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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
COMMITTEE ON JUDICIARY

In re: HB 2147 and other legislation relating to  
District Justices

\* \* \* \* \*

Stenographic report of hearing held  
in Room 140, Majority Caucus Room,  
Main Capitol Building, Harrisburg,  
Pennsylvania

Thursday,  
December 5, 1991  
10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Kevin Blaum                      Hon. Gerard A. Kosinski  
Hon. Michael C. Grutzka

Also Present:

David Krantz, Executive Director  
Paul Dunkelberger, Republican Research Analyst  
Katherine Manucci, Committee Staff

Reported by:  
Ann-Marie P. Sweeney, Reporter

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APPENDIX

1                   CHAIRMAN CALTAGIRONE: I'd like to start  
2 the House Judiciary Committee hearing on the proposed  
3 legislation concerning district justices. I'm State  
4 Representative Tom Caltagirone, Chairman of the House  
5 Judiciary Committee, and I would like the other members  
6 that are present and the staff to identify themselves.  
7 We will have additional members coming into the hearing  
8 as we go on, but Kevin, if you would like to introduce  
9 yourself for the record.

10                   REPRESENTATIVE BLAUM: Representative  
11 Kevin Blaum, from the city of Wilkes-Barre.

12                   MR. DUNKELBERGER: Paul Dunkelberger,  
13 Republican Judiciary Committee.

14                   MR. KRANTZ: Dave Krantz, Executive  
15 Director of the House Judiciary Committee.

16                   CHAIRMAN CALTAGIRONE: The purpose of the  
17 hearing today is to gather some testimony concerning  
18 the legislation that has been presented concerning  
19 district justices, and I do want to add that I want the  
20 district justices from around the State to feel free at  
21 any time that if they have any problems, questions, or  
22 suggestions on any changes in legislation that you  
23 certainly have an open door and access to me at any  
24 time, and I work very closely with your association,  
25 with your solicitor, Jim Morgan, of course Sam Magaro,

1 who is a frequent visitor over in my office, and  
2 believe me, the door is always open, so that if there's  
3 any problems, questions, or anything I can certainly  
4 help you with, please feel free to approach me and see  
5 if we can't sit down and resolve it.

6 And with that, I'd like to start off with  
7 the first testifant, the Honorable Carl Stoudt,  
8 district justice from my home area of Berks County,  
9 Strausstown.

10 MS. STOUDT: Thank you.

11 Mr. Chairman and members of the  
12 committee, I'm here today concerning the House Bill No.  
13 2147 concerning additional district justices, and I'd  
14 like to describe to you our situation in Berks County.  
15 We have 18 district justices, and in order to provide  
16 the 24-hour availability that's required by the rules,  
17 the system that's in effect for us is we have three  
18 days a week that our offices are required to be open  
19 9:00 to 5:00; two days a week that we're open 1:00 to  
20 9:00. From 9:00 in the morning until 9:00 in the  
21 evening, while the offices are open, that provides the  
22 coverage of doing the 12-hour day period. When my  
23 office closes at 5:00 on a 9:00 to 5:00 day, that means  
24 that I do have a contiguous district justice who is  
25 available until 9:00 o'clock in the evening. At 9:00

1 o'clock we have then a 12-hour duty schedule that goes  
2 into effect where we actually go down into the city of  
3 Reading and sit in Reading District Court from 9:00 at  
4 night until 6:00 in the morning. If nothing is  
5 happening at 6:00, we're permitted to go home and we're  
6 on call then until 9:00 in the morning. With 18  
7 district justices, we pull the 12-hour duty once every  
8 13 days.

9           In addition to the 12-hour duty, we also  
10 serve what is called emergency duty. We go on  
11 emergency duty at 9:00 o'clock on a Monday morning and  
12 we're on emergency duty until 9:00 o'clock the  
13 following Monday morning. During that emergency week,  
14 if there is a holiday, then we're on call from 9:00 in  
15 the morning until 9:00 at night to cover that holiday.  
16 If there are any vacant offices that would have been  
17 scheduled to do 12-hour duty during that emergency  
18 week, that duty is now ours. In Berks County right now  
19 we have two vacant offices that are being covered  
20 during the day by senior DJs, but the 12-hour night  
21 duty is being picked up by the emergency duty judge.  
22 So if you have your holiday during your emergency week  
23 in addition to two additional 12-hour duties that  
24 you're doing plus your office hours, it can be very  
25 stressful and hectic.

1                   Just to give you an idea, I'd like to use  
2 my schedule as an example with the 12-hour duty and the  
3 emergency duty. I worked Thanksgiving night. I will  
4 be on call for Christmas Eve and on call for New Year's  
5 Day. Now, I'm on call New Year's Day because that's my  
6 emergency duty week. Now, Saturday and Saturday night  
7 of that same week are the two vacant offices' 12-hour  
8 duty shift, so that means that I will be on call  
9 Saturday morning at 9:00, and usually you're called in  
10 about 1:00 o'clock on a Saturday and I'll work straight  
11 through till 9:00 that night, and then the next shift  
12 is also a vacant DJ office, so I will stay there until  
13 9:00 o'clock Sunday morning. I go off emergency duty  
14 that following morning on the 6th at 9:00 a.m., and I'm  
15 scheduled for an RDC at 12:00 o'clock, or 9:00 o'clock  
16 again that night, which I rescheduled with another  
17 district justice because I'm required to be in  
18 Chambersburg at 1:00 o'clock for continuing education  
19 for a week.

20                   Just with that two weeks alone my family  
21 life will be, needless to say, my family won't get to  
22 see too much of me, but I hope it's giving you an idea  
23 of what we're dealing with as far as the amount of  
24 hours we're putting into the job, in addition to our  
25 regular office hours.

1           As of January 5th, we will have another  
2 district justice retiring. There is, at this point, no  
3 senior judge appointed to that office. So the daytime  
4 hours and hearings for that office will also have to be  
5 covered, and we take turns doing that, in addition to  
6 the 12-hour duty and emergency week for that district  
7 justice. We have a district justice now who just went  
8 into the hospital today and is contemplating back  
9 surgery, so that will be another vacant office that  
10 will have to be covered. So now we're talking four  
11 additional 12-hour duty shifts, four additional  
12 emergency weeks in addition to what we're doing now,  
13 and that's where we seek relief on this.

14           The House bill as it's written, 2147, our  
15 only concern with that is in lines 16 through 18 it  
16 states that this additional district justice shall have  
17 countywide jurisdiction and shall sit at times and  
18 locations as the President Judge of the judicial  
19 district shall direct. Our concern with that is if we  
20 would be able to get a countywide district justice to  
21 sit in for the night duty, if a district justice would  
22 retire in one of the other offices and it would be a  
23 busy office, it would then be the President Judge's, at  
24 his discretion to remove that countywide district  
25 justice and then put him again into that vacant spot,

1 and we would be back again to where we were before. So  
2 that is our concern with that.

3 Thank you.

4 CHAIRMAN CALTAGIRONE: One of the things  
5 that I might add with any of the legislation that we'll  
6 be discussing here this morning, any suggestions for  
7 amendments or corrections can be added to any of these  
8 bills when the bills would be considered, so that if  
9 there are concerns that are raised that we could  
10 address, corrective language to make the legislative  
11 intent clearer, we can always put that in there to  
12 tighten it up a little bit to make sure that there are  
13 no loopholes, that the intent is to provide that type  
14 of relief and cover night court basically and not to  
15 take the place of a sitting DJ or district offices, per  
16 se.

17 Did you have any comments on any of the  
18 other legislation, Carol, or were you going to --

19 MS. STOUDT: I believe there's others  
20 that are going to.

21 CHAIRMAN CALTAGIRONE: You're going to  
22 pass on to others.

23 MS. STOUDT: I would just like to  
24 mention, when we do the 12-hour duty at night, most of  
25 the district justices then take the next day off, so



1 that is a period that we're out of our office and any  
2 hearings, of course, are then delayed another day and  
3 the work backs up. So when you're talking doing two or  
4 three different duties a week, then your offices,  
5 you're not getting into it as often as what you should.

6 Thank you.

7 CHAIRMAN CALTAGIRONE: And then you have  
8 additional work that you have to make up when you get  
9 back into the office then.

10 MS. STOUTD: Oh, yes, absolutely.

11 CHAIRMAN CALTAGIRONE: Due to the time  
12 that you've missed.

13 There might be some questions from the  
14 panel.

15 MR. DUNKELBERGER: I have a couple.

16 CHAIRMAN CALTAGIRONE: Paul.

17 MR. DUNKELBERGER: Yes, thank you, Mr.  
18 Chairman.

19 BY MR. DUNKELBERGER: (Of Ms. Stoudt)

20 Q. Thank you for your testimony.

21 First of all, on this 12-hour shift that  
22 you spoke about, you must be in the office? I mean,  
23 you cannot per se be on call?

24 A. Not from Monday through Friday. Monday  
25 through Friday you must be in Reading District Court

1 from 9:00 at night until 6:00 in the morning. Then  
2 from 6:00 to 9:00 you're on call. You may leave and go  
3 home. If they call you that something comes up, then  
4 you must return. On a Friday from 5:00 -- all the  
5 offices in the county close at 5:00, so from 5:00 till  
6 9:00 a district justice is on call. If they're not  
7 called in, they must report in then by 9:00 o'clock  
8 Friday evening, and again the same time, they're in  
9 until 6:00 Saturday morning and they can go home and  
10 they're on call till 9:00.

11 Q. Is that pursuant to local rule or--

12 A. Yes. That's Berks County's -- this is  
13 the system that they have set up to make a district  
14 justice available 24 hours a day. This is the way  
15 Berks County is handling that.

16 On a Saturday we're on call from 9:00 in  
17 the morning until 9:00 at night. Now, that was just  
18 recently changed in the last few months. At one time  
19 we did have to go in and be on duty from 9:00 in the  
20 morning Saturday until 9:00 at night. Saturday night  
21 we're required to go in and be there until 6:00 Sunday  
22 morning. Sunday is on call. Sunday night you're  
23 required to go in and sit there. Holidays are always  
24 on call.

25 Q. The vacancies you referred to, has the

1 President Judge looked into having senior judges?

2 A. Two of the vacancies that we currently  
3 have now do have senior district justices, but they're  
4 not required to do the night duty, just to be in the  
5 offices during the day.

6 MR. DUNKELBERGER: That's all I have.

7 CHAIRMAN CALTAGIRONE: I had made the  
8 comment that maybe we need a constitutional amendment  
9 mandating that the Supreme, Superior, Commonwealth and  
10 Common Pleas judges hold night court so that they are  
11 more accessible to the people, tongue-in-cheek, of  
12 course, so that they could get a taste of it and see  
13 what it's really like to be with the people in the  
14 evening when it really gets interesting.

15 David.

16 BY MR. KRANTZ: (Of Ms. Stoudt)

17 Q. Judge, in your scheduling, how far, I  
18 mean, do you have to -- do you do your scheduling like  
19 three months at a time or six months?

20 A. What scheduling are you referring to?

21 Q. Well, in other words, like you make up  
22 your docket -- what I'm trying to say is like we set up  
23 a hearing and we call up and get witnesses, and I'm  
24 wondering what lead time, in other words, when you --  
25 do you have like January, February, March already

1 planned out as far as you know who you're going to be  
2 sitting at night court versus your regular court, et  
3 cetera?

4 A. We know a year in advance.

5 Q. A whole year.

6 A. In other words, we received our 12-hour  
7 duty schedule about a week ago.

8 Q. I see. For the next year?

9 A. Right. And also our emergency duty  
10 schedule. Every 18 weeks we do the emergency duty, so  
11 I know what weeks I work that also.

12 Q. Do you, prior to that, submit to the  
13 President Judge your desire for vacation if you're  
14 allowed that?

15 A. We notify them what weeks or days we're  
16 taking vacation, and if I'm scheduled for any type of  
17 night duty or emergency duty during that time, then  
18 it's my responsibility to find another district justice  
19 to trade with me. We do that among ourselves then.

20 Q. Is that hard?

21 A. No. I've never found it to be difficult.  
22 We have a nice group of DJs in Berks County there.

23 Q. Do you get together periodically to  
24 discuss these problems or not?

25 A. Do we get together?

1 Q. Yeah, the district justices.

2 A. Yes. We have a Berks County association  
3 and we meet the first Friday of every month.

4 Q. All right. Thank you very much.

5 A. Thank you.

6 CHAIRMAN CALTAGIRONE: Thank you.

7 I know that District Justice Walley will  
8 not be able to be here this morning because she has  
9 some cases that she's going to be handling back in  
10 Birdsboro, but Sam, do you want to?

11 MR. MAGARO: Okay.

12 CHAIRMAN CALTAGIRONE: The Honorable Sam  
13 Magaro, Special Counsel, also a district justice here  
14 in the Harrisburg, Dauphin County area.

15 MR. MAGARO: Thank you.

16 Gentlemen and ladies, what I'm going to  
17 do basically is just read the first page and then just  
18 summarize my comments on the bills that you have to  
19 discuss here today. And with your permission then I'll  
20 just submit this to the secretary to have put on the  
21 record.

22 (See Appendix for remarks of Mr. Magaro.)

23 MR. MAGARO: Mr. Chairman and members of  
24 the Judiciary Committee, my name is Sam Magaro, and  
25 I've been involved in the court system since 1958

1 serving as a probation and parole officer, chief  
2 inheritance tax officer, and since 1975 as a district  
3 justice, currently serving now as Special Counsel to  
4 the President of the Special Courts Judges Association  
5 of Pennsylvania, and also a member of the Minor Rules  
6 Committee, having been appointed by the Pennsylvania  
7 Supreme Court in 1990. In between 1958 and 1975, I was  
8 a personnel director and had the privilege of working  
9 for the former Pennsylvania Speaker of the House,  
10 Kenneth Lee.

11           The present Judiciary Committee, in my  
12 opinion, has submitted the most comprehensive  
13 assortment of legislation to help not only the judicial  
14 system but also the victims of crime. You are all to  
15 be commended. I know I can speak for our association  
16 when I say that we are deeply appreciative of your  
17 efforts on our behalf and cannot express enough our  
18 gratitude for allowing input when it affects the  
19 district justice system, which is truly the peoples'  
20 court. We look forward to a continued working  
21 relationship.

22           In reference to House Bill 1113, which  
23 deals with a small amount of marijuana, misdemeanor  
24 accepting a guilty plea. The district justice system I  
25 think at this point realizes that this is just another

1 example of additional work that are cast upon us which  
2 will dramatically increase our caseload, and I don't  
3 want to leave any of you under the impression that we  
4 won't be able to handle things such as this, but I  
5 would just like to give you an idea of what's been  
6 happening over the years, and I think when I use the  
7 year 1987, you all know what I'm referring to. So  
8 since 1987, we have seen the district justice caseload,  
9 and this is on the average on the statewide, increase  
10 over 10 percent a year. Using my own district, I would  
11 just like to summarize the following facts: In 1987,  
12 traffic cases in my area were 3,507, and I had 186  
13 hearings. Traffic cases in 1990 decreased to 3,391,  
14 but the hearings rose to 295, a 59-percent increase.  
15 Non-traffic case hearings increased to a total of 31  
16 percent. Misdemeanor and felony cases increased from  
17 503 to 666, while preliminary hearings alone rose from  
18 406 to 547, a 35-percent increase. Civil cases rose  
19 from 1,046 to 1,907, and hearings rose from 312 to 700,  
20 a 124-percent increase.

21                   None of these figures that I presented  
22 include Protection From Abuse petitions that we've had  
23 to handle, arraignments, search warrants, court ordered  
24 assignments, indigent hearings, informal meetings  
25 between groups, or the one month a year that I handle

1 between 800 and 1,000 cases while serving on night  
2 court for the whole county of Dauphin.

3 I have also attached for your review then  
4 statistics that I've compiled from 1987 to 1990.

5 Would you mind if I go through the other  
6 bills then?

7 CHAIRMAN CALTAGIRONE: (Indicating in the  
8 affirmative.)

9 MR. MAGARO: House Bill 1933, which deals  
10 with the right to appeal. I don't think -- the  
11 intention of the legislation is good and it would  
12 probably alleviate the frustrations of a lot of the  
13 plaintiffs that come in that feel that they've won an  
14 award and especially from a large organization such as  
15 an insurance company. The problem that you have with  
16 it, lo and behold, as soon as they feel they've won  
17 something, they get an appeal notice from the insurance  
18 company and they have to appeal downtown. It's very  
19 frustrating. But this is probably a constitutional  
20 issue and will have to be addressed.

21 House Bill 2147. When you refer to  
22 nighttime duty, I would just like to use Dauphin County  
23 as an example. You've heard one where the President  
24 Judge mandates through local rule that they must  
25 actually be physically present during a certain period



1 of time. In Dauphin County, that's not necessarily the  
2 case, but we are on call. And when I say we're on  
3 call, it's also a handicap. We not only handle our own  
4 cases during the day, but we start night duty at 5:00  
5 p.m. We'll go down to night court at 5:00 p.m., handle  
6 whatever is there, might get out around 8:00, 8:30  
7 under the normal circumstances, we'll come back down  
8 again before midnight and stay whatever length of time  
9 it takes and then leave and then come back in again  
10 around 6:00 o'clock in the morning. And I think if any  
11 of you have ever had any types of commitments, you  
12 always have that anticipation that you're going to be  
13 called out, and we do. The police have a habit of  
14 always wanting to call to see how they can handle their  
15 cases instead of calling the DAs, like they really  
16 should be. It's normally left up to us, you know, do  
17 you want to come out? Can this be handled by someone?  
18 They want relieved of the responsibility, so we handle  
19 that a lot. It puts a tremendous burden on us.

20 We serve one week -- right now there's  
21 only 11 and 1 vacancy in our county, there's 12  
22 district justices. We serve 1 week out of 11. So you  
23 basically have one month out of the year where you must  
24 serve night duty and still handle the current workload  
25 in your own office.

1                   There's many things like when you say is  
2 there a time restraint on how you can schedule things?  
3 A lot of times you're locked in. When people come down  
4 to be arraigned at night court, under the normal  
5 circumstances they've been arrested and you have to set  
6 the hearing up between 3 to 10 days. You know, it's  
7 mandated by law, so by the time that gets out to you at  
8 your office, even though you might have had plans, here  
9 you are now confronted with the case that's been set at  
10 night court. And it does interfere with a lot of the  
11 things that you might want to do. The biggest problem,  
12 of course, then is those DJs that have a very heavy  
13 volume where they try to reschedule and then you have a  
14 problem with the defendant being represented a lot of  
15 times with the public defender and whether or not a DA  
16 can be there, and it's a tremendous handicap for us,  
17 and if anything can be done to help our system as it  
18 pertains to night court, I'm sure we would be deeply  
19 appreciative.

20                   House Bill 2244 I guess basically is the  
21 same thing, except if I recall correctly inserted in  
22 that bill also had something to do with appointing  
23 someone for service if they were suspended or removed  
24 from office. It's my feeling that this might have a  
25 negative effect and the public might perceive this as

1 an effort to circumvent the disciplinary process. I  
2 mention that.

3 House Bill 2245. I think anyone that  
4 looks at that got to see that \$20 a day per diem is  
5 such an injustice, and we've been living with it for I  
6 don't know how many years. Nowadays you can't even go  
7 out and start up your car for \$20 a day.

8 Let me just give you an example of what  
9 this has meant to us. I was just talking to one of our  
10 local district justices who had to go out and sit on  
11 drug cases outside his district and he went out to the  
12 Dauphin County Prison and held hearings, all-day  
13 hearings, started at 8:30 in the morning. They took a  
14 lunch break. He and the secretary took a lunch break  
15 for a half hour, went over to the mall and spent I  
16 think something like \$6 on meals. He handed in his  
17 expense. The county paid him for the travel but denied  
18 him the expense of the lunch. So for all that he was  
19 entitled to \$20 plus the mileage. I mean, it's  
20 terrible.

21 House Bill 2246. I have a serious  
22 problem and I've always had a problem with charging  
23 someone to have what I consider an absolute right to  
24 have a hearing. I know what you're trying to do, but I  
25 think under the circumstances rather than maybe trying

1 to piecemeal a specific cost you might want to consider  
2 reviewing the total package, and hopefully you can get  
3 some input from the district justices on this.

4 As you all know, when you talk about  
5 adding another \$20 onto a hearing cost, you're probably  
6 talking about someone if they want to come in and ask  
7 for a hearing shelling out over \$100, and then, you  
8 know, one of the questions that we always get is, well,  
9 why do we have to pay \$5 now for a hearing but yet on a  
10 non-traffic citation you don't have to pay for a  
11 hearing? Why the difference? Well, we know the  
12 difference - there's more traffic cases than there are  
13 non-traffic cases, but it's very difficult to try to  
14 explain that to the people when they come in.

15 I'd be glad to answer any questions that  
16 you might have.

17 CHAIRMAN CALTAGIRONE: On the fees, would  
18 the association and counsel be willing to sit down with  
19 some of my members from the committee to possibly  
20 rework that schedule so that we could try to update  
21 that and probably bring it more in line with what  
22 really is happening in today's world?

23 MR. MAGARO: Oh, I'm sure.

24 CHAIRMAN CALTAGIRONE: And I know that we  
25 had talked yesterday about the possibility of working

1 on an omnibus bill that would take in a lot of these  
2 different things that we've addressed in several of  
3 these bills and put it into one bill and try to start  
4 to work on that maybe after the first of the year and  
5 form a committee that could look at this and many other  
6 issues.

7 One of the things that upset me in some  
8 of the discussions that I've had with some of the  
9 district justices around the State is the staffing  
10 patterns, and I don't want to be critical of the court,  
11 and they do have a representative here from the Supreme  
12 Court office, but I do think that there has to be some  
13 standards set for all the counties so that everybody is  
14 treated equally and that you don't have one county  
15 working as a workhorse and a neighboring county not  
16 sloughing off, I don't mean to have it sound that way,  
17 but not having it in high gear as some of the President  
18 Judges have in some of the counties. And there are  
19 varied assortments, and I wish we would have had more  
20 members here but we will have the testimony and this is  
21 not going to be the end of this.

22 This impacts on every single legislator  
23 and Senator in the General Assembly because I'm sure  
24 that they work as close with their district justices in  
25 their home turf as I do with mine, and to look at some

1 of the problems, as an example, and I know we didn't  
2 touch on this but the budget has a tremendous amount to  
3 do with how you operate, and of course when the General  
4 Assembly approved the budget this past year, the  
5 Governor blue-lined I guess it was 50 percent of the  
6 appropriations for the expenses of the district justice  
7 offices. We had no control over that. That was not  
8 our intent, of course, but the impact is the same, and  
9 there were some of us that were trying to see if we  
10 couldn't get that money restored. We do need the  
11 support of the association, also the county  
12 commissioners, but therein lies another problem with  
13 the county commissioners in that I think some of the  
14 thought was that the county commissioners weren't  
15 utilizing that money the way it was intended to be used  
16 in your district offices, and of course that comes back  
17 to haunt us through the Governor's Office indicating,  
18 well, if they're not using it for the district  
19 justices, then they don't need it for the district  
20 justices, and I know that's not true and I'm sure many  
21 of the members know that's not true, but trying to get  
22 that across to the administration and to the county  
23 commissioners to have that money available for the way  
24 it's intended to be used.

25 As an example, there are many district

1 justices that need copiers. I mean, we all take these  
2 things for granted in our offices, whether they're in  
3 Harrisburg or our district office, but it's surprising  
4 how you have to fight and claw to get the local court  
5 administrators, through the President Judges, to get  
6 some of the modest things to run an office. And I  
7 don't consider them to be luxuries at all, it's just  
8 standard operating materials that some of the offices  
9 need. I happen to have had a district justice in the  
10 same building with me for about 12 of my 15 years and  
11 he literally played hell to get a water cooler because  
12 he had no water available and accessible, and he  
13 finally bought his own copying machine, and it's things  
14 like that, and I used to get into some real donnybrooks  
15 with the county commissioners privately about that  
16 because I felt that they were doing him an injustice by  
17 not providing him with some of these basics that you  
18 need in order to run an office that's open to the  
19 public and servicing the public. So I know that's  
20 another area, Sam, that I know we didn't touch on that  
21 certainly impacts.

22 And, you know, it's kind of difficult for  
23 us because they say, hey, you guys, keep your nose out  
24 of our area, but then they come to us when they want  
25 money or they come to us when they need particular

1 legislation, or they come to us when there's a  
2 particular problem that they know we have to address,  
3 and it's like we sign the blank check and they're  
4 saying, no oversight. We don't want you to tell us,  
5 you know, how we're spending that money. And I sort of  
6 take offense to what they've done because they have now  
7 created a problem, and I'm not sure how we're going to  
8 solve that problem, because they weren't spending that  
9 money in the manner that it was supposed to. I think  
10 we have to, and this is where we really are reluctant  
11 many times when we draft legislation, and even when it  
12 concerns budgetary matters, that you dot every "I" and  
13 cross every "T" specifically spelling it out that this  
14 money was intended for the use of the district justice  
15 offices and their expenses, legitimate expenses, and  
16 that's how it's to be spent, not to be squirreled away  
17 in some account for the county commissioners to be  
18 utilizing that in other areas or to be gaining interest  
19 or whatever, you know. And I think sometimes we have  
20 to do those sorts of things in order to make sure that  
21 the intent of the legislation is carried out.

22 But in some of these other areas, I think  
23 that, and of course just this week we've had meetings  
24 with the President Judge Craig of the Commonwealth  
25 Court and took a tour of the Commonwealth Courts, and



1 just yesterday we had President Rowley in here,  
2 President Judge Rowley from the Superior Court, and  
3 we're going to be coming down to the Supreme Court and  
4 meeting with them sometime probably after the first of  
5 the year, you can carry that message back if you would.  
6 I think it's very, very, very important that we develop  
7 a working relationship with the judiciary, which is  
8 partly our responsibility. Sure, we legislate, but  
9 I've always said that we're in a partnership. We're  
10 here to help people solve people's problems, and if we  
11 don't communicate and work together, all we end up  
12 doing is tripping over one another and nothing gets  
13 accomplished. And I think the public looks at us to  
14 solve the problems, and that's the reason why some of  
15 this legislation, as a matter of fact, has been put in.

16 Now, I realize there are some  
17 constitutional questions on some of these and I realize  
18 there's questions that are being raised as to, well,  
19 not all the counties share the problems that maybe  
20 Berks and Dauphin and I'd say that maybe 17 or 18  
21 counties maybe have that kind of a problem because you  
22 have cities, urban areas like York or Harrisburg or  
23 Reading, Lancaster, whatever, and then they have the  
24 night court problem, but then when we were talking  
25 yesterday, and I think this is very interesting when

1 you start to exchange information, at different times  
2 of the year I'm sure Leo has hundreds of cases that  
3 come flooding in on the game and fish violations,  
4 because there's a large number of people that go up  
5 there and all of a sudden there's a lot of problems  
6 that are being created and somebody is going to get  
7 flooded with those cases, and the Poconos and the  
8 resorts and they have their share of cases that come  
9 in.

10 So I guess it really varies from area to  
11 area around the State. But what I really do think that  
12 we need to look at these problems and in order to  
13 afford you access to the system, what I'm saying is  
14 we're here to help you and I know that not all of these  
15 bills are ever going to see daylight as far as law is  
16 concerned, but at least I think it's a modest attempt  
17 to start to address some of the problems that we have  
18 within the system. What I hate to see happen many  
19 times is that we let things fester and brew until all  
20 of a sudden there's an explosion of saying nobody's  
21 hearing us. You know, we've got these problems within  
22 the system and nobody is really listening to us to try  
23 to resolve them. I know that some of these areas we  
24 may be treading very lightly, but I think we're getting  
25 the attention of the people in the other areas of

1 government, and the judiciary particularly, to indicate  
2 that something should be done. I mean, I would hope  
3 that once this is transcribed that we can send some  
4 copies of this hearing today to some appropriate people  
5 to review what's going on in some of the counties and  
6 the workload.

7 My concern is, and I know Carol didn't  
8 mention this when she testified, and as I recall, I  
9 believe there were two district justices, seniors, that  
10 were sitting in Berks County because of the hectic  
11 schedule of night court, and that's basically all they  
12 were doing, one of them ended up dying of a stroke and  
13 the other one had a heart attack. So the physical  
14 pressure and demand that's placed on a person by having  
15 a steady diet of that can be quite taxing. And I know  
16 Sam and I discussed this and how physically drained a  
17 person feels, and I know those of us in the legislature  
18 when we do these night sessions and you're here  
19 sometimes and go through a 24-hour session and try to  
20 think clearly the next day, I mean, it takes everything  
21 in your power just to get home just to recuperate to  
22 get ready for the very next day's work. And I just,  
23 you know, having a steady diet of that, I don't know  
24 how you do it. I just don't know how you do it. It's  
25 amazing.

1 I'm sorry. David.

2 BY MR. KRANTZ: (Of Mr. Magaro)

3 Q. Judge, on House Bill 2244, the bill that  
4 would allow district justices who lost their  
5 re-election bid to serve temporary assignment, do you  
6 feel that -- the feeling I gather from parallel  
7 judicial view is that if the electorate turns somebody  
8 out, then therefore the constituencies do not want that  
9 individual judging. But being that a person has had  
10 experience in the district justice system, do you feel  
11 or your association feel that either by this piece of  
12 legislation or by urging the AOPC to promulgate  
13 changing their rules and regulations to allow defeated  
14 justices to serve as either temporary justices or  
15 senior justices or whatever?

16 A. Well, I think if you're asking me what my  
17 personal feeling is, I think in the political climate  
18 in which I was brought up that once a person is  
19 defeated, the public would look at that as an  
20 indication that no matter what we do, they are going to  
21 still serve, and I think it would have a negative  
22 effect. That's my personal opinion.

23 Q. Do you know if at the present time if a  
24 defeated judge for Commonwealth Court, or Superior,  
25 whatever, if they were defeated, do they bring them

1 back to serve?

2 A. I don't really know.

3 Q. Okay. Okay.

4 A. Maybe Jim can answer that.

5 Q. Everyone seems to be shaking their head  
6 no, so that must be the case.

7 MR. KRANTZ: Okay, thank you.

8 MR. MAGARO: Anyone else have any  
9 questions?

10 BY REPRESENTATIVE BLAUM: (Of Mr. Magaro)

11 Q. How are you doing?

12 A. Good.

13 Q. Over the years I served on panels  
14 occasionally that are sponsored by the Department of  
15 Transportation, the Academy of Pediatrics, Mothers  
16 Against Drunk Driving, and so on, on enforcement of the  
17 drunk driving laws and underage drinking laws in  
18 Pennsylvania. They have just completed a seminar  
19 recently, I wasn't able to be at that one because the  
20 House was in session, but one thing that came out of it  
21 was their desire to participate in getting on the  
22 agenda for the training of new district justices for  
23 whatever continuing education there is for veteran  
24 judges to talk about the importance and success of  
25 strong enforcement of the underage drinking laws and

1 drunk driving laws in Pennsylvania. Would that be  
2 something that you would be willing to do that you  
3 think would be beneficial at your seminars or whatever  
4 you have to make them a part of the agenda and part of  
5 the program?

6 A. I think when you're talking about trying  
7 to make a presentation for continuing education that  
8 you probably have to apply to the Minor Judiciary  
9 Educational Board and to see whether or not they would  
10 allow something like that. We basically, as far as I  
11 know and as long as I've been in, the continuing  
12 education basically dealt with the new laws, the  
13 changes in the laws, certain problems that we might  
14 have within the system, and it's for one week, but I'm  
15 sure that, you know, that they would probably be  
16 receptive. Whether or not they would allow it, I don't  
17 know. Maybe Mr. Morgan.

18 REPRESENTATIVE BLAUM: Can I ask Mr.  
19 Morgan?

20 MR. MORGAN: Yeah. Kevin, the answer is  
21 that we certainly have participated. We, in fact, have  
22 district justices that participate in the same network.

23 REPRESENTATIVE BLAUM: Oh, Bill Chisolm?

24 MR. MORGAN: Right. And have continued  
25 to utilize that for continuing and at our annual

1 seminar for the district justices. The problem with  
2 the continuing ed is the basis of the materials they  
3 have. The concern is not that it shouldn't be  
4 presented. The concern is whether or not we're going  
5 to utilize people who have a vested interest, i.e.  
6 there are plenty of people to speak on the issue who  
7 are not in a particular pressure group, and I think  
8 that that is something that can be addressed and I  
9 would be glad to, as one of the people who do instruct  
10 at the school, bring that to their attention tomorrow  
11 when I will be in Chambersburg.

12 REPRESENTATIVE BLAUM: You know, because,  
13 I mean, the district justices in my area, Mike Collins  
14 and Martin McKean do a good job, and we have seen the  
15 results of that. Reports from around the Commonwealth  
16 are not unanimous on the strong enforcement of these  
17 laws by all, and I think that's a problem and these  
18 people are interested in talking about the positive  
19 effect. When we're talking about enforcement of the  
20 law, I don't necessarily look at them as an interest  
21 group or a pressure group that have a vested interest.  
22 I mean, their interest is the enforcement of the law as  
23 it's written and to bring about the protection and  
24 positive impact that that kind of enforcement will have  
25 and to talk to members of district justices who may --

1 who may benefit from that kind of input, talking about  
2 the positive results and the positive impact of  
3 enforcing it, that by turning and looking the other way  
4 you are not doing someone, a teenager or anybody else,  
5 a favor. That in fact it just leads the young kids in  
6 a wrong direction, and I think they have a positive  
7 message that if they had 20 minutes, a half an hour on  
8 the program at your seminars that it would be  
9 beneficial. So I'd ask that you--

10 MR. MORGAN: I'll take care of that.

11 REPRESENTATIVE BLAUM: Okay. Thank you.

12 CHAIRMAN CALTAGIRONE: Are there any  
13 other questions?

14 (No response.)

15 CHAIRMAN CALTAGIRONE: Sam, did you have  
16 any other comments that you wanted to make?

17 MR. MAGARO: Thank you very much.

18 CHAIRMAN CALTAGIRONE: No? Thank you.

19 MR. MORGAN: I would just like to take a  
20 few minutes, if I may. James C. Morgan, Jr., and I'm  
21 Solicitor for the Special Court Judges Association of  
22 Pennsylvania.

23 Having had the privilege of serving the  
24 special court judges since 1971 through the growth of  
25 the system and having had an opportunity of working



1 with staff in the legislature over those years, I would  
2 again like to commend the House Judiciary Committee and  
3 its staff on both sides who have always made themselves  
4 available and have been receptive to areas in which we  
5 were concerned.

6 I wanted to point out that what District  
7 Justice Magaro indicated in his workload, just by the  
8 statistical base he gave you from 1990 meant that on a  
9 220 day year, which is the 5 days a week without  
10 holidays, that he averages every day 7 hearings.  
11 That's not considering those days and the week that  
12 he's in continuing ed, the days that he's at hearings  
13 here or that he's doing other materials. So that in  
14 fact in a district like his, his average day is at  
15 least 10 hearings, without talking about Protection  
16 From Abuse, without talking about counseling sessions  
17 with children, juveniles, beyond the hearing time for  
18 underage drinking, for drug and alcohol problems, for  
19 related problems with truancy and the schools.

20 The average district justice, no matter  
21 what the size county, does an awful lot of things that  
22 don't statistically show up. The caseload has nothing  
23 to do with the average day and the average work, and so  
24 that in those counties which are not as busy from the  
25 standpoint of hearings, the average district justice in

1 the small rural counties does an awful lot of advice  
2 and counseling for people and preventing cases from  
3 coming in front of them as cases, does an awful lot of  
4 work with active groups in the community to head off  
5 the problems that exist.

6 We have a district justice here, District  
7 Justice Daihl who is in Shippensburg, and of course he  
8 has 5,500-plus people there every day at the  
9 university, and underage drinking is one of those  
10 things that's a regular and steady thing for him. It's  
11 changed with the legislation that you've sponsored,  
12 Representative Blaum, in a dramatic way, from a \$25  
13 fine per case in which more than 95 percent of those  
14 cases were simply a guilty plea and it was nothing  
15 more, to an intricate type of a hearing, necessary and  
16 important, as you've indicated, but takes an awful lot  
17 of time if you do it right. You cannot do that and  
18 just find guilt or innocence. In fact, you have to  
19 deal with the problem that a second and subsequent  
20 offenses increase the penalties. You have to advise  
21 them of the type of things that are available and make  
22 sure that in fact the program that you outline for them  
23 and with them with any local groups is adequate and in  
24 fact it has follow-up on. Those things take a lot more  
25 time than we ever did before that type of legislation.

1                   That is true in the driving under the  
2 influence types of charges. The consequence problem.  
3 We have instituted for driving under suspension, DUI  
4 related, an automatic 90 days, \$1,000 cost. That's a  
5 nice signing statute. The problem is you have to be  
6 very clear in the message that you're giving, including  
7 how you now at the end of 90 days, the average person  
8 having lost their job, determine how to collect the  
9 \$1,059 that's still owed. How do you do that in a  
10 realistic way in the economics of the times? So those  
11 are things that a district justice has to do that  
12 aren't on the books. They don't show.

13                   Probably the biggest load beyond the  
14 average increase of day-to-day cases in civil areas,  
15 which Mr. Magaro has indicated to you doubled in the  
16 last five years, is the area of Protection From Abuse,  
17 and we've discussed that at various times with staff at  
18 least. The concerns that we have that in fact most  
19 courts find themselves unavailable other than at motion  
20 court one day a week or afternoon on any particular  
21 day. I recognize the district justice is asked for  
22 protection from abuse from on the sole basis of an  
23 affidavit and an ex parte hearing determine that they  
24 are going to remove somebody from their home, and in  
25 fact if they violate that and until they have a full

1 hearing to explain to them what's going on, they've  
2 never seen this person that they're going to exclude  
3 from their home, but they're asked to do that on a  
4 regular basis. That's not what PFA was all about. It  
5 was designed to be a petition hearing in which a person  
6 would have an opportunity for a hearing first and then  
7 a court could, after full hearing, give the person the  
8 message of why in fact they were going to determine  
9 that they should not be in their home. This kind of  
10 explosion and the way it's been effected, again, in my  
11 view from a specialized interest who have a concern,  
12 it's a legitimate concern, but PFAs don't come  
13 overnight. They come over a long period of time, and  
14 people see them coming and know that they're there.  
15 And these are the kind of workloads that district  
16 justices are now asked to serve.

17           The district justices believe that the  
18 legislation package that you've asked us to review are  
19 things that they can do. There is no question that  
20 although we ask that the Senate Bill 40 be stripped of  
21 the provision of increased jurisdiction, it's not a  
22 problem, the district justice can handle the additional  
23 jurisdiction; it is a problem when we're asked to do it  
24 in light of where we stand now and our workloads that  
25 we have and the other problems. And so the same is

1 true with accepting a guilty plea for a small quantity  
2 of marijuana under House Bill 1113. That can be done  
3 and that's readily done for any misdemeanor of the  
4 third degree under Title 18 now, and also for  
5 misdemeanors under the Game Law and Fish Law, and  
6 there's nothing wrong. In fact, I think it's a place  
7 to go in that particular area. But the concern we have  
8 is that it's a piecemeal and we're asked to do another  
9 piece of the puzzle at a time when we already feel that  
10 we're doing more than our share.

11 In the area of the default judgment  
12 appeals, that has always been a particular problem and  
13 the Rules Committee has taken it up over a number of  
14 times attempting to figure out a mechanism to limit the  
15 right of appeal where a person doesn't appear. The  
16 concern that I've always had in it, and the reality of  
17 it is the constitutional right to appeal at least one  
18 time from any jurisdiction, and I think that's the  
19 hooker, but I think it's something that needs to  
20 continue to be looked at because there is a  
21 disadvantage to the ordinary person who has an  
22 expectancy that they can come to small claims court,  
23 that they can get relief and that it will be reasonable  
24 in its cost, only to find out that after they've gotten  
25 it, they won the judgment, that they now end up having

1 to hire an attorney to pursue their appeal because they  
2 have to file a complaint to the Court of Common Pleas.

3 So that's a laudable area. My concerns are those that  
4 others have expressed over the years.

5 House Bill 2147 focuses in on a  
6 particular problem that district justices have had in  
7 suburban and urban areas. That doesn't mean that the  
8 district justice in those counties which only have two  
9 district justices and therefore are on duty half of the  
10 year all day and all night for those period of times  
11 don't have the same problems, but what has happened is  
12 in the metropolitan areas the police, others have  
13 utilized this as a great way to clean up cases, and  
14 instead of having this availability serve the purpose  
15 of making sure that people who are arrested have the  
16 opportunity for a preliminary arraignment without a  
17 necessary delay. Scofflaws and others in ordinary  
18 types of things that should be utilizing summaries,  
19 that should be using summons, that should be using  
20 service of warrants during the day utilize these courts  
21 at that particular time. We all know that crime  
22 doesn't take place in the daytime, it takes place at  
23 night and on the weekends and the real problems that  
24 happen at that time, and that has caused a concern for  
25 district justices in metropolitan and urban areas, and

1 we are looking for the types of relief that we've  
2 talked about in this bill.

3           The association has concerns with the  
4 bill as drafted. It has not had a concern that in fact  
5 touches on a sore subject for district justices and we  
6 are looking for relief either by the appointment of  
7 senior district justices in those counties which need  
8 them on two or three days a week to give some of that  
9 relief for those busy times but things that need to be  
10 looked at in that particular area.

11           In regard to the 2244 bill, the  
12 association opposes the allowance of a district justice  
13 who had been defeated from being assigned as a senior.  
14 They see it as a problem for them. We recognize, and  
15 Representative Caltagirone and I, I can put faces  
16 because I've instructed the course since the beginning  
17 of the system on every district justice that's a  
18 layperson in Pennsylvania, and I know that there are  
19 good people who have been defeated in an election that  
20 ought to have an opportunity to continue to serve, but  
21 as an association, it has its downside and I must say  
22 that the association feels that they cannot support the  
23 bill.

24           In regard to the per diems and mileage  
25 for district justices serving in other districts, it

1 should be addressed. The \$88 dollar figure is a fair  
2 figure based on what other judges get. It is not hard  
3 for a Court of Common Pleas judge to be called upon at  
4 their call to be able to come and serve when they need  
5 them. It is very difficult in our situation now for a  
6 senior district justice to be assigned and to be  
7 brought out to serve, or for a district justice to be  
8 asked on long periods of times where there aren't  
9 senior district justices available to serve another  
10 district, especially if in fact those are busy  
11 districts, so that in fact that is something that we  
12 would appreciate you looking at, the legislature, and  
13 we appreciate that bill.

14 In regard to the increasing the amount of  
15 money as collateral necessary in order to have a  
16 hearing in motor vehicle cases, District Justice Magaro  
17 mentioned that, but we would rather look at the entire  
18 cost package, recognizing that since 1976 there has not  
19 been an increase, and again, we look at the county  
20 situation. The counties have not had an increase since  
21 then. The State has not had an increase, with the  
22 exception of special interest legislation. The only  
23 moneys added on to cases since 1976 from the cost  
24 factor of running our system have been for specialized  
25 interests and do not go to the judiciary. Those are



1       laudable interests. Whether we're talking about -- I'm  
2       not sure they all are, but the Cat Fund, EMS, Crime  
3       Victims Compensation, all of those things have added in  
4       all cases for district justices more than the costs as  
5       they came on board, so that in fact the only thing that  
6       we see when a person has a fine of a minimum or a cost  
7       of a minimum of \$59 dollars or \$75 are basically not  
8       related to the system in running the system but related  
9       to special interests, and we would urge that we look at  
10      that again and try to come up with a package that makes  
11      sense.

12                       I might suggest, a little off board on  
13      this, but I've worked with the Department of Revenue  
14      over a period of time and Ron Klunk and I, that it  
15      would be much simpler in this day and age as we go on  
16      line with computers to simply one-stream a cost and  
17      allow the State to divide it as it should be instead of  
18      asking the district justice to now divide every case by  
19      7 or 8 or 10 different places in which it's going to be  
20      accounted to. Simply give us a cost figure for running  
21      the cases and allow the Department of Revenue and the  
22      State to designate then how it's to be divided once  
23      it's received, including back to the counties for their  
24      share.

25                       But I think those are things that need to

1 be looked at. That's the same problem that you and I  
2 talked about yesterday, Mr. Chairman, in regard to the  
3 taking out of the \$15,000 of the \$30,000 that was  
4 allocated for district justices. When that was put in  
5 in 1985, the purpose was to identify to the counties  
6 that they did get in reimbursement, and if you will  
7 recall, what was simply done was taking from  
8 unallocated moneys that was returned for the judiciary  
9 and allocate it so that the counties could see that  
10 they did get reimbursement. It was only 15 to begin  
11 with and it has grown to \$30,000 and now it's been cut,  
12 but as of this week in at least three counties the  
13 county commissioners in three counties have determined  
14 to cut the amount of moneys to be paid to the district  
15 justices in those counties by the amount of money that  
16 they didn't receive from the State. Which means in  
17 Erie County that in fact they will lose half the staffs  
18 in offices as of January 1st. They are computerized as  
19 of a month and a half ago. There is no way they'll be  
20 able to even collect the moneys that are due and keep  
21 up.

22           It is the problem that we find as part of  
23 the judiciary in the ongoing battles that occur between  
24 the legislative, the executive, and the judicial branch  
25 that we're a pawn in that in a sense that if a county

1 commissioner says to me, well, but the Supreme Court  
2 said four years ago that the State should be paying the  
3 system. We all know the problems of doing that  
4 realistically, but if I'm in a county commissioner's  
5 slot, I understand that argument and I understand that  
6 it's easy to say, well, then we're not going to give  
7 you money because we're not supposed to do it anyway.  
8 When they then get cut by half the reimbursement, it's  
9 easy for them to use it as a wedge. The people that  
10 get hurt in this are people who can't expend a voice in  
11 the decisionmaking on how this is going to resolve  
12 itself.

13           But we do commend the committee for  
14 taking the time to hear from our group and the people  
15 that are here appreciate it and our association does.  
16 I would urge the committee that the court's  
17 subcommittee has a revised House Bill 292 on limited  
18 contempt for district justices, which was worked out  
19 with staff some time ago, and the primary sponsor is  
20 the Chairman of the Courts Committee, and you are a  
21 prime sponsor of it as well, Representative  
22 Caltagirone, and we would urge that that move because  
23 we think that's something that's long overdue. We  
24 recognize the concerns of lawyer legislators who  
25 believe in fact they don't want to give up the power,

1 but we have refined that bill so it's very limited.

2 One of things that's bothered me as  
3 counsel for this association is that we're asked in the  
4 area of PFA where a person violates an ex parte order  
5 to declare them in indirect criminal contempt of the  
6 Court of Common Pleas who has never acted in the case,  
7 and my concern is that in fact what the district  
8 justices have to do is at the time that they determine  
9 it to be indirect criminal contempt at the Court of  
10 Common Pleas as opposed to their own order, which is  
11 what they did, they then set bail on the person and can  
12 jail them. My concern is I think there's an exposure  
13 to suit by district justices under the status of the  
14 law now. I think they need criminal contempt, I think  
15 they have to have the opportunity where people defy  
16 their orders that just don't bother to come. And we  
17 all know that people don't have to obey a subpoena for  
18 a district justice, if you read the statutes, because  
19 in fact there is no bottom line. They can't be fined,  
20 they can't be held in contempt, and you can't order  
21 them to come when the law has no teeth. Limited  
22 criminal contempt is something that we urge on this  
23 committee in the immediate future.

24 The things that you've raised and given  
25 us an opportunity to respond to today we think are

1 things that need to come and be addressed by the  
2 committee, and we appreciate your time.

3 Thank you.

4 CHAIRMAN CALTAGIRONE: I also would like  
5 to add, and I don't mind going on record for this, that  
6 with the caseload that the district justices have had  
7 to incur because of the additional legislative  
8 responses to situations in our society which thrusts  
9 them into the front line as far as having to deal with  
10 any type of a criminal or civil situation, the  
11 rental/lease property legislation, I happen to have  
12 been the prime sponsor of that bill signed into law and  
13 find out that there's interpretations already that are  
14 causing some problems in that whole area as to whether  
15 or not the intent was that the property be brought  
16 back, and we were going round and round with the county  
17 solicitor for the association back home yesterday about  
18 that, and the case was before a local district justice  
19 involving one such case.

20 But the point that I'm making is that,  
21 and I know we legislators are also in the same  
22 situation and I have never shirked from voting for a  
23 pay raise in the 15 years that I've been here. And I  
24 know that the district justices, along with the other  
25 judges across the State, have not had a pay raise in it

1 will be five years again this year, it will be six  
2 years next year, and I think it's about time that the  
3 question be addressed. I know these are not the best  
4 of economic times, but I can say this with some degree  
5 of authority, it is never a good time to talk about or  
6 vote for a pay raise. There is never a good time. I  
7 do think, though, that some modest increase, even if we  
8 look at a COLA at some time next year for those of us  
9 that work for the public, I don't, and I've always said  
10 this back home, none of us get any breaks when we go to  
11 the store and pay the same as everybody else, and  
12 you're having families that you're raising and homes  
13 that you're paying off and cars that you're paying off.

14 I just think that if you want to attract  
15 and keep people working in the public sector, then by  
16 God, you've got to pay them a decent living in order to  
17 keep them or you're going to lose them, and I know that  
18 there have been some hardships that I've heard of from  
19 the district justices because they do vary in scale, I  
20 think. Some people don't realize that it's based on  
21 population as far as the amount of money that the  
22 district justices receive from a certain range. But I  
23 do wish that next year that this would be addressed by  
24 the legislature, because I think it's long overdue for  
25 the district justices.

1 MR. MORGAN: Thank you.

2 CHAIRMAN CALTAGIRONE: Are there any  
3 other?

4 Kevin.

5 BY REPRESENTATIVE BLAUM: (Of Mr. Morgan)

6 Q. Mr. Morgan, I talked to District Justice  
7 Collins about, and I'm wondering if what he mentioned  
8 to me is along the lines of the limited contempt. He  
9 was saying that if a citation is issued for whatever  
10 and the person doesn't show up, that he's virtually  
11 powerless.

12 A. That's a different but related issue.

13 Q. Is that a warrants--

14 A. That's a warrant that can't be served in  
15 a lot of areas, and this committee should be aware of  
16 the Supreme Court declared the Act 147 on constables  
17 unconstitutional several weeks ago and made it clear  
18 that -- as a matter of fact, they are part of the  
19 executive branch and not a part of the judiciary. That  
20 puts in many areas where in fact constables become a  
21 problem, a real premium on getting service. It also  
22 does because many police departments have looked at the  
23 cost factors of utilizing a policeman for warrant  
24 pursuit and don't do it, so that we've come to a real  
25 problem in this area.

1                   One of the pieces of legislation that's  
2                   been introduced, and the Chairman in correspondence  
3                   with us several weeks ago indicated it was going to be  
4                   recommended by the Chairman of the Transportation  
5                   Committee to move is a bill which would take care of  
6                   the DL 38s, which is the failure to obey a citation  
7                   feature that suspends the license would be utilized not  
8                   only on an initial failure but upon any failure  
9                   thereafter which went for 30 days. In other words, if  
10                  the person came in in response, then the legislation  
11                  that we have now is no longer applicable. So the  
12                  person comes in and posts collateral for a hearing and  
13                  then doesn't show up for his hearing and he's found  
14                  guilty, you still have to pursue that person and  
15                  there's no stop on it. What the new legislation would  
16                  do would say any time there's an order pursuant to that  
17                  case and the person doesn't obey it within a 30-day  
18                  period, there can be an additional stop on their  
19                  license until they get back. We think that's going to  
20                  be helpful in this particular area.

21                   One of the problems, though, in that  
22                   response time is of course we've gone to a four-year  
23                   license. The four-year license becomes, you know,  
24                   unless you happen to hit the cycle right, it doesn't do  
25                   a lot of good to suspend licenses unless somebody is



1 going to serve it on them and make sure they're picking  
2 them up. But those are all areas of tightening of the  
3 system which would help us immensely.

4 Q. I've had something drafted and if it was  
5 the same as the 292 that you mentioned that Tom  
6 sponsored I'd drop it, but maybe I'll send it to you to  
7 see if--

8 A. Absolutely.

9 Q. --to see if -- you know, it's something  
10 that Mike is interested in but maybe it's just  
11 duplicative of what the Chairman of Transportation is  
12 doing or the Chairman of Judiciary and we wouldn't have  
13 to move on it.

14 My second question would be on the per  
15 diem. We've had, in Luzerne County, a couple of senior  
16 justices who have been asked to come and serve. These  
17 judges are receiving no more than \$20 a day for--

18 A. No, I'm sorry. They are not. They're  
19 receiving, and I can't remember what the legislation  
20 is. I think it's \$60 a day.

21 Q. \$60?

22 A. And I'll get you that figure. It's in  
23 the statute and I'll get that for you.

24 Q. So the \$20 a day--

25 A. I'm sorry, it's \$90.

1 Q. So the \$20 a day would be for a sitting  
2 justice who has to travel out of town or--

3 A. Correct. Cover somebody else on a  
4 full-time basis.

5 Q. And this counts for meals and hotel bill  
6 and everything, \$20?

7 A. Correct.

8 Q. That's incredible.

9 MR. MAGARO: 'You get \$13 after your taxes  
10 are finished.

11 REPRESENTATIVE BLAUM: \$13?

12 MR. MAGARO: I'm talking from experience.

13 MR. MORGAN: The problem with that is  
14 that, and it's really been one of those things in the  
15 growth of this system. We appreciate the things in the  
16 growth that have improved for the system, but it's one  
17 of those things where the decision on whether or not to  
18 utilize a person to cover another office, those aren't  
19 a problem for short periods, but we have had in many  
20 counties people who have been out of office for 6  
21 months, a year, 18 months, 2 years, and at that point  
22 in a county with 18 and you have 1 out, that's one  
23 thing. If you have three in the county and you have  
24 one out, it's a different routine. And in those  
25 counties of course you're talking geographical

1 distances, which are much more major than they are in  
2 suburban areas.

3 REPRESENTATIVE BLAUM: Thank you.

4 CHAIRMAN CALTAGIRONE: Just to inform  
5 you, we are in the process, Jim, of reworking and  
6 drafting a new constables bill that would take into  
7 account the training fees which I think will answer  
8 some of the problems that were originally raised in the  
9 bill that came into question.

10 Another bill that we're also working on  
11 is the reform of the Judicial Inquiry and Review Board.  
12 I have a draft piece of legislation that also will  
13 probably be submitted sometime in the next two to three  
14 months, possibly some more, but I'm not sure. But I  
15 think it meets some of the concerns and objections that  
16 were raised concerning that piece of legislation and I  
17 just want to share that with you.

18 If there's anything that you want to  
19 guide us on or work with us on as far as especially the  
20 constables' bill which I know impacts directly on the  
21 working relationship with the constables and the  
22 district justices, please feel free to help us with  
23 that because I don't know -- Dave, are you familiar  
24 with that, as far as the drafting has that--

25 MR. KRANTZ: Nothing definitive.

1                   CHAIRMAN CALTAGIRONE: But we will be,  
2 within a short timeframe, within the next four weeks  
3 ready to go.

4                   MR. MORGAN: Thank you.

5                   CHAIRMAN CALTAGIRONE: Is there anybody  
6 else present that would like to testify?

7                   Leo, you came all the way down.

8                   MR. ARMBRUSTER: Sure. Why not?

9                   CHAIRMAN CALTAGIRONE: If you would just  
10 identify yourself.

11                   MR. ARMBRUSTER: Sure.

12                   Mr. Chairman and the members of the  
13 committee who are present, I'm Leo Armbuster from  
14 Union County, and I'm finishing my second term as  
15 district justice there. Part of my district comprises  
16 three institutions - Bucknell University, the Allenwood  
17 Prison Farm, and the Lewisburg Penitentiary.

18                   And Jim, Mr. Morgan, was talking about  
19 the undocumented things that district justices do from  
20 day to day. In any one year I do up to 100 Federal  
21 extradition waiver hearings for the Federal government  
22 because it's a security risk to take inmates who are  
23 finishing a Federal sentence all the way to  
24 Williamsport to appear before a Federal magistrate.  
25 And so I do those things.

1           As in many rural parts also we do a lot  
2 of notary work, and I think when you get down to the  
3 subject of notary work, there's a perception, a  
4 longstanding perception on the part of the public, and  
5 I think it has to do with the way the general public  
6 thinks about our court, that we're sort of a court.  
7 Not a court in our own right because we've evolved from  
8 this whole justice of the peace system, and that in the  
9 eyes of many we're quasi-judges. A lot of it has to do  
10 with the way we're titled.

11           In essence, we do, you know, the same job  
12 that municipal court judges do in most other States.  
13 They carry the title, they get the compensation. Yet  
14 in Pennsylvania we don't have that same level of esteem  
15 that we do in other States, and I think that's been a  
16 big problem all along. I think that's part of the  
17 problem in trying to pass legislation such as the  
18 contempt bill.

19           At the same time, however, over the past  
20 20 years, if anyone who came into the system 20 years  
21 ago ever dreamed that we'd have the broad range of  
22 jurisdiction and powers that we do today, they'd have  
23 said you were nuts. We have considerable powers. We  
24 have fine people coming into the system today who are  
25 serious about their judicial role, who have great

1 societal concerns and are diligent in carrying out  
2 their responsibilities.

3                   Senate Bill 40, in particular, would  
4 increase our jurisdiction again in civil cases from  
5 \$4,000 to I believe \$7,500. In the past three months  
6 I've asked my civil clerk to gather statistics on the  
7 number of folks coming in wishing to file suits over  
8 \$4,000, and I've had 51 constituents come into my doors  
9 in just the past three months wishing to file suits  
10 over \$4,000, not being aware of what our jurisdictional  
11 limit is. That would represent about an 8-percent  
12 increase in my caseload per year. And I can tell you  
13 that we did statistics for all civil suits filed over  
14 \$1,000 last year, and in over 70 percent of those cases  
15 I actually had hearings on those, generally under  
16 \$1,000 people don't show up, there are default  
17 judgments and so on. But in those cases over \$1,000,  
18 there are a lot of actual hearings generated. So you  
19 start increasing the civil caseload above \$4,000,  
20 you're going to get a lot of things that ordinarily  
21 would go to arbitration panels in most counties.  
22 Somebody gets sued for \$6,000, they're going to defend.  
23 So there would be defenses in almost all cases in a lot  
24 of suits over \$4,000.

25                   In the cities it would have a great

1 effect. I know I'm in a sort of a rural district. I  
2 have a hodgepodge of -- I sort of have a broad range of  
3 society in my district. I have a university, I have  
4 two penitentiaries, I have a big agricultural district,  
5 and I also have a big blue collar district, so I have  
6 sort of a broad range and I get a taste of everything.  
7 And my caseload is sort of an even mix. But in some  
8 cities you'll have district courts that have 3,000  
9 civil cases a year, and to increase that to \$7,500  
10 without adequate compensation, you know, sometimes I  
11 feel like you know in the old days in the mines they  
12 had those little donkeys that used to haul the coal out  
13 of the coal mines. Sometimes I feel like we're the  
14 donkey and the people keep pouring more coal into those  
15 carts and it's very hard to pull the weight of that  
16 load. And I would just ask the Judiciary Committee to  
17 be very hesitant to pass a measure that wouldn't  
18 include some kind of added compensation.

19           There was an article in the "Pennsylvania  
20 Lawyer" that someone sent to me anonymously, I don't  
21 know where I got it, but there was someone talking  
22 about compensation of Common Pleas judges and the  
23 author was talking about how hard it is to feed a  
24 family of four on \$80,000 a year. Well, imagine what  
25 it's like to feed a family of four on \$38,000 a year,

1 which when you adjust it for inflation and the fact  
2 that we haven't had a raise in maybe four or five  
3 years, it really places a burden on us. And I think  
4 judges throughout the spectrum should be paid good  
5 money to keep us in.

6           And our system in the past several years  
7 has been drawing good people who basically fit this  
8 kind of profile. They've been in the justice system in  
9 some way, either as probation officers or domestic  
10 relations officers, or they've been public school  
11 teachers. A lot of public school teachers are getting  
12 into this. They feel they can serve the public in a  
13 different way and maybe a better way. So we want to  
14 keep good people coming into the system, and money is  
15 an enticement, and there's nothing wrong with that,  
16 because if you have good folks going elsewhere, you're  
17 not going to be aiding the judicial system at all. You  
18 don't want flunkies sitting in judges' seats.

19           I thank you for this opportunity to  
20 speak. Oh, I want to talk about the per diem also. I  
21 had the opportunity this past year to serve for seven  
22 months in a vacant office in my county. We only have  
23 two district justices in Union County, so it placed a  
24 great hardship on me running two courts for the bulk of  
25 the year. And even when I wasn't in that court I was



1 effectively the administrative justice for that  
2 district. So I was getting paid for only one day a  
3 week when I was actually physically there, when I was  
4 actually presiding in that court for seven months. I  
5 was the justice. And the compensation has to be  
6 increased. \$20 is an insult.

7 Thank you very much.

8 CHAIRMAN CALTAGIRONE: Are there any  
9 questions?

10 (No response.)

11 CHAIRMAN CALTAGIRONE: Thank you.

12 If there are some other district justices  
13 that are here, feel free if you would like to come  
14 forward and say anything. You're certainly welcome.

15 (No response.)

16 CHAIRMAN CALTAGIRONE: Okay, we will  
17 adjourn the hearing, and thank you very much for  
18 participating today.

19 (Whereupon, the proceedings were  
20 concluded at 11:27 a.m.)

21

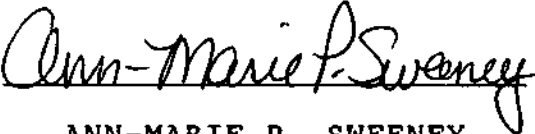
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1 I hereby certify that the proceedings  
2 and evidence are contained fully and accurately in the  
3 notes taken by me during the hearing of the within  
4 cause, and that this is a true and correct transcript  
5 of the same.

6   
7

8 ANN-MARIE P. SWEENEY  
9

10

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