

Testimony of
Vivian Miller

January 19, 2010

Opening Statement of Mr. Marc Gaillard
Testifying on Behalf of Vivian Miller
Deputy to the Clerk of Quarter Sessions, Philadelphia County
January 19, 2010

Good morning, Senator Specter and distinguished members of this subcommittee.

Thank you for giving me this opportunity to speak with you today on behalf of the Honorable Vivian T. Miller. I am Marc Gaillard, Deputy to the Clerk of Quarter Sessions, Philadelphia County. We understand that we are here to speak with you today about the way the bail process works in Philadelphia County; and particularly our involvement in it. So we will start by explaining the bail process in Philadelphia County.

In order to be released from confinement after being arrested, a surety pays 10% of the bail which is set by the Bail Commissioner at the arraignment. When the bail is posted, the money is placed into a CQS account by an employee of the First Judicial District; the employee also generates a bail acceptance log. The accounts and logs are reconciled and maintained by CQS. Of the 10% collected bail, 30% goes to the city. If defendant complies with all subpoenas and the case is concluded, the surety can apply for a refund for the remaining 70% of the posted bail.

If, over the course of the case, the defendant does not show up for any of his or her court appointments, the judge orders a bench warrant to be issued and the bail "sued out", which means the defendant has 20 days to surrender and receive a new court date. If the defendant does not surrender within 20 days, a judgment for the full amount of the bail is issued against the surety. The surety now owes the City of Philadelphia the remaining 90% of bail which was not collected earlier. There has been a lot of talk in the media that, dating back to 1968, the total amount of this forfeited bail owed the city is \$1,000,000,000 (\$1B). This is part of the reason why we're all here today.

Before I address how the 90% gets collected, I would like to speak for a little bit on the \$1,000,000,000 figure that has been accepted as the amount owed the city.

Before we came here, we prepared a report to show the amount of bail forfeited from last year. In 2009, the amount of the forfeited 90% cash bail was \$2.2 million. Over the past few years, the rate of crime and arrests has been relatively high, so one might surmise that the rate of forfeitures is equally high. To generate a high estimate of the amount of forfeited bail owed the city going back to 1968, let us double the number from last year, and assume that the city is owed \$5M/ year. This gives us an estimate of \$205 million for the same time period. A far cry from the \$1B

figure that has been quoted so freely!!! We strongly caution against any references to \$1B until such time as supporting documentation or other proof can be provided to substantiate the claim.

No matter what the actual amount is, we can all agree there is a significant amount of money is owed to the city, and we need to understand how this happened.

From a CQS perspective, once a bench warrant is issued, we have no additional responsibility until the defendant is re-arrested or surrenders. On the date the defendant fails to appear, we mail a "20 day letter" to the surety, advising that if the defendant does not surrender within 20 days, the surety will be liable for the entire amount of set bail. After the 20 days, a default judgment is entered against the surety, and the 10% bail posted gets sent to the City.

Since Mrs. Miller's first term, it has never been our responsibility to collect forfeited bail. We simply sent the 10% of the bail which was collected to the city's revenue department. Prior to the inception of the statewide computer system (CPCMS) - installed in 2006 - we did this upon receipt of a judgment letter from First Judicial District; now the court clerks issue the judgments directly into the computer system, and the accounting clerks respond accordingly.

But without getting into the blame game, as a member of the criminal justice system, we are committed to being a part of the solution going forward. However, we realize that a significant percentage of the outstanding funds is uncollectable. Some sureties are dead, imprisoned, or their whereabouts are completely unknown. Also many are without the financial means to satisfy these debts.

These facts notwithstanding, we want to see as much of this money collected as possible for the benefit of the city. We attempted to hire a collection firm previously, but the contract wasn't approved by the law department. We have since been working with the collection firm retained by First Judicial District, and we will continue to provide any needed information or assistance to aid them in this process.

Over the past year, there have been many allegations made about CQS suggesting that we have been remiss in the execution of our duties within the Philadelphia criminal justice system.

This is simply not the case! With limited resources and a workload that constantly increases as we continue to take on functions previously performed by other criminal justice partners, we remain committed to the City of Philadelphia.

In these tough economic times we have resolved to work as efficiently as possible. We have conducted a thorough analysis of the processes executed by our Accounting, Bail and Costs & Fines units to determine if there is room for improvement. The exercise has uncovered some areas for improvement; for example, we will be adjusting the way bail refunds are processed so that some 5 - 25 work hrs of effort will be saved on a daily basis. These hours can be redirected to other pressing needs within the office. A similar exercise analyzing our court clerk and filing operations is underway.

We want to be a part of the solution to the problems Philadelphia's criminal justice system is experiencing, and not the scapegoat. We look forward to sitting at the table with our partners in the system to devise the right solutions.

Thank you again, Senator, for the invitation to this hearing, and for your commitment to the people of Philadelphia. Have a good day.