

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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House Bill 1054

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House Judiciary Committee
Task Force on Internet and Technology Law

Hearing Room No. 1
Ground Floor, North Office Building
Harrisburg, Pennsylvania

Tuesday, August 21, 2001 - 10:10 a.m.

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BEFORE:

Honorable Stephen Maitland, Majority Chairman
Honorable Jerry Birmelin
Honorable Brett Feese
Honorable William Gabig
Honorable Tim Hennessey
Honorable Paul Semmel
Honorable Mark Cohen
Honorable Kathy Manderino
Honorable John Pallone
Honorable Joseph Petrarca
Honorable LeAnna Washington

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ORIGINAL

ALSO PRESENT:

Michael Schwoyer
Majority Chief Counsel to Judiciary Committee

Judy Sedesse
Majority Administrative Assistant

Jane Mendlow
Minority Research Analyst

Mike Rish
Minority Executive Director

Cathy Hudson
Minority Administrative Assistant

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Written Testimony Submitted By:

Charles H. Junod, Jr.
Supervisor - Pretrial Unit
Philadelphia District Attorney's Office

1 **CHAIRPERSON MAITLAND:** Good morning, ladies
2 and gentlemen. I'd like to call the Task Force hearing to
3 order. I'm State Representative Steve Maitland from the
4 91st District in Adams County, and I'm Chair of the Task
5 Force. Before we begin, I'd like those of us up front to
6 introduce ourselves, starting with Representative Pallone.

7 **REPRESENTATIVE PALLONE:** Good morning. John
8 Pallone from the 54th Legislative District.

9 **MR. SCHWOYER:** Michael Schwoyer, Chief Counsel
10 to the Judiciary Committee for the Republican Caucus.

11 **REPRESENTATIVE SEMMEL:** Representative Paul
12 Semmel, Berks, Lehigh, 187th Legislative District.

13 **REPRESENTATIVE MANDERINO:** Good morning.
14 Kathy Manderino, Philadelphia.

15 **MS. MENDLOW:** Jane Mendlow, Research Analyst,
16 Judiciary Committee.

17 **MR. RISH:** Mike Rish, Judiciary Committee.

18 **CHAIRPERSON MAITLAND:** Thank you. The subject
19 of our hearing today is House Bill 1054 prime sponsored by
20 Representative Paul Semmel. This seeks to amend Title 42
21 of the Pennsylvania Consolidated Statutes providing for
22 remote appearances by live-feed video.

23 Representative Semmel, would you like to give
24 us a little background and the reasoning for introducing
25 this bill?

1 **REPRESENTATIVE SEMMEL:** Thank you, Mr.
2 Chairman. Certainly, as you've indicated, it would amend
3 the Judicial Code to allow defendants to make electronic
4 appearances in criminal cases. Now, I want to point out
5 before we begin, this would not take place during an actual
6 court proceeding.

7 The defendant always has that opportunity to
8 be seen and heard within the courtroom setting. And again,
9 another issue that I would like to point out, it is
10 something not mandated. There are some counties already
11 doing this. But we would like to know, for example, that
12 if you happen to live in McKean County, if they would so
13 choose to do this, that it would be the same operational
14 procedures as in Delaware County.

15 As we know, technology today has certainly
16 changed the way you and I operate, so to speak. There have
17 been some changes in the Rules of Criminal Procedure to
18 govern the use and application of this technology. But by
19 and large, the various counties were left to determine the
20 manner and extent to which they would implement these
21 advanced technologies.

22 So what we're saying, we want to make sure
23 across the Commonwealth that there would be uniform
24 applications. And certainly, again, if the defendant
25 chooses not to be part of the process within the courtroom

1 scene, certainly, we again point this out. And it's not a
2 mandate for the counties per se. Thank you.

3 CHAIRPERSON MAITLAND: Thank you,
4 Representative Semmel. We have three witnesses here to
5 offer testimony today. In addition, we've received some
6 comments from the District Attorney's Office in
7 Philadelphia that would be made part of the record.

8 But first, I'd like to welcome the Honorable
9 Robert Manlove, District Justice in Cumberland County.

10 JUDGE MANLOVE: Good morning. Technology:
11 engineering, also a manner of accomplishing a task using
12 technical methods or knowledge. As a child, I recall Buck
13 Rogers-flavored movies where space travelers could see and
14 converse simultaneously with their counterparts on earth.

15 Today, electronic appearances are commonplace
16 in business and in government. Only within recent times
17 have these applications appeared in our judicial systems.
18 Technological engineering advances are occurring daily
19 right before our eyes.

20 Addendums to our existing Criminal and Civil
21 Rules of Procedure have not kept pace with these rapid
22 changes. The task of marring technology with the inherent
23 rights of mankind is an arduous undertaking. There are
24 several issues that must be addressed.

25 Please keep in mind that use of the word shall

1 in law refers to must be carried out and by whom. This
2 bill would either prevent in some instances or prolong in
3 others a district justice from performing their duties that
4 have already been established via the Pennsylvania Rules of
5 Court.

6 The language contained in C Transcript, lines
7 15 through 18, require a stenographer at the district
8 courts, which are not a court of record. We do not have
9 stenographers. This section would preclude district
10 justices from performing many functions we already have
11 been assigned. The cost of hiring stenographers would
12 greatly exceed \$10 million. And by the way, that's an
13 extremely conservative figure.

14 During 1999, our Cumberland County video
15 preliminary arraignment procedures put police officers back
16 on patrol for over 10,000 hours. This time means that
17 municipalities spent from 300- to \$500,000 keeping their
18 officers protecting their communities instead of
19 transporting and processing criminal defendants.

20 Imagine the impact this would have across the
21 Commonwealth. Cumberland County is not a big county.
22 There's only about 20 police departments, and there's only
23 8 members of the district court.

24 I am prepared to answer your questions on
25 these and other issues. In closing, the rules of our

1 district courts must be specific to this section of our
2 judiciary. I applaud your efforts; however, I implore you
3 to consider these and other factors. Working together, we
4 shall achieve our goals. Thank you very much.

5 CHAIRPERSON MAITLAND: Thank you, Justice
6 Manlove. Are there any questions? Representative Pallone.

7 REPRESENTATIVE PALLONE: Thank you, Mr.
8 Chairman. Judge Manlove, one question is, beyond the
9 preliminary arraignment and the preliminary hearing stage,
10 what other functions as a district justice do you perform
11 during the criminal trial, the hearing process?

12 JUDGE MANLOVE: Right now in Cumberland
13 County, we do the video arraignment, preliminary
14 arraignment. We also do the preliminary hearings. In
15 addition to that, we present the formal arraignment papers
16 to a defendant via their attorney if a case has been held
17 to court.

18 There is consideration under way, as in other
19 judicial districts, for misdemeanors of the third degree to
20 be handled at the district court level.

21 REPRESENTATIVE PALLONE: Are you currently
22 doing that now?

23 JUDGE MANLOVE: Not in Cumberland County, no.
24 In Dauphin and other counties, yes. It's only misdemeanors
25 of the third degree where you could accept guilty pleas and

1 sentence. There is a proviso in the rules for that action.

2 REPRESENTATIVE PALLONE: Of the 67 counties,
3 how many counties are doing that now, do you know?

4 JUDGE MANLOVE: I couldn't tell you. I don't
5 know.

6 REPRESENTATIVE PALLONE: So if the act, or the
7 bill were amended to contain provisions that said video
8 preliminary arraignments and preliminary hearings were
9 exempt from the transcript provision, then there would be
10 less of an objection to the bill as presented?

11 JUDGE MANLOVE: From my standpoint, no,
12 because there are many more applications that members of
13 the minor judiciary, district justices, could use which we
14 have not gone to yet because the rules have not kept up
15 with the technology.

16 One example would be when police officers
17 arrest somebody out of the judicial district and they have
18 to be taken before a district justice in the judicial
19 district where they have been apprehended for the rights of
20 posting bail.

21 If we could do preliminary arraignments across
22 judicial lines via the video and audio technology that we
23 have today, this would be a great savings in time. Someone
24 could be either released on bail at that time after a
25 preliminary arraignment or taken to the appropriate county

1 institution for incarceration.

2 There are many other applications that we
3 could do. I'll give you an example.

4 REPRESENTATIVE PALLONE: That would be an
5 expansion of the current proposal, though?

6 JUDGE MANLOVE: That's correct. There's a lot
7 of applications out there where we have not used this
8 technology yet because the rules haven't kept up. I went
9 on my own in, on June the 17th of 1999. I did the first
10 search warrant in the Commonwealth of Pennsylvania using
11 this technology.

12 It saved the police a lot of travel time and
13 got them back to performing their duties; in this case,
14 searching a vehicle that had been stopped on the Turnpike
15 by the State Police. We figured out how to do it, and I
16 did it. In fact, I've done it 4 times since then.

17 REPRESENTATIVE PALLONE: Interestingly enough,
18 Westmoreland County was the first county in the
19 Commonwealth to use video arraignment in the court. Some 7
20 or 8 years ago, we began --

21 JUDGE MANLOVE: Westmoreland, I believe they
22 had 3 police departments in, I believe, 1995 that were very
23 far away from where the district court --

24 REPRESENTATIVE PALLONE: We did it on a
25 regional basis, correct?

1 JUDGE MANLOVE: Pardon me?

2 REPRESENTATIVE PALLONE: We did it on a
3 regional basis for preliminary arraignments only?

4 JUDGE MANLOVE: That's correct.

5 REPRESENTATIVE PALLONE: And this particular
6 piece of legislation is a high level of importance to me.
7 I have a brother that's also a district justice. So I'm
8 trying to find out how to make this better. That's why I
9 asked.

10 Without expanding the breadth of the proposal,
11 if we were to contain a provision in there that exempted
12 the preliminary arraignment and the arraignment from the
13 transcript requirement, that would be an improvement on the
14 bill in your opinion, correct?

15 JUDGE MANLOVE: For those two specific areas,
16 yes. However, I think there's a lot of other things that
17 applications could be made. And my situation with this is
18 that I think you need a better stream, a better
19 clarification on the way to improve upon the rules that we
20 already have.

21 The rule process in Pennsylvania is
22 cumbersome. It takes a long time. I know, getting back to
23 that search warrant issue, that I, along with the help of
24 District Attorney Ebert in Cumberland County and Mr.
25 Schwoyer when he served in the DA's office and Frank

1 Williamson, the Director of Public Safety sitting behind
2 me, and about 12 other defense and prosecutors and some
3 judges, we redesigned the search warrant for the
4 Commonwealth of Pennsylvania, referred it to the Rules
5 Committee of the Supreme Court through Anne Panfil, who is
6 the attorney for that committee, through the Administrative
7 Office of Pennsylvania Courts.

8 And then it goes to the Superior Court and
9 then the Supreme Court. And when that came back in 50
10 days, I was told by members of the AOPC that it was the
11 fastest they had ever seen changes in any of the documents
12 that are used by the judiciary in Pennsylvania.

13 So there is a channel to perfect these
14 changes. I believe that the courts and the legislature
15 must work together to not just address these issues one at
16 a time but maybe put together a package of specific rule
17 addendums that have to be made because the minor judiciary
18 is not a court of record, and everybody else from the Court
19 of Common Pleas on up is.

20 This bill would make us a court of record.
21 And in addition to that, there are other problems with
22 consent for any electronic appearance that would prolong
23 the responsibilities of the district justice. Even from
24 the standpoint of a stenographer, you'd have to hire
25 probably 400, 450 of them to comply with this bill.

1 In addition to that, you would need attorneys
2 on call 24 hours a day, 7 days a week any time a district
3 justice was to perform a preliminary arraignment using the
4 video equipment to get consent of the defendant prior to
5 that arraignment. I deem that an impossible task in
6 itself.

7 REPRESENTATIVE PALLONE: Thank you, Mr.
8 Chairman. I have no other questions.

9 REPRESENTATIVE MANDERINO: Thank you. Thank
10 you for your testimony. I guess from looking at the
11 agenda, I'm guessing that you're the most appropriate of
12 the testifiers we're going to hear from today for me to ask
13 my questions since you sit in a, a nonbiased judicial role.

14 But given what you have testified about the
15 aspects of the bill that you don't like and how you would
16 like to see it expanded, what concerns, if any, do I need
17 to have based on what you're asking for with regard to
18 changes, with regard to consent -- the consent that I saw
19 in the bill went to the defendants' consent to being
20 arraigned or being processed in any way by way of live
21 video feed -- the transcript, which I understand what
22 you're saying about a court of record.

23 But at the same time, changing that in my mind
24 changes the, the potential due process protections or
25 rights of the defendant and the expansions that you're

1 asking for. What concerns, if any, do I, would we need to
2 look at with regard to changing the current status of the
3 law vis-a-vis defendants' rights and due process in our
4 courts if we would do what you're asking?

5 JUDGE MANLOVE: Well, the Constitution of the
6 Commonwealth of Pennsylvania, Section 1 of 1874, is where I
7 refer to the inherent rights of mankind. In Section 9 of
8 the same constitution, it refers to the confrontation that
9 a defendant has with their accuser or accusers.

10 Now, the use of video changes one thing, the
11 distance between those 2 parties. Once we adopted our
12 preliminary arraignment system in Cumberland County -- I'm
13 the dinosaur of our group. Sitting in my chambers is a
14 1941 Olympia Typewriter used by every cop except 5 in the
15 history of the Camp Hill Police Department, of which I used
16 to be a member at one time, to type up their reports.

17 I didn't think this was going to work. After
18 combining this with our live scan and CPIN, our arraignment
19 for the processing of the defendant, I think that we have
20 an extraordinary situation here that could be expanded on
21 almost without limits.

22 I'm not concerned anymore -- pardon
23 me -- about the rights of the defendant at the time of a
24 preliminary arraignment because I've done by this time
25 maybe 1,000. So I'm not worried about that anymore.

1 As far as the applications at a preliminary
2 hearing, it's kind of a two-edged sort. When we conduct a
3 preliminary hearing, if a defendant is incarcerated,
4 they're sitting in the courtroom with their attorney. And
5 they're either in prison orange or prison greens.

6 So I don't think there's a great deal of
7 difference with that if they and their attorney were on a
8 TV. The only question is -- and I know we've all gone
9 through this. The only point is -- and we've all gone
10 through this -- is that have you ever seen somebody you
11 knew on television and you go, Gee, they don't look like
12 that in person?

13 That may be the other edge of the sort for a
14 prosecutor or a police officer presenting their own
15 preliminary arraignment. Are you going to be able to have
16 a successful identification of the defendant? It may work
17 in their favor and it may not.

18 So as far as the inherent rights of mankind
19 and to be confronted by their accusers, I do not have any
20 problem with using the system any longer. And that is
21 where I think your concerns probably would lie.

22 REPRESENTATIVE MANDERINO: Thank you. Thank
23 you, Mr. Chairman.

24 CHAIRPERSON MAITLAND: Thank you. You said a
25 couple of times that the rules have not kept up with the

1 technology. And I know the District Attorneys Association
2 has some very active committees. Has any committees been
3 lobbying the court for changes to the rules?

4 JUDGE MANLOVE: Not that I know of. And I
5 don't deal with that, to be honest with you. However,
6 there are, there are a vast multitude of things that can be
7 done. You spoke of Delaware County. And I've been there
8 and seen the operation of the Court of Common Pleas.

9 It was really inspiring to see how they
10 performed many of the functions of the Court of Common
11 Pleas using the electronic appearances. And I think
12 there's many more applications that could be made at our
13 level of the district court.

14 The thing we must be careful of is passing
15 legislation that appears to deal mostly with the Court of
16 Common Pleas. But you've got to remember, there are 551
17 district courts across the Commonwealth of Pennsylvania.
18 And the rules for us have to be specific to our section of
19 the judiciary. If not, then, then you tie our hands to
20 perform our function within the court system.

21 MR. SCHWOYER: Judge Manlove, you talked about
22 expanding the bill to other proceedings; and I believe you
23 mentioned preliminary hearings. For the committee,
24 generally what occurs at a preliminary hearing? What is a
25 preliminary hearing?

1 JUDGE MANLOVE: Well, a preliminary hearing,
2 one of the functions of a district justice is to hear the
3 case for the first time. The prosecution, be it a police
4 officer or a member of the district attorney's office, has
5 to present their case and the elements of each offense
6 charged against the defendant and also to identify the
7 defendant as being the person who most probably committed
8 those acts, not innocence or guilt.

9 So I determine whether or not a prima facie
10 case is presented or has been presented. Then we decide
11 whether or not the course. If I choose that course, then
12 the case proceeds to the Court of Common Pleas. The
13 defense has the right to make mechanical or electrical
14 recordings of a preliminary hearing, present witnesses to
15 refute that of the prosecution but not attest to the
16 character of the defendant.

17 Basically, that's what goes on in a
18 preliminary hearing. Determinations are made for bail and
19 that type of thing, those type of issues at the end of a
20 preliminary hearing.

21 CHAIRPERSON MAITLAND: Thank you very much for
22 your testimony today, Judge Manlove. We really appreciate
23 it, and thank you.

24 JUDGE MANLOVE: May I add just one thing?

25 CHAIRPERSON MAITLAND: Certainly.

1 JUDGE MANLOVE: Other areas that we could look
2 at to save a lot of time and a lot of money -- because as a
3 member of the community and not as a judge, I'm concerned
4 with protecting our communities, our schools, our children,
5 our elderly, our streets.

6 And a very important aspect of what we have
7 developed in Cumberland County is that we are putting
8 police officers back on the street for many, many more
9 hours instead of being baby-sitters and taxicab drivers. I
10 call our system pop them and drop them.

11 Not to come at that from a pro police angle
12 but if I'm the mayor of a borough or the public safety
13 commissioner of a township -- and in a little county like
14 Cumberland County, we base that on a number of district
15 justices -- those municipalities pay their police officers
16 between 3- and \$500,000 a year.

17 Just in one year when we first get rolling on
18 this thing, their police were back on the street instead of
19 performing functions that our central processing and our
20 video arraignment system have freed them up to do. And I
21 think that's a very, very important issue, to get the
22 police back on the street and in their communities instead
23 of providing some of these other services that now we have
24 the technology without infringing on the rights of people
25 to perform. Thank you very much.

1 CHAIRPERSON MAITLAND: Thank you. I'd like to
2 invite the Honorable Skip Ebert, the District Attorney of
3 Cumberland County, to come forward. While he does, let me
4 note that a few colleagues of the House Judiciary Committee
5 have joined us this morning.

6 Representative Jerry Birmelin; Representative
7 Tim Hennessey from Cumberland County, fittingly;
8 Representative Will Gabig; and Representative Brett Feese
9 has joined us. Please begin when you're ready, Mr. Ebert.

10 MR. EBERT: Thank you, Mr. Chairman. Good
11 morning. I appreciate the opportunity to appear here
12 today. My name is Skip Ebert. I'm presently the elected
13 District Attorney of Cumberland County. Formerly, I've
14 served as an Assistant District Attorney in both Dauphin
15 and Cumberland County, being first assistant there.

16 I was Chief of Prosecutions and head of the
17 Bureau of Criminal Investigation in the Attorney General's
18 Office and eventually became the Executive Deputy Attorney
19 General for the Criminal Law Division. All told, I've been
20 a prosecutor for over 19 years.

21 I've served as a member of the Governing
22 Council of the ABA Section on Criminal Justice and was the
23 National Attorney Generals Association representative to
24 the ABA Standards Committee, which is a group that meets
25 and writes what are called the ABA Standards of Criminal

1 Justice that are generally applied to make, in rule making
2 throughout all of the state judiciary panels.

3 Currently, I'm a member of the Executive Board
4 of the District Attorneys Association and was recently
5 appointed by Supreme Court Justice Stephen Zappala to the
6 Pennsylvania Court of Common Pleas Automation Project,
7 which has been meeting quite regularly in hopes of
8 automating the process.

9 Today, we're dealing with video technology in
10 the criminal justice system. I believe that I've been a
11 major proponent of use of this type of equipment to improve
12 the efficiency and cost-effectiveness of the criminal
13 justice system and the product that we are really providing
14 to the people of Pennsylvania.

15 In regard to House Bill 1054, I certainly
16 applaud the bill's general recognition that video systems
17 can play an important part in this. I would digress a bit
18 from my prepared remarks in saying it's got to be a
19 partnership.

20 You as the legislature really are the people
21 that control how money is spent and, you know, the general
22 view of what the people out there want to see in their
23 criminal justices. The courts, of course, have an
24 incredible amount of power and discretion in this
25 particular area.

1 There are some very fundamental constitutional
2 issues that come up when we, when we deal with this
3 particular thing. And I'd like to see the legislature kind
4 of nudge the rule making process along.

5 In response to someone's questions earlier,
6 the District Attorneys Association does play an active
7 role. We have representatives on the Criminal Justice
8 Rules Committee. The Criminal Justice Rules Committee has
9 basically, as a premise, said we support the use of video
10 technology as much as possible to make the system better.
11 Of course, the difficult part then comes into the actual
12 applications of what crosses the line and what doesn't.

13 As you start here, I'm a big proponent of what
14 you have in Subsection F. And this will get a little bit
15 further into how I feel about this bill. That deals with
16 parole hearings. And you got to move prisoners around, and
17 the parole board has to go to different places.

18 I really believe that that, as an
19 administrative rather than a purely adjudicative function,
20 is perfectly applicable to a video system of use. And yes,
21 that's a balancing aspect between the rights of a prisoner
22 versus the rights of the citizens that do this as
23 sufficiently as possible.

24 But that's a place where I think I'm getting
25 to the idea of there may be a series of judicial functions

1 that have less constitutional protections than others. And
2 I'll get to some of those in a little bit.

3 More importantly, I believe it would be
4 important for inmates in state prisons who are subpoenaed
5 as witnesses, not defendants, the people who are subpoenaed
6 as witnesses in trials, to make their appearance by video
7 presentation. The cost of transporting the prisoners,
8 along with the incumbent security risks, make video
9 testimony most valuable.

10 In counties like mine that has a correctional
11 institute, inmates who commit drug offenses, sex crimes,
12 assaults on guards, often subpoena numerous of their
13 buddies inmates that the sheriff has to then transport to
14 our county, house in our county prison.

15 And I'm telling you, in all of the years of
16 experience, if you see the quality of that testimony and
17 what the taxpayers are paying for, I'm saying we'd be
18 better off to have that testimony by video. And think
19 about that.

20 The Supreme Court has basically said you have
21 a right to confront your accusers. Okay. I'm the
22 representative of the people. And if I'm willing to
23 confront those guys on video instead of having them in the
24 courtroom, who's faulted?

25 If they want, you know, my people brought in

1 who I bring against them and see them in court, that's
2 quite all right. But that's why I'm trying to say that
3 distinguishing that fine line of what is their right to
4 confrontation versus what it cost the taxpayer to move one
5 of these people -- which in many respects is nothing more
6 than a day out of prison to, you know, beat the prison
7 routine because I got a trip to Cumberland County, I can
8 see some new people, sit in the courtroom and enjoy the
9 view. So I think that's one of those places where we could
10 expand the use of this type of technology.

11 With regard to the provisions of the bill, I'm
12 somewhat concerned as to their usefulness. From what I can
13 garner, the only things that could be conducted using the
14 methods cited in the bill are status hearings and guilty
15 pleas since the language of the statute specifically
16 excludes the use of video in hearings and trials.

17 Now, again, as the District Justice tried to
18 point out, I think the aim of the bill was to deal with
19 things that happen in a Court of Common Pleas. And
20 regardless of my position as a prosecutor, I still believe
21 there are important hearings and things that the courts
22 have basically said the defendant must be present for, a
23 suppression hearing, the true trial.

24 I would never advocate keeping a person,
25 unless he's disruptive, someplace else. But there are

1 other things. So, you know, having status -- and I guess
2 that what Justice Manlove was trying to point out, if you
3 say to a defendant who is in prison, Okay, you have to
4 agree to appear by video, most of them, just to be
5 arbitrary in some cases, No, I'm not agreeing to anything.
6 You haul me into court.

7 You're not going to get a big advantage out of
8 that. And I wouldn't see a lot of people actually agreeing
9 to it if they knew that they could just put a little jab
10 into the system is what I'm trying to point out here. But
11 again, the system, because you eliminate felonies and you
12 say that you can't be used if someone's going to be
13 sentenced -- sentencing in and of itself is called a
14 sentencing hearing.

15 So on the language of the statute itself, it
16 seems to be excluded from use and even in the most minor
17 types of sentencings. But sentencing people from a remote
18 location where a jail sentence or prison sentence is not,
19 is probably so few cases that I would probably see this
20 being utilized mostly by wealthy defendants in relatively
21 minor cases who could go to their lawyer who would have the
22 ability to have video equipment.

23 And, you know, therefore, and as I'm going to
24 state, 70 percent of our cases in most counties -- I would
25 believe in Philadelphia it has to be approximately

1 equal -- are handled by public defenders. Public
2 defenders' offices are generally in public buildings.

3 Ours are in the courthouse itself. There's
4 going to be no advantage to having a video hookup from
5 their office to a courtroom that's one floor up from their
6 office. Philadelphia, I'm not exactly sure where they're
7 located. And maybe it could expedite some things because
8 they have a lot of work there.

9 They also get to, like -- they have much more
10 flexible rules with their municipal court system, et
11 cetera, than we do in the other counties. I do believe
12 that in relatively minor cases such as this, with that type
13 of defendant, the one who's a bit, you know, more affluent,
14 et cetera, you're really taking something away by not
15 making them appear in court and face publicly that they
16 admit what they did was wrong during that and be there in
17 front of the judge to be sentenced.

18 If you can be in your plush lawyer's office
19 and make your plea and then, Well, you're going to get
20 probation because it was a bad check or whatever, I think
21 that takes something away from the system, especially when
22 the public defender client is going to have to come to
23 court and face in public.

24 That part of the sanction about the publicity
25 of that thing is a big part of saying, This is something.

1 You offended your fellow citizens. You did wrong, and now
2 you have to come in here and face it. To take that away
3 and do that by video sort of decreases that element.

4 While I believe that current House Bill 61 has
5 some practical limitations, I want to emphasize that
6 live-feed video can play an important role that could save
7 the taxpayers thousands upon thousands of dollars. One of
8 my primary goals in Cumberland County is to have live-feed
9 video available in each police department.

10 And we're very close to this. Some of them
11 are already hooked up. We call it a 56-K relay that's
12 hooked into each district justice office such that with
13 video, an officer could be put on call by radio. And
14 instead of going to the district justice being paid time
15 and a half, waiting in line -- you know, some hearings run
16 over and you can spend a whole day waiting there -- you can
17 call them on the radio and say, you know, this is a
18 15-minute warning. Get to your station. Be prepared to
19 testify by video in the preliminary hearing.

20 Now, again, that precludes, you know,
21 something of making a judgment, which I'd hope the courts
22 would recognize in saying a preliminary hearing, like a
23 parole hearing or a status hearing, is somewhat less than
24 that true trial aspect of the case.

25 What's an analogy to that? We allow people

1 under the branch rule not to show up and a police officer
2 just has to say, Mr. Coroner so and so would give the cause
3 of death and he would say this and he would be available
4 for trial. So we hearsay that in anyway.

5 When you're just trying to show a prima facie
6 case, again balancing the interest of the citizens and the
7 taxpayers versus the fact is the district justice hearing
8 enough evidence that's credible, then, you know, I'd say in
9 that type of thing, if the courts would find that maybe
10 that doesn't rise to the level of the absolute
11 confrontational clause of the constitution, then that would
12 be a good place to save money and keep police officers out
13 on the beat and serve the same purpose than, okay, you have
14 to come in here and you have to sit here and wait and he's
15 going to say the exact same thing.

16 And yes, you can stare at him. But it's not,
17 it's not materially adding to the rights of the defendant.
18 Under the method which we are attempting to institute, an
19 officer could remain on patrol, report back, just save a
20 lot of time and money in these brief informational,
21 probable cause-type hearings.

22 In Cumberland County, video preliminary
23 arraignments of people has greatly reduced the amount of
24 time officers spend transporting prisoners during off-duty
25 times. And I think the Judge, Judge Manlove, has already

1 cited that.

2 Again, I think it's important for the
3 legislature to be into this. We all have an interest in
4 this. I know the courts have to judiciously guard the
5 constitutional rights. But I do believe there is a place
6 in here to tweak the Judicial Code to say, you know, the
7 legislature supports this.

8 The executive branch could see some of the
9 great things, and we can really preserve those things that
10 are truly fundamental to our constitutional part of
11 government and use this system without treading deeply on
12 the toes of, of criminal defendants.

13 With that, again, I thank you for the
14 opportunity of being here. I'd certainly open myself to
15 any questions that you might have.

16 CHAIRPERSON MAITLAND: Thank you very much,
17 Mr. Ebert. Are there any questions? Kathy.

18 REPRESENTATIVE MANDERINO: Thank you. Thank
19 you for your testimony. At the beginning, you mentioned
20 that you are a member of the ABA Standards in Criminal
21 Justice --

22 MR. EBERT: I was.

23 REPRESENTATIVE MANDERINO: Oh, okay. Are you
24 aware of -- do you know whether the ABA has taken a
25 position or written kind of standards for this whole issue

1 of live video feed that would -- because I know how those
2 committees work, and they're usually fairly balanced
3 between prosecutors and defense. And so I think that --

4 MR. EBERT: Law professors, judges.

5 REPRESENTATIVE MANDERINO: So that the debate
6 of the -- and as you put it earlier, what crosses the line
7 and what doesn't often gets aired out in those kinds of
8 committees. And I wondered if you were aware whether there
9 were any guidelines as to -- because I do think this is a
10 way that we want to move in the future.

11 But I also want to move with caution so that
12 we're not, not trampling anybody's rights on either side.
13 We're looking for that balanced view.

14 MR. EBERT: Again, I'm not aware of any right
15 now. They take on one section at a time. So in the years
16 that I was there, we worked on prosecution standards,
17 defense standards, trial, free press, and sentencing. They
18 were working on a technology aspect.

19 I did not see the final draft of that. That's
20 probably in the review process right now. That dealt with
21 technology, but I believe it was geared more at the use of
22 infrared sensing equipment. And the new surveillance
23 techniques was the basic thrust of that rather than the
24 procedural aspects of utilizing these new technologies.

25 What I will tell you, though, is the ABA is

1 one of the primary sponsors of what they call the courtroom
2 of the next millennium, I believe it is. It's in
3 Williamsburg. I never personally visited myself. But I
4 know video played a big part in that.

5 So I think people are recognizing that. And
6 again, you know, when I talked about -- I don't need to
7 have prisoners who are testifying for the defendant. You
8 know, that should be the people's right to confront them.
9 If I'm saying, I'm willing to see you in the prison and the
10 jury can watch you, that's different.

11 We're never getting to the point -- at least
12 it's going to take a major change in the case law right
13 now. And of course, there are many people that advocate
14 that. It's one of the big debates about the child
15 witness. You know, that was struck as unconstitutional.

16 Again, you have to be careful with this type
17 of legislation. Having gone through the battle with regard
18 to Commonwealth right to jury trial, it doesn't take
19 much -- I'm not trying to be disrespectful. But the court
20 jealously guards its, quote, procedural rules rights and
21 can very easily say you have no business in this.

22 But I think the legislature's impact of
23 saying, you know, the people really want this, it does have
24 some true meaning for them in terms of efficiency and cost
25 that can be balanced against it. And that's been

1 constantly going on in this country for 200 years about
2 balancing those rights.

3 And this seems to be a good place for that
4 type of application. And I'd really, you know, welcome
5 your interest in this area.

6 CHAIRPERSON MAITLAND: Representative Pallone.

7 REPRESENTATIVE PALLONE: Yes. On your
8 remarks, it occurred to me in the Western District of
9 Pennsylvania, federal system, in many of the courtrooms,
10 they don't use court stenographers. They're using a video
11 stenography program.

12 To address Judge Manlove's issues of the
13 courtroom stenographer at the district justice level, do
14 you have an opinion or do you believe that the live video
15 feed could also be recorded, either CD or some electronic
16 mechanism, that would also meet the stenographic testimony
17 requirements as well?

18 MR. EBERT: I personally believe that. I know
19 that there are other issues that come behind that, whether
20 or not it's the lobbyists for the court stenographers who
21 don't want to lose their jobs. The issue of -- you know,
22 everything you tape, you got to start having a storage
23 place for that.

24 Now, they're getting good systems about
25 microing that. But a stenographer takes her notes on a

1 little piece of paper. And a lot of times, they aren't
2 transcribed. You know, you start making a lot of tapes or
3 having a system, you know, you're going to have to store
4 tapes for a while.

5 And then someone, a worker is going to have to
6 soon decide, Well, when do we get rid of these or how long
7 do we have to keep them. You create another little
8 bureaucracy. For the purposes of what stenographic record
9 is, I can't, a video would be better than the bald notes.

10 I -- again, having been at this for almost 20
11 years, you know, stenographers aren't perfect either. And
12 I can remember being at trials and I know that's not what I
13 said but it's close enough, that type of thing. One of the
14 things you often get on appeals, too, is, you know, the
15 facial gestures and all of that other stuff, which I'm not
16 sure the courts are real happy about having on tape either.

17 So there's probably a lot of issues. The
18 answer to your question, though, is by and large, it should
19 be the better record. You know, if it's clear and you can
20 see what happened, you, there's no error whatsoever because
21 it's electronically recorded.

22 REPRESENTATIVE PALLONE: Thank you.

23 MR. EBERT: Sure.

24 CHAIRPERSON MAITLAND: Representative Gabig.

25 REPRESENTATIVE GABIG: I had to take this

1 opportunity to ask a question of my former boss for many
2 years.

3 MR. EBERT: Does this mean I have to call you
4 sir, Will?

5 REPRESENTATIVE GABIG: But welcome, Mr. Ebert.

6 MR. EBERT: Thank you.

7 REPRESENTATIVE GABIG: You know, you were
8 hitting on a question in your testimony that I have in the
9 initial section, Section A, where it talks about the
10 defendant can waive his right, get the video except, except
11 for hearings and the trial. And you specifically
12 referenced F, which comes later on, talking about parole
13 hearings.

14 It seems to me -- or do you agree that we
15 could strengthen this up a little bit by rather than
16 putting it sort of in a negative on several of the
17 conditions, just say what we're trying to do on the videos?
18 You could do it for guilty pleas or arraignments.

19 Or what are the 4 or 5 things that we think
20 could save court time, the defendant's going to agree to
21 it, we can save a lot of money, save his time rather than
22 putting it in the negative and wondering, Well, was this a
23 hearing that is accepted or is it not a hearing?

24 MR. EBERT: I think that would be a better
25 approach. And you can probably kind of go through the case

1 law now. And I mean, I'd want the envelope expanded a
2 little bit. But you can sort of see that those -- there
3 are hearings and there are hearings. Like a status
4 hearing, are we going to call the case for trial, is
5 certainly not the level of an evidentiary hearing.

6 So I believe a line could be drawn in that
7 respect. I wish the courts would do it. And I'd certainly
8 encourage you to attempt that. I think that would be a
9 better approach.

10 REPRESENTATIVE GABIG: And then if you think
11 that would be the better approach, what would be the top,
12 whatever, 2 or 3 or 4 proceedings or appearances that you
13 think would most benefit from the approach? Like I said,
14 again remembering that the defendant under this bill has to
15 consent or agree to do it this way also.

16 What do you think are the big time savers that
17 we're looking at, arraignments?

18 MR. EBERT: My big deal would be arraignment
19 because you have to move prisoners from the prisons to
20 court if you're going to do it in person. Preliminary
21 hearings is my -- you know, I believe that, again, as the
22 Judge said, right now a police officer has to go to the
23 prison and pick up the defendant and take him to a hearing
24 that, you know, generally speaking -- and you certainly
25 have a lot of experience in this -- they don't last a very

1 long time.

2 You know, most of the time, the defendant says
3 absolutely nothing at that. They just sit there with their
4 attorney. You put on one or two witnesses, and it's over.
5 Now, I'm not saying that's not important. But the quality
6 of whether the person's there or not there is not affected
7 one way or the other.

8 I mean, that constitutional protection in is
9 there sufficient evidence can be done through this system.

10 REPRESENTATIVE GABIG: Well, many of those are
11 waived --

12 MR. EBERT: Exactly.

13 REPRESENTATIVE GABIG: -- also. So it's just
14 more of an administrative --

15 MR. EBERT: So I was at that -- I go back and
16 forth between sentencing on, you know, if -- I didn't
17 particularly -- the part in here is, like, Well, you could
18 only use this if the person was going to get a time served
19 sentence. Well, what difference does that make?

20 You know, it didn't -- it sort of, like,
21 promoted the use of this if you were willing, if the
22 prosecutor was willing to accept time served. I don't
23 know. I know, for example, the judges in Cumberland County
24 to a person are committed that the defendant must appear
25 before them for sentencing, that that is the important

1 thing of where the system meets the human being and that
2 the condemnation for what you did wrong must be public.
3 I'd probably vacillate on that.

4 And again, maybe you could draw one of these
5 lines like serious felonies versus bad checks. I don't
6 know. There could be some lines drawn there.

7 REPRESENTATIVE GABIG: How about -- I think
8 you sort of were hitting on it a little bit with ARD
9 appearances. Or do you think it could fit into something
10 like that?

11 MR. EBERT: Absolutely. I mean, that's, you
12 know, that is -- it's practically in private anyway. If
13 you could save some time and, you know, counsel could line
14 up their clients at their offices and you could do that, I
15 don't -- you know, if you think about this, I'm not
16 positive it saves a lot of court time.

17 Again, it might to the point when this
18 technology gets so good. But now you have to assign it an
19 administrator to make sure the links are up and is
20 everything working. And, you know, that can take as much
21 time sometimes as when people aren't in jail and they just
22 walk into the courtroom and you can do -- you know, I think
23 I still hold the record for 15 guilty pleas at one time in
24 Dauphin County.

25 Well, this is a one-at-a-time type of

1 operation. And I don't know. In Philadelphia, I mean,
2 they've been using this for preliminary arraignments
3 forever. And I mean, there's no question. We copied the
4 idea and just scaled it down to a fourth class county.

5 And I don't think they've had any big
6 complaints about overriding people's rights. It's a very
7 efficient way to get it done. And in fact, the pretrial
8 services groups are hooked into this system so that they
9 can arrange bail and everything if they want.

10 So it seems to be working ideally down there,
11 and it certainly was the example that we brought up here to
12 Central Pennsylvania.

13 REPRESENTATIVE GABIG: Thank you, Mr. Ebert.

14 CHAIRPERSON MAITLAND: Representative
15 Hennessey.

16 REPRESENTATIVE HENNESSEY: Thank you, Mr.
17 Chairman. Mr. Ebert, have you taken a look at this
18 proposal in relationship to the Pennsylvania wire tap law?
19 It seems to me that clearly we have, you know, the
20 electronic recording of testimony.

21 We've got the whole idea which seemed to beg
22 some review of whether or not the wire tap law has to be
23 tweaked itself so that we could support this kind of a
24 proposal. I think it's a good idea. But have you done
25 that kind of review?

1 MR. EBERT: I didn't until this moment. But
2 then again, I probably have a broader view of the wire tap
3 law than the courts have taken in the past. But again,
4 this is a judicial proceeding that's done, especially with
5 this act, with the consent of the defendant.

6 So there could be no wire tap application in
7 the sense of, Hey, we're taping this. Do you want to do
8 it? Obviously, he's agreeing to do it. In other areas,
9 again, if you're not making a record and it's a, you know,
10 it's there in our system, you're looking right at the
11 camera.

12 So you know that it's, you're being recorded
13 or -- and again, we're not making tapes. We're just doing
14 live feed. So you hear and see, but there's no tape
15 recording being made. I wouldn't see that being a problem.

16 REPRESENTATIVE HENNESSEY: Okay. I guess what
17 I -- it would seem to me that at least the issue should be
18 researched. And if you can -- if you have the assets
19 available to do that, it would probably help the committee.
20 If not, the committee can do it itself.

21 MR. EBERT: Again, you realize that -- I mean,
22 the wire tap issue goes between defendants and the
23 executive branch of government. And the judicial branch is
24 the one that mediates between that; i.e., we're trying to
25 do something secret against the defendant. This is

1 basically a judicial process.

2 So I think it would have the overall sanction
3 of the judiciary saying it's an open proceeding. It
4 doesn't apply in wire tap.

5 REPRESENTATIVE HENNESSEY: Okay. Rather
6 than --

7 MR. EBERT: I know what you mean.

8 REPRESENTATIVE HENNESSEY: I'd like to have
9 somebody take a look at the statute to see whether or not
10 we have to simply give an express authorization under the
11 wire tap to allow this kind of thing to happen. If you can
12 do that and get the information back to the committee, that
13 would be helpful.

14 MR. EBERT: We can do that.

15 REPRESENTATIVE HENNESSEY: Thank you.

16 CHAIRPERSON MAITLAND: Representative
17 Manderino.

18 REPRESENTATIVE MANDERINO: Thank you. As I've
19 listened to the give-and-take in question and answers and
20 then gone back to the language of the bill, what I thought
21 I understood was what we were trying to accomplish I am now
22 confused about.

23 The bill itself speaks only to video feed,
24 live video feed appearances by defendants. So the issue of
25 inmates or other people in the Commonwealth's custody

1 testifying by live video feed just as witnesses doesn't
2 appear to be something being addressed by this bill.
3 Whether that's something that we have to or want to address
4 I guess is another question.

5 But what now really has me confused is as I'm
6 listening to us discuss what this bill would or wouldn't
7 cover vis-a-vis what's already happening out there in our
8 counties, I'm wondering why we're doing this. It sounds
9 like we're already doing this out there in practice in some
10 of our counties.

11 Are we trying to move legislation in order to
12 expand the acceptability of it? Have we run into concerns
13 that maybe the court or somebody's going to challenge,
14 results that have happened where the court is going to, a
15 higher court is going to strike something down that was
16 done in the lower court?

17 Is that the reason that we're looking at
18 legislation? Do you have any perspective on that?

19 MR. EBERT: My perspective was -- and I tried
20 to make the tote in my testimony -- that this was a very
21 limited application and that if you, you know, you just
22 stuck to this, I could see in a lot of respects people just
23 aren't going to agree and you really haven't moved the
24 system forward that much.

25 I could be wrong on that. I don't know.

1 Maybe, you know, a prisoner -- but again, it's such low
2 cases, I didn't really see -- if you're going to take the
3 opportunity to deal with this issue, there is so much more
4 that could be done.

5 But now, again, in the Chairman's introductory
6 remarks -- and I can see this -- A, it's an extremely good
7 thing for the legislature to be interested in this topic;
8 and B, it's like in the introductory remarks was some
9 counties are doing it, some aren't.

10 We're trying to get a uniform application
11 across the state and maybe nudge those forward that would
12 say, Yeah, it seems like a good idea or it can save money
13 and it doesn't really tread on anybody's rights. As it's
14 written right now, it's a very, very narrow application.

15 REPRESENTATIVE MANDERINO: So what is
16 happening now in some of our counties goes even beyond how
17 this bill is written?

18 MR. EBERT: Yeah. You could take this --

19 REPRESENTATIVE MANDERINO: So right now, there
20 is nothing happening in criminal justice procedure that
21 this -- there's nothing that this bill is promoting that
22 can't currently happen now as far as we know under the
23 rules of court?

24 MR. EBERT: That's probably true. The point
25 is it's probably not moving along. And I think if the

1 court saw that the legislature supported this idea and that
2 the people were behind it, they might have a greater
3 incentive to move it along a little bit faster than it has
4 been going right now.

5 I mean, right now we're faced with a general
6 repeated topic in what we call the comments to the rules
7 that the courts are to utilize -- I forget the exact
8 phrase -- but electronic technology to enhance the
9 effectiveness of the courts without, you know, stepping on
10 the rights.

11 And that's, you know, we're just not doing a
12 whole lot. And I always look. The danger in this bill is
13 if you say it can, you know, it's not allowed to be used
14 for a hearing or a trial and someone rules that an
15 arraignment is a type of hearing, then everything you're
16 doing in Philadelphia would come to a standstill because
17 now we'd have to say, No, I'm not doing that. You take me
18 to court. I want to see a real judge and I want to see one
19 now. Probably, you know, that's a little bit of a danger
20 to this type of thing.

21 REPRESENTATIVE MANDERINO: For those -- if
22 you know, even in your own county, for those counties that
23 are doing this now and moving forward, who's paying for
24 the technology? And -- I think I already know the
25 answer -- wouldn't the legislature make a bigger statement

1 saying here's the pot of money to make this thing move
2 forward and happen than here's the guidelines of when you
3 can do it and when you can't?

4 MR. EBERT: I know a lot of my colleagues
5 would be very happy if you did that. I mean, what we're
6 calling the video preliminary arraignment system -- and it
7 has a broader term. We call it central processing. And
8 again, it's a miniature copy of what gets done in
9 Philadelphia at the roundhouse; but it works in a small
10 county.

11 And police officers like it. And I certainly
12 haven't had the defense bar complaining about it because
13 the rights are basically the same. It's just a more
14 efficient manner of doing it. Having said that, we were
15 lucky enough at PCCD -- in with, you know, the preliminary
16 aspects of JNet and expanding the use of technology in the
17 criminal justice system, our county was lucky enough to be
18 the pilot that got almost all the technology at least paid
19 for.

20 Now, my county commissioners are still yelling
21 at the cost of having central processing agents. But
22 central processing agents are way, way below what you pay a
23 police officer. So there is an economy to this that I
24 think will be recognized.

25 And again, we've opened these up to allow

1 people to take, pay off their fines, just do a multitude of
2 things in here since they're run 24/7. When you hook the
3 technology together, you can get a lot of efficiency out of
4 it for the system.

5 And basically, it helps people. Instead of,
6 Well, why should I miss work to go make a payment, we'll
7 take your money 24 hours a day. You can come in after
8 hours, any time.

9 REPRESENTATIVE MANDERINO: Thank you. Thank
10 you, Mr. Chairman.

11 CHAIRPERSON MAITLAND: I just have one last
12 question, Mr. Ebert. If we were to clean this bill up,
13 amend it, incorporate a number of the suggestions that were
14 made here today and enact it, do you believe the State
15 Supreme Court would strike it down as an infringement on
16 their ability to make their own rules or move them in this
17 direction or both?

18 MR. EBERT: Again, given what their rules
19 committee has said about advancing the use of technology,
20 I'd hope it wouldn't be struck down. But that's one of
21 those things when you're talking about balance of power
22 between the branches of government.

23 As I said, they jealously guard that
24 particular aspect. And I'd be remiss to say that they
25 would strike it down. I'd hope we could come to a

1 compromise that they would embody it in their rules and
2 say, you know, there is some efficiency to this. It's good
3 for the people in general, and it really doesn't hurt
4 criminal defendants on -- preliminary hearings are the big
5 thing for me, you know, allowing that type of testimony.

6 I'm not talking about the big things at trial.
7 But I believe this has a place and people should recognize
8 it. But I think, you know, you'd be in for probably a
9 battle from some part.

10 CHAIRPERSON MAITLAND: Well, I thank you very
11 much for your testimony today, Mr. Ebert.

12 MR. EBERT: Thank you very much.

13 CHAIRPERSON MAITLAND: I really appreciate it.
14 And I'd like to note that if you need perfect
15 stenographers, you should get the ones that the House of
16 Representatives uses.

17 MR. EBERT: Oh, okay. Good. I'll do that.
18 Representative Semmel, I'm a Parkland High School graduate.
19 So my whole family lives back there. I was looking at your
20 biography there. And it's like -- I haven't been back to
21 Schnecksville, and my mother will probably yell at me.

22 CHAIRPERSON MAITLAND: I'd like to ask Frank
23 Williamson, Junior, the Director of Public Safety in Lower
24 Allen Township, Cumberland County, to come forward. While
25 he does, we've been joined by Representative Washington,

1 Representative Cohen, and Representative Petrarca. Thanks
2 for joining us. Mr. Williamson.

3 MR. WILLIAMSON: Good morning. I'm Frank
4 Williamson, Director of Public Safety for Lower Allen
5 Township in Cumberland County. I've been a police officer
6 for 19 years. So I guess I'm here to give you two
7 perspectives, one as a street police officer as well as a
8 police administrator.

9 Rapidly changing and evolving technology
10 affects the way we do our job as a police officer every
11 day, whether it's mobile computing in the cars so we can
12 enter incidents or do warrant checks on individuals all the
13 way down to the fingerprinting, the electronic
14 fingerprinting for rapid identification of offenders.

15 Along with that, in 1999, Cumberland County
16 instituted video teleconferencing for preliminary
17 arraignments. Since that time -- and while there's a
18 number of factors that affect a budget, especially a police
19 overtime budget, we have noticed a reduction in our
20 overtime budget in Lower Allen Township.

21 Every time we have to move a prisoner for the
22 on-call district justice system for preliminary
23 arraignments, in the past it would take upwards of 3 hours.
24 And with Cumberland County with 8 members of the minor
25 judiciary, we sit in the far eastern end of the county; and

1 an on-call district justice previously could have been in
2 the far western end in Shippensburg.

3 This indicates -- or this has a potential for
4 officer safety issues as well as for the safety and
5 security during the transport of the, of the defendant.
6 Fortunately, we never had any of those incidents. The
7 closest we came to was a deer while we were transporting
8 one and damaged a police car; but everybody else was okay.

9 We have noticed in our overtime reduction or
10 overtime budget, which has remained constant, from 1998 we
11 used about 94 percent of that down to, we're on a target
12 range of about a 60 percent use of our overtime budget. As
13 Mr. Ebert indicated, we have a state correctional facility
14 at Camp Hill right in the middle of my township in
15 Cumberland County.

16 So if we have any incidents like in 1989
17 there, naturally our overtime budget is going to go out.
18 But things remained fairly constant, and we've noticed a
19 decent reduction in that.

20 House Bill 1054 -- and I'm not a lawyer. I'm
21 a police officer -- appears to be going in the right
22 direction. But after the preliminary arraignment, our next
23 logical step for police officers would be something along
24 the lines of the preliminary hearing.

25 Once again, with the video arraignment, the

1 officer drops the prisoner off. He's arraigned by the
2 district justice over video at set times. With a
3 preliminary hearing, if they've been incarcerated, the
4 officer is then responsible.

5 And obviously, most of our incidents where
6 arrests are made are on our evening and midnight shifts.
7 And the district justice during preliminary hearings is
8 only opened during daylight hours. These officers are
9 normally on overtime. They must go to the prison, pick the
10 defendant up, take him to the district justice office for a
11 preliminary hearing.

12 As Mr. Ebert indicated, about 70 percent of
13 the cases in Cumberland County are public defender cases.
14 And in those instances, there's usually one day a week set
15 aside at each of the different district justice offices to
16 hear public defender cases.

17 This can and usually does create a backlog
18 that necessitates officers with multiple defendants sitting
19 in a courtroom that's not designed to house and secure
20 prisoners during this time. And we start talking not only
21 a lot of overtime on the municipal budgets that affect the
22 taxpayers in my municipality as well as all the other
23 municipalities in your home jurisdictions but it also
24 affects, again, the officers' safety and security.

25 Prisoners are moved in and out for meetings

1 with public defenders, in and out of the hearings. We have
2 witnesses that have to come and go as well and family
3 members that may or may not show up in addition to family
4 members of victims that are there.

5 It creates a basic quagmire on Thursdays,
6 which is my district justice office public defender day. I
7 believe that -- and I can only speak at the minor judiciary
8 level -- that a preliminary hearing, amendments to this
9 bill that would allow preliminary hearings in certain cases
10 could not only improve the efficiency and effectiveness of
11 the minor judiciary but also the criminal justice system
12 from the police officer side of it. I'm open for any
13 questions.

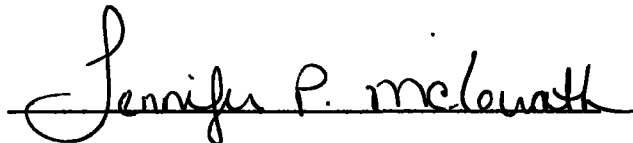
14 CHAIRPERSON MAITLAND: Are there any
15 questions? (No response.) Okay. We thank you very much
16 for your testimony, Mr. Williamson. I noted earlier for
17 the record that we accepted written testimony from the
18 Philadelphia District Attorney's Office.

19 And we're going to hold the record open
20 because we'll be receiving information from the Department
21 of Corrections regarding the current uses of this
22 technology in the correctional system. Any other comments
23 for the good of the order? (No response.) If not, the
24 hearing will stand adjourned.

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

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



JENNIFER P. McGRATH

Registered Professional Reporter

My Commission Expires:

April 30, 2005

JENNIFER P. McGRATH, RPR
P.O. Box 1383
2nd & W. Norwegian Streets
Pottsville, Pennsylvania 17901