

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
APPROPRIATIONS COMMITTEE HEARING  
BUDGET HEARING

STATE CAPITOL  
MAJORITY CAUCUS ROOM  
HARRISBURG, PENNSYLVANIA

TUESDAY, FEBRUARY 26, 2008, 1:30 P.M.

VOLUME IV OF VI  
PRESENTATION BY JUDICIARY

BEFORE:

HONORABLE DWIGHT EVANS, CHAIRMAN  
HONORABLE MARIO J. CIVERA, JR., CHAIRMAN  
HONORABLE STEPHEN E. BARRAR  
HONORABLE STEVEN W. CAPPELLI  
HONORABLE H. SCOTT CONKLIN  
HONORABLE CRAIG A. DALLY  
HONORABLE GORDON R. DENLINGER  
HONORABLE BRIAN ELLIS  
HONORABLE DAN B. FRANKEL  
HONORABLE JOHN T. GALLOWAY  
HONORABLE WILLIAM F. KELLER  
HONORABLE TIM MAHONEY  
HONORABLE KATHY M. MANDERINO  
HONORABLE FRED McILHATTAN  
HONORABLE DAVID R. MILLARD  
HONORABLE RON MILLER  
HONORABLE JOHN MYERS  
HONORABLE CHERELLE PARKER  
HONORABLE JOSEPH A. PETRARCA  
HONORABLE SCOTT A. PETRI  
HONORABLE SEAN M. RAMALEY

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BEFORE (cont.'d):  
HONORABLE DAVE REED  
HONORABLE DOUGLAS G. REICHLEY  
HONORABLE DANTE SANTONI, JR.  
HONORABLE MARIO M. SCAVELLO  
HONORABLE JOSHUA D. SHAPIRO  
HONORABLE JOHN SIPTROTH  
HONORABLE MATTHEW SMITH  
HONORABLE KATIE TRUE  
HONORABLE GREGORY S. VITALI  
HONORABLE DON WALKO  
HONORABLE JAKE WHEATLEY, JR.

ALSO PRESENT:  
MIRIAM FOX  
EDWARD NOLAN

JEAN M. DAVIS, REPORTER  
NOTARY PUBLIC

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1           CHAIRMAN EVANS: I would like to reconvene  
2 the House Appropriations Committee.

3           As you know, I'll just let you introduce  
4 yourselves.

5           JUSTICE SAYLOR: Thank you, Chairman.

6           I'm Justice Tom Saylor. I'm here with my  
7 colleague, Justice Max Baer.

8           And on behalf of the Pennsylvania Judiciary,  
9 we very much appreciate the opportunity to appear  
10 before your committee and respond to any questions  
11 which you or your members may have regarding our  
12 budget submission.

13           I know that -- we don't have an opening  
14 statement. I know also that time is short. So I  
15 really have no extensive remarks to make, but we will  
16 respond, as I said, to your questions.

17           But if I could, Chairman, just make two  
18 brief points, very brief, and they're reflected in  
19 the handout that was submitted to the committee in  
20 advance, and they are, first of all, that  
21 historically -- and this year is no different -- year  
22 in and year out, the appropriation for the  
23 Pennsylvania Judiciary, keeping in mind that we are  
24 the sixth largest State in the nation and that we  
25 have a Judiciary ranging from our magistrate judges

1 up through our trial judges in all of our 67  
2 counties, our intermediate courts, our Supreme Court,  
3 and all the ancillary functions.

4 Our budget request in the budget we  
5 ultimately receive from the Legislature is, year in  
6 and year out, always in the neighborhood of only  
7 one-half of 1 percent of the State appropriation. So  
8 that puts the thing in perspective.

9 And the other point that I want to make,  
10 briefly, before we go to the questioning, is that if  
11 we could identify one area that has become more and  
12 more problematic from the standpoint of the  
13 Judiciary's budget on an ongoing basis, it's the  
14 addition, the necessary addition, of judges  
15 throughout our trial courts in Pennsylvania.

16 But the problem area, Chairman and members  
17 of the committee, is that these newly created  
18 judgeships, which are created from time to time to  
19 meet needs based on population in the counties,  
20 aren't accompanied by funding for the newly created  
21 judgeships, and that has created an ongoing problem  
22 for the Judiciary, because in the dynamic process  
23 between the Judiciary's budget people, the Governor's  
24 budget people, and the Legislature and your  
25 committee's budget people, that's always a point that

1 continually needs to be addressed, whether you call  
2 it an unfunded mandate or whatever you want to refer  
3 it to. But obviously to the extent that the  
4 Legislature sees fit to create new judgeships, they  
5 must be accompanied by the necessary funding.

6 So having said that, we'll respond to any  
7 questions that the committee has.

8 CHAIRMAN EVANS: Thank you.

9 Did you notice, Justice, I didn't interrupt  
10 you? I just let you do your thing, right?

11 JUSTICE SAYLOR: I appreciate it -- always.

12 CHAIRMAN EVANS: Anybody else I would have  
13 said, you're out of order, but I figured I'll yield.  
14 So I just wanted to let you know.

15 I'm going to go to Chairman Mario Civera.

16 CHAIRMAN CIVERA: Thank you, Mr. Chairman.

17 Welcome, Justices. I appreciate you being  
18 in front of us, and thank you for taking the time.

19 Supplemental appropriations. What I see  
20 here about the magistrates, the district judges,  
21 that's been removed? Or what's the story of what I'm  
22 reading here? Do you know that?

23 JUSTICE SAYLOR: Well, I think Mr. Pines  
24 does, because he's kind of our State Court  
25 Administrator and he's overall in charge of the

1 budget.

2 MR. PINES: There is still a significant  
3 shortfall with regard to funding the magisterial  
4 district judges. Justice Saylor had mentioned the  
5 short-funding of judicial positions. Magisterial  
6 district judges are still short-funded in this  
7 budget.

8 CHAIRMAN CIVERA: How much? What are you  
9 lacking on that?

10 MS. McDIVITT: If you're talking in the  
11 current fiscal year, which is the supplemental, I  
12 believe, you're referring to?

13 CHAIRMAN CIVERA: Yes; yes.

14 MS. McDIVITT: We're short almost  
15 \$14 million between the Court of Common Pleas judges  
16 and the magisterial district judges. Now, the  
17 Governor's recommended budget has included about  
18 \$10 million towards the CP shortfall, the Common  
19 Pleas shortfall.

20 CHAIRMAN CIVERA: He puts \$10 million  
21 towards the shortfall?

22 MS. McDIVITT: Right. That was included in  
23 his fiscal year '08-09 recommended budget.

24 CHAIRMAN CIVERA: So you're still short  
25 about \$4 million?

1 MS. McDIVITT: Yes.

2 CHAIRMAN CIVERA: We go through this every  
3 year. There's always some type of a shortfall, and  
4 the Legislature has to come back and put the  
5 additional dollars in so everybody can get up, and I  
6 don't understand why. I have an idea why.

7 That's basically what my question was right  
8 now until I have another one.

9 Thank you, Mr. Chairman.

10 JUSTICE BAER: Representative, it's  
11 interesting, because I was here last year, and you  
12 asked the same question. You expressed displeasure  
13 with the Executive Branch, and it's deja vu. Here we  
14 are again.

15 You know, we could talk about things like  
16 specialty courts or pro se litigants and should we be  
17 in the business of making things easier for them? We  
18 don't have any choice when it comes to funding  
19 judges. We've got to pay their salaries, and that's  
20 our principal shortfall. You expressed that  
21 displeasure last year, and here we are again.

22 CHAIRMAN EVANS: The Judiciary and the  
23 Legislature can form an alliance and kick the  
24 Executive Branch out, huh?

25 I want to make note -- don't start a coup.



1 Don't start it. You could start a quick coup around  
2 here. There we go.

3 I want to make note of the Chairman of the  
4 House Judiciary Committee here, Representative Tom  
5 Caltagirone, the Chairman of the House Judiciary  
6 Committee; the Chairman of the House Insurance  
7 Committee, Representative Tony DeLuca; also Chairman  
8 Hess, and he's Chairman of Commerce. So the various  
9 chairs are here.

10 The next person is Representative Kathy  
11 Manderino, who, as a matter of fact, is on the House  
12 Judiciary Committee.

13 REPRESENTATIVE MANDERINO: Thank you,  
14 Mr. Chairman.

15 Good afternoon, Justices and Mr. Pines.

16 Two questions. We see every day that we're  
17 in Harrisburg the new building going up on  
18 Commonwealth Avenue, which is the new Judicial  
19 Center, but I'm not quite sure that everyone  
20 understands, A, what that's all about, that building  
21 that's under construction -- what's going to go on  
22 there; what the staffing needs are going to be for  
23 that building.

24 Can you just explain everything and whether  
25 or not that center, which I think opens next year,

1 during the next fiscal year, is adequately provided  
2 for in the budget.

3 JUSTICE BAER: Sure, I'd be glad to, and  
4 Justice Saylor would be glad to expand on anything I  
5 would say.

6 For the first time -- we're the oldest  
7 Judiciary in the Western Hemisphere, about 365 years,  
8 about 60 years older than the U.S. Supreme Court.  
9 For the first time in our history, we're going to  
10 have a presence on the Capitol Campus, and we think  
11 that's long overdue. We thank you for making that  
12 happen.

13 We have extensive administrative offices in  
14 Philadelphia and in Mechanicsburg, both in lease  
15 space, and then we have a small contingent in  
16 Pittsburgh. And what we're going to do is move our  
17 administration as well as the Commonwealth Court,  
18 which has been housed on the sixth floor of the South  
19 Office Building since its inception, into the new  
20 building.

21 Now, exactly how we're going to do that,  
22 what time frame, we haven't all decided yet. Those  
23 are difficult issues, because we will lose some  
24 people who don't want to move, et cetera. But we  
25 will move our administrative staff and our

1 Commonwealth Court into that building.

2           In this budget, we sought money for about  
3 15 positions, not highly compensated positions --  
4 people to work a copy room, people to deliver  
5 messages, people to provide some technical assistance  
6 -- because all of a sudden, we're going to have all  
7 of these people in one location. We're going to need  
8 to both relocate them and service them.

9           Now, interestingly, apropos the Governor's  
10 budget, the Department of General Services will also  
11 be involved in servicing some of these positions.  
12 They sought additional positions to do that. Those  
13 were recommended for full funding. None of our  
14 positions were funded, and we need that funding or we  
15 can't make this new building, which is  
16 extraordinarily expensive and gives us this presence  
17 on Capitol Hill, we can't make it work.

18           So we do need funding for that. We will  
19 obviously need to move people. We'll need to do all  
20 the things that it would take if we were moving the  
21 legislative branch or some of its staff from one  
22 building to the next.

23           So we'll be moving from Philadelphia and  
24 Mechanicsburg into there when it opens.

25           REPRESENTATIVE MANDERINO: What was your

1 fiscal request for that that is unfulfilled, and do  
2 you need all of that in next year's budget or is it a  
3 guesstimate as to when it needs to be phased in?

4 JUSTICE BAER: Deb, do you know? I know we  
5 have 15 positions. I do not know the amount.

6 MS. McDIVITT: Yes. We requested  
7 approximately---

8 CHAIRMAN EVANS: Could you please introduce  
9 yourself for the purposes of the record?

10 MS. McDIVITT: Deborah McDivitt, Director of  
11 Finance.

12 We requested approximately \$1.4 million.  
13 Part of that is for the 15 positions for half-year  
14 funding. The rest of it is in operating, maintenance  
15 on equipment that we anticipate will be funded  
16 through the FF&E budget.

17 And as Justice Baer had mentioned, these are  
18 pretty standard, well, they're support positions that  
19 we need to operate this facility to make it work.

20 REPRESENTATIVE MANDERINO: Thank you.

21 On a second note, I'd probably say that most  
22 of my colleagues would agree that a large percent of  
23 our constituents, when they come to see us and have  
24 had an interface with the judicial system -- it's not  
25 really with the criminal side, which some might

1 think; it's with the civil side and particularly with  
2 the family court side of our court and judicial  
3 system. It's never a happy time for families if they  
4 end up in family court. It's usually an unhappy  
5 time.

6 But that's where we'll get a lot of  
7 complaints or questions about how the system works  
8 from an administrative point of view, from a  
9 serving-the-family point of view, from a  
10 serving-the-needs-of-the-children point of view.

11 My recollection is that last year, Justice  
12 Baer, you may have talked a little bit about some new  
13 initiative, a family court children's initiative that  
14 you were starting. If you could, and I don't know if  
15 I've captured it exactly right, but if you could  
16 explain to us where that is and what is happening  
17 and what is being accomplished through that  
18 initiative.

19 JUSTICE BAER: I would be glad to. The  
20 Chair should feel free to cut me off, because I could  
21 spend 6 weeks on the topic.

22 We opened -- and your memory is excellent --  
23 we opened the first ever permanent Office of Children  
24 and Families in the Courts about 18 months ago. And  
25 we've actually been working on it for 3 years, but we

1 opened it 18 months ago, and it continues to operate  
2 and go full guns.

3 Now, it is funded by restricted Federal  
4 moneys, what are known as the Court Improvement  
5 Project moneys. That's about a million dollars, and  
6 the money must be used to try to provide permanency  
7 to abused and neglected kids and to better their  
8 lives and to better the court process for those  
9 children generally.

10 And that's where we are now. The Executive  
11 Director is Sandy Moore. She was Director of Human  
12 Services and the Director of Children and Youth in  
13 Dauphin County. We recruited her, and she's  
14 fabulous. She has an excellent staff.

15 We are in the process of taking our  
16 county-based judicial system, in which counties do  
17 not communicate very well with each other, do not  
18 build programs together, do not cross county solve  
19 problems together, and change that so that we have a  
20 statewide system on this issue.

21 And we are in the process now of rolling out  
22 programs, and let me conclude by being concrete. For  
23 the last year and 3 months, our IT technical people,  
24 computer people, have been working on a data  
25 collection system so we can find out what's happening

1 with abused and neglected kids in Pennsylvania: How  
2 often are siblings split? How long are they spending  
3 in shelter care? How long are they spending in  
4 foster care? How many foster-care homes are they in?  
5 How often do they see their parents? We're ready to  
6 roll that out statewide, and every county in  
7 Pennsylvania, I believe, is going to participate  
8 voluntarily, because we don't want to be coercive.

9           Family group decisionmaking is an  
10 alternative to traditional dispute resolution where  
11 the family, extended family -- friends, neighbors,  
12 et cetera -- step in to take care of a child if  
13 their parents can't. That's operating in about  
14 28 Pennsylvania counties. It's going to operate in  
15 every county.

16           Family Finding is a program out of  
17 California where when you don't have anybody to take  
18 care of a child, you can find 30 to 40 people inside  
19 of 2 hours. We don't know quite how they do that,  
20 but the originator is a gentleman named Kevin  
21 Campbell. We're in communication with him. We're  
22 going to bring that to Pennsylvania. We're going to  
23 do that statewide.

24           And we're going to do several other programs  
25 like that, which I'd be glad to fill Representative

1 Manderino in on or anybody else.

2           Now, so far we're doing this with a very  
3 small staff and we're doing it only with this small  
4 amount of money, and we're doing fine. But I said  
5 last year that at some point, we're going to come to  
6 you and we're going to ask for money for this office,  
7 and we're going to do that because we can't impact  
8 custody, which is a tremendous problem. I don't have  
9 to tell you all that. We can't impact that because  
10 our staff and our people can't work on that with  
11 these restricted dollars.

12           I told you last year that we were in the  
13 process of having a committee report done by the  
14 Commission For Justice Initiatives, chaired by Judge  
15 Tom Kistler of Centre County. The report is done.  
16 It's excellent. We could get into what it  
17 recommends, but again, we can't implement. And we're  
18 probably a year away from starting that, because we  
19 got to get what we're doing for abused and neglected  
20 kids under way first.

21           But we are absolutely making great progress.  
22 You'll begin to see real changes in your local county  
23 courts in the next 6 months.

24           REPRESENTATIVE MANDERINO: A closing  
25 comment.



1           I think that the move into the custody issue  
2 will be something that at least I would welcome and I  
3 suspect a lot of other colleagues will, too, because  
4 that is probably the area that we get the most grief  
5 about. So thank you.

6           CHAIRMAN EVANS: Thank you.

7           Representative Katie True.

8           REPRESENTATIVE TRUE: Thank you,  
9 Mr. Chairman.

10           Contrary to what some people believe,  
11 Republicans and Democrats can be like-minded, and on  
12 this particular issue, I agree very much with  
13 Representative Manderino and was kind of going to go  
14 to the same place that she did. I'm very pleased  
15 about this initiative, and I'm glad to know that, you  
16 know, you're pleased with it and that it's working.

17           I did have a question. In regard to the  
18 court-appointed special advocates, a request had been  
19 made of me to put into appropriation \$200,000 for the  
20 Harrisburg office to reach out to the counties that  
21 are putting this into effect. As a matter of fact,  
22 Judges Leslie Gorbey and Louis Farina in Lancaster  
23 County were finally going to have a CASA program.  
24 Does that fit into this in any way, or would that be  
25 a whole separate issue to help kids?

1 JUSTICE BAER: No; it absolutely fits into  
2 it. Court-appointed special advocates, CASAs, it's a  
3 national program; it's an excellent program. It  
4 gives kids eyes and ears in courts.

5 I must tell you that Pennsylvania is the  
6 only State of the top, and I think it's top seven,  
7 give or take one, the only State that has never  
8 funded a dollar for CASA -- the only State -- and I  
9 frankly think we've been remiss in that.

10 So I would join your local judges in  
11 suggesting that that be funded. I am in touch and I  
12 have had multiple meetings with Dennis Hockensmith,  
13 who is the statewide CASA Director. I actually have  
14 met with the national CASA Director on the issue.

15 We, as part of our Office of Children and  
16 Families in the Courts, would like to take on CASA.  
17 There's a cost factor involved. It's not an  
18 inexpensive program to run. And we also have so much  
19 on our plate, and we want to do what we're doing  
20 before we move forward.

21 But it absolutely would be appropriate for  
22 us to do, and we would like to do it if, A, we had  
23 the money, and B, we had the staff time, which go  
24 hand in hand because money is staff. But I would  
25 recommend that to the Legislature. It's a very

1 worthwhile program.

2           REPRESENTATIVE TRUE: And I appreciate those  
3 comments very much.

4           Just for the viewing public to understand,  
5 when you're talking about taking money, you're  
6 talking about administrative costs, because it's  
7 still a volunteer program as far as the CASA  
8 volunteers, or are you looking to make it go further?

9           JUSTICE BAER: No, no, no. The essence of  
10 CASA -- it's a beautiful public-private partnership  
11 -- is that citizen volunteers become advocates for  
12 children in courtrooms.

13           And our child welfare system is so  
14 overwhelmingly busy that in extraordinarily  
15 complicated cases where the kids have multiple  
16 difficulties, from being victims of sexual abuse to  
17 having mental health problems to being fire-starters,  
18 et cetera, and the parents have multiple problems, if  
19 we know who the parents are -- we know who mom is;  
20 usually we don't know who dad is -- that it's hard to  
21 get to the bottom of how to untie Gideon's knot and  
22 to save these kids.

23           And so what the CASA does, it's one CASA to  
24 one sibling group, and they spend 10 hours a week  
25 with that family, at minimum. Then they write

1 extensive reports, and they provide the judge -- and  
2 again, I was there; I was a juvenile court trial  
3 judge for many years -- they provide the judge with  
4 what's really going on and what these kids really  
5 need and how these kids should be taken care of.

6           So when you get these kids at age 4 to 7, by  
7 the time they're 13 or 14, they're looking at junior  
8 high school, they're looking at high school, they're  
9 looking at college or vocation or the military. If  
10 you fail with them, they come into your system at 6  
11 or 7. By the time they're 13 or 14, they're looking  
12 at the gang; they're looking at the weapon they are  
13 going to carry; they're looking at drug addiction.  
14 If they're women, they're looking at teenage  
15 pregnancy, sometimes prostitution, et cetera, et  
16 cetera.

17           So in a sense, these kids, their whole lives  
18 are in front of them, and there's a fork in the road.  
19 One road leads to a successful life; one road leads  
20 to delinquency, criminality, public assistance,  
21 mental health, et cetera, et cetera. The fork of  
22 that road is in our courtrooms, and CASAs help us.  
23 And it's more than just CASAs, but CASAs help  
24 measurably with these very difficult kids to start  
25 that road.

1           And it's difficult to believe if you're not  
2 there, but by the time these kids are 14 or 15, the  
3 die is cast. We have a devil of a time bringing them  
4 back.

5           REPRESENTATIVE TRUE: It's always easier to  
6 fix up front than it is from behind, and I certainly  
7 appreciate your remarks.

8           JUSTICE BAER: And, Representative True, can  
9 I say one other thing? And again, I warned the  
10 Chairman I could spend 6 weeks on this and I will  
11 not.

12           It's the best money you can spend. And I'm  
13 glad to come back and spend time and do a PowerPoint  
14 for you. It's dirt cheap compared to the  
15 delinquency, the adult criminality, and all the loss  
16 to society when these kids become dysfunctional  
17 citizens. The dependency system costs nothing  
18 compared to the other systems, and yet it saves  
19 kids.

20           REPRESENTATIVE TRUE: I couldn't agree with  
21 you more.

22           And if I just may, in conclusion, remind  
23 leadership of the Appropriations Committee, Judge  
24 Baer helped us pull together when we did a task force  
25 in 1997. Out of that task force came the CASA

1 recommendation. It was passed unanimously by the  
2 General Assembly, and now I look forward to all of us  
3 working together to hopefully make this little light  
4 at the end of the tunnel happen.

5 And thank you very much for your remarks.

6 Thank you, Mr. Chairman.

7 CHAIRMAN EVANS: Thank you.

8 Representative Walko.

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

11 For fear of being redundant or seeking the  
12 same information again, you noted earlier, Justice  
13 Saylor, in particular, that we created 18 judgeships  
14 in 2005 and have not funded them, and now we have  
15 another 12 judgeships pending in this year's budget,  
16 I believe, or legislation is pending and those are  
17 not funded.

18 And what I'm wondering is, what needs are  
19 not being met because of that lack of funding? And  
20 what initiatives are not being funded, important  
21 initiatives, down the road because of that  
22 shortfall?

23 JUSTICE SAYLOR: Thanks, Representative.

24 And Deborah, who handles the finite details  
25 of the budget, can finish my answer, but the overview

1 is this.

2 Obviously, as Justice Baer said, judicial  
3 personnel are funded. Judges are paid. The AOPC  
4 has money, some of which is marginally fungible,  
5 meaning you can move it a little bit from account to  
6 account.

7 So what happens to make sure that the full  
8 Judiciary complement is paid is that there are moneys  
9 within that budget that are used for that purpose in  
10 anticipation that eventually they'll be funded. And  
11 there are from time to time vacancies in the system  
12 -- judges die; judges retire -- but the point of all  
13 that is, at the end of the day, ultimately the  
14 dollars have to be there. So to the extent that the  
15 dollars aren't there when they need to be and money  
16 is moved, you do destroy the funding priorities of  
17 the Unified Judicial System.

18 But Deb could probably give you just three  
19 examples of what you've had to do to cover these,  
20 what I'll call shortfalls.

21 MS. McDIVITT: What we've had to do -- this  
22 is the third year in a row that we've encountered  
23 this situation. But what it precludes us from doing  
24 is addressing some of the things that the court would  
25 like to initiate.

1           By way of example, surplus funds in the past  
2 have been used to launch programs such as our  
3 security initiative until we could get funding of  
4 its own through the General Assembly. There are  
5 certain things within AOPC that we've worked on. I  
6 believe that some of the problem-solving courts have  
7 used moneys from other areas where we had surplus  
8 funds.

9           So there are things that from time to time,  
10 when we have to go through and glean the surplus  
11 funds from other appropriations in order to fund the  
12 judges' salaries, which should be funded on their own  
13 merit, it precludes us from reacting to those things  
14 that we need to react to otherwise.

15           REPRESENTATIVE WALKO: You did touch on one  
16 thing that I think is very important.

17           And I remember back in '97 or '98,  
18 Philadelphia established a drug treatment court,  
19 which is a type of a problem-solving court. And we  
20 attended the graduation ceremony this summer, and it  
21 was very enlightening, heartwarming -- lives are  
22 being saved, the prison population is kept down  
23 slightly, costs are being saved -- and that was one  
24 of my concerns, not only that kind of problem-solving  
25 court but mental health court, perhaps other



1 initiatives that we don't even know about as new ways  
2 to look at courts.

3 And I was wondering -- and you did mention  
4 problem-solving courts in your presentation, either  
5 Justice -- I mean, is there something more we as a  
6 General Assembly should be doing to promote these  
7 kinds of problem-solving courts?

8 I understand that back in '97 we heard  
9 testimony from the DAs Association that every dollar  
10 invested in problem-solving courts leads to a savings  
11 of \$7 on down the road, whether it's in  
12 incarceration, medical expenses, and the like. And I  
13 just wondered, one, are we doing enough; and two, if  
14 you have suggestions for us, what should we do?

15 JUSTICE SAYLOR: Yeah; well, we appreciate  
16 that, because my sense is, and I've not been here  
17 every year but I will be here every year from now on,  
18 but a lot of you have been here for a lot of years,  
19 so I'm glad we are building this institutional  
20 relationship, because you are truly out on the front  
21 lines because you have to interact with your  
22 constituents. And their problems are your problems  
23 and they are our problems, so it's kind of like we  
24 are all in the same boat.

25 And the court has done a lot and the

1     Judiciary has done a lot under the supervision of the  
2     Supreme Court to try to deal with these specific  
3     types of problems.  And actually, Representative, the  
4     Administrative Office of the Pennsylvania Courts put  
5     together a very nice little piece on problem-solving  
6     courts.  I don't think that's come up to the members  
7     yet, but we are certainly going to get you that right  
8     after the hearing.

9             But to specifically come to your question,  
10    my sense is -- and Max, you can speak to this,  
11    because as you can tell from Justice Baer, he's an  
12    expert and an advocate for problem-solving -- but my  
13    sense is that when asked, the Legislature has been  
14    very responsive in these specific areas, because it's  
15    kind of easy -- you see a need and you see a  
16    solution, and you are willing to try it.

17            And I think that comes back full circle to  
18    the beginning of your problem.  If you are  
19    underfunded in areas that you have to work on, to  
20    that extent, you don't have the money to either start  
21    or continue or refine or expand these special  
22    initiatives.

23            REPRESENTATIVE WALKO:  I agree with all of  
24    that.

25            JUSTICE SAYLOR:  Would you say that's fair?

1 JUSTICE BAER: I absolutely would say that's  
2 fair.

3 I think Representative Evans, the Chairman,  
4 and I actually had this conversation last year after  
5 we were done, because he shared with us that at one  
6 point, he wanted to fund a gun court in Philadelphia  
7 County and the Judiciary said no thank you.

8 We are a different Supreme Court under the  
9 leadership of Steve Zappala, and especially Ralph  
10 Cappy, who, of course, just retired. We are a court  
11 that very much wants to engage in solving problems  
12 and eliminating the cause of, let's say litigation  
13 for us, which could be criminal and could be  
14 otherwise, as opposed to merely deciding the case and  
15 moving on.

16 So what you have going on all over the  
17 United States are mental health courts, drug courts,  
18 and a subbranch of that, juvenile drug courts, and we  
19 do have one of those in Pennsylvania. I think York  
20 County, but I can't swear to that. Is that right?  
21 Thank you. Gun courts, and Philadelphia does have  
22 one -- oh; we actually have a list, thank you, and  
23 we'll give this to you -- DUI courts, a prostitution  
24 court, mental health courts, et cetera.

25 They are doing unbelievable work, wonderful

1 work, at not only eliminating the criminality but the  
2 costs or the disfunctionality as to costs, and we are  
3 willing to do that. That is why I started my comment  
4 with we've changed. We want to do that. We want to  
5 reach out and help you and help the Executive Branch  
6 help the people of Pennsylvania.

7           And it does come back to funding, not just  
8 for the court but for the whole judicial system,  
9 because at the end, before we start doing these  
10 things, we have got to take care of our cases.

11           And you've seen the volume of our cases.  
12 Child support alone, we did 350,000 cases last year  
13 plus the appeals from those. Child support alone;  
14 think about that number and how do you do that. And  
15 with everything else we do, I would think -- and I  
16 don't know this; I'm guessing -- that the number of  
17 cases adjudicated in the Pennsylvania Judiciary  
18 between the district justices on up, probably  
19 500,000, 600,000 cases, maybe more than that.

20           So we have to do that, and then we have to  
21 do these initiatives. But we -- and I'm going to  
22 conclude with this -- we want to do this as a  
23 coherent body, as a State, because there are  
24 wonderful things going on around the nation, there  
25 are wonderful things going on around Pennsylvania,

1 yet we have individual counties who, in all good  
2 will, take it upon themselves to try to do this,  
3 reinvent the wheel, make the mistakes that have been  
4 made, and so we are trying to do this as a statewide  
5 body.

6 And, you know, we are happy to come before  
7 you and talk about anything. If you have an idea,  
8 we're as close as the telephone. But in the end, if  
9 we are adequately funded, we can bring the person  
10 power and we can bring the administrative power to do  
11 it.

12 REPRESENTATIVE WALKO: Thank you, Mr.  
13 Justice.

14 CHAIRMAN EVANS: Thank you.  
15 Representative Denlinger.

16 REPRESENTATIVE DENLINGER: Thank you, Mr.  
17 Chairman.

18 Good afternoon.

19 Some members of the Appropriations Committee  
20 here have begun to receive letters from various  
21 Common Pleas Court judges who are, quite frankly,  
22 lobbying us on matters related to the budget and  
23 various line items and so forth.

24 Now, we received these letters, and they are  
25 on official court letterhead, and that raises a point

1 of concern. Is there a policy within the court  
2 system about individual judges using their position  
3 to lobby the Legislative Branch?

4 JUSTICE SAYLOR: Yeah; my understanding,  
5 Representative -- and, you know, I've moved up into  
6 the second position when the Chief moved on. I guess  
7 like anything else, if you stay around long enough,  
8 you move up a little bit. And Justice Castille, the  
9 Chief, is not here. But it's my understanding that  
10 it's the policy of the Supreme Court, being  
11 constitutionally in charge of the unified judiciary,  
12 that our strong, strong preference is to speak with  
13 one voice, and that is through the Chief Justice, in  
14 matters affecting the Judiciary, particularly the  
15 budget in the Judiciary.

16 So without knowing these specific examples,  
17 I can't comment much further, but I think I  
18 understand what you are saying, that there may be in  
19 the counties certain judges that are looking for  
20 certain things. And I would say -- and Justice Baer  
21 can speak to this, too -- from a policy standpoint I  
22 can see where that would be counterproductive in  
23 terms of the effort to present a unified judicial  
24 budget in a formal way through the appropriate entity  
25 in the Legislature, which is the Appropriations

1 Committees in the House and the Senate.

2 REPRESENTATIVE DENLINGER: If I could, just  
3 a point of clarification. These were not letters  
4 about advocacy for the Judicial Branch; these were on  
5 other budget line items, specifically education.

6 JUSTICE SAYLOR: Yeah. But having said all  
7 that, I mean, I can't sit here, without, again, you  
8 know, knowing precisely what the correspondence said,  
9 and say that if a judge in a particular county has  
10 some area of interest in education or something, that  
11 there is anything untoward or improper about  
12 communicating with his or her Representative to the  
13 extent that, you know, they feel comfortable doing  
14 that.

15 But it seems to me that -- and then  
16 occasionally I think if the Judiciary would arrive at  
17 an initiative we would want to pursue, whether it's  
18 an area of continuing judicial education, we are  
19 still better served by speaking with this one voice  
20 and having it come through the Supreme Court.

21 But I defer to my colleague, Justice Baer.

22 JUSTICE BAER: And I agree. I agree, and I  
23 concur entirely with Justice Saylor. It's not a bad  
24 thing if an individual judge wants to seek a  
25 particular problem, as any citizen would let me know

1 about it.

2           The great tension in Pennsylvania is that  
3 our judicial system -- and I mentioned its history  
4 earlier -- is a county-based system, and before the  
5 Constitution of 1968, there was no pretense of there  
6 being any State uniformity whatsoever. You had to be  
7 admitted to every county individually. You couldn't  
8 practice in a different county without being admitted  
9 to that county.

10           So it's been a relatively short time that we  
11 have had a unified Judiciary, and counties, because  
12 of this 300-plus year history of not having a unified  
13 system, don't act unified, and it's one of the things  
14 that we are trying to change. And not change for  
15 change sake but change because we believe that in  
16 today's world, we can do better if we pool our  
17 resources, pool our expertise, pool our knowledge.

18           So we don't want counties -- and the trial  
19 court judges know this, because we talked about this  
20 at length and I have talked to them at length -- we  
21 don't want them to advocate on behalf of themselves.  
22 We want to decide what is good for Pennsylvania, and  
23 we want to do it in Pennsylvania and we want to do it  
24 in a coherent fashion.

25           So, you know, there is nothing wrong with



1 somebody -- and it's de minimis if they use a piece  
2 of Judiciary stationary. They want you to know that  
3 they have obtained some position in their community.  
4 But by and large, we don't want that to be a habit.  
5 We want to come to you, because we want to be a  
6 coherent branch of government, as you are and the  
7 Executive Branch is.

8 REPRESENTATIVE DENLINGER: So what I'm  
9 hearing is a preference, not necessarily a violation  
10 of the Canons of Judicial Conduct? Is that fair to  
11 say?

12 JUSTICE BAER: Well, I think it's fair to  
13 say that neither Justice Saylor nor I want to opine  
14 on that without the case in front of us and the rules  
15 in front of us. But it is so de minimis in any  
16 event. But our preference would be it comes through  
17 us, and if we were aware of that, then we could pick  
18 up the phone and talk to that trial judge.

19 JUSTICE SAYLOR: Yeah; clearly I spoke on  
20 it, and I would think without some specific example  
21 there wouldn't be any way you could arguably file it  
22 to the canons, any type of canon. I was speaking  
23 merely from a preferential policy matter on the point  
24 of the protocol of relations between coequal branches  
25 of government.

1           And I think on matters of funding,  
2   appropriations, things of interest to the Judiciary,  
3   it should come through the Supreme Court to your  
4   Chairman and members. And it keeps it a lot simpler  
5   rather than judges in certain counties saying it to a  
6   certain Legislator. I really think we should do  
7   this, and I think I'm clear and I think you  
8   understand.

9           REPRESENTATIVE DENLINGER: I do, and I  
10   appreciate that. Based on this line of questioning,  
11   is that something you would consider?

12           JUSTICE SAYLOR: I think that periodically  
13   the Chief from time to time, or whoever that person  
14   has been, has reiterated that notion. And oftentimes  
15   it has probably been after the budget hearings, you  
16   know, that that's the policy of our court on matters  
17   affecting the Unified Judicial System.

18           We like to speak through the Office of the  
19   Chief Justice to the Chairman of the committee or to  
20   the Governor's Office.

21           REPRESENTATIVE DENLINGER: Okay.

22           JUSTICE SAYLOR: But let me make another  
23   point on this subject, and I think it has been an  
24   interesting session, because we can readily sense the  
25   interest that your committee has in actually getting

1 things done back in your district. So we do have  
2 that commonality of interest.

3 And the other reason is, if you could try to  
4 run this through the Supreme Court, which it should  
5 be in the Constitution anyhow. We have the ability  
6 to look at the whole State, because it is a diverse  
7 State, and our judicial system is unified, but it  
8 has to take into account dispirit interests. We  
9 have rural counties with one judge. We have  
10 middle-sized counties. We have urban counties. And  
11 the problems in the judicial system vary from those  
12 counties.

13 The Chairman knows the problems in  
14 Philadelphia aren't the problems that you have out in  
15 Clearfield County or Somerset County. So to make a  
16 Unified Judicial System work, you have to have  
17 someone at the top trying to look at it on a global  
18 basis and say, certainly it's not one size fits all.  
19 And that's why these specialty courts are good,  
20 because you can tailor them to the different counties  
21 and the needs of those counties.

22 And Pennsylvania is not unique. I mean, New  
23 York is a big State. Ohio is a big State. You know  
24 what I'm saying.

25 REPRESENTATIVE DENLINGER: Okay. I can

1 appreciate the direction that you are going in  
2 there.

3 Thank you, Mr. Chairman.

4 JUSTICE BAER: Let me add two things.

5 First of all, we will reiterate that policy.  
6 And second of all, all these problems are complex,  
7 but what we don't want is one trial judge to say "I  
8 love CASA," write you a letter to fund CASA; one  
9 county over, 20 minutes away, that judge says "I hate  
10 CASA, but I love drug courts." We don't want that.  
11 Then we don't have a Pennsylvania, we have 67  
12 independent States, and that's why we want to do it  
13 through the Supreme Court.

14 We can take a hard look. We can get input  
15 from everybody and we can say, we love drug courts  
16 and we love CASA, but the more pressing problem right  
17 now is one or the other, so let's get to work on that  
18 and then we can get to the next one next time. And  
19 then you are not pulled in a thousand directions and  
20 Pennsylvania is not incoherent.

21 REPRESENTATIVE DENLINGER: Thank you.

22 CHAIRMAN EVANS: Thank you.

23 Representative Craig Dally.

24 REPRESENTATIVE DALLY: Thank you, Mr.

25 Chairman.

1           This may have been answered. I happened to  
2 be with Representative Walko at the graduation this  
3 summer at the drug court in Philadelphia. It was  
4 really an enlightening experience, and I think that  
5 those problem-solving courts are the way to go. And  
6 I have talked to my President Judge about engaging in  
7 that process in Northampton County and, you know, it  
8 comes down to funding.

9           And I note in your hearing book that there  
10 are 50 of these courts in the Commonwealth, but only  
11 Philadelphia courts are funded with State dollars.  
12 Is that correct?

13           MR. PINES: Well, there's a distinctly  
14 different line item on that. So the Philadelphia gun  
15 court, that is separate and apart from the funding  
16 for the so-called therapeutic courts, which involve  
17 drug courts, the mental health court, and so forth.

18           A lot of those courts also receive grants,  
19 oftentimes Federal grants, but the AOPC has tried to  
20 provide education and training to help the counties  
21 establish these various therapeutic courts.

22           REPRESENTATIVE DALLY: Okay. So there are  
23 resources that are being used by you folks as far as  
24 these courts?

25           MR. PINES: But there aren't enough

1 resources. That's why we need the funding to support  
2 the administrative work that we have been doing in  
3 the past year. And in fact we have been fairly  
4 aggressive in trying to provide training and an  
5 analysis of the success of these various courts.

6 JUSTICE SAYLOR: Representative, that's why,  
7 too, we really need to get you this little synopsis  
8 on the problem-solving courts, because there is so  
9 much interest that is here. We will make copies and  
10 give it to you today actually.

11 It lays a lot of the history of this out,  
12 and there are Federal funds available.

13 And the AOPC is doing what it should. It  
14 acts as an administrative apparatus for the court  
15 system and a funding conduit in many instances,  
16 because as Justice Baer said, to make something work,  
17 you got to have money, but you have to spend it in a  
18 thoughtful fashion.

19 So you have people at the Administrative  
20 Office of the Pennsylvania Courts that act with a  
21 liaison when they are trying to organize these things  
22 -- channel the funds, set up and provide some of the  
23 administrative staffing.

24 And that is, you know, back where we started  
25 20 minutes ago. To the extent you can't fund

1 necessary things, then you are probably not able to  
2 fill four or five or six positions over at the  
3 Administrative Office of the Pennsylvania Courts to  
4 do this very type of work. So I think it's that  
5 simple.

6 REPRESENTATIVE DALLY: Thank you.

7 JUSTICE BAER: Now, it was interesting that  
8 you said you spoke with your President Judge. What  
9 we want, where our aspiration is, is that you give us  
10 a call and we would take a look in knowing that's  
11 fine, because that is Pennsylvania. That's the  
12 Pennsylvania of the last 360 years, and that's my  
13 point, which is that it's a county-based system. And  
14 in large measure, therefore, your PJ will say, I like  
15 or dislike that idea. It's nice to be a dictator.  
16 And then we'll say to his people, go find some  
17 funding and let's do it, or his people will say, you  
18 know, too expensive, and the idea will die on the  
19 vine.

20 What we are trying to do, the reason that  
21 we're united as a Legislative and Judicial Branch  
22 here is, we want to, in a collaborative fashion,  
23 engage in some policymaking and say that a new way to  
24 do custody, or a drug court, or a mental health  
25 court, is imperative public policy, and let's do it

1 in all of Pennsylvania so that when you take a look  
2 at our State and you take a map of what counties have  
3 it and you say, this is the craziest map I've ever  
4 seen, that's what you will find if you look at who  
5 has CASA or if you look at who has these courts.  
6 Why? Because some President Judge said let's do it  
7 and found some grant money, et cetera, and so they  
8 did it, and the counties around them were either not  
9 creative or they didn't have the will.

10 So that's why I said we are trying to do  
11 this coherently through the Administrative Office.  
12 And what Justice Saylor said is accurate, the  
13 Administrative Office is involved, but it tends right  
14 now to be more reactive. If somebody calls it and  
15 says, we want to do this program, then they try to  
16 provide some technical assistance. We want as a  
17 Judiciary to be proactive, to say, let's do this for  
18 Pennsylvania, and go out and do it.

19 REPRESENTATIVE DALLY: Thank you very much.

20 JUSTICE BAER: Thank you.

21 CHAIRMAN EVANS: I would like to thank you  
22 for being here and making your presentation before us  
23 today. We have taken under advice what you have said  
24 today, and we will listen carefully.

25 I would like to thank you sincerely for



1 coming before us, and I would like to take about a  
2 5-minute recess. We have the Secretary of DCED  
3 coming next.

4 Thank you.

5

6 (The hearing concluded at 1:55 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 is a correct transcript of the same.

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Jean M. Davis, Reporter  
Notary Public