1	COMMONWEALTH OF PENNSYLVANIA HOUSE OF REPRESENTATIVES
2	JUDICIARY COMMITTEE
3	In re: <u>District Justice Reimbursement</u> <pre>and Court Operating Costs</pre>
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6	Stenographic record of hearing held in Room 140, Main Capitol, Harrisburg,
7	Pennsylvania
8	Monday, August 24, 1992, 1:00 p.m.
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10	HON. THOMAS R. CALTAGIRONE, CHAIRMAN
11	
12	<u>MEMBERS OF COMMITTEE</u>
13	Hon. Jeffrey Piccola Hon. Kevin Blaum
_•	Hon. Gerard A. Kosinski
14	Hon. Gregory C. Fajt Hon. Jerry Birmelin
15	Hon. James Gerlach
16	Hon. Robert D. Reber, Jr. Hon. Chris R. Wogan
17	Hon. David W. Heckler Hon. Karen A. Ritter
	non. Raien A. Riccel
18	Also Present:
19	
20	David Krantz, Executive Director, House Judiciary Committee
21	Mary Woolley, Esquire Republican counsel
22	
23	Galena Milohov, Research Analyst
24	Paul Dunkleberger, Republican Staff
25	Reported by: Emily R. Clark, RPR

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1	CHAIRMAN CALTAGIRONE: This is the House
2	Judiciary Committee public hearing on the district justice
3	reimbursement and court operating costs.
4	I'm Chairman Tom Caltagirone from Berks County.
5	I would like the other members and staff that are present,
6	if they would just introduce themselves for the record.
7	REPRESENTATIVE BIRMELIN: I'm Representative
8	Birmelin, Wayne County.
9	REPRESENTATIVE GERLACH: Representative Jim
10	Gerlach from Chester County.
11	MS. WOOLLEY: Mary Woolley, Republican counsel
12	to the Committee.
13	REPRESENTATIVE REBER: Representative Reber from
14	Montgomery County, Minority Chairman of the Subcommittee on
15	the Courts.
16	MS. MILOHOV: Galina Milohov, research anaylist
17	to the Committee.
18	MR. KRANTZ: Dave Krantz, Executive Director of
19	the Committee.
20	MR. DUNKELBERGER: Paul Dunkelberger, Republican
21	staff.
22	CHAIRMAN CALTAGIRONE: Just a little brief, that
23	I think it's extremely important that the legislature
24	accepts its full responsibility along with the executive to
25	make sure that the courts are adequately funded.

One of the reasons for this hearing is to provide the oversight that this Committee has on the operation of the courts in this Commonwealth, and I think that we do have a definite responsibility to make sure that the courts are, in fact, adequately funded, and that we have to fulfill that obligation according to the Constitution.

I think with that said, if Doug would like to introduce himself and have the rest of the panel that are going to testify start to introduce themselves for the record.

MR. WARREN: Thank you, Mr. Chairman. We appreciate your comments. I'm Andy Warren, Bucks County Commissioner and president of the Pennsylvania State Association of County Commissioners. The PSACC is a nonprofit, nonpartisan association providing legislative, regulatory, educational and other services to all of the Commonwealth's 67 counties.

With me today are Washington County Commissioner and past president of PSACC, Frank Mascara; on my left is Sally Klein, a member of the PSACC Executive Committee and Dauphin County Commissioner. On Sally's left is Ruth Zimmerman, the Union County Commissioner. And on Frank's right is Bedford County Commissioner and PSACC Legislative Committee Member Gary Ebersole. And of course, you all know Doug Hill, the Executive Director of PSACC.

We do appreciate the opportunity to be here today to discuss the issue of the courts and the district court funding, and as you have said, Mr. Chairman, an issue which is critical to county government.

Let us begin with a rather simple analogy. If I received an order from the Supreme Court that called for a specific action on my part, I suspect that I would be facing penalties of a rather dire nature if I delayed compliance by as much as five weeks. Yet, this December of 1992 will mark five years since the Supreme Court's Allegheny v.

Commonwealth Court funding decision, with no appreciable action on the part of the Commonwealth to comply with the decision.

In fact, for the 1992-93 budget, the Commonwealth has not only failed to comply, but in our opinion, has actually taken steps away from assuming the funding and control of the lower courts called for in the Allegheny decision.

I refer, of course, to the complete lack of funding for the court costs and district justice line items as a result of their gubernatorial veto. However, the Legislature is no less to blame; the original appropriation the Governor vetoed was \$2,500 less per judicial position than historic funding levels, and less than half of the normal funding levels for district justices.

We are here today to ask you, and the legislative leadership, to return this fall and restore the full \$70,000 per position for the courts, and the \$33,000 per district justice position. We are further requesting that the funding mechanism be amended so that additions to the judicial complement are recognized immediately. And most important, we are asking that the legislature begin the task called for by the state Supreme Court in 1987: development of the mechanism for state assumption of funding and administration of the court system.

Let me quickly give some background to this position. In 1986 the PSACC adopted a Report of the Committee on the Future of Counties, which reviewed the incremental growth in county responsibility in a number of areas, for the purpose of recommending the proper role of counties in the future. The Committee deliberations were approached from a perspective which ignored tradition and current statute, and instead looked at each function solely on its own merits. After reviewing the full range of county services, the only one which the Committee deemed no longer appropriate for counties, and recommended for assumption by the state, was operation of the lower courts.

At the heart of this determination was a realization that counties face two distinct problems with the courts: cost and control. The cost of the court system

is borne partly by the Commonwealth and partly by the counties. As mandated by the Constitution, the state pays the salaries of judges and district magistrates, but most of the remaining costs have traditionally been borne by counties. It was not until the advent of federal general revenue sharing in 1972 that the Commonwealth began to reimburse counties for a part of their administrative expenses. This funding has increased nominally, although it was placed in serious jeopardy when the state portion of the federal general revenue-sharing program was not renewed in 1981. Since that time, the Commonwealth's share has come from the General Fund budget, and has remained constant, calculated at about \$70,000 per authorized judicial position.

While the counties appreciate this state funding, it nonetheless accounts for only a small portion of the overall cost of operating the courts. The reimbursement to counties for fiscal year 1991-92 was just under \$28 million, compared to a total estimated county expenditure that is approaching \$300 million, or 10 times as great.

Moreover, the funding mechanism is painfully slow and, in many cases, inequitable. The current system, re-established annually as a part of the General Fund Appropriation Act, pays each county its actual cost of court operations, exclusive of capital projects, up to \$70,000 per

Common Pleas judicial position. This ceiling has not increased over the last decade and, as a result, every county now spends in excess of that amount, often significantly. Nonetheless, the distribution is not made until audited financial statistics are received by the Supreme Court Administrator's Office. The net result is that, assuming restoration of the reimbursement in this year's General Fund, counties will get a payment in May of 1993 for calendar year 1991. The problem is heightened in counties which receive new judicial positions; they are not compensated for those positions until two years after they have, in fact, gone on board.

I would now like to comment on the district justice payment. This fund, which originated in the 1985-86 budget, was intended as a revenue-sharing payment to counties. It came about largely as a result of two factors: First, counties were facing significant shortfalls in state reimbursement for children and youth and other human service programs, and second, the legislature could find no other ready distribution formula which did not send a disproportionate share of available funding to Philadelphia.

To the leadership at that time, the relative number of district justices seemed to be an appropriate distribution mechanism. It was not intended as new money

for the judicial system, but rather to supplement money counties were already spending so that those funds could be used elsewhere.

This fund has varied from a low of \$15,000 per authorized position to a high of \$33,000 per position. The payment is normally made about the middle of December, and for many counties, the district justice payment constitutes the cash flow needed to meet the county's final payroll of the year. The Governor's veto of this traditional funding source in the middle of an already difficult county fiscal year will be disasterous if the funds are not restored by the legislature.

system is one of control. This conflict erupts most frequently over the number and salaries of court-related employees. The County Code sets up salary boards which have jurisdiction over the number and compensation of all county employees, which include, in this case, court officers, clerks, stenographers and other support personnel. The president judge of the court sits as a member of the salary board in making these determinations for court-related employees. Questions recur concerning the discretion which can be exercised by the president judge for appointment, promotion and dismissal of employees, the degree to which court-related employees fall under county personnel

policies, and the degree to which the judge controls the court budget for overhead expenses.

Based on a series of court decisions, the authority of county commissioners in the administration of the court system has eroded to such an extent that most commissioners feel that they have little, if any, participation in court administration, other than to appropriate the funding requested by the president judge.

In part, because of this lack of fiscal and administrative control, but most particularly in view of the intent of the 1968 Constitution to create a unified judicial system, our Report of the Committee on the Future of Counties recommended that the administrative and funding responsibility for the courts rest solely with the state. Court-related functions, such as the sheriff's office and probation officers, should be transferred as well.

Just over a year after the Association adopted this position, the state Supreme Court ruled in Allegheny County v. Commonwealth of Pennsylvania that the current system of court funding, being dependent on the varying fiscal capacities of the individual counties, resulted in a system of unequal application of justice. The ruling directed the legislature to develop a plan for state assumption of funding and control of the lower court system, but indicated that until the legislature acted, the current

funding system was to remain in effect.

The Allegheny decision was handed down on

December 7, 1987. What has happened since then? In the

1988-89 budget, the legislature appropriated one million

dollars for a study of the transfer of the system. This

study never got past the publication in the Pennsylvania

Bulletin of a request for proposals from consultants to

conduct the study. The appropriation has since lapsed.

Additionally, the House Appropriations Committee has, on two
occasions, directed the AOPC to survey county court costs.

Finally, on one occasion, the Senate issued a statement
predicting dire consequences of the transfer, implying that
it would be a windfall to Philadelphia at the expense of
smaller counties.

That has been the extent of the legislature's response to an order of the Pennsylvania Supreme Court.

Today we are making two specific requests of the legislature: First, come back to session in September, and as a part of dealing with a number of deficiencies in the 1992-93 budget, reappropriate \$70,000 per position for court costs, including funds for new positions, and \$33,000 per position for district justices. Second, begin work in earnest to come into compliance with the Allegheny decision.

Prompt action on both requests is imperative.

Parenthetically, in Bucks County we're talking about three-quarters of a million dollars in the \$70,000-per-judge appropriation alone.

In the short term, counties need to be able to finish this fiscal year and properly plan for the next.

Early action will help us meet this year's payroll with the December district justice payment, and will make it unnecessary for contingency planning on court costs as we develop our 1993 budgets this fall.

We believe the legislature has an obligation to act. The Allegheny decision called for the current system to remain in effect until the legislature dealt with the transfer of the system to the state. The then-current system included state funding for courts and district justices in addition to county general fund appropriations.

In the long term, the legislature must act to comply with the transfer of courts contemplated in Allegheny. Aside from the moral implications, the legislature's failure to act results in a continuing upward spiral of local taxpayer dollars going to a court system over which no accountable elected official has any meaningful control.

The voices in opposition claim Allegheny would be a Philadelphia bailout at the expense of small counties. They claim that the state lacks the tools to administer a

statewide court system. They claim it is impossible to devise a personnel system providing for an orderly transfer of county personnel to the state payroll, recognizing the labor markets in various corners of the state, and they claim that counties would miss the revenues generated locally by the courts.

misleading at best, and are nothing more than attempts to shirk responsibility to implement the Allegheny decision. In response, we note that the state has assumed control of parts of the court system before without dire consequence. In 1985, the legislature transferred full responsibility for the funding and administration of the appellate courts from the counties to the state, precisely because the state was at that time reimbursing counties for the full cost of that system and recognized that the counties could not control the costs.

The argument that the state could not devise a personnel system recognizing local markets makes little sense. The state responds well to having county assistance offices, county employment offices, regional offices of PennDOT, DER and other state agencies, and others scattered across this state.

The argument of a Philadelphia bailout arises from the fact that the city spends more than one million

dollars per judicial position, compared to about \$100,000 per position in the smallest counties. Differences in court structure, case load, overhead and support levels account for part of the cost differential, but those differences aside, the whole point of Allegheny is to give the state a means to control and equalize these costs, a control which is impossible at the county level. Counties are constitutionally inferior to the courts, and thus are not able to enforce budget and administrative processes and controls. Placing full responsibility for the courts at the state level would restore checks and balances to the system.

Allegheny does not say that the state has to fund every whim of the courts. Allegheny simply calls for uniform funding and administration, an objective which cannot be accomplished at the county level, an objective which can be accomplished only at the state level.

We appreciate the opportunity for you to hear these comments, and with your permission, I would just briefly ask for my colleagues to offer some personal views of how this issue faces their individual counties. First we go to past president, Frank Mascara, from Washington County.

MR. MASCARA: Thank you very much. I appreciate the opportunity to appear before you today to bring with me

from Washington County some examples of the inequities and unfairness of the system that currently exists.

Each of you has a copy before you of what was the 1991 calculations that were made on the 14 magistrates in Washington County. What I did with my figures there is update what it would mean if the cuts were to be maintained in 1992 to show you that, I don't mean to be facetious, but I guess crime does pay, at least on the Commonwealth level. When you look at the 14 magistrates that generates this year without the cut, of last year's funding of \$213,000, which represented one-half of what Washington County normally received in prior years, was a profit for the Commonwealth of \$861,000. And if the cut that's being asked now in the 1992-93 Commonwealth budget is maintained, it will mean that the 14 magistrates in Washington County would generate a profit of \$1,075,000.

I think that's a good example, and I think if you extrapolate that across this Commonwealth, you'll see that the magisterial system in the Commonwealth generates a lot of revenues for the Commonwealth. So it's hard for me to understand why, when the system as it was designed in early 1970 and county commissioners were told that that would be a breakeven proposition for counties when they went from the old JP system to the new district magistrate system, that it is not breakeven, and that, in fact, this

year, if the cuts are maintained, you will make one million dollars and we'll lose \$522,000 in Washington County.

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So that's an example that I was asked, one of the examples that I brought with me.

The other is it deals with the Mental Health and Mental Retardation Act 1966 which was amended in the 1970s. This one I could never figure out. I was a county controller in Washington County for a number of years before I became a commissioner. I quickly asked the county commissioners what was going on, because I was in a learning process, and I said, do you mean to tell me that if a person commits a crime in another county in this Commonwealth and is sentenced from that county to a state institution, and he happens or she happens to be sent to a mental hospital like Farview, that Washington County is billed? They said yes, In fact, if it's a presentence as the that is how it works. law states now, Washington County is billed at a rate of \$269 a day, and if the person happens to be sentenced, then Washington County is build for \$120 a day.

I think you have this other calculation of what has gone on in Washington County since 1983, where we've paid in excess of one million dollars for those costs, which is a part of judicial system, and still owe, given the 1992 charges from the Commonwealth, another \$406,000. I want someone to tell me how that works and how that bill came

about as far back as 1966? What is the justification for a real estate property owner to pay for mental health treatment in our state facility?

The other is, and this just came about recently because we had to go to bid on some papers at the request of the courts from the magistrate's districts to comply with the requirements of the courts in the operation of the new computer system placed in all magistrate's across this Commonwealth. In 1990 we paid \$10,000 for preprinted forms, and in 1991 thus far, \$7,000. Given that we have to comply, and I have a sample of the paper that we must buy now, the estimate is that the annual cost will be \$27,600 to supply new paper for the new computer network that we have statewide.

I think if I do nothing else, I want you to understand, it's like someone else having your checkbook and writing checks out of your checkbook and you don't know what's going on. I mean, we can't control those costs. If the state Supreme Court says that's the way it's going to be, then I guess we have to do it and we have to supply this paper, which is a jump of I think 200-some percent. \$17,000 more that we have to pay for paper. And you may, Doug, you want to pass that around that we can share that? I guess you write on one, it's carbonized and it goes through. I'm not sure about the specificity of why we need it, but we

need it. And we've been told to buy it.

And I would ask that in closing, although it's not specifically relative to comments that should be made here today, that I think we need to revisit the idea of tax reform. When, in fact, I realize that we lost badly statewide when we attempted that in what, 1989? That county governments have two taxes, one is the real estate property tax which generates most of our economy; the other is the personal property tax, which is an abomination and should be done away with, and that perhaps we need to revisit the matter of tax reform statewide. Thank you very much, Mr. Chairman.

CHAIRMAN CALTAGIRONE: If I could, I would just like to interject, since you brought the subject up, that several years back I conducted statewide hearings around the Commonwealth on those legislation that we had worked on, and it came towards the closing session like it is now. And at the time Majority Leader Mandarino had given us assurances and we were getting ready to try to get this piece of legislation through, and I'm going to mention again here today, because I have put it in again in this session, I don't know if we're going to have enough time to actually do anything with it.

One thing that I proposed, and I think it really does allow the flexibility that we need at our local level

and every major state organization, including the county commissioners, the school boards association, the boroughs and townships, the cities, including the unions, everybody has signed off on approval, the Chamber even, they jumped into it and they had signed off approving it, allowing a voter referendum at the local level for earned income tax with a guarantee that the property tax would have to be reduced. I mean, that's in the law, that's the way we had it worded.

So that you'd restructure. It wouldn't help and it wouldn't be a cure-all to every community in this Commonwealth, we realize that, because they're all different problems. They vary economically as far as jobs and situations. That can be done by statute. There's nothing very difficult when we proposed this. What you would do is you put it on a referendum in the local community, they would vote yes or no, they wanted to try it for two or three years, if it didn't work they could vote and go back to what they had.

And it was that simple, it wasn't anything that terribly complicated, but they would have to, in fact, reduce the reliance on the property tax proportionately by an increase in the earned income. Many of us felt that that was a revenue enhancer or revenue generator and it would have relieved the property owners of the burdens that we're

suffering under now.

MR. MASCARA: May I? Just for a moment. I agree we need tax reform, because the real estate property tax, which all of us will agree is aggressive, rewards blight, penalizes those people that take care of their homes, and something needs to be done with it. I just don't know how much longer we can continue to impose a real estate property tax on people in our respective counties.

And look at your schools, you mentioned the schools and boroughs. They have Act 511 taxes, they have more taxing authority than county governments have. So here's the schools, taking a big bite of your dollar, we're all chasing the same tax dollar, but they're all, we all need to look at reform.

CHAIRMAN CALTAGIRONE: I agree.

MR. WARREN: From our standpoint, PSACC supported a tax reform study before, I supported it in Bucks County, and we intend to do it again. And we intend to also work with you on this, as we did with this court issue.

Just to complete our statements regarding the restoration of funding for the courts, I would ask my other three colleagues to very briefly comment about their counties. Sally Klein is the Commissioner of Dauphin County and member of the Legislative or State Association Executive Committee. Sally?

MS. KLEIN: Good afternoon, and thank you for holding this hearing.

In the nearly five years since the Supreme Court issued its order for the state to fund the county court system, Dauphin County has incurred \$20,441,585 in funding for this system. And this does not include adult and juvenile probation.

This year, the projected cost in funding the Dauphin County Court and its related offices for the 1993 budget is \$5.5 million, or 1.12 mils in real estate taxes. If we include the probation offices in this figure for 1993, the numbers could be \$8.6 million, or 1 and 3/4 mils, 31 percent of our real estate tax.

Not only has this administration totally ignored the Supreme Court mandate, but in this fiscal year, has eliminated the woefully inadequate partial reimbursement paid to Dauphin County.

The continuing rejection of the state's constitutional obligations to fund the court system throughout the Commonwealth has placed county governments in the untenable position of either raising taxes through the only two methods legislatively available to raise revenue, the real property or personal property tax, or alternatively, to cease funding the court system in an attempt to force this administration to accept its legal

1 responsibility. Under either scenario, the losers are the 2 citizens of Dauphin County and our excellent court system, 3 both of whom have been victimized by the Commonwealth. Thank you. 5 And the first of our final two MR. WARREN: 6 speakers will be Ruth Zimmerman, Commissioner from Union 7 County. 8 MS. ZIMMERMAN: Good afternoon. I am Ruth 9 Zimmerman, Chairperson of the Union County Board of 10 Commissioners. Union County is a seventh class county 11 located in the heart of central Pennsylvania. I appreciate 12 the opportunity to speak to you today regarding the impact 13 of court and district justice's funding from the 1992-93 14 Commonwealth budget on Union County. 15 Union County, along with Snyder County, makes up 16 the 17th judicial district. Two judges serve this 17 district. Union County is served by two district justices. 18 In 1992, Union County received \$30,000 in 19 district justices' reimbursement and \$68,300 in court 20 reimbursement. Thus, Union County received approximately 21 \$98,300 in reimbursement for county budget year 1992. 22 Unfortunately for Union County, court and 23 district justices reimbursement do not even come close to 24 matching expenses relating to those offices. In 1991, Union 25 County spent \$113,979 on court expenses and \$102,398 in

district justices' expenses. For 1992, Union County budgeted \$142,624 for court expenses, and \$116,661 for district justices' expenses.

During years in which court and district justices' reimbursements were included in the Commonwealth budget, the clear mandate of the Allegheny County decision has not been met by the state. The elimination of the court and district justices' reimbursement shows a brazen contempt for a decision of the highest court of this state.

The financial crisis for Union County and all counties is compounded by the fact that the county budget adopted in 1991, for calendar year 1992, were remiss on reimbursement of court and district justices' expenses, remaining at then current level.

Elimination of the reimbursement means that
Union County will probably operate at a deficit this year.
Unfortunately, Union County does not have the power to print
money and engage in a deficit spending.

Moreover, Union County cannot control court expenses through such means as reduced hours for court employees or layoff of court-related employees. Court decisions have made clear the reality that the court system is first among the three equal branches of government. For Union County, the lost reimbursement for court and district justices' expense equals approximately one mil taxation.

Union County is currently at the maximum real estate tax rate of 25 mils. In short, the elimination of court and district justices' reimbursement will result in financial chaos in 1992 for Union County, as well as all other counties in the Commonwealth, and another difficult burden for 1993 and future years. Thank you.

MR. WARREN: Gary Ebersole of Bedford County is a member of the State Association of Commissioners,

Legislative Committee and our last formal speaker for this afternoon.

MR. EBERSOLE: Thank you. I'll try to keep it quite brief. I thank you for the invitation. My name is Gary Ebersole.

I've been a county commissioner since 1980.

I've gone to many political wars, as they say, but at the same time I've also seen government expand, decrease, I've seen where revenue was promised, revenue taken away, not only through -- revenue sharing was a great project and it would never go away, and all of a sudden, it no longer is.

I come from a sixth class county. I represent approximately 47,919 residents. Our county budget is approximately \$12 million. On our county budget we have no surplus at the end of our calendar year. We run a very tight fiscal budget. Some would say maybe too tight. The

fact of it today, and I'm going to speak to a very little bit is the fiscal crisis in the Commonwealth is very much a direct impact on Bedford County as a fiscal crisis to us.

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Before I state my opening remarks, I just want to say that at the end of this year, if we do not have this money coming to us, I have, as well as my colleagues and many other colleagues from around the state, a very difficult decision to make, and that is to meet the payrolls without money coming in and balancing the budget as the Constitution says we must, as the Constitution also says we are not allowed to take out small-time loans, going down to the local bank and say we'll pay them in 60 days. Because we must pay all those back by December 31st. I got payrolls to meet. I got -- and the payrolls mean families, families mean children and we're talking about Christmas time, at the same time or any other time, but this time it's Christmas time, a very hard part of the year to witness no money coming from the state.

With that in mind, Bedford County currently budgeted for 1992 \$130,000 of revenue for the district justices' Pennsylvania court administrative grant this year. For Bedford County to replace this amount of money in its budget it would be necessary to increase 1.13 mils of gross tax dollars. It would actually require a higher millage increase because you must account for the

uncollectables and those discount periods.

We are very conservative in Bedford County and we do not have big factories and a lot of high-paying jobs. The average family income in Bedford County runs around \$21,000, and when we talk about millage, we talk about a big bite coming out of the family income.

I'm sorry that I don't have extra copies but I would like to give this to the Chairman, if I may. Appendix number 1 shows statistics gathered by Bedford County for judicial cost and revenues over the past five years, and 1992 is estimated. As you can see, the cost of continuing to increase at a rate of nearly five percent each year, and even though they have started to rebound for the last two years of revenue, they are still less than what they were in 1987.

These costs showed the county has continually had to absorb more and more of the costs each year, and with with reduction in grants, the state is making the county responsible for more of the costs which have already been determined as the state's responsibility.

I would like to say that being a commissioner since 1980 I have heard rumblings throughout the state and establishments down here about the amount of money the counties are putting in their surpluses. Bedford County is not like that. We're just a sixth class county. When this

formula came about of giving \$25,000, \$33,000 to each district justice, I thought that was a great idea on the state representatives to offset that. You're pulling the rug out from under us on the revenue sharing being ripped away as it is.

And I thought this is great. But the problem is we are absorbing more and more costs, judicial costs. We are not getting more and more money back in. You might have passed through Bedford County and Breezewood. We make a lot of money through our traffic tickets and so forth; some people say it's too much money once in a while. But the cost for traffic tickets and so forth is their bulk. The troopers, no disrespect, it has been told to me is giving more and more warnings, and more and more warnings means less and less money coming in.

We are a great county in the heart of
Pennsylvania, but we cannot afford to have the rug jerked
out from under us. Every year we budget so much money
coming from you great people down here, and at the end of
the year if we don't get that money, by all means, there's
families and so forth back in our home district that we have
to look at, our court employees, employees from other
sections, that we have to look at at Christmas time and say,
well, the state did it to us again.

I ask you to restore the appropriate amount of

money this year that you have said or have alluded that you would. Please do it this year.

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Now, I would just like to add one small fact that I would just like a little chip.

If you are in the future, and I hope you do not, if you are planning on taking the district justice money away totally, please give us fair warning. I mean, please give us ample time. It's hard when you sit there, I have 150-some employees and I read the state budget constantly coming up in like January starts, March they're really starting to gear up to it, and by June it's going to pass. And then June comes and, well, they're still down here really looking over this, and July 1st, you get it. And then you learn after the fact, my God, pardon my language, you learn the fact that, my God, there's not money in here for that category that we budgeted back in January to balance our budgets. What are we going to do? And that complicates it, because then we have to look at where we're going to get that money and the next year we have to go to the taxpayers. It is a great burden. And thank you again.

MR. WARREN: Just in summation, I guess, following Gary, if you're going to take the money, then take the district justices with them.

The other point is, we just appreciate your time but we cannot implore of you enough, please do whatever you

\$70,000 per judge to the budget, the \$33,000 per district justice in the budget and then long-term, short long-term let's start working on the resolution of the Allegheny decision. And we would be happy to answer any questions or concerns that you might have.

CHAIRMAN CALTAGIRONE: Thank you.

Members of the committee? Representative

Reber?

REPRESENTATIVE REBER: Mr. Warren, you might be able to answer this question. I'm curious, has the State Association of County Commissioners received any kind of formal response from the administration, the Governor, relative to whether, in fact, if a supplemental was placed on his desk individually in this particular item, would he sign that? Or would he again in essence veto that particular piece of legislation as was done with the lining of the issues before us at this present time?

Because the whole thing becomes rather academic when the House and the Senate in its deliberations acts and the Governor vetoes it. We ought to know that so we're in a position to veto-proof the legislation. And I'm just curious if there has been an official response to you people, because as all of you have said, it is of dire consequence in your budgetary process.

MR. WARREN: It's my understanding that there has been no official response. Doug Hill can speak to that, but whether or not there is veto-proof, we've got to at least get something back to him on his desk and then we'll stand with you to see that it's implemented.

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But as far as I know, there's been no official response or unofficial response for that matter.

MR. HILL: The day after the Governor signed the budget and vetoed these couple lines, I had an opportunity to speak with Budget Secretary Mike Hershock. He indicated to me at that time that the veto of both lines was in part the Governor's strategy to try to put pressure to bear on the legislature to get them back in the fall to deal with that and other unresolved matters, both within the budget and related to the budget.

He indicated to me at that point that the Governor had no problem whatsoever with the court costs line and probably would not veto that if that was restored by the legislature. However, he said that the Governor has opposed and would continue to oppose the district justice funding. As you know, the Governor proposed that at zero for the last three fiscal years running.

REPRESENTATIVE REBER: Correct me if I was wrong, but it was the entire appropriation back to the counties that was vetoed? That was taken out by the

1 Governor, correct? 2 MR. HILL: That's correct. 3 REPRESENTATIVE REBER: There wasn't a percentage 4 or anything of that nature, it was the entire amount? 5 MR. HILL: Last year he vetoed half of the district justice money. This year he vetoed all of the 6 7 court cost money and all of the district justice money. 8 REPRESENTATIVE REBER: And just so I understand 9 it, that was done obviously in mid fiscal year for the 10 counties, when it was fully well known by the budget 11 secretary and the legislature that there was certain considerations placed in that budget for the current fiscal 12 13 year, counting on at least a portion, if not all of that; is 14 that correct? 15 MR. HILL: That's correct. 16 REPRESENTATIVE REBER: I just want to understand 17 what the sensitivity or lack thereof was that went into the 18 process. Thank you, Mr. Chairman. 19 CHAIRMAN CALTAGIRONE: Representative Heckler? 20 REPRESENTATIVE HECKLER: Thank you, Mr. I apologize for being tardy, and I haven't had a 21 22 chance to review some of the written testimony. 23 Let me say first that I am very appreciative 24 that you've scheduled this hearing. Obviously there are 25 potentially partisan overtones to this, but I think we can

all at least as we address these folks who are trying to do a great deal with very limited means and one of the least wieldy tax bases available, I think we owe you all an apology. For the last several years this Commonwealth has been frought with bad management, particularly from the standpoint of unpredictability of people, all kinds of people both from the businesses in particular from the tax end and all kinds of areas of government from the spending end, getting nasty surprises at the 11 and 1/2 hour and then having to try to do the best they could when we have the better tax base with which to work and with which to address what are difficult fiscal times.

I don't want to let the moment pass, however, without making the observation that with regard to the second objective long-term view of implementing the Allegheny County decision, I think the reason, and I see Doug smiling, we've butted heads a few times on this, I think that the reason you have not seen the Supreme Court go any further with this decision is, with implementing it, is that they recognize they risk and I believe they will precipitate a Constitutional crisis if they do so. I, for one, will be delighted to be flailing away in precipitating that crisis. I think that the Supreme Court on a variety of occasions has sought to legislate under the guise of their judicial role. That decision happens to be one of the most

egregious examples. We have as, Commissioner Warren knows, an excellent judicial system in Bucks County, and I'll be hanged before I see the Supreme Court getting their hands into the hiring and firing of the manning tables and the administrative decisions of that court. And I think there are a great many of us who feel similarly. And so that frankly I think that's why you haven't seen this pursued.

Certainly there are budgetary problems that commissioners confront every year in dealing with the court, and it may be that we should seek to find ways to level the playing field, if you will, to make for cooperative planning and not simply have you folks in a situation where somebody sends you a bill and says, pay up, and you don't get a chance to scratch your head and argue about the number that's on that bill.

But there just has to be a better solution than shifting all of this to the state level where I believe the current personalities involved in the system would turn it into a statewide patronage mill and where, aside from that concern, you would lose the local quality and the local control which has produced very good results in some of our counties. It may have produced excessive costs and spending in some of the urban settings, but there just has to be a better way to deal with that.

So that's, I just wanted to not let this moment

go past without making that observation. But I certainly hope that we can address the responsibility we have and, in fact, one of the solutions to this problem would be to enhance the per-county reimbursement that you do see and that's really, it seems to me, the approach that we ought to be taking to the problem. Thank you.

MR. WARREN: Mr. Chairman, just in response to Representative Heckler, one, be assured that PSACC stood with you on other issues, Republican and Democrat, and we will stand with you Republican and Democrat again should we be able to get to the point where we can restore some operation to the counties. That's vital and we appreciate that.

As far as the Supreme Court decision,

Representative Heckler and I have had these discussions in
the past. It is the Pennsylvania Constitution that says
that the courts shall be unified. Not the commissioners,
not the legislature, and if that is our understanding,
that's what's got to be either altered or implemented.

As it is now, and I agree, Bucks County has an excellent judicial system. Bucks County commissioners have virtually no control, little control over the costs.

There's a case <u>Beckert vs. Warren</u> that where the judges sued the commissioners, and I will tell you from experience, when one is taken to court by the courts, it is much akin to

1 getting a divorce and having your mother-in-law make 2 settlement. The fact of the matter is, you're going in very 3 much with your hands tied behind your back. 4 So Dave, if we're going to not, if you're going 5 to not look to that, we've got to give, as Frank said, the people who are responsible for raising the funds to supply 7 the courts some meaningful way of controlling whether or not 8 you get carbon paper that five sheets are thrown away 9 because they only need two, whether or not we get carbon 10 paper that costs \$6,000 this year and for someone far 11 removed, all of a sudden it's \$21,000. Whether or not law 12 clerks are one year or three years. Those decisions have 13 effectively been taken from commissioners, and that isn't 14 fair. 15 I would like to recognize CHAIRMAN CALTAGIRONE: some of the other members of the Committee that have joined 16 17 Representative Ritter from Allentown, Representative 18 Blaum from Wilkes-Barre, Representatives Kosinski and Chris 19 Wogan from Philadelphia. I don't know if there's anybody 20 else that has joined us. Representative Fajt from 21 Allegheny. 22 Other questions from members? Or staff? 23 (No audible response.) 24 CHAIRMAN CALTAGIRONE: I thank you for your 25 testimony. We certainly appreciate it.

1 MR. WARREN: Thank you. We hope you can get it 2 back. 3 CHAIRMAN CALTAGIRONE: I would like the court administrators, Jim Morgan and the rest that want to 5 testify, if you would come up and be seated. If you would just introduce yourself for the record and we'll start. 7 MR. MORGAN: I'm Jim Morgan and I'm the 8 solicitor for the special courts judges, district justices 9 special courts in Philadelphia. 10 MR. MINNICH: John E. Minnich, the Dauphin 11 County Court Administrator here in Harrisburg. 12 MR. KESTER: H. Paul Kester, Court 13 Administrator, Bucks County. 14 MR. MINNICH: Mr. Chairman, members of the House 15 Judiciary Committee, I thank you for permitting me to appear 16 here today. I also thank you for your concern regarding the 17 potential impact of the Governor's action in blue lining 18 from the 1992-93 state budget those monies intended to 19 assist counties in funding the costs of the Court of Common 20 Pleas operations in the 67 counties of this Commonwealth. 21 Your concern is demonstrated by this public hearing today. 22 My name is John E. Minnich and I am the Court 23 Administrator of Dauphin County's 12th judicial district. Ι 24 am here at the request of the Pennsylvania Association of 25 Court Management. However, I want to emphasize that I am

not speaking for my peers throughout Pennsylvania, as the situation may vary from judicial district to judicial district in the several counties of the Commonwealth. My presentation will address the funding impact potential on Dauphin County and the 12th judicial district.

As you are aware, counties operate on a calendar year, while the Commonwealth operates on a fiscal year, July 1 through June 30. Because county budgets are on a calendar year basis, the Dauphin County Commissioners in preparing their 1992 budget anticipated receiving \$670,000 from the Commonwealth to support the judicial system. The County Commissioners anticipated the normal \$70,000 per judge and \$15,000 per district justice. The budget, by state law, had to be adopted and in balance, I might add, by December 31st of the preceding year and the 1992 property tax rate set at the same time.

Six months into the county budget, because of Governor Casey's veto, the Commissioners have a \$670,000 hole in their budget, and no way to make that amount of money up between now and the end of the year. As a result, our Commissioners have placed a freeze on the court and court- related departments for employee replacement, capital expenditures, new programs, expansion of the existing programs and other major budget items.

When the freeze was announced, President Judge

Warren G. Morgan issued the following response. The President Judge has been informed of the policy and commented only that the judges of Dauphin County have a duty to see that our local court system has the resources necessary to serve and protect the citizens of this county and that the judges will take the measures required to perform that duty.

The impact of a freeze on the courts could be devastating, and may ultimately result in forcing our court to file suit against the county commissioners. This would be the first such confrontation in the history of Dauphin County, as our court has traditionally tried to maintain a cooperative and supportive relationship with our county commissioners.

What can we expect in the days ahead? If vacancies occur in a district justice office, and the vacancy cannot be filled, the processing of those accused of a crime will be delayed, at the very least. In a two-person district justice office, the legal process could come to a halt. In a larger staffed office, where employees are barely able to keep up with the demands currently placed upon them, the case flow would be seriously impaired.

In 1990, our district justices collected over five million dollars. Of that amount, only 15 and a half cents stayed with the county. So while a diminution of

collections would impact on the county, there would be a major impact on the Commonwealth as the bulk of the remaining 84 and a half cents are Commonwealth funds, thus impacting heavily upon the branch of government that has caused the very dilemma we find ourselves in.

If vacancies occur in the probation departments, caseloads would have to be shifted; parole officers could be overwhelmed and the public safety put in jeopardy because proper supervision could not be given; collections of fines, costs and restitution would be impaired. If an overwhelmed staff cannot continue to enforce these collections, as we aggressively do in Dauphin County, the effect again reaches even to the doors of the Commonwealth.

If vacancies occur in a court-related department such as the Clerk of Courts Office, again, the timely flow of justice could be impaired. In an office such as the Clerk of Courts, where little or no computerization has occurred, the massive paper flow is contingent on clerks to do the processing. Our Clerk of Courts set a record for docketed criminal cases in 1991, and 1992 is already ahead of that record pace.

I could continue, but would simply be repeating myself. The point is, the wheels of justice could be effectively impaired if funding is not provided in order to accomplish the task. Inevitably, there has been set in

motion a collision course that will ultimately end up in the courts in order to resolve the problem, if it can be resolved at all.

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And I might add, one of the side impacts of a slowdown in processing cases, as this committee can well appreciate, is that it could even reach into interference with the guaranteed rights of the defendant for a fast or fair and speedy trial. It could have far-ranging impacts.

The Commonwealth, with its penchant to place more and more responsibility on the counties without providing funding, is a party to the dilemma the counties have been placed in, and must recognize its part in the current confrontation.

Thank you for allowing me to appear here today. Should you have any questions, I will attempt to answer them.

I might also say two other things, if I may. We have been asked in the past to reduce our district justice, individual district justice, budgets by the \$30,000 that originally the counties were receiving, and that's an utterly impossible task to accomplish. In some cases, the whole office would be wiped out and the citizens would have no access to the minor judiciary.

Another instance that I'm sure again this committee can appreciate is the court cannot tell the police

departments to stop arresting people, nor can they tell attorneys you can no longer file civil cases or how many civil actions they can file. That is a right that attorneys have in representing their clients, and the court cannot limit that. And all of this will be impacted by this funding impasse that is grinding to a head at the end of this calendar year. Thank you.

MR. KESTER: Good afternoon, Mr. Chairman, members of the Committee and others. My name is Paul Kester, I am the Court Administrator for Bucks County. I apologize for not having had the opportunity to prepare any written presentation with my secretary on vacation, one of my top assistants and my wife. So I'm under a bit of a handicap so I will attempt to do justice to this assignment which was laid on me by the president of the Pennsylvania Association of Court Management, which you heard about, and again, I do not speak for the Association, I do not speak for any of the other courts. I happen to be chair of the legislative committee, but I am speaking for Bucks County and out of experience, of many years in court management.

I've been court administrator for Bucks County for over 30 years. I've seen all sides of boards of commissioners and all types of budgets come and go, and they always are different. I am a past president and founder of what is now the Pennsylvania Association of Court

Management, which was founded in 1970. I'm a past president of the National Association of Court Management, formerly the National Association of Trial Court Administrators. So that I see this not only from Bucks County or Pennsylvania but from the national perspective. I've been involved at all levels. So I hope that will lend a slight bit of credibility to my remarks.

It would be presumptuous of me I think to try to instruct you, inform you on what your responsibilities as legislators are. I just would like, however, to sort of set the scene. The first commandment of the Preamble of the United States Constitution is to establish justice. The structure of the Pennsylvania Constitution follows that of the federal system of a tripartite separation of powers with a separate branch of the judicial, executive and legislative branches, each with well defined areas of authority.

All governing authority eminates from the legislative branch. It is delegated to the various levels of local government, counties, cities, townships, boroughs and the like, and standards are set of what is expected and the authority to act is defined.

In the case of the counties, it has been delegated to them to fund and support the judicial system, which is a state system. The judges are elected as state judges, not as county judges. They are designed to sit

within the judicial districts which are created by the legislative branch, as are the district justices within a judicial district.

so that the county then has been given the responsibility to bear the cost of seeing that the judicial system has the necessary support to carry out its mandated functions. Within a court system there are only three basic resources; judicial manpower, space and time. The legislature gives us the manpower, the commissioners give the space, and all time comes from the future in regulated increments over which we have no control. But the demands for these resources are totally out of the control of any one person, any organization.

The judicial system is called upon to resolve all disputes of all people, no matter how large or how small. To this end, laws are designed to provide access to this system, and means by which the demands for justice can be met.

Within each court system there is a structure that is organized to manage the business to see that the courts can function. In Bucks County, we are very fortunate to have a very forward-looking court system. I just might point out that our county is probably unique in that its calendar is current, notwithstanding its size. Civil jury trials can be reached within two months of a certification

of readiness, arbitration cases within six to eight weeks, non-jury matters within four to six weeks. 98 percent of our criminal court caseload is under four-months-old. Bear in mind we are the fifth highest in population until maybe this year. We are the third highest in all criminal case dispositions and yet our calendar is current. We have 11 judges, we have 17 district justices of the peace.

Our budgetary structure and our organizational structure within the court is unique, I think, in that we have complied with the requirements of the judicial code and in 1978 established the judicial and related account. The function of this account is to identify what is the judiciary, what are the funding requirements, what are the revenue sources, and how much is left for the county to fund. What is the judiciary I think we have defined fairly clearly in Bucks County.

There are 35 cost centers in our judicial and related account. It includes 17 district justices of the peace, the main court itself, the juvenile probation department, the youth center, a detention facility for juveniles, four group homes, an adult probation department, a law library, domestic relations section, and up until recently the constables.

We have set out in our county over 15 years ago to manage our internal affairs from the fiscal standpoint.

On my staff I have a manager who is an excellent manager, and we can identify more clearly sometimes than the county what the actual cost of running our system is. Currently our budget runs for all these cost centers some \$24 million a year. Of that, for 1992, we project revenues from all sources, that is, the court reimbursement fund, the district justices, grants and aids for adult probation, salary subsidies, the domestic relations section, from the AFDC program, from the Act 148 fund for children and youth would spill over into our juvenile probation department, under \$10 million.

Now, what is the impact of the Governor's veto on that fund? It represents almost 12 percent of our revenue source for one year. We lose \$70,000 per authorized judgeship, although the appropriation was \$2,500 under that in the general appropriation bill, I recognize that, but in the history of this funding, it represents a \$770,000 loss right there. At \$15,000 per each authorized district justice there is another \$255,000.

A reduction, the Governor apparently has placed \$3,400,000 of appropriation for adult probation officers' salary subsidy into some reserve account that is not included in the appropriation that was made by the General Assembly of some \$11 million.

When we take all these, just these three items,

it represents one mil of tax in Bucks County. That's the impact. It is a burden that must be shared, not just laid on the court itself.

I mentioned the number of budget accounts that we have in the judicial and related account. We must compete with government functions that are not court-related in the county. There are some 76 cost centers in the county alone. That is separate departments. There are other cost centers bringing that number to well over 110.

Now, when we go out to present our budget to the county commissioners, we must try to demonstrate to them our needs, bearing in mind that when we have to, when they allocate resources to us, it affects the resources available for every other function of county government. Picture, if you will, the county structure as a handful of pebbles. The budget is a pond. If you throw all those pebbles into the pond, you have leaking circles that ripple out from each pebble so that every demand for resource affects every other function of the government.

This is not a big rock that you throw in for the judicial system and that wipes out the other functions of county government. They must continue to go on. We recognize that.

We have for over 12 years demonstrated to the satisfaction of our county commissioners the need for

positions. Every single one of those positions that we have created since 1981 has been a demonstrated need based on standards established by Judge Craig in his opinion in the case of Commissioner Warren referred to, and that is, that we have mandated functions that exist and that we can't carry them out without additional staff or new responsibilities have been laid on us, that we cannot meet without additional staff. The commissioners have been satisfied as to those requirements, and nothing has happened to lessen the need for those positions. We must meet human needs with human resources. And so we have in our county with the cooperation of the county commissioners notwithstanding, we don't always get along, that's obvious, and that's true of every organization. If every function of every organization got along I wouldn't have a job and you wouldn't be needed. But that is not the way the world is. So we have, as I said, we must compete with these other organizations.

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Now, what happens when someone takes away 12 percent of your revenue? Or five to six percent of your total budget? For one year? And these needs must still be met? Obviously, the court is not the only one that suffers. Every other department in county government suffers and every constituent who seeks the services of county government thereby suffers. Therefore, I suggest it

is critical that these needs be, funding be restored in order that we could at least keep going.

County case. That is so full of vastly complex issues that it's inappropriate for me to even speculate on it, particularly as a representative of the court. I certainly would not do that. That is for people who are in the ultimate decision-making responsibility to take care of that matter. Certainly, I would be available as a resource if anyone wants my opinion, for whatever it's worth. I mean, my opinions are like what you pay for them, maybe nothing, I don't know. But anyway, that's where we are now.

what do we see in the future? If this type of restraint is continually placed upon the court system, what is our solution? Is it privatization? There are people now, our county is talking right now about privatizing our county home because of funding requirements for repairs and maintenance and construction that is being mandated on the one hand by the executive branch and then the other hand saying we're going to cut your money. So what's going to happen there? Are we going to privatize the county home? Are we going to privatize the county to privatize the courts?

The very first three things that any government in this Commonwealth had to do when they were established,

and I see this in the records of the Bucks County Courts going back to 1683, county government was to do three things: Provide a court system, a jail and a poor house. That's what our governmental responsibilities are. We can only meet them with a certain amount of support, basic support, from the legislative branch, and the flexibility to design and meet additions and supplements to that type of support.

Meeting our own needs at our own level is critical to the success of any system, any court system, any county governmental system. That's why our court, I think, has been able to achieve a very enviable record of court management as well as attending to the needs of the public.

In the future we will be getting more of what we have been getting over the past several years. One thing, the legislature every once in a while decides a good way to fund a program is to add a user tax. That's fine. They say who's going to collect the tax? It's either the district justice, prothonotary or clerk of courts or recorder of deeds, some fee office to pay for a new service to be taken care of. Emergency service funds, the CAT Fund, more recently the \$2 collection fee imposed on the constable bill to pay for the education program for the constables. Well, but we have to collect it. It costs us money, it costs us time in terms of human services to collect this money. And

that apparently is a thing that is going to increase rather than decrease.

We are faced with the responsibility of implementing the Americans with Disabilities Act. That's a very wonderful program, but how many courtrooms and jury rooms and other facilities must be equipped just to assist the hearing impaired? Not to mention all of the other types of disabilities that are involved.

We are going to the Supreme Court in the end of July to authorize the redistricting of our magisterial system. We will gain immediately two district justice offices, to take office in 1994. We must provide for those in terms of space and equipment, personnel, training, and all the support materials and supplies that will go into that to open the doors on January 1, 1994. That means the 1993 budget. One office that will be abolished cannot be abolished until the term of the incumbent expires in 1998, so we are going to have 19 districts, not 17 for the next four years, five years.

So my plea is that you consider the total impact of these cuts and provide the counties with a base from which they can reasonably continue to function and develop internally the programs that are needed to keep the judiciary of this Commonwealth functioning.

With all its faults, it's the best we've got,

1 and in many respects it is a superior judiciary. I have, as 2 I said, I've been involved in it for over 30 years and I 3 know judges and court systems all over this Commonwealth. 4 They are very dedicated, hard working people. They work as 5 well as they can with dedicated elected officials, county commissioners and others. We are available as a resource to 6 7 the legislative branch to assist you in defining the logical 8 sufficiency of supporting the judicial system without which 9 we will slide back into the jungle. 10 Thank you very much. I was a little longwinded, 11 but any questions you may have I am certainly available. 12 CHAIRMAN CALTAGIRONE: Ouestions? 13 (No audible response.) 14 CHAIRMAN CALTAGIRONE: Thank you. 15 MR. MORGAN: Mr. Chairman, members of the 16 committee, I'm Jim Morgan and I've been the solicitor for 17 the special court judges, that is, the district justices and 18 specialized courts in Philadelphia since the beginning of 19 the system. 20 Paul and I go back a long way, and Jack was at 21 one time controller and chief clerk in Dauphin County. 22 would like to introduce District Justice Magaro from Dauphin 23 County, District Justice Clement from Cumberland County, and 24 District Justice Lee Lehman, who also has spent some time up 25 here, from Lebanon County, who have come.

It's not our money. The district justices sought with the legislature in 1985 monies to show the counties that, in fact, our system was in the main, self supporting, but, in fact, they needed help. Those monies started in 1985-1986 fiscal years. They were not there before. Those were new monies and they were alluded to in the written comments by Commissioner Warren. But those monies are important as an augment to the staff.

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All I can tell you is that there is the ripple effect, that district justices, when they're faced with personnel costs, that is, that they are aren't going to be there because the only way you can do it in these offices is to cut personnel, and at a time when we finally implemented all but the last 50 offices in computers, and have trained people, in every office, and these are the people we're talking about, you've spent the money, whether or not you know it or not, we've spent the money and trained them. They all now are computer literate; they weren't before, and now they are. And now we're going to say to the counties, I'm sorry, but I've gotten the articles and I've talked to district justices, not only a freeze in Dauphin County but an attempt to cut off every part-time worker in Erie County, and I can name them all, but that's not the point, because the commissioners are faced with those kinds of decisions.

But the point is that we are returning monies to

the state and to the counties in every way. In the 17 months until February, \$55.1 million was returned to the state for the CAT Fund from the district justices. That's a lot of money. Every time we've added it's been cost for other than the system. Whether it's Domestic Relations, whether it's crime victims, whether it's EMS, whether it's CAT Fund, whether it's JCP for the computers themselves, whether it's \$2 in surcharge for the constables, it's gone elsewhere. We have not adjusted the cost system since 1978. And I was very much involved with that, Act 53. That's when it goes back to.

From the standpoint of the counties, they knew what the system was then. It was part of the system then. They knew they had the responsibility and they knew they had the costs. But our system had changed and evolved. We're now collecting over \$125 million in last fiscal year from the district justices alone, as compared to the ability of the Court of Common Pleas to collect \$6.1 million.

You can't get the felons, you put them in jail.

We don't collect money from them. And so it's ridiculous

for us to sit and talk about reimbursements in a real sense

when we're talking about the criminal justice system. The

only way we can collect is on summary offenses, and the DJs

do that. You don't collect them in the court cases, and the

Court of Common Pleas is not able to because it's not

there. They're in jail. They cost us money. They don't return money to us.

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All I can plead to you is that the cutting out of the monies both to the counties and to the district justices is the wrong kind of fiscal attitude because, in fact, they can't operate and return the \$125 million if they don't have the people. And it's only people that you can cut out of these budgets. Thank you.

CHAIRMAN CALTAGIRONE: Questions? From staff?
Representative Heckler?

You know me, Mr. REPRESENTATIVE HECKLER: Chairman, I can't resist the opportunity to make an I think one of the things that is striking observation. from all of the testimony we've heard is the viability of a concept that Mr. Kester has spoken with me on occasion about, which is the so-called judicial impact statement. Now, I know that that's, given the way we legislate, that in itself may not be feasible, but aside from, again, underscoring the fact that we've got to do our jobs when we get back in September and get these appropriations back in place, I think that these comments have underscored the fact that we have to be increasingly sensitive to the fact that when we are passing a piece of legislation that may sound great and may give us something to talk to the newspapers about and beat our chest about, we need to understand better

1 the consequences that legislation has in real terms. 2 that the biggest part of that is all of the fairly 3 inefficient process of collecting the money that we have expectations that we want to channel in some societally 5 desirable way. So that just as we are finally becoming 6 7 sensitive to the need not to mandate on local government at all levels without sending the money along, I think we have 8 9 to be equally conscious of the fact that, you know, we put a 10 cost on defendants, they don't all run in to pay it 11 delightedly, that somebody's got to apply the leverage, and 12 that's these gentlemen in the back of the room, and their employees and the clerks in the court system. And if we're 13 14 expecting the counties to foot that bill ultimately, then we 15 have to also factor that into our considerations. 16 I thank you again for having this hearing and 17 these gentlemen for being here. 18 CHAIRMAN CALTAGIRONE: Thank you. I also want 19 to recognize that Chairman Piccola has also joined us. Any 20 comments? 21 REPRESENTATIVE PICCOLA: I figured Dauphin 22 County was well covered today so I didn't need to be here. 23 CHAIRMAN CALTAGIRONE: I do want to mention for 24 the benefit of the members and staff, one of the things that

we've looked very closely at was the revenue that has been

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generated continuously over the years by the district justices, and I know that this may or may not be the appropriate time to say something like this, but I'm going to say it because I've advocated that I felt for too long now, it's been almost six years, the district justices have not had a pay increase.

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I think from the testimony that you've heard here today, with the volume of dollars that are, in fact, collected and turned over to the Commonwealth, which we readily accept and readily expend in many, many different areas, I think it's beholden upon us to seriously face that issue when we come back in the fall to see exactly what could be done to adjust the pay increase for the district I've advocated that publicly, I will not retreat from that position. I think it's been an injustice to them, They've worked that they haven't had that pay increase. long and hard, and I think many of the members of this Committee that are practicing attorneys know full well that the district justices work long and hard in those offices with a variety of different cases, in each of our counties. They have not been adequately compensated and they continue to do their job and do it quite well. And I think if we, once we have the total computerization on board with all of our counties, I think we're going to be kind of mildly shocked as to actual dollars that are collected each year

1	from each one of the counties and how that flows in,
2	basically to the state, but, of course, there is a
3	percentage that goes to the counties that help them out,
4	too. And I did want to get that commercial in there.
5	Are there any other comments or remarks that any
6	of the members want to make?
7	(No audible response.)
8	CHAIRMAN CALTAGIRONE: Thank you very much.
9	We'll conclude this hearing.
10	(Whereupon, the hearing was adjourned at
11	2:35 p.m.)
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same. Court Reporter-Notary Public