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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE

In re: House Bill 2574, Constables

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

Tuesday, April 14, 1992, 10:00 a.m.

HON. THOMAS R. CALTAGIRONE, CHAIRMAN

MEMBERS OF COMMITTEE

- Hon. Kevin Blaum
- Hon. Michael C. Gruitza
- Hon. Gregory C. Fajt
- Hon. Jerry Birmelin
- Hon. James Gerlach
- Hon. Robert D. Reber, Jr.
- Hon. Chris R. Wogan

Also Present:

- William Sloan, Esquire, Executive Director,  
Local Government Committee
- Mary Beth Marschik, Research Analyst
- David Krantz, Executive Director,  
House Judiciary Committee
- Katherine Em Manucci, Secretary

Reported by:  
Emily R. Clark, RPR

1992-087

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Constable Allen R. Binkley	25

1                   CHAIRMAN CALTAGIRONE: I would like to open the  
2 House hearing on House Bill 2574, Constables. I'm Chairman  
3 Tom Caltagirone from the House Committee.

4                   I would like the members and staff, if they  
5 wouldn't mind, on the dais here, to introduce themselves,  
6 and I have a couple comments and I would like counsel to  
7 give an overview also on this piece of legislation.

8                   We will expect other constables evidently that  
9 are coming in from around various areas of the state that  
10 will be joining us and some other members.

11                  If at this time, though, if the members would  
12 please introduce themselves and the staff that's present.

13                  REPRESENTATIVE GRUITZA: I'm Representative Mike  
14 Gruitza of Mercer County.

15                  REPRESENTATIVE BIRMELIN: Representative  
16 Birmelin, Wayne County.

17                  MR. SLOAN: Bill Sloan, counsel to the House  
18 Committee.

19                  REPRESENTATIVE REBER: Representative Reber,  
20 Montgomery County.

21                  MS. MARSCHIK: Mary Beth Marschik, research  
22 analyst.

23                  MR. KRANTZ: Dave Krantz, executive director of  
24 the committee.

25                  REPRESENTATIVE GERLACH: Jim Gerlach from

1 Chester County.

2 CHAIRMAN CALTAGIRONE: I might add that very few  
3 people know that I was a former constable myself for  
4 approximately a year in 1976. So I know from experience  
5 what constables go through in the course of the outdated and  
6 outmoded fee schedule. Hopefully this piece of legislation  
7 can be amended, number one.

8 Number two, that we can work out the particulars  
9 on the training. I think that's the major stumbling block.  
10 I don't believe, I don't really think there's any problem  
11 with the bill per se.

12 Counsel Sloan has worked with me on developing  
13 this legislation. He's going to give an overview of it.

14 But I want to add that in my discussions with  
15 Chairman Blaum, who is also a member of this committee with  
16 the PCCD, I think from my indications in talking with him  
17 will take over the responsibility for the training as long  
18 as there's a funding stream. Funding stream is included in  
19 this legislation to develop that, so that that is covered,  
20 and I'm hoping that with contact with the proper officials  
21 from the court, that we'll be able to get the agreements  
22 that there's not going to be any serious problems  
23 constitutionally with the legislation once we move it out of  
24 committee.

25 With that, I would like to turn it over to

1 Counsel Sloan for an overview on House Bill 2574.

2 MR. SLOAN: Thank you, Mr. Chairman.

3 This bill has been in process since 1976, more  
4 or less. The recent history of it is that four or five  
5 years ago the constables were approached by the  
6 administrative office of Pennsylvania courts. AOBC wanted  
7 to help put together a constable training bill. One was  
8 developed by a broad task force representing constables,  
9 sheriffs, the FOP, the court administrators, county  
10 commissioners, county controllers, and so forth.

11 The way that bill was designed was that  
12 constables would have to be trained prior to performing  
13 judicial duties. That was the judiciary's main concern;  
14 they wanted trained officers, constables who would be able  
15 to perform their executive branch duties as they do at  
16 present, learning on the job.

17 Part of that, the scheme of that bill was to say  
18 that constables are part of the judiciary, they're officers  
19 enforcing orders and serving process while they're  
20 performing judicial duties.

21 That bill became Act 147 of 1990. It was  
22 declared unconstitutional by the Supreme Court of  
23 Pennsylvania in 1991. They held that constables weren't  
24 part of the executive branch and the legislature could not  
25 put them in the executive branch.

1           This is the first time that we've had a  
2 declaration of where constables fit into the system, so in  
3 that sense, at least, that opinion represented progress.

4           What has been done with House Bill 2574 is to  
5 take those parts of Act 147 1990 which seemed to be  
6 agreeable to everyone, this is a slimmed-down, condensed  
7 version of that act. It deals only with fees and with  
8 training. As a vehicle, we took the old constable fee law,  
9 which is currently in effect, and put the language in  
10 there.

11           The last time constable fees were raised, by the  
12 way, was in 1974, although this act has been amended since  
13 then. So we're looking at the 20th anniversary of the date  
14 when constables last got a raise in this state.

15           Up through page 4, line 24, is the old fee bill,  
16 and this is all being stricken out, not only because the  
17 fees are low, but because the language used of 1917 no  
18 longer reflects the nomenclature in constable duties today.

19           So the bill provides for, page 4, line 25,  
20 actual mileage at the IRS rate, without having to change the  
21 law every time the mileage rate goes up.

22           There's a clarification that in certain cases,  
23 page 5, line 4, when you're serving a warrant on a defendant  
24 of the opposite sex or a court case, you're allowed to take  
25 a second officer along without further permission.

1           There's language in here saying that the  
2 constable shall be paid within 15 days. There's no  
3 automatic enforcement mechanism, but we hope people will  
4 read that and try to get the money paid in a timely way.

5           Then beginning at page 5, line 23, are the  
6 specific fees to be paid in civil cases, and that goes  
7 through page 6, line 19. The last part of that is courtroom  
8 security is a new item, new in the sense that it's not in  
9 current law. That would be at the option of the court.

10           Then criminal cases begin on page 6, line 20 and  
11 go over to page 8, line 14. There are some new items in  
12 there, training and so forth which aren't covered by the  
13 current fee bill.

14           Then page 7, line 15, is a phrase similar to  
15 current law saying that if there's anything not specifically  
16 listed, payment shall be for the closest service that one  
17 finds in the enumerated listed fees.

18           Most similar to that, page 8, line 19, the  
19 board, which is the constable education training board, with  
20 the review and approval of the Commission, that would be the  
21 Pennsylvania Commission on Crime and Delinquency, may adjust  
22 these fees from time to time and so forth.

23           Now, page 8 begins the training section. There  
24 would be established a constables' education and training  
25 board: Seven members, one appointed by the governor, the

1 other six appointed by legislative leaders. Those members  
2 would all have experience as constables. They would all  
3 serve for a period of three years. And this board would be  
4 a subsidiary of PCCD, in the same way in which the Deputy  
5 Sheriffs Education and Training Board under Act 2 serves  
6 under PCCD. PCCD provides the staffing and financial  
7 control and so forth.

8           The board would set up a curriculum and would  
9 have, for the most part, pages 10 and 11, give that board  
10 the same powers, just a few unlisted changes that the Deputy  
11 Sheriffs Education and Training Board has now.

12           The bottom of page 11 begins a description of  
13 constable basic training. This would be 80 hours of initial  
14 training.

15           There is a provision at the bottom of page 11,  
16 top of page 12, for any incumbent constable who is now an  
17 incumbent who, an incumbent at the time of the passage of  
18 this act, would have one chance to challenge the exam, to  
19 say, well, I know what I'm doing and I can take the exam  
20 without sitting in a class for 80 hours, he would have one  
21 chance to do that. If he passes, he passes. If not, then  
22 he would have to go back to class before taking the exam  
23 again.

24           Page 12, line 5, deals with continuing  
25 education. This would be mandatory up to 40 hours a year,



1 and there would be no way to challenge that exam. You would  
2 actually have to show up and take the continuing education.

3 Page 12, line 11, is a temporary grandfather  
4 clause. What this says is give the commission time to gear  
5 up with the program. All constables and deputies who are in  
6 office when the act takes effect would be able to finish out  
7 their present term of office and would be deemed to be  
8 certified for their present term of office. If they want to  
9 run for re-election or to seek reappointment, sometime prior  
10 to the current term of office, they would have to pass the  
11 basic training exam.

12 This would allow time to develop a curriculum  
13 and get things set up. Exactly how long this would last  
14 would depend on what kind of schedule the constable was on.  
15 They are elected for terms of six years. The terms are  
16 somewhat staggered, and so some constables would have  
17 between one and six years, depending upon exactly when the  
18 act took effect, to get in a training program.

19 Page 12, line 15, is the firearms provision, and  
20 this says that no constable may carry or use a firearm  
21 unless he is trained, and there are four avenues of training  
22 here. A is Act 120, the police training, the firearms  
23 portion of the police training. B is the Lethal Weapons  
24 Training Act, Act 235, which is for private security  
25 guards. C is Act 2, the deputy sheriffs program. Those

1 three are all operational and would be available immediately  
2 for people to seek certification if they don't already have  
3 it.

4 And D would permit the Board and the Commission  
5 to set up its own firearms program or to approve other  
6 programs that would be available to constables.

7 I must have skimmed over it, but there is a  
8 provision with respect to training that says no constable  
9 may receive any fees provided under this act unless and  
10 until he is certified. That would be the enforcement  
11 mechanism. We're not mandating universal training. So you  
12 could still work the polls on election day and do things  
13 provided by other statutes. But the fees set out in this  
14 act cover 99 percent of what a constable does and 99 percent  
15 of a constables know it would be a powerful incentive to  
16 seek this training.

17 The funding mechanism is set out on page 13 at  
18 line 4. There's a \$2 surcharge for each fee of those fees  
19 enumerated above for each service performed by the constable  
20 or deputy. That's the same amount deputy sheriffs are  
21 currently receiving. That goes into a fund and that money  
22 is then used to pay for the training.

23 I might note here for the benefit of the  
24 Commissioners, we inserted language at lines 7 and 8 that  
25 says under no circumstances shall the county be liable to

1 pay that surcharge. That possibility would arise in two  
2 cases: In the event of an indigent criminal defendant, the  
3 county winds up paying all of his court costs and so forth;  
4 or if there's a defendant who is acquitted or otherwise  
5 discharged, costs might be assessed at the county. But in  
6 no case shall the county have to pay this educational  
7 surcharge. That would be paid only by other parties.

8           Now, how much training there would be and where  
9 it would take place or how often is entirely revenue  
10 driven. There is no requirement in here for the Commission  
11 or the Board to give any certain number of courses or to  
12 give them in any certain number of locations.

13           It's the hope of those promoting this  
14 legislation that constable training could be given  
15 regionally, around the state, perhaps evenings or weekends  
16 so that people wouldn't have to disrupt their employment to  
17 attend the training.

18           I would ask you to bear in mind that police  
19 officers and deputy sheriffs are receiving a salary while  
20 they attend training. Constables are not. They're there on  
21 their own time and their own expense. So we want to try to  
22 make it as convenient as possible.

23           Whether or not training could be held in six  
24 different regions or might just be held in one place would  
25 depend entirely on the constables, how much work they did

1 around the state and how much they collected in surcharges.  
2 So there's no possibility of running a deficit here; you  
3 simply don't schedule programs unless you see the money  
4 coming in to pay for it.

5 CHAIRMAN CALTAGIRONE: Thank you, Counsel.

6 We also had another member of the committee join  
7 us, Chris Wogan from Philadelphia.

8 We'd like to start off with Constable Emil J.  
9 Minnar, president of the Pennsylvania Constables  
10 Association. If you would come forward and present your  
11 testimony.

12 We also have another member of the committee,  
13 Representative Blaum from Wilkes-Barre, that has also joined  
14 us.

15 MR. MINNAR: Thank you, Mr. Chairman.

16 Mr. Chairman, members of the House Judiciary  
17 Committee, ladies and gentlemen. I'm honored by your  
18 invitation to testify before this Committee today regarding  
19 training, certification and fees for constables in the  
20 Commonwealth of Pennsylvania.

21 Being a full-time constable myself for over 15  
22 years and earning my living as a constable, and currently  
23 serving as president of the Pennsylvania State Constables  
24 Association for the past four years, I believe I can provide  
25 some rather accurate and authoratative information on this

1 for this Committee's use in the determination of current  
2 legislation affecting constables in Pennsylvania.

3           As president of the Pennsylvania State  
4 Constables Association, normally designated as PSCA, it's  
5 the only organization representing a crosssection of  
6 constables throughout the Commonwealth. I've worked  
7 diligently over the last 10 years with a variety of groups  
8 having direct or tangential interest in the development,  
9 professionalism and formalization of Pennsylvania's  
10 constable system.

11           It's important to note that the constable system  
12 provides a relatively cost-free system to the Commonwealth  
13 for the service of criminal and civil process for the  
14 courts. This relatively cost-free system of service based  
15 on a fee structure is of even more importance at a time when  
16 everyone is concerned with possible tax increases and budget  
17 cuts, both items which I'm sure are very real to everyone  
18 here today.

19           With the system consisting of elected and  
20 court-appointed personnel, it's important that constables'  
21 activities not only be preserved but also developed so that  
22 they can perform a more efficient and professional service  
23 for the courts and the judiciary. To this end, legislation  
24 is needed to assure the materialization of these very  
25 important goals.

1           Realistically, as it was mentioned, the last  
2 piece of legislation that was enacted was in 1972, setting a  
3 fee structure for payment for work performed by the  
4 constable. This fee bill is horribly outdated. Constables  
5 cannot be expected to work for these outmoded fees. I  
6 believe everyone here today will agree that they would not  
7 be happy earning a living in today's economy based on a  
8 medium income of the early 1970 era. In fact, it's almost  
9 inconceivable to expect anyone to work without increased  
10 income or cost of living adjustments over the last 20 years,  
11 yet the constables in Pennsylvania have done so and they've  
12 served the courts loyally and admirably.

13           Keep in mind, this relatively cost-free  
14 constable system also generates some very important income  
15 and much needed income for the municipalities as well as our  
16 state.

17           The constable system, as with other groups, does  
18 require formalization, for if it is to grow and become more  
19 sophisticated and efficient in today's world, training and  
20 continuing in-service instruction is of utmost importance to  
21 the constable in a more complicated and demanding society.

22           The constable is expected to provide his own  
23 vehicle, purchase his own liability insurance, provide his  
24 own equipment and uniforms, and when possible, seek out  
25 sometimes nonexistent sources for training and updates

1 regarding Pennsylvania and local rules of service. The  
2 constable must keep abreast of this information or face  
3 possible libel action from time to time.

4           Members of the Judiciary Committee, the time has  
5 come for the constable to no longer be treated like a  
6 stepchild. Legislative training, continuing education,  
7 certification of levels of training and reasonable updated  
8 fees for the constable in Pennsylvania are long overdue.

9           Further, some central advisory committee must be  
10 created to monitor and administer these aforementioned  
11 much-needed services. Efforts to legislate constable  
12 legislation fees and training have been exercised over the  
13 last 10-year period by PSCA, interested district judges,  
14 court administrators and many interested court-related  
15 personnel, but to no avail.

16           It most recently appeared that Act 147, the  
17 constables bill, would be the panacea. However, the act was  
18 deemed unconstitutional in November 1991 by the Pennsylvania  
19 Supreme Court. However, the Supreme Court's decision has  
20 not deterred our immediate goal, that of an all-inclusive  
21 constables' bill.

22           As legislators, you can help the oldest law  
23 enforcement group in this country, the constable, to achieve  
24 an enjoyable, to achieve a legislated program which would  
25 provide necessary training and fee structure and place the

1 constable in the 20th century.

2 Mr. Chairman, Committee members, please accept  
3 my thanks for the opportunity to address you today. If you  
4 have any questions, I shall be pleased to attempt to answer  
5 them in the best way possible.

6 CHAIRMAN CALTAGIRONE: Thank you.

7 Questions from the committee?

8 (No audible response.)

9 CHAIRMAN CALTAGIRONE: We also have  
10 Representative Fajt who has joined us from Allegheny  
11 County.

12 Counsel, do you have any questions? Staff?

13 (No audible response.)

14 CHAIRMAN CALTAGIRONE: Thank you.

15 Mr. Ray Holland, retired Lycoming County court  
16 administrator?

17 MR. HOLLAND: Yes, sir. Mr. Chairman and  
18 distinguished members of the Judiciary Committee and guests,  
19 I am retired from the courts, having spent 24 and a half  
20 years as a judicial administrator. Prior to that I have 20  
21 and a half years with the Department of the Air Force; I  
22 retired from the Air Force.

23 During those years I also served as a member of  
24 the Governor's Justice Commission almost 11 years, going  
25 from appointed member up until chairman of the south central



1 region. It's during that period of time that I had the  
2 privilege of becoming associated and working with the  
3 constables as the administrator of the judicial system.

4 I would like to emphasize several points here  
5 today. I am not here as a paid lobbyist. I am not here as  
6 a paid member representing the constables' association. I  
7 am here as their friend, and as my experience, which I will  
8 outline here, in working with the constables, I think it's  
9 important that you become aware of several factors.

10 First of all, I'm sure that you're aware of the  
11 district justice automation system here in Pennsylvania. I  
12 was appointed to the management committee by Justice Savallo  
13 and by Chief Justice Nix to work closely with the automation  
14 committee. It was during that period of time that  
15 out-of-state so-called experts came in and did an inventory  
16 of the needs for the automation system here in Pennsylvania,  
17 which I am certain many of you are familiar with.

18 But the thing that I would like to emphasize at  
19 this time is that the data that we collected reflected upon  
20 the annual increase in collections statewide here in  
21 Pennsylvania. At that time we had reference to the 1984  
22 annual reports on actual collections, the money that was  
23 assessed by the courts and due to the citizens of this  
24 Commonwealth.

25 It's interesting to note that the current

1 collection rate at that time was below 50 percent. It  
2 averaged out for all the counties to the average of 50  
3 percent.

4           It was anticipated that with the training and  
5 professionalism of the constables, which as we all know, is  
6 the enforcement arm of the minor judiciary, that the  
7 collection rate would go from 50 percent up to 87 percent.  
8 It was anticipated that such an increase would amount to  
9 over 110 million in the first year. In fact, the automation  
10 system at that time it was determined that the increased  
11 collections should help to offset the cost of operating this  
12 system.

13           I have not been privileged to any recent  
14 statistical data that would alter this one way or the other,  
15 but when I left at the end of December and collecting data  
16 for the annual report to be published by our court and also  
17 to be submitted to AOPC in Philadelphia, it became very  
18 evident that we were not even close to the 87 percent that  
19 was projected by the fact-finding study.

20           In addition, I would like to point out that in  
21 1979 when I went from Huntingdon County to Lycoming County  
22 as the court administrator, also at the same time I was made  
23 regional court administrator for the first regional judicial  
24 unit in Pennsylvania, which included 13 counties. In my  
25 efforts to do something about the outstanding warrants, I

1 took an inventory in Lycoming County and discovered there  
2 were 5,240 outstanding warrants. I was directed by the  
3 president judge, Charles F. Greevy, to do something about  
4 the situation. The people were calling the courts, the  
5 merchants were upset, the citizens were upset that warrants  
6 were outstanding.

7 I remember one particular case I think it's  
8 noteworthy here today, that we had a man in court for a DUI  
9 offense. Judge Greevy had sentenced the man and he was able  
10 to depart the courthouse and head back to New York from  
11 where he came. Later the next day we discovered that we had  
12 32 outstanding warrants for this individual at District  
13 Justice Isenby's office, which was in the same building of  
14 the courthouse. We had no way of knowing this until it was  
15 brought to our attention by one of the local merchants.

16 Its also important to note that out of the  
17 5,240 warrants, in less than a year we reduced the number  
18 down to 150.

19 I recently checked with the central control desk  
20 in Lycoming County, and the average is between 150, maybe up  
21 to 175 monthly.

22 We have been able to professionalize constables  
23 simply because the constables themselves came to our rescue,  
24 and I state that by outlining to you at this time that they  
25 came to Lycoming County, they spent three days at their own

1 cost, they trained our local constables, they went around  
2 with them to help serve warrants. And from that point on, I  
3 became very closely associated with the constables.

4 I would also like to point out to you, and I  
5 brought with me today for your information the most recent  
6 publication, in fact, I am prepared to leave this with you  
7 because I have two copies given to me, but this is an  
8 education program by the constables. I wish that the  
9 members of the Committee would take time to view this, to  
10 study this. It includes everything that we're talking about  
11 here today. It is quite indepth. And the constables at  
12 their own expense and time, they have not only put this  
13 together but they have been giving training courses across  
14 this Commonwealth to keep their fellow members who are  
15 members of the state association, fully informed and well  
16 indoctrinated prior to the performance of their duties.

17 The constables, I've been privileged to be at  
18 many of their state association meetings. I've been to many  
19 of their training sessions. They've asked me to serve on  
20 their education committee as an advisor, on the legislative  
21 matters, such as this today. In fact, I have to admit I've  
22 been enjoying retirement and I was not aware of House Bill  
23 2574 until I walked in here today, so I do have egg on my  
24 face from that standpoint. But everything that the  
25 president, Emil Minnar, has stated to you people here today,

1 I would endorse by 100 percent.

2 Unless you have further questions, I have to  
3 thank the Committee and Mr. Chairman for the privilege of  
4 being here today.

5 CHAIRMAN CALTAGIRONE: Thank you.

6 Questions from the committee?

7 (No audible response).

8 CHAIRMAN CALTAGIRONE: I think before we let you  
9 go, we have the chairman of the PCCD here, and while you're  
10 still on board here, and the overview that was just given by  
11 counsel to the local government committee who helped in  
12 drafting the legislation for me, I would like to, again, if  
13 either one of you would like to reiterate that the cost will  
14 be pretty well covered with the \$2 surcharges going to be  
15 placed on the services so that that would go into a fund  
16 that would cover any of the costs, any and all of the costs  
17 of those court training courses that would be held. Because  
18 I know this was one of the major concerns that a lot of  
19 people had, as to where was the money going to come from.  
20 In these tight economic times there just isn't going to be  
21 available state money.

22 I would like, if you wouldn't mind, between the  
23 two of you, just to share that information with Kevin, who  
24 is with us today so that he could take that back to the  
25 PCCD.

1           MR. HOLLAND: Thank you, Mr. Chairman. I think  
2 the \$2 surcharge, I've had the privilege of being in  
3 conversation with the president and also the state officers  
4 of the Pennsylvania Constables Association. I have the  
5 privilege of looking at this from the standpoint of the  
6 sheriffs' association, not that I've ever been involved with  
7 the sheriffs' association, but I happen to know over my  
8 years with the judicial system that they have also a \$2  
9 surcharge, and I'm here to tell you gentlemen and ladies  
10 this morning, that if you check the books, you'll find  
11 they're very much in the black.

12           My point is that the \$2 surcharge is  
13 sufficient. I think it covers many things associated with  
14 the constables, including their training and possibly  
15 further down the road maybe even from the standpoint of  
16 liability.

17           I would like to pause there and state to you  
18 that from the standpoint of liability, at the time that I  
19 was the administrator of the Lycoming County courts and also  
20 the Huntingdon courts, I was able to persuade the  
21 commissioners to pick up the liability for the constables'  
22 cost. It wasn't that much, and that only pertained to the  
23 constables who were certified and working for the county,  
24 which in this case in Lycoming County last year I think we  
25 paid for eight on the liability cost.

1           We also provide firearms training. I was also  
2 able to persuade the commissioners to give, I think it  
3 \$1200 -- I think I asked for 15 and they gave \$1200 --  
4 towards a training course which they just completed in  
5 January in Lycoming County.

6           The constables I believe would be satisfied with  
7 that cost. The only thing I would point out to you, I think  
8 that in view of my relationship with AOPC, I will suggest  
9 somehow or other in the bill that that \$2, if that should be  
10 the amount, that the fee should be paid to the county  
11 treasurer to be submitted to the state, and there dealt with  
12 accordingly.

13           I would not want to see that surcharge be given  
14 to AOPC until certain changes are made in that office at  
15 AOPC, and that's a different ballgame that I could spend all  
16 day on.

17           MR. SLOAN: Just on the same line, I believe we  
18 provided in here that the issuing authority would send the  
19 money directly into the Department of Revenue along with the  
20 other money that went into Revenue.

21           MR. HOLLAND: Yes, but to be earmarked in a  
22 special --

23           MR. SLOAN: In a special fund. AOPC is not  
24 mentioned in this bill at all, and that part of it has been  
25 taken out.

1           The whole training scheme is based and is  
2 dependent upon the \$2 surcharge. The Commission is expected  
3 to give training only to the extent that it's covered by the  
4 \$2 surcharge, as with the deputy sheriffs, and there is no  
5 minimum amount of training that the Commission is required  
6 to give.

7           So it's difficult to imagine the program would  
8 go in the red. The Commission would simply scale back on  
9 training to fit the amount of revenue available.

10           MR. HOLLAND: Along the same lines, Mr. Sloan,  
11 if I may suggest, and I'm speaking from the standpoint of  
12 looking at it from a legal standpoint at the moment, make  
13 sure whatever the amount is, should the bill become law,  
14 that it identifies whether that is for each service, for  
15 each piece, of like a warrant, civil process, what have  
16 you.

17           There has been some controversy about that among  
18 the legal scholars and the courts, and I would not want to  
19 see that again become an issue immediately after the passage  
20 of a piece, or the constables' amended modified or new  
21 legislation. In other words, spell that out on that  
22 surcharge. I think that would be very important.

23           MR. SLOAN: What the bills says is surcharge of  
24 \$2 on each fee payable for each service lawfully performed.

25           MR. HOLLAND: Okay. I haven't read it. Okay.



1           MR. SLOAN: That tries to spell out the fact  
2 that serving a warrant involves a \$2 surcharge, transporting  
3 the person is a \$2 surcharge and forth. For each act for  
4 which a separate fee is provided there's a \$2 surcharge on  
5 that fee.

6           MR. HOLLAND: This is long overdue, and I  
7 welcome this. I think it's time that the users of the  
8 system begin to pay the bill, and it can happen if we have  
9 professionalized constables.

10           CHAIRMAN CALTAGIRONE: Any questions?

11           REPRESENTATIVE BLAUM: No.

12           CHAIRMAN CALTAGIRONE: Okay. Thank you very  
13 much. We appreciate your testimony.

14           MR. HOLLAND: Thank you, gentlemen.

15           CHAIRMAN CALTAGIRONE: Is Constable Allen  
16 Binkley present? Constable?

17           MR. BINKLEY: I'm Constable Allen Binkley from  
18 Lebanon County. I'm secretary of the Lebanon County  
19 Constables Association that we had formed about four years  
20 ago.

21           I don't have a prepared speech, Mr. Chairman,  
22 but I have been a constable since 1980. I would like to air  
23 some of the problems that we have in Lebanon County at this  
24 particular time I think it is important for this committee  
25 to consider.

1 I serve civil, criminal complaints, executions,  
2 sales, serve possessions, evictions, along with the  
3 warrants. When I figure the hours that I put in -- I'm a  
4 full-time constable. When I figure the hours that I put in  
5 and the weekends that I spend typing reports, I wind up with  
6 about \$2.50 an hour. That's what it amounts to.

7 One of the problems we have right now is multi  
8 citations on the warrants. We are being cheated. I have  
9 approximately 80 of these in my home, copies, where there  
10 are six, eight, ten, twelve, thirteen citations on one  
11 warrant. What do I charge the defendant with? There is no  
12 plaintiff named. There is no charge named on the warrant.  
13 The warrant reads various officers, various citations. I  
14 look pretty stupid going out knocking on a door and telling  
15 a man, hey, I have a warrant for your arrest. What for?  
16 Geez, I don't know, but I have a warrant for your arrest. I  
17 look pretty stupid; I feel that big. I have no charge.  
18 Nothing whatsoever.

19 There's one man, one constable down in Lebanon  
20 County has 30, 30 citations on one warrant. He should have  
21 \$150. We get \$5 a warrant.

22 When we go out and knock on that door, we don't  
23 know what's going to come out, a shotgun blast or what. We  
24 are putting our lives on the line. Something has to be  
25 done.

1 I was just told yesterday that we cannot serve  
2 warrants outside of Lebanon County because one constable,  
3 one constable racked up 300 miles in order to serve a  
4 warrant. Now I've got to suffer because I cannot go out of  
5 the county.

6 Gentlemen, these are some of the problems we  
7 have down there and I wish you would take them into  
8 consideration.

9 We can work something out, you know, for the  
10 entire state. I have taken defendants to other counties  
11 that pay more than \$5 per warrant. When I ask the district  
12 justice, what do you pay for serving a warrant, when I take  
13 a defendant into his office, well, what do you get down in  
14 Lebanon County? Well, it goes around and round, what do you  
15 get up here; no, what do you get down in Lebanon County. So  
16 they may get \$15 in that other county but I've got to charge  
17 \$5 to take that defendant 30, 40 miles, probably.

18 These are the problems we have. I am in  
19 accordance with the increase in fees. Very much so. But I  
20 thought I would bring some of these problems to you and the  
21 attention of the committee here. Thank you very much for  
22 your time.

23 CHAIRMAN CALTAGIRONE: Thank you.

24 Are there any questions from any of the members  
25 and staff?

1 (No audible response.)

2 CHAIRMAN CALTAGIRONE: Thank you.

3 Are any of the other constables here that were  
4 planning to testify today? We had a list of additional  
5 constables that had indicated that they were going to try to  
6 get up if at all possible.

7 No other testifants?

8 REPRESENTATIVE GRUITZA: I just have a question,  
9 maybe more of the Committee. This idea of issuing an arrest  
10 warrant without any charge, maybe Bob Reber or one of the  
11 other lawyers, is that Constitutional? Don't you have a  
12 right to know before you're taken, before you're arrested,  
13 what you're being charged with?

14 MR. BINKLEY: Definitely. You must have a  
15 charge. Emir?

16 MR. MINNAR: I was going to say, normal  
17 practice, and it's questionable sometimes what normal is,  
18 but the common practice is to attach a copy of the citation  
19 or citations to the warrant itself so that the constable's  
20 in a better position to know what the particular charge or  
21 charges may have been.

22 The item that Mr. Binkley has referred to again  
23 varies from county to county. I can cite this. In  
24 Montgomery County, a warrant will be issued with more than  
25 one citation on it if the cites arise out of the same

1 incident. And a particular example would be stopping an  
2 individual, let's say, for perhaps improper lighting on a  
3 vehicle, and at that time determine that he doesn't have a  
4 driver's license, he doesn't have insurance and so on and so  
5 on. Those can all be cited on one warrant. However, if it  
6 involved the same individual with parking, a moving  
7 violation and so on, then they themselves must be separated  
8 out and issued on individual warrants.

9           Now, I'm not saying this happens 100 percent of  
10 the time around the state, but so much of this evolves from  
11 the desire or concern of the court administration to make  
12 the job easier and proper for the constable.

13           It's not out of order for the constable when  
14 receiving a warrant like that, that might have the unknown  
15 or the unidentifiable with it, to request that the district  
16 justice give you a copy of the citations or a xerox copy of  
17 it, whatever it may be, so that you're in a position to  
18 intelligently effect the warrant of arrest.

19           Does that answer your question, sir?

20           REPRESENTATIVE GRUITZA: I guess my impression  
21 was that the poor constable has a piece of paper that's an  
22 arrest warrant and knocks on the guy's door and says, I have  
23 a warrant for your arrest, and the guy says, what for, and  
24 he's in a position to say, I don't know.

25           MR. MINNAR: You're right, it happens. However,

1 as an individual, and maybe I enjoy some of the, or let's  
2 say that I serve in one of the counties that exhibits a  
3 greater concern for the system, and I guess if there's going  
4 to be any flag waving I would say Montgomery County is  
5 certainly one of those, and therefore, I'm not out of order  
6 if there isn't a copy of the citation attached, to either  
7 pick up the phone or stop by the district justice's office  
8 and request a copy of it. And it's open, total  
9 communication.

10 I think we can all agree that when people work  
11 together, the job gets done much easier and much quicker,  
12 and obviously the name of the game was to collect that fine.

13 REPRESENTATIVE GRUITZA: My feeling would be if  
14 somebody came to my door with something like that --

15 MR. MINNAR: You wouldn't want to cooperate.

16 REPRESENTATIVE GRUITZA: I'd say I better go and  
17 find out what this is all about, I'm not going anywhere.

18 MR. MINNAR: I don't think I would want to knock  
19 on the door, either, without proper knowledge. Not only  
20 that, and if you're knocking on the door and you don't know  
21 what the charge is, you're right, opening up Pandora's box,  
22 because in many cases you're dealing with misdemeanor and  
23 felony warrants as well.

24 And in today's situations, although you may be  
25 there for second or third, fourth offense on retail theft,

1 or stolen vehicle, whatever it may be, this may be the one  
2 time the individual is either headed for jail or he's  
3 involved in a drug operation and is back in his back room in  
4 the apartment or home where he's living. So it's most  
5 certainly to the constable's advantage to know why he's  
6 knocking on the door and, let's say, the profile of the  
7 individual that he's seeking.

8 CHAIRMAN CALTAGIRONE: I would like to go ahead.

9 MR. BINKLEY: I would like to add that we have  
10 one district justice down in Lebanon County who will  
11 absolutely not give you a copy of the citation. She will  
12 not.

13 MR. MINNAR: I'm not going to get into a contest  
14 here, and I concur with your feelings, Mr. Binkley, except  
15 we work a little bit differently. If a district justice  
16 doesn't want to cooperate, we're not going to put our necks  
17 on the line. You may find very quickly that if the district  
18 justice does not want to make certain information available,  
19 he may have a problem getting someone to work for his  
20 court. This is not a case of denying the ability or the  
21 energy to be available to him, but it should be available  
22 under certain conditions.

23 I think this is where the advisory committee can  
24 play a very, very important role to establish procedures,  
25 policy for certain types of operations.

1                   And I know it's extremely difficult to write  
2 procedures down to the nth degree, but someone has to start  
3 chipping away at this rock, and I think one of the biggest  
4 concerns that constables have is this void in information  
5 and this void in communication, and I think that the  
6 advisory committee and the commission can play an extremely  
7 important role here and start the ball rolling in an area  
8 where it's much needed.

9                   And again, you can't overlook the safety of the  
10 constable, not only the efficiency but the safety of the  
11 constable. He's put on the line every time he's out  
12 performing service. And oddly enough, sometimes it's the  
13 minimal type of service that's the greatest problem.

14                   CHAIRMAN CALTAGIRONE: I would like to share  
15 with the members of the Committee, also, and of course,  
16 we're going to have a public record available for the  
17 members that weren't able to join us here today, I dare say  
18 that probably many of the members of the General Assembly  
19 don't realize the funding stream that continues to flow into  
20 the county and the state. We're talking literally millions  
21 and millions of dollars that are collected that come into  
22 our treasury at this state capital and the local county  
23 seats that help to pay for the criminal justice system in  
24 this state.

25                   I have some very good friends that are district



1 justices back in Berks County, and I happen to get her  
2 reports, District Justice Gail Greth is one of the leading  
3 collectors, and I said, what are you, a toll booth here?  
4 But she is very, very aggressive in collecting. As a matter  
5 of fact, last year alone her office collected over \$582,000  
6 in these type of offenses. That is a very nice piece of  
7 change that continues to flow into the coffers of the state  
8 and the local counties, and she leads the pack. They call  
9 her Miss Iron Pants back home, but she doesn't put up with  
10 any nonsense when she sends her constables out to effectuate  
11 a service and make sure the collection is there, and either  
12 it comes in or they go to jail.

13           So you know, it's something that I think is  
14 really overlooked by many of the members, not realizing  
15 where the money comes from or how it's collected, how it  
16 funnels into the system.

17           I think we also need to make sure that our  
18 county administrators are brought on line as far as knowing  
19 these kinds of problems that you're having. And it is also  
20 true, and this is where I think good communications and some  
21 dialogue has to be established through whatever formation of  
22 the board or group that the Commission that's apprised, with  
23 the president judges, where district justices, as an  
24 example, will not provide any work for a certain constable  
25 or constables, for whatever reasons, I mean, and it

1 happens.

2 I've seen this in several different counties  
3 around the state and I've been told this from different  
4 constables that, or district justices that certain  
5 constables, even though they're elected from that area, will  
6 not work that area. And vice versa, that the district  
7 justice refuses to give any of the work to a certain  
8 constable or constables. I think that's asinine,  
9 personally, you know, that's childish.

10 Those kind of things I think absolutely have to  
11 be worked out, and I think the cooperation and the  
12 communication with the president judges, the court  
13 administrators and the district justices with their  
14 constables, I think that has to be worked out, and I think  
15 one of the ways to do it is through this commission that's  
16 going to be formed.

17 The other thing I wanted to ask you about was do  
18 you have any figures on the number of constables that may  
19 have been injured in the line of duty within the last year  
20 or two? With any of the work or services that they  
21 performed?

22 MR. MINNAR: No, sir, because there is no  
23 feedback on this type of information. However, I would call  
24 your attention to the fact that the most recent death of a  
25 constable took place in Elizabethtown approximately two

1 years ago, and a very sad case in which a constable was  
2 serving papers related to divorce and approached the front  
3 door with the lady to retrieve some of her personal  
4 belongings, and upon knocking on the door, the door opened  
5 and both she and the constable were struck at least six  
6 times with a .357 Magnum, and lay on the front porch  
7 overnight while the individual stood the State Police off  
8 until the next morning. I attended that funeral. It was a  
9 very sad funeral.

10           The point that I want to make here is that there  
11 are certain counties around the state that reflect, let's  
12 say, a more cohesive or efficient type constable system than  
13 others. And rather than delving into the nuts and bolts of  
14 why it happens that way, I think if you stand back and take  
15 an overview, it's very easy to see that, and while there are  
16 some who may disagree with this, when we have president  
17 judges who accept and elect to take the responsibility for  
18 those who serve process for the courts, or at least do it in  
19 a guiding fashion, you'll find a much more efficient and  
20 much more productive system, and it's those counties who  
21 enjoy the greater income for the coffers.

22           For those of you who may not be aware, any fines  
23 that are written on ordinance, 100 percent of the money goes  
24 back to that particular municipality. If it be the typical  
25 of the moving violation with regards to traffic citations,

1 50 percent of that money goes to the state and 50 percent of  
2 it comes back to the municipality. So there is an incentive  
3 there. There's an incentive to collect the monies or have a  
4 system which will assure collection of the monies, because  
5 it's all going to come back home. And as I said before, at  
6 a time when we have tight budgets, budget cuts and impending  
7 tax increases, certainly it's extremely important that we  
8 not overlook the source of income.

9 CHAIRMAN CALTAGIRONE: Very good. Any other  
10 questions? Yes?

11 MR. BINKLEY: If I may add?

12 CHAIRMAN CALTAGIRONE: Surely.

13 MR. BINKLEY: In Berks County I know that the  
14 constables down there are equipped with radios, and they  
15 work closely together. If one constable needs a backup, he  
16 uses his radio and there's usually another constable close  
17 by.

18 In Lebanon County we're not allowed to have  
19 radios, not permitted to have radios. If I need a backup I  
20 have no way of getting in touch with another constable or a  
21 policeman.

22 I had one prisoner escape in December. I placed  
23 him under arrest and he took off. I had no way of getting  
24 in touch with the city police. I had to go to the nearest  
25 telephone and call them, give them a description of the man,

1 so on and so forth. Of course, we never did find him.

2 But this is one thing that we should have, we  
3 should have radios in our cars. The commissioners should  
4 supply us with radios. Thank you.

5 CHAIRMAN CALTAGIRONE: Okay. Any other further  
6 comments?

7 (No audible response.)

8 CHAIRMAN CALTAGIRONE: We'll adjourn the  
9 hearing. Thank you very much for your participation.

10 (Whereupon, the hearing was adjourned at  
11 11:03 a.m.)

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

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Emily Clark, RPR, CP, CM

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Court Reporter-Notary Public.

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