  I just don't think the

11  state legislature as is presently

12  constituted would sit by idly and allow the

13  City to make that dramatic a change unless

14  there was a lot more support in other parts

15  of the State, then I think there ought to be

16  than I think there is.

17      MS. STEVENSON:  I would defer to --

18      JUDGE LERNER:  That is something that

19  would be tested.

20      COUNCILMAN JONES:  That's why we have a

21  diverse group of folk here.

22      MS. GREY:  John, for your work with the

23  Quattrone Center, I'll let you --

24      MR. HOLLWAY:  I think the political

1    ramifications of the State legislature would

2    be interesting to see.  But the legislation

3    that is being coordinated around the country

4    is built on the federal constitution, the

5    constitutional discriminatory impact of

6    these policies.  And I'm pretty sure that's

7    going to trump the State legislature number

8    one.

9        Number two, I think the message, one of

10   Megan's key takeaways, is that I think worth

11   echoing is, number one, that we are not the

12   outlier.  This change is happening all over

13   the place.  Number two, what this

14   coordinated litigation means is that we can

15   change or we can be changed.  We can -- we

16   can decide how we're going to do this is in

17   a way that incorporates the State

18   legislature or somebody is going to bring

19   that coordinated litigation to us or they

20   are going to do it to us and we're going to

21   have pay attention to how other people want

22   us to do it.

23       So, I think both those things need to be

24   kept in mind.

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 1       MS. GREY:  Megan, you went through

 2   briefly some of the court rulings that have

 3   already deemed that this practice is

 4   constitutional.  And it's been

 5   unconstitutional, for the most part, to keep

 6   people in just because they could not afford

 7   bail.  Could you just kind of elaborate on

 8   the rule of law or the -- yeah, the rule of

 9   law that came out of those decisions?

10       MS. STEVENSON:  Again, I'm not a lawyer.

11   So, I'm going to tell you my best

12   understanding.  And my best understanding is

13   that detention due solely to indigents and

14   inability to pay is unconstitutional.  That

15   the use of money bail requires an

16   individualized determination of ability to

17   pay.  So, any sort of rigid bail schedule

18   that says this is the bail amount for this

19   type of offense, that is -- that has been

20   consistently in all of the rulings that have

21   come down this far, that has been

22   consistently found to be a violation of the

23   constitution.

24       That's not what's going on in
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1   Philadelphia.  You don't have a rigid bail

2   schedule.  When I have sat in on bail

3   hearings, I have not heard of any mention of

4   ability to pay when they're -- during the

5   course of the bail hearings when they're

6   determining the bail amount.

7        COUNCILMAN JONES:  Are we supposed to

8   consider that?

9        MS. STEVENSON:  I believe that they are

10  supposed to.  I did not see any evidence of

11  it.  But I will -- that's all I can say.

12  But I think that that would be the

13  vulnerability in terms of Philadelphia's

14  current bail system would be that money bail

15  is being used.  And that ability to pay is

16  not being taken into account as well as it

17  should be.

18       COUNCILMAN JONES:  I want to make a call

19  to go with the commissioner, former

20  commissioner and then back to the Judge.  Is

21  that all right?  We always defer to you in

22  the beginning.  That's the black robe.  Once

23  a black robe, always a black robe.

24       MR. BETHEL:  Just a very quick question.

 1     JUDGE LERNER:  Not sure I can find mine

 2  anymore.

 3     MR. BETHEL:  It constantly comes up.

 4  And I think you heard Councilman Jones

 5  earlier talking to Jersey about the impact

 6  of letting so many people out.

 7     Are there no national studies?  I mean,

 8  with all of these jurisdictions going to

 9  bail reform, are there no studies in the

10  pipeline or have come out to demonstrate

11  when you go to the police chief or the

12  community and say, listen, we let these

13  ex-offenders out or pretrial and they're not

14  reoffending or causing, not causing a

15  disruption in the community, are there no

16  studies that can be referred to at this

17  point?

18     MS. STEVENSON:  There aren't

19  unfortunately.  And I think that there will

20  be very soon.  Washington, DC implemented it

21  so long ago, I'm not sure what their data

22  quality is like to look back in the early

23  '90s, late '80s.  Kentucky, I am actually

24  doing an analysis of it right now.

1    Hopefully, in a couple months, I will be

2    able to give you some word about that.  And

3    obviously, we'll be hearing much more soon

4    from New Jersey.  But this is a fairly

5    recent -- it's recent but it's moving very

6    quickly in terms of the type of change that

7    you're seeing.

8         COUNCILMAN JONES:  Your Honor and then

9    Mr. Rojas.

10        JUDGE LERNER:  The New Jersey system

11   that we just heard so much about has, as was

12   described to us, as a three-tier system.

13   The existence of the final tier retains the

14   existence of bail in certain situations as I

15   understand it.

16        Is what you're proposing consistent with

17   that in certain cases, or would you -- would

18   you propose a system where there was no

19   money bail set for any defendant in any type

20   of case?

21        MS. STEVENSON:  You're asking my

22   personal opinion?

23        COUNCILMAN JONES:  Yes.

24        MS. STEVENSON:  I think money is a crude

1   way of making these types of decisions.  I

2   think that there might be some circumstances

3   if you have a very wealthy person who is, I

4   don't know, grew up in a foreign country and

5   could flee the country at any moment.  That

6   would be the type of case where I think

7   money bail would be a reasonable use.

8        Yes, there are some exceptions.  But I

9   think in general, it's a crude mechanism for

10  determining.

11       JUDGE LERNER:  I sure don't disagree

12  with that.

13       COUNCILMAN JONES:  Mr. Rojas.

14       MR. ROJAS:  In your study, have you come

15  up with any cost analysis or revenue

16  generating analysis of what -- across the

17  country from other -- from other cities or

18  other states?

19       MS. STEVENSON:  Not in any formal way.

20  I know that the cost of jailing would go

21  down considerably.  The costs -- you know,

22  the courts would lose some revenue in terms

23  of the deposit, the income that they have

24  from the deposit.  But I think that that

 1   would be likely be greatly outweighed by the

 2   reduced costs of, you know, reduced jailing.

 3       MR. ROJAS:  And that would -- that would

 4   generate revenue for treatment as opposed to

 5   incarceration?

 6       MS. STEVENSON:  It would.  And to

 7   maintain a strong and effective pretrial

 8   services division like Washington, DC has.

 9       MR. ROJAS:  Okay.

10       COUNCILMAN JONES:  So, I have a couple

11   questions.  First of all, how did you pick

12   this particular area of study?

13       I mean, it's amazing to me.  I mean, is

14   it the prediction of an industry that -- or

15   this analysis is going to -- but how did you

16   find yourself here?

17       MS. STEVENSON:  I think it's a -- it's

18   injust, I think, detaining people that are

19   poor because they can't afford a few hundred

20   dollars.  And I wanted to -- I -- I'm in the

21   line of work that I am because I want to see

22   a more just country.  And this felt like an

23   important area.  And I wanted to learn what

24   I could and contribute in what way I could.

 1       COUNCILMAN JONES:  Second question I

 2   have is -- and I know it's different states

 3   and different regions.  In Philadelphia or

 4   Pennsylvania, what is the bail industry

 5   worth in your mind?

 6       MS. STEVENSON:  It's -- I couldn't -- I

 7   couldn't remotely come close to a dollar

 8   figure on that.  It's a lot smaller than in

 9   other states because there is the deposit

10   system in Pennsylvania.

11       COUNCILMAN JONES:  So in some areas,

12   it's full bail cash and this we allow the

13   percentage.  So -- so, has there been any

14   study or are there going to be studies done

15   to say what is the economic impact?  I

16   understand on those paying the bail.  But

17   what is -- people go into businesses to make

18   money.

19       MS. STEVENSON:  Sure.

20       COUNCILMAN JONES:  So, my assumption is

21   that the industry has a worth.

22       MS. STEVENSON:  Yes.

23       COUNCILMAN JONES:  And so, I would be

24   fascinated to find out what it's worth.  And

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 1   I know there are people who might be able to

 2   share that.  So if that is available, just

 3   to understand the economic impact I think

 4   would be interesting.

 5       And then finally, you mentioned that

 6   these things are -- are coming whether we,

 7   as John talked about, are proactive or

 8   reactive, they are going to happen.

 9       How do we stay in touch with you so that

10   when Kentucky analysis happen we would love

11   to be kept abreast of this.  Because what

12   we're not trying to do is rush into

13   anything.

14       MS. STEVENSON:  Yeah.

15       COUNCILMAN JONES:  And it's always good

16   to have other municipalities, whether it's

17   Jersey or Kentucky or Washington, DC, for

18   that matter, dive in first.  And we can

19   learn from their experiences.  So, we would

20   like to maintain --

21       MS. STEVENSON:  Absolutely, as soon as I

22   have research that's ready to share, I will

23   send it your way.  I am in close contact

24   with John.  And I'm working on some research
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 1   collaboration with Kier's office right now.

 2   We will stay in touch.

 3       Also, I don't know if you received it

 4   yet, but me and a colleague Sandra Mason

 5   also at the Quattrone Center recently wrote

 6   about a 20-page paper on bail reform.

 7   It's -- it's written towards policymakers,

 8   towards people like yourself that can walk

 9   you through some of the issues, the best

10   available research and evidence that is

11   around on these different issues.  And

12   hopefully, it will be helpful.

13       And also, of course, feel free to reach

14   out at any time with any questions.

15       COUNCILMAN JONES:  Your Honor.

16       JUDGE LERNER:  In terms of what you

17   found in your research, not only what you --

18   what you've seen elsewhere but also in terms

19   of your own conclusions, do you think it's

20   possible to have a fair in or out

21   determination without using at least as a

22   tool along with everything else that goes

23   into a judicial determination without having

24   some reliance on some form of risk

 1    assessment tool?

 2        MS. STEVENSON:  I do.  I think risk

 3    assessment tools are helpful.  I think the

 4    big missing piece in bail hearings currently

 5    is that there is no time, and there's only a

 6    cursory glance at the evidence.

 7        If you go and sit in on the bail

 8    hearing, a typical bail hearing lasts about

 9    a minute or two at most.  The magistrate

10    takes a glance at the police report.

11    Sometimes he asks a cursory question to the

12    representative of the defender's office or

13    the representative of the prosecutor's

14    office, but spits out a number and then it's

15    done.

16        What I think the right thing should be

17    done is if you are considering taking away

18    the liberty of a person that's presumed

19    innocent for a period of weeks or months,

20    you need to spend more than a minute on that

21    decision.  Risk assessment tools are nice.

22    But really, you need to look at the

23    evidence.  You need to be able to hear from

24    both sides.  You need to be able to hear

 1   from -- the defendant needs representation.

 2   And that's, I think, the most important

 3   thing.

 4        JUDGE LERNER:  Let me follow up on that

 5   because I think that's absolutely -- you're

 6   absolutely right in your analysis.  But if

 7   we're talking about a City the size of

 8   Philadelphia which already has an has had

 9   for years a 24/7 preliminary arraignment

10   court because that's what's necessary in

11   order to make a prompt or at least a

12   reasonably prompt initial determination on

13   detention status for somebody who is

14   arrested, is it really feasible that we can

15   provide that kind of hearing with that kind

16   of information for the bail setter within

17   hours of the arrest?  Or should we also be

18   considering procedural changes such as the

19   early bail review program that's being

20   pioneered under the MacArthur Grant

21   implementation.

22        Should we also be considering those kind

23   of procedural changes that guarantee for

24   anybody detained a full but reasonably

1    prompt hearing at least within a few days of

2    their arrest?

3        MS. STEVENSON:  So, I do think

4    procedural changes are important.  I would

5    actually put the procedural changes even

6    earlier in the process.  You don't need to

7    have a full hearing on anybody that is --

8    poses a low risk and is just going to be

9    released on their own recognizance.

10        What I advocate is going back even to

11    the point before the arrest, increasing the

12    use of citations and summons because arrests

13    are expensive and they're obtrusive and time

14    consuming.  And for people that are facing

15    low level crimes and don't have a serious

16    record, they are unnecessary.

17        So using -- making use of risk

18    assessment tools to identify people that

19    are -- that truly pose a low risk and for

20    whom no reasonable person think that

21    detention is appropriate, releasing them

22    either before arrest or at the station house

23    if arrests are still necessary for whatever

24    necessary, not even taking them to the point

1   where they require a bail hearing.  That way

2   you have much fewer people at the bail

3   hearing.  And with the same amount of time

4   and the same amount of resources, you can do

5   a much better job with all the defendants

6   for whom you are considering an intrusion on

7   their liberty.

8       COUNCILMAN JONES:  Your Honor, are you

9   done?  Because the defense wants to --

10      JUDGE LERNER:  Just to observe there is

11  a couple of devils in those details.

12      MS. STEVENSON:  Yeah.  It's not a minor

13  change.  But this is, I think, what I would

14  advocate.

15      COUNCILMAN JONES:  So Keir then John.

16      MS. GREY:  I love what you just said.

17  It was very practical.  And I think we are

18  moving towards that slowly but surely.  We

19  are moving the needle towards being --

20  creating more category of offenses.  Some of

21  these citations offense and some to be a

22  full blown arrest.

23      And I do appreciate what you said.

24  Narrowing the net because we have widened

1    the net so much, it allowed our system to be

2    so compounded and impacted, that we can't do

3    meaningful -- we don't have meaningful

4    opportunities to humanize this process.  It

5    is systemic.  It is a process, per se.  And

6    I think that when we start being more

7    deliberate, we will get to the real meaning

8    of why we have a system.  And that's to

9    deter crime and deter people from committing

10   it.

11        I want to ask you this.  And I had a

12   chance to read your memorandum.  But in

13   terms of the impact of pretrial

14   incarceration, did you factor in the cost of

15   losing public benefits which are generally

16   typically paid for by the State?  And then

17   once someone goes into custody and has lost

18   those benefits due to incarceration, now

19   local dollars are used to pick those tabs

20   up.

21        Have you factored that in terms of what

22   that means for each municipality as they are

23   looking at revamping their pretrial

24   incarceration, how the benefits, Medicaid or

 1  whatever insurances they have that are

 2  funded by state, how they pick up those

 3  tabs?

 4     MS. STEVENSON:  I think those are

 5  really, really important points.  I haven't

 6  looked at it closely, but I would like to do

 7  so.

 8     COUNCILMAN JONES:  I think as you take a

 9  deeper dive into the subject matter, you are

10  going to find the rippling effect almost

11  infinite.

12     MS. STEVENSON:  Yeah, I would agree.

13     COUNCILMAN JONES:  Almost infinite.  And

14  that has -- that has as much to do with bail

15  as crime itself.  And I think we

16  underestimate what it's true impact is.

17     John.

18     MR. HOLLWAY:  Thank you, Councilman.  So

19  you know, Megan, in your articulation of

20  the -- the practical responses and things we

21  can do to improve the system, one thing that

22  you and I have discussed in other context

23  and it was discussed in New Jersey context

24  was having an attorney present at that very

1   early stage to represent a defense attorney

2   present at the hearing.

3       And I think it's worth noting that in

4   conversations that I've had and that I know

5   you had with prosecutors, many of those

6   prosecutors truly appreciate having that

7   defender at the bail hearing because their

8   perspective is they have so much information

9   to process, and this goes a little bit to

10  Judge Lerner's point, they have so much

11  information to process in understanding what

12  their probable cause argument is, they that

13  can't be held responsible for the specific

14  nuances of the defendant are that might lend

15  themself to that early release.  And it's

16  really the role of the defense to interact

17  with the client, the defendant to understand

18  why this person is or isn't appropriate for

19  that sort of early release.  This actually

20  helps the prosecutor in that collaborative

21  process come up with thoughtful outcome in

22  that bail hearing.

23      It's much, much harder to do when we're

24  asking the client, the defendant to

 1   represent themselves, pro se.

 2        COUNCILMAN JONES:  John, full

 3   disclosure, these are your smart people.

 4        MR. HOLLWAY:  I am entirely responsible

 5   for Megan's excellent work.

 6        COUNCILMAN JONES:  Okay.

 7        MS. GREY:  He's so modest.

 8                    (Laughter)

 9        COUNCILMAN JONES:  Again, an unbiased

10   opinion offered by this panel.

11        MR. HOLLWAY:  Megan will tell you the

12   same thing.

13        MS. GREY:  John, I don't know if you --

14   sorry, I wanted you to know the Defender

15   Association does represent every person who

16   comes into contact with police and who is

17   arrested throughout the City regardless of

18   their economic status.

19        Did -- is that what you said?

20        MR. HOLLWAY:  What I was actually

21   talking about was making sure that they are

22   represented at bail hearings no matter how

23   early they are in the process.  I think

24   that's vital every time a decision is made.

 1      MS. GREY:  Agreed.

 2      MR. BETHEL:  One quick question, Megan.

 3   I thought you were right on about the front

 4   end work.  And that is where my passion is

 5   up front.  I thought when we went to

 6   marijuana, we came to $25 ticket and that is

 7   a misdemeanor.  Everything was open now for

 8   that front end station house adjustment.

 9      Have you seen any departments across the

10   nation who are doing that work?  Have you

11   come across any departments that are doing

12   that?

13      MS. STEVENSON:  I was just reading -- I

14   was just reading about this yesterday.  And

15   I can't -- I don't remember enough to say

16   exactly where it is.  But it's definitely

17   something that's going on.  It's on people's

18   minds.  This is part of the many prongs of

19   bail reform like I mentioned.

20      MR. BETHEL:  Right.  I see -- here

21   Mr. Rojas is taking on that with disorderly

22   conduct and City Council, I see you

23   sponsored the bill --

24      MS. STEVENSON:  Yeah.

1      MR. BETHEL:  -- around this.  Those

2  front end work to take that pressure off the

3  system.  But at the same time putting

4  policing in a more positive, you know,

5  procedural justice mindset of these things

6  can be handled at the point of contact

7  versus constantly dropping them into the

8  system which is overloading the process.

9      MS. STEVENSON:  Absolutely.

10      MR. BETHEL:  As we go through the

11  process, I think that's where my vision is

12  more work can be done.

13      MS. STEVENSON:  Uh-huh.

14      COUNCILMAN JONES:  Are there any other

15  questions for our witness?

16      Seeing none, again, thank you for your

17  contribution.  And we appreciate this

18  information and would like to remain in

19  communications with you.  And we want to

20  thank, John, publicly for all your good

21  work.

22                  (Laughter)

23      MS. STEVENSON:  Thank you so much for

24  the opportunity.

 1      JUDGE LERNER:  Some of us on this

 2   commission knows who actually does the work,

 3   though.  We're close enough to the Quattrone

 4   Center to know the workers bees are and who

 5   the titular boss is.

 6      COUNCILMAN JONES:  Shots fired.  Shots

 7   fired.  Thank you so much for your

 8   testimony.

 9      Are there any others here that wish to

10   add their voice to the testimony?  And we

11   would welcome that.

12      Seeing none --

13      MS. GREY:  Wait.

14      COUNCILMAN JONES:  Oh, wait.  Thank you

15   for your patience and thank you for now your

16   contributions.

17      Would you state your name for the

18   record.  Pull the mic closer to you, and

19   then begin your comments.

20      MR. LUNA:  Good afternoon.

21      COUNCILMAN JONES:  Good afternoon.

22      MR. LUNA:  And thank you to Mr. Rojas

23   for inviting me.  My name is Juan G. Luna.

24   I'm from Camden, New Jersey.  And as of 23

 1   years ago, I'm a returning citizen.

 2       After leaving federal prison, I started

 3   a cigar company out of my bedroom.  And with

 4   20 years, it grew into an international

 5   multi-million cigar manufacturing industry.

 6   I was also diagnosed 16 years ago with a

 7   mental health challenge.  So today, I have

 8   started, founded a non-profit Heart to Tire.

 9   It's an entrepreneurship training program

10   for returning citizens with mental health

11   challenges because I have three things that

12   qualify me from life.  And that is, I'm a

13   returning citizen.

14       I was very successful in business for

15   20-plus years.  I have been an entrepreneur

16   since I came to the United States as an

17   immigrant as a child.  I started shoveling

18   snow and all kinds of small things that I

19   did to introduce me to entrepreneurship.

20   And today, that's what my passion is, is to

21   show these guys that are having a tough time

22   finding jobs that you can be employed.  And

23   that self-employment can lead to a little

24   tiny business that can lead to something

1    that you never dreamed of, like I did.  My

2    company spanned through five countries, 130

3    employees.  And I had the best mentors in

4    life that God could have blessed me with.  I

5    just want to give back something.

6         And again, thank you for the

7    opportunity.  My nonprofit again is Heart To

8    Hire.  And serving the Delaware Valley.

9         COUNCILMAN JONES:  Heart to Heart?

10        MR. LUNA:  Heart To Hire.

11        COUNCILMAN JONES:  Oh, Heart To Hire.

12        MR. LUNA:  Yes.  Excuse for my

13   pronunciation.

14        COUNCILMAN JONES:  No problem.  Excuse

15   us for our hearing.

16        MR. LUNA:  Okay.  I learned in my life

17   through my trials and tribulations and the

18   mentor had unconditional love for me that

19   beared a lot.  They put up with a lot.  And

20   I come to realize now at an older age that

21   it was all from the heart.  So, it takes a

22   heart for that corporate CEO to tell his

23   human resource department to give somebody a

24   chance.  And it takes a change of heart for

1    returning citizen to really say, I need to

2    make a change.  Not because I have to, but I

3    need to to have a better life, to have a

4    better opportunity.

5         And I know what it takes because I had a

6    supportive foundation when I walked out.  I

7    walked out of federal prison.  I faced

8    deportation.  I won my deportation process.

9    And I walked out already with a business

10   plan in hand.  And from the support of

11   family and friends, in part, the business

12   associates that I had in business prior to

13   going to prison, I -- I came out to start my

14   business successfully out of my bedroom.

15        And I was -- I went into an industry

16   that against all odds, they say I couldn't

17   do ti because it's a very tight knit

18   industry.  But I'm a fourth generation from

19   the Luna tobacco formers in Nicaragua.  I

20   held onto my roots and was blessed for God's

21   grace and mercy upon my life.

22        COUNCILMAN JONES:  So, I would ask you

23   this question but I kind of -- considering

24   that you are from Nicaragua.  So, who

 1   produces the best tobacco for --

 2       MR. LUNA:  Unquestionable,

 3   unquestionable we do.  We do.  The Cubans

 4   are buying from us.  And I can --

 5       COUNCILMAN JONES:  Once again, another

 6   unbiased upon offered to this.

 7       MR. LUNA:  Well, the only place you

 8   can't buy a Cuban cigar in U.S. territory.

 9   As soon as you step out, it's Cuban cigars

10   around the world is just another McDonald's

11   to us.

12       COUNCILMAN JONES:  Thank for that --

13       MR. LUNA:  It's the forbidden fruit.

14       COUNCILMAN JONES:  Thank you for that

15   insight.  Your Honor.

16       JUDGE LERNER:  I just wanted to know

17   there they are on sale in the Philadelphia

18   area?

19       MR. LUNA:  We started a cigar,

20   micro-cigar company in Camden, New Jersey.

21   Hopefully, by the end of the year, we will

22   have a micro cigar factor in Camden.  So, I

23   would be more than happy to give you our

24   website.

1      COUNCILMAN JONES:  Our stenographer has

2  signaled that we are way off of the subject

3  matter that we started with.  I want to

4  thank you for your testimony.

5      MR. LUNA:  Always happens to me.

6      COUNCILMAN JONES:  We are going to

7  recess this --

8      MR. LUNA:  Part of my life.

9      COUNCILMAN JONES:  -- Committee for

10  Criminal Justice Reform to the call of the

11  chair.  Thank you all very much.

12      MR. LUNA:  Gracias.

13      (Special Committee on Criminal Justice

14  Reform adjourned at 1:10 p.m.)

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C E R T I F I C A T I O N

        I, hereby certify that the

proceedings and evidence noted are

contained fully and accurately in the

stenographic notes taken by me in the

foregoing matter, and that this is a

correct transcript of the same.


        ------------------------------
        ANGELA M. KING, RPR
        Court Reporter - Notary Public



        (The foregoing certification of

this transcript does not apply to any

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