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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE ON COURTS

IRVIS OFFICE BUILDING
ROOM G-50
HARRISBURG, PENNSYLVANIA

TUESDAY, MAY 20, 2008
10:05 A.M.

BEFORE:

- HONORABLE DON WALKO, SUBCOMMITTEE CHAIRMAN
- HONORABLE THOMAS R. CALTAGIRONE
- HONORABLE RON MARSICO
- HONORABLE THOMAS L. CREIGHTON
- HONORABLE GLEN GRELL
- HONORABLE KATHY M. MANDERINO
- HONORABLE HAROLD JAMES
- HONORABLE CARL W. MANTZ
- HONORABLE JOHN E. PALLONE
- HONORABLE JOSEPH A. PETRARCA
- HONORABLE JEWELL WILLIAMS

BRENDA J. PARDUN, RPR
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ALSO PRESENT:

DAVID J. LANE, ADMINISTRATIVE OFFICE OF
PENNSYLVANIA COURTS
LAURA EVANS, JUDICIARY STAFF
LOUISE KOPPENHEFFER, LEGISLATIVE ASSISTANT

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

1 SUBCOMMITTEE CHAIRMAN WALKO: I'd
2 like to welcome everybody here today. My name
3 is Don Walko. I'm chairman of the
4 Subcommittee on Courts of the House
5 Judiciary Committee.

6 Off to my right, of course, is
7 Chairman Caltagirone, and to my left, Chairman
8 Marsico, who, by the way, also has a piece of
9 legislation before this committee.

10 Before I start, would the members
11 here like to introduce yourself, starting with
12 Tom Creighton.

13 REPRESENTATIVE CREIGHTON: Tom
14 Creighton, 37th District, Lancaster County.

15 REPRESENTATIVE GRELL: Good morning.
16 Glen Grell, 87th District, Cumberland County.

17 REPRESENTATIVE MANTZ: Carl Mantz,
18 187th Legislative District, Berks and Lehigh
19 Counties.

20 MS. EVANS: Laura Evans, judiciary
21 staff.

22 CHAIRMAN WALKO: Kathy.

23 REPRESENTATIVE MANDERINO: Good
24 morning. Kathy Manderino, 194th District,
25 Philadelphia and Montgomery County.

1 CHAIRMAN WALKO: Okay. Thank you.

2 We decided to have this hearing, it
3 started really when Nevin Mindlin approached
4 me about the whole issue of jury compensation
5 and how important it is to democracy that we
6 have effective juries.

7 They are described by many as one of
8 the pillars of the democracy. So we are not
9 taking this lightly. We know there are a lot
10 of challenges specifically when it comes to
11 funding.

12 But I can tell you, last Friday, May
13 2nd, I served on a jury panel in Allegheny
14 County, and I had my receipt from the payment,
15 that I donated, by the way, \$9.99, and I sat
16 there from 9 o'clock until 2:30, and I was
17 thinking, so fortunate that I did not lose a
18 day's pay to serve on this panel.

19 I did not serve on a jury itself, but
20 I knew, looking around the room, there must
21 have been a lot of people for whom that great
22 honor and previous was costly.

23 I did notice that we got a discount
24 card for local restaurants in Pittsburgh,
25 but -- I guess it would be about 10 percent,

1 and I think there was a parking discount, but
2 not a pass.

3 So, in any event, I don't mean to
4 make light of it, but it does drive it home
5 that we should address the funding issue with
6 regard to our juries.

7 So I'd like to turn this over, first
8 of all, let's start with Representative Ron
9 Waters, who has House Bill 601, for some
10 remarks.

11 REPRESENTATIVE WATERS: Thank you,
12 Mr. Chairman. And thank you for the committee
13 for holding a hearing on this matter, issue
14 before us today.

15 And I just want to open it up by --
16 with some brief remarks to you, and that is
17 starting with: For too long in Pennsylvania,
18 citizens called to jury duty have not been
19 compensated realistically for this service,
20 and we wonder why so many people try to get
21 excused from jury duty.

22 Currently, a juror receives \$9 a day
23 for the first three days of jury duty and \$25
24 a day for each day thereafter.

25 Let's do the math. A person holding

1 a full-time job, for instance, a minimum wage
2 worker, making \$7.15 hourly wage, working 40
3 hours a week, makes roughly \$286 a week.

4 That same person picked to serve on
5 jury for the same amount of time, one week,
6 would mean that person only receives \$77.

7 If they don't work for the relatively
8 few employers who compensate them for time
9 devoted to jury service, how does that person
10 pay their bills or take care of their family?

11 This level of compensation is grossly
12 insufficient, and I would hope everyone here
13 is in agreement that it is high time jury duty
14 compensation is amply adjusted to reflect the
15 reality of 2008, rather than the 1940s

16 If my bill, House Bill 601, would
17 become law, a person summoned to serve as a
18 juror would receive compensation at a rate of
19 \$40 for each day in any calendar year he or
20 she would be required to report for service.

21 Our citizens who serve deserve
22 adequate pay.

23 Thank you, Chairman Walko and the
24 committee, for hearing my testimony and
25 considering much needed modification to

1 current law regarding this matter.

2 CHAIRMAN WALKO: Thank you,
3 Representative Waters.

4 Do we have any questions or
5 comments?

6 Blessed are the brief.

7 REPRESENTATIVE WATERS: Thank you.

8 CHAIRMAN WALKO: And thank you so
9 much, again, for your thoughtful testimony and
10 for introducing House Bill 601.

11 REPRESENTATIVE WATERS: Thank you.

12 CHAIRMAN WALKO: Mr. Chairman
13 Marsico.

14 REPRESENTATIVE MARSICO: Thank you,
15 Mr. Chairman.

16 I thank you, Chairman Caltagirone and
17 also Chairman Creighton for having this
18 hearing to talk about the increase in jury
19 pay.

20 As you know, serving as a juror is an
21 important civic duty, and it is crucial to the
22 efficient administration of justice to our
23 commonwealth.

24 Chairman Waters mentioned that jurors
25 receive \$9 a day for the first three days and

1 \$25 a day for each day thereafter in each
2 calendar year in which they are required to
3 report for jury service.

4 Jurors also receive a travel
5 allowance to and from their residence -- did
6 you get one of those?

7 CHAIRMAN WALKO: No. You know what,
8 I didn't get it.

9 REPRESENTATIVE MANDERINO: Neither
10 did I.

11 CHAIRMAN WALKO: Something's wrong
12 here.

13 REPRESENTATIVE MARSICO: Well,
14 actually the travel allowance is 17 cents per
15 mile, and current law requires the state to
16 reimburse counties 80 percent the amount
17 expended by a county for compensation and
18 travel expenses beyond the first three days of
19 service if the juror is participating in a
20 trial or grand jury proceedings.

21 I would certainly support and do
22 support House Bill 601.

23 In addition, my bill, House Bill
24 1356, would increase the daily compensation
25 received by jurors to eight times the current

1 hourly minimum wage for each day that the
2 person is required to report for service.
3 This legislation is tied into the federal
4 hourly minimum wage and established by the
5 Fair Labor Standards Act.

6 I believe that the current rate is
7 17 -- \$7.15, with increase coming in the
8 summer of 2009 to seven and a quarter per
9 hour.

10 At 7.15 per hour, we're talking about
11 57.20 per day for citizens. \$57.20 a day for
12 citizens who are performing a valuable service
13 to our community and oftentimes are forced to
14 take time off of work and pay money out of
15 their own pockets to secure child care, care
16 for the elderly, or disabled parents, et
17 cetera.

18 The tie-in with the federally hourly
19 minimum wage allows for periodic increases
20 without the need for the general assembly -- I
21 think this is important to remember -- to
22 continually amend the statute.

23 Other states which have daily juror
24 rates in the \$35 to \$50 range include
25 Nebraska, New Mexico, New York, and West

1 Virginia.

2 An additional ten states have rates
3 of 40 to \$50 after the first, third, or fifth
4 day of service. They include Colorado,
5 Connecticut, Massachusetts, Michigan, Nevada,
6 New Jersey, North Dakota, South Dakota, Texas,
7 and Utah.

8 These rates are more in keeping with
9 the current economy and help adequately
10 compensate those who are fulfilling their
11 civic duty by serving as jurors.

12 Additionally, my bill would also
13 provide for travel allowances at the most
14 current rates set by the Internal Revenue
15 Service. It is absolutely essential that the
16 mileage rate be increased, given both the
17 state of the economy and the price of gas
18 today.

19 Lastly, the state would be required
20 to reimburse each county 50 percent of the
21 amount expended by the county if the juror is
22 participating either in trial or a grand jury
23 proceeding.

24 The Pennsylvania Bar Association,
25 thanks to Nevin and his folks, have supported

1 the increase in the compensation of jurors and
2 thus support both bills. And I thank Nevin
3 and the bar association for their support and
4 look forward to answering questions and
5 looking forward to getting support from the
6 committee.

7 Thanks.

8 CHAIRMAN WALKO: Thank you,
9 Mr. Chairman.

10 Do we have any questions or
11 comments?

12 Thank you very much.

13 Let's move on to the Honorable Judge
14 Norman A. Krumenacker of Cambria County Court
15 of Common Pleas and the president of the
16 Pennsylvania Conference of State Trial
17 Judges.

18 Welcome, Judge. Thank you so much
19 for taking time out to be here.

20 JUDGE KRUMENACKER: Good morning,
21 Chairman, members of the committee.

22 My name is Norm Krumenacker. I'm a
23 judge of the Court of Common Pleas of Cambria
24 County and the president of Pennsylvania
25 Conference of State Trial Judges.

1 I appreciate the invitation to come
2 and testify in support of House Bill 601 and
3 House Bill 1356 concerning compensation and
4 travel allowance for jurors of this
5 commonwealth.

6 Chief Justice of the United States
7 Harlan F. Stone, 1946, aptly observed, quote,
8 jury service is one of the highest duties of
9 citizenship, for by it, the citizen
10 participates in the administration of justice,
11 unquote.

12 This simple but true statement sets
13 the foundation of why it is so important that
14 we recognize the need to continue to review
15 the jury compensation system and to modify and
16 update this process as our society changes.

17 These rights concerning trial by jury
18 as contained in the Sixth and Seventh
19 Amendments of the Bill of Rights that arose
20 out of Article 3 of the Constitution are the
21 foundation of one of the most fundamental and
22 important rights enjoyed by the American
23 people and the citizens of this commonwealth.

24 With its origin in English common
25 law, its recognition in the Magna Carta, and

1 its continuing development until today and
2 into the future, the jury system is designed
3 to protect all citizens from the potential
4 heavy hand of oppression by government. This
5 keystone of the judicial system must remain
6 intact to provide for the diversity and
7 continued participation of all citizens as
8 times change and economics become an issue.

9 The high price gas and other
10 necessities and the burden placed on families
11 when individuals lose one or more days from
12 their employment creates stress on the system
13 to ensure that the cross section of our
14 community is available to litigants to pick a
15 jury that truly represents the cross section
16 of our community and insures a jury by our
17 peers.

18 Relieving, to the possible extent,
19 these financial concerns will encourage
20 greater citizen participation and generate
21 improvement of our justice system.

22 While jury service becomes --
23 sometime is inconvenient it is also an
24 important civic duty, for without citizens
25 willing to serve, our system cannot function.

1 It is important that those serving
2 are able to concentrate on the business at
3 hand and not be concerned with the financial
4 impact that meeting this great civic duty
5 causes upon jurors and families.

6 One of the primary reasons presented
7 to judges across the commonwealth from
8 individuals requesting relief from jury duty
9 is not as to their opinions or biases
10 concerning a defendant, type of case, the
11 police, or even the death penalty, but the
12 financial impact that they must suffer while
13 meeting this solemn obligation.

14 The Pennsylvania Conference of State
15 Trial Judges supports the pending legislation
16 that will help, to some extent, to relieve the
17 financial burden placed upon jurors when
18 appearing in court.

19 While jury service may sometimes be
20 inconvenient, experience shows that it can
21 also be educational and rewarding. On
22 compensation, even with proposed rate
23 increases, will not fully compensate those
24 employed from missing work, it will go a long
25 way to relieving the hardship presented to the

1 juror.

2 In these days of \$4 gasoline and ever
3 rising prices of food and other necessities,
4 it is incumbent upon those who are involved in
5 the administration of a fair and impartial
6 judicial process to relieve, to the extent
7 possible, the financial burden placed upon the
8 citizens who answer the call to perform one of
9 the most solemn duties of citizenship.

10 As a personal thought from a judge
11 who has handled trials for the past 16 years
12 that will go beyond the average two- or
13 three-day trial, I have thought that an option
14 to consider is to enact legislation that will
15 provide employers a dollar-for-dollar tax
16 benefit for paying their employees their full
17 wages while on jury service.

18 In particular, I have found
19 incredible hardship is placed on jurors who
20 are asked to participate in capital cases,
21 asbestos litigation, or other complex
22 litigation that will go on for periods in
23 excess of two or three weeks.

24 I'm sure there could be many other
25 alternatives or options discussed which would

1 encourage jurors to participate, but the
2 current legislation will go a long way in
3 assisting jurors with their financial issues
4 caused by attending to their civic duty.

5 In doing so, we alleviate a concern
6 that impacts the willingness of men and women
7 of integrity, honesty, fairness, and sound
8 judgment to serve as jurors across this
9 commonwealth.

10 Any questions?

11 CHAIRMAN WALKO: Thank you, Judge.

12 Questions? Comments?

13 Representative Manderino.

14 REPRESENTATIVE MANDERINO: Thank you
15 very much for coming.

16 I want to go back to your tax credit
17 idea, which I find intriguing and I like it.
18 Were you thinking of it in terms of -- and you
19 just may have said and I didn't hear it
20 right -- from day one of service or for longer
21 than --

22 JUDGE KRUMENACKER: I didn't say any
23 particular time. The reason I threw that in
24 there is in preparing this speech and talking
25 with people from AOPC, there's something in

1 the back of my mind that I picked up when I
2 was in school -- I went to school in
3 Virginia -- that there was a state
4 somewhere -- we talked about it this morning
5 and somebody said they thought it was
6 Massachusetts -- where to encourage this and
7 help alleviate the burden on the government to
8 pick up the tab, because I saw some numbers
9 here that's projected maybe in the \$9 million
10 range, and I was away teaching at the National
11 Judicial College so I didn't have time to
12 really research this.

13 The idea was that the employer would
14 pay their full wage, whatever the employer
15 had, the employer would then get a dollar-for-
16 dollar tax deduction.

17 Now, I -- as far as how that would be
18 implemented, that was just a personal thing
19 that I thought that I would express.

20 REPRESENTATIVE MANDERINO: I like
21 it.

22 JUDGE KRUMENACKER: When I started
23 seeing the numbers, when you get past two or
24 three days, it can be significant money. And
25 with everybody's budget concerns, I just

1 thought I'd express my personal opinion on
2 that and maybe an option in the future that
3 can be studied, whether you apply it up front
4 or later on or after four days or whatever.

5 REPRESENTATIVE MANDERINO: Well, if
6 we explore that idea, but not -- I mean,
7 getting back to Representative Walko's point,
8 I had jury duty in the last month also. This
9 time I didn't get picked, but the time before
10 that I actually did. I don't know why they
11 wanted me.

12 But assuming -- I mean, in our state
13 courts, it's kind of one day, one trial. So
14 assuming folks didn't get picked to be on a
15 trial, you know, they've done their one day,
16 et cetera, but if -- is there a state average
17 of this is how long, I mean, if you get
18 picked?

19 Usually you're kind of there for at
20 least three days, it seems to me. I don't
21 know if there's some breakpoint number, that
22 was kind of what I was looking for.

23 JUDGE KRUMENACKER: Generally, jurors
24 are picked one day and asked to come back
25 another day. And trials, the vast majority of

1 trials -- I can't give you a percentage, but
2 it would be very high -- most people are done
3 within three days, from a day to pick and then
4 one to two days to actually serve.

5 REPRESENTATIVE MANDERINO: Okay.

6 Thank you.

7 Thank you, Mr. Chairman.

8 CHAIRMAN WALKO: Thank you.

9 Any other questions?

10 JUDGE KRUMENACKER: Thank you for the
11 opportunity to testify.

12 CHAIRMAN WALKO: Thank you. Very
13 eloquent testimony.

14 And I'd just like to take an
15 opportunity to thank Louise Koppenheffer, my
16 legislative assistant, for all her work in
17 developing this agenda. Louise would say,
18 Well, they haven't submitted their testimony.
19 I said, That's okay.

20 But meanwhile, it is nice to have all
21 the testimony. Thanks for all your hard
22 work.

23 On to Mr. Doug Hill, executive
24 director, County Commissioners Association of
25 Pennsylvania.

1 Welcome, Mr. Hill.

2 MR. HILL: Thank you.

3 It's a pleasure to be with you
4 today. My name is Doug Hill, executive
5 director of the County Commissioners
6 Association of Pennsylvania. And we are a
7 nonprofit, nonpartisan association that
8 provides legislative, education, insurance,
9 research, technology, and similar services on
10 behalf of all the commonwealth's 67 counties.
11 And we do appreciate the opportunity to be
12 here today to offer our comments on House Bill
13 601 and House Bill 1356, increasing the
14 reimbursement of those called to jury duty.

15 I'm going to divert from my testimony
16 a little bit during the course of this
17 presentation. I think you've had some good
18 discussion already on a number of issues. I
19 feel like I'm a bit of the alternate voice
20 here in the room since we are, at the county
21 level, the ones who are paying by and large at
22 least for the first three days, with some
23 commonwealth reimbursement for the time after
24 that, so I hope you do appreciate that
25 perspective.

1 We do understand that it's difficult
2 financially and otherwise for citizens to take
3 time away from employment and jobs and family
4 to serve on jury duty. We understand as well
5 it's a considerable period of time since
6 that's been -- the amount of compensation's
7 been raised.

8 If I read the statutes correctly, I
9 think it's been at least since the Judiciary
10 Act Repealer Act, that would have been about
11 1978. So obviously, even back then, I doubt
12 that \$9 a day was considered a living wage.

13 And by extension, I think an argument
14 almost can be made that from that time till
15 now, the compensation really isn't
16 compensation but rather a token of
17 appreciation, if you will, and I don't mean
18 that in a flippant way but rather just
19 recognition of service.

20 And we do believe that it is
21 important to encourage that service.
22 Compensation is one way to do it. We think
23 that there are probably other ways as well.

24 All of you have been through civics
25 courses in school. I think we've seen a good

1 bit of diminishing in the amount of attention
2 to the need for public service.

3 You see elected officials who spend
4 considerable time in careers. Now, you get
5 paid a living wage. My county commissioners
6 get paid a living wage. But if you look at
7 people at the borough and township level -- I
8 served time doing a planning commission with
9 no pay. And you know the time and you know
10 the tribulation that causes, so there is a lot
11 of people that understand that.

12 But I think we need to do more to
13 show the public that everyone, as a member of
14 the community, has some obligation to
15 participate, and jury duty is, albeit a
16 difficult way, it is at least a shorter term
17 than someone serving in elected office or some
18 other volunteer capacity.

19 Now, I did, in our testimony, give
20 some analysis, physical analysis, of what it
21 would mean. Each of the bills treats it a
22 little bit differently.

23 House Bill -- House Bill 601 is a
24 simple \$40 a day. It gave the split on what
25 that would that mean to the counties in the

1 commonwealth.

2 1356 is a little more complicated
3 because, on the one hand, it changes the
4 amount of compensation, on the other, it
5 changes how the commonwealth reimburses. So
6 the reimbursement right now doesn't kick in
7 until after the third day. This would make it
8 kick in immediately. On the other hand, it
9 reduces it from 80 percent down to 50
10 percent.

11 I think for a longer term trial, the
12 cost to the county is going to be
13 significantly greater. Shorter term, the
14 reimbursement is better.

15 We didn't have the capacity to do a
16 fiscal analysis, I believe the AOPC has done,
17 but bottom line is we don't know what the
18 total cost would be to the counties. However,
19 what we do know is this: We don't have any
20 mechanism to pay for it other than the
21 property tax. And we don't have surpluses in
22 our budget right now, so any change will mean
23 an increase in local property tax dollars
24 going for this purpose

25 And so that brings us to a couple

1 additional points that we want to raise. I
2 think first is that we all -- the
3 commonwealth, the courts, the counties, the
4 citizens -- have come to accept the de minimus
5 reimbursement is just that, a gesture of
6 thanks. It is not intended as compensation,
7 that is compensation equivalent.

8 Now, if that's the case, perhaps
9 there is merit, as you discussed with the
10 prior testimony, in looking at other ways to
11 provide a meaningful reimbursement.

12 In both of these bills, which
13 approximate -- one actually does, the other
14 approximates the minimum wage, even minimum
15 wage is a good bit less than many of the
16 jurors are paid in their real jobs, and maybe
17 the correct way to go is to consider some
18 arrangement with employers that the employers
19 would get a credit, that the employee would
20 still get their full pay.

21 Now, that does beg a couple issues.
22 Obviously, that is a cost to the commonwealth,
23 although not a direct cost. I think you would
24 get some resistance from smaller employers who
25 might lose an employee for an extended period

1 of time and maybe that's a third of their work
2 force. And it doesn't really address what
3 you -- what kind of compensation is fair for
4 someone who isn't part of the work force but
5 who is called to serve jury duty.

6 The other issue that I have to raise
7 is to place this in the context of court
8 funding. The vast majority of funding for the
9 local courts comes from the county budget and
10 that's derived, as I mentioned, largely from
11 county property tax and, obviously, some court
12 cost and related fees.

13 In 1987, the Pennsylvania Supreme
14 Court ruled in County of Allegheny versus
15 Commonwealth that a lower court system,
16 relying on the disparate fiscal capacities of
17 67 different counties, resulted in inherently
18 unequal justice and was unconstitutional.

19 The Court realized -- and the Court
20 ordered that the commonwealth should take over
21 funding and control of the lower courts.

22 The Court also recognized the
23 problems that that would cause in the
24 difficulty in transition so allowed the
25 current unconstitutional framework to remain

1 in place until the legislature had reasonable
2 time to act.

3 We just passed the anniversary last
4 December 7th, and it's been quite some time.
5 In the intervening years -- actually on the
6 fifth anniversary of the decision, in 1992, we
7 filed an mandamus petition with the Courts.
8 That resulted in the Court appointing a master
9 and the Montemuro report and the four-phased
10 approach, the first of which was enacted in
11 1999. The other three of which have
12 languished since then.

13 But I raise the matter just to remind
14 the general assembly that an order of the
15 court remains to be addressed, and in the
16 context of today's hearing, if you aren't
17 going to look at something like employer
18 reimbursement or employer tax credits or
19 something like that, then either bill should
20 be amended to require full commonwealth
21 funding of all juror costs, as, at least, a
22 tip of the hat, if you will, toward the court-
23 funding decision, and as is the case, for
24 example, with multicounty investigating grand
25 juries.

1 So I appreciate the opportunity to
2 present our remarks today, and I'll be happy
3 to answer your questions and be happy to work
4 with you as the legislation progresses.

5 CHAIRMAN WALKO: Thank you,
6 Mr. Hill.

7 First of all, I'd like to welcome
8 Representative Jewell Williams and
9 Representative John Pallone to the hearing.
10 Thank you for coming. And Representative
11 Harold James, welcome.

12 And, first of all, Representative
13 Marsico has some questions.

14 REPRESENTATIVE MARSICO: Well, thank
15 you for your testimony today.

16 The concepts you said that you would
17 support, possibly a tax credit, things like
18 that, obviously to help relieve the
19 expenditures by the county and the state,
20 initially concept that I'll throw out to the
21 staff, mentioned to me this morning that the
22 State of Arizona, they have given -- I guess
23 there's the mandate, all state employees will
24 do jury duty at no pay by the county or the
25 state. They would received their wages, but

1 they will be received by the state.

2 And I think that is an interesting
3 concept. I just wanted to throw this out to
4 the panel and also to the committee and the
5 ones testifying just to get some reaction to
6 that, because I know just in this area, we
7 have 20-some thousand state employees in the
8 mid state. An interesting concept.

9 What are your thoughts on that?

10 MR. HILL: That seems a logical first
11 step, and, in fact, that's probably how you
12 would have to go if you're using a tax credit
13 model, because obviously state and local
14 governments don't pay -- don't have a tax
15 liability to offset.

16 REPRESENTATIVE MARSICO: Combination
17 of that tax credit of states employees not
18 being compensated I think would go a long way
19 to saving moneys at the state level and, of
20 course, at the county level.

21 MR. HILL: It would.

22 Now, I have to add, too, our
23 association's not taking an official position
24 on that concept. We will be talking about
25 that yet this summer.

1 REPRESENTATIVE MARSICO: Just wanted
2 to throw that out.

3 CHAIRMAN WALKO: Thank you,
4 Representative Marsico.

5 Representative Caltagirone?

6 REPRESENTATIVE CALTAGIRONE: One of
7 the issues that you raised here is something
8 that's been plaguing this general assembly.
9 I've been around just a few years like that,
10 and, you know, that issue about accepting our
11 responsibility to pay the court employees has
12 been nagging for many a year around here.

13 And I would hope that at some point
14 the general assembly -- you know, there's
15 always good times, bad times, and money's
16 always short, and there's also excuses for not
17 to do things, but at least to start phasing
18 some of this stuff in.

19 You know, when the court
20 administrators are considered part of the
21 judicial system and all the other employees
22 that just happen to work for the courts back
23 home in each of our counties, and there's
24 not -- you know, there's such disparity there,
25 and we know that that has to change.

1 At one point -- at some point, maybe
2 the time is right now, bite the bullet and do
3 the right thing, not just with the jurors, but
4 we've had good conversations going on here,
5 because there's always a clash, whether it is
6 at the district magisterial level or any of
7 the other courts, and people are saying, We're
8 supposed to have a unified judicial system.
9 When is it going to happen and when is the
10 state going to accept its responsibility to
11 fund that system and make it equal and have
12 the parity that we should have?

13 So, yeah, you and I have been around
14 a while, and we know that that's a
15 responsibility we should accept, and I know
16 we're talking about jurors right now, but it
17 all fits the pattern as to who's going to
18 accept the responsibility financially.

19 And I personally think that it's the
20 commonwealth's responsibility and not the
21 counties.

22 MR. HILL: I do appreciate that. And
23 we've also been looking at other ways to
24 address the issue. Of course, the Montemuro
25 report, the next phase would be for the state

1 to absorb the court employees. The third
2 phase would be judicially related service,
3 like juvenile probation and domestic
4 relation. And the last phase would be row
5 offices.

6 The other way to do it is to talk
7 about functional areas. At one point, the
8 commonwealth explored juror costs are another
9 indigent defense, or at least capital indigent
10 defense. And those incremental steps might
11 get us part of the way there without taking
12 quite as big a bite out of the commonwealth
13 budget, and yet, at the same time, achieve
14 some important objectives that of justice
15 system: better compensation for jurors, more
16 uniform representation of the indigent, and so
17 on.

18 REPRESENTATIVE CALTAGIRONE: Thank
19 you.

20 CHAIRMAN WALKO: Any further
21 questions or comments?

22 Representative Pallone.

23 REPRESENTATIVE PALLONE: Thank you,
24 Mr. Chairman.

25 I think we've gone a little far

1 affray when we talk about the Montemuro
2 report, which has nothing to do with this
3 legislation. And my issues with that is
4 there's other times we can talk about that.

5 And I was collaterally involved in
6 the results of the Montemuro report in former
7 roles in county administrator.

8 But specifically on the juror pool,
9 other concepts that have necessarily been
10 actively visited, and I've had a number of
11 constituents call and say that they would like
12 to volunteer to be a juror. And there is no
13 mechanism to enable an individual to volunteer
14 as a juror.

15 I think we need to visit an avenue
16 relative to enabling folks to participate as a
17 juror if they so desire to.

18 And in terms of the exemptions as
19 well, it's difficulty to be exempted. You got
20 to create or provide medical reasoning for
21 your inability to be able, particularly in the
22 rural area where we don't have available mass
23 transit, and some of the elderly folks who may
24 not be 75 or 80, but 55 or 60 and don't have a
25 car, quite frankly, can't get to the

1 courthouse, which my area, from my home to the
2 courthouse is 28 miles. If you don't have a
3 car, you're not going there. So we need to
4 look at that as well.

5 The terms of the compensation, I
6 think the mechanism has to be improved in
7 terms of, A, the amount that we're paying,
8 and, B, the reimbursement factor with the
9 counties because it does become an unbearable
10 burden relative to that.

11 And I'm looking at maybe offering an
12 amendment to the proposals that are on the
13 table today relative to those issues, looking
14 at an expanded jury pool and enabling folks to
15 participate as a volunteer.

16 And while I imagine that the
17 association hasn't taken an position on that,
18 is there any discussion or has there ever been
19 any discussion on that?

20 MR. HILL: I don't know that there
21 has been about a list of volunteers. I'd be
22 curious how you'd meld that in with the
23 regular random selection to be certain that
24 you don't get adverse selection, people of a
25 certain common demographic can volunteer

1 perhaps, and whether that would color the jury
2 as a result. But I think that certainly can
3 be overcome, and it certainly encourages
4 people who have an interest to step forward.

5 REPRESENTATIVE PALLONE: Thank you,
6 Mr. Chairman.

7 CHAIRMAN WALKO: Excellent.

8 First of all, I'd like to take a
9 moment to welcome Representative Petrarca of
10 Westmoreland County. Welcome, Joe.

11 And also Representative James has a
12 question.

13 REPRESENTATIVE JAMES: I thank you,
14 Mr. Chairman.

15 It's a comment, not a question. I
16 didn't hear the testimony, and I'm reading it
17 now. I just want to say, because I have to go
18 to another meeting, that I'm glad to see the
19 subcommittee part of the judicial committee
20 meeting, dealing with the need to change our
21 jury selection process, because it has been a
22 problem as it relates to discriminatory
23 practices and policies in the past.

24 So now I've made several attempts at
25 putting bills in over the years in terms of --

1 I even have one bill saying that we should pay
2 the person who is on the jury whatever they're
3 getting pay from the job and that -- and that
4 the job gets a tax break for that so that a
5 person does not lose any kind of revenue.
6 They get the same amount, whatever the job is
7 that they have.

8 So with these different kinds of
9 bills, and I hope they look at that, I'm
10 willing to, if Mr. Chairman will permit, have
11 some remarks submitted for the record, because
12 I'm also putting a bill in where I thought
13 that in terms of jurors, that if we have a
14 minority as a victim or defendant, that we
15 should make sure that some of the jurors be a
16 minority or whatever the ethnic background of
17 the victim and the defendant.

18 So these are some of that kind of
19 changes, and I'm just glad to see that we're
20 doing that. I'm also glad to hear that the
21 Pennsylvania Supreme Court Task Force is
22 working on looking at revising and improving
23 the jury selection process.

24 So I just want to commend the
25 committee for doing this, and I'll submit my

1 remarks for the record later.

2 Thank you.

3 CHAIRMAN WALKO: Thank you,
4 Representative James.

5 Representative Manderino?

6 REPRESENTATIVE MANDERINO: Thank
7 you.

8 Doug, you had a little bit in your
9 testimony with regard to just -- let me phrase
10 it differently. I'm looking for aggregate
11 numbers of what it costs us now. Now I'm sure
12 I can look to the AOPC, the court's line item
13 for the amount that they reimburse you, but
14 there's a lot of costs on your end that aren't
15 in that line item.

16 Do we have an aggregate, this is what
17 we are spending in Pennsylvania today on juror
18 compensation that we can put together and --

19 MR. HILL: We may be able to gather
20 that. There's no ready source of that
21 information right now. Our budgets in the
22 courts aren't broken down quite that finely.

23 REPRESENTATIVE MANDERINO: Because I
24 do think your other suggestion of -- if we are
25 going to take a serious look at juror

1 compensation, then combining it with your
2 other suggestion of trying to shift, by
3 functional areas, things to the commonwealth,
4 that might be a logical one to shift.

5 Certainly I think it would be hard to
6 vote against something that every one of us
7 hear from our constituents about daily.

8 But I have no idea what that price
9 tag is, and I think we need to figure out that
10 price tag.

11 MR. HILL: I'll see what we can
12 find.

13 REPRESENTATIVE MANDERINO: Great.
14 Thank you.

15 CHAIRMAN WALKO: Thank you,
16 Representative Manderino.

17 Any further questions?

18 Thank you, Mr. Hill.

19 I'd also, as we are preparing for our
20 next witnesses, like to -- I have testimony
21 from the Pennsylvania State Association of
22 Jury Commissioners, Louise Hildebrand,
23 president. I'd like to submit these remarks
24 for the record.

25 Okay. Now, we go on to the Honorable

1 Judge Gregory Mize, judicial -- he's retired,
2 but he's judicial fellow for the National
3 Center for Courts, and Ms. Lynn A. Marks,
4 Executive director, Pennsylvanians for Modern
5 Courts.

6 Thank you, again, so much for being
7 here, for all your dedication, and, Judge,
8 thank you for making the trip up here. And I
9 hope you enjoy taking a tour of our capitol
10 this morning.

11 JUDGE MIZE: I walked around, and I
12 hope to get a formal tour later in the day.
13 Looking forward to it.

14 CHAIRMAN WALKO: I think we can
15 accommodate that.

16 JUDGE MIZE: Well, good morning,
17 Chairman Walko and members of the subcommittee
18 and full committee.

19 I'm pleased to testify today
20 regarding these bills to adjust the statutory
21 level of compensation and travel allowances
22 for Pennsylvania jurors.

23 At the subcommittee's request, I
24 speak on behalf the National Center for State
25 Courts, where I have served as a judicial

1 fellow since 2004. Before then, I presided
2 over hundreds of trials as a trial judge for
3 twelve busy years on a superior court in the
4 District of Columbia.

5 More recently, I've been working on
6 several national programs to help state and
7 federal courts improve the manner in which
8 they manage and conduct jury trials.

9 Because the National Center is an
10 independent, nonprofit organization
11 functioning as the secretariat to the
12 Conference of Chief Justices and the
13 Conference of State Court Administrators, it
14 does not take an advocacy position with
15 respect to the legislation pending here.

16 Instead, given the well-established
17 research capabilities of the National Center's
18 Center for Jury Studies, I hope I can provide
19 the subcommittee with insights with respect to
20 the importance of adequate and sustainable
21 jury compensation.

22 You well know that Bill 601 solely
23 amends the daily compensation rate for each
24 day of service. And Bill 1356 would not only
25 raise the daily compensation rate, but also

1 adjust the juror travel allowance and the
2 formula for state-to-county reimbursement of
3 juror compensation expenditures.

4 Both bills would ease the financial
5 burden on citizens who dutifully report to our
6 courthouses to serve on juries.

7 Our Center for Jury Studies has been
8 providing jury-related technical assistance to
9 state courts in all regions of the country for
10 over 30 years.

11 In addition, we recently completed a
12 monumental three-year study of jury trial
13 practices in all general -- in all state
14 general jurisdiction trial courts as well as
15 federal courts. It is entitled The State-of-
16 the-States Survey of Jury Improvement Efforts.

17 The State-of-the-States Survey was
18 designed to document local practices and jury
19 operations in the context of their respective
20 state infrastructures, and thus provide a
21 baseline against which state court policy
22 makers like yourselves could assess their own
23 systems in relation to their peers and
24 nationally recognized standards of effective
25 practices.

1 The State-of-the-States Survey also
2 examines the effectiveness of various
3 implementation strategies affecting change.
4 Finally, it provides direction for research
5 and technical assistance efforts by the Center
6 for Jury Studies.

7 As part of my presentation today, I
8 have submitted copies of the executive summary
9 of the State-of-the-States Survey and it is
10 attached to my statement.

11 Now, I will just summarize a few
12 lessons learned from the State-of-the-States
13 Survey and our various technical assistance
14 endeavors.

15 First, Table 7, which is two pages in
16 from where I'm at in my testimony, shows all
17 50 states and the District of Columbia provide
18 compensation to jurors as reimbursement for
19 out-of-pocket expenses as well as token
20 monetary recognition for the value of their
21 service.

22 Traditionally, the jury fee was a
23 flat per diem with a supplemental mileage
24 reimbursement. Recently, states have begun to
25 recognized the relationship between the amount

1 of the jury fees and the proportion of
2 citizens who are excused for financial
3 hardship and minority representation in the
4 jury pool.

5 As a result, a number of states have
6 increased jury fees, but in doing so, have
7 changed the structure of the payment system
8 from a flat daily rate to a graduated rate in
9 which jurors receive a reduced fee or no fee
10 for the first day of service, with an
11 increased fee if impaneled as a trial juror or
12 required to report for additional days.

13 Eight states and the District of
14 Columbia require certain-sized employers to
15 compensate employees for a limited period of
16 time while they are serving. And those eight
17 states and the citation to their statutes are
18 in footnote four of my statement.

19 Other states specify a minimum daily
20 fee but permit local jurisdictions to
21 supplement it. And that is shown on Table 8.

22 Over half of the courts also pay
23 mileage reimbursement with rates varying from
24 2 cents to 49 cents per mile. The median rate
25 was 32 and a half cents per mile.

1 Arizona has also implemented a trial
2 fund to compensate jurors serving on trials
3 that exceed five days for lost income, up to
4 \$300 per day, depending on the demonstrated
5 need of the juror.

6 So, in summary or just to capsulize,
7 I want to just indicate to you some of the
8 lessons we've learned from our work around the
9 country. I'm on page six of my statement
10 now.

11 First, we see that reducing the terms
12 of service and increasing juror compensation
13 are the greatest factors in reducing the rate
14 of citizens excused for hardship.

15 Next, increasing jury pay often
16 enhances the representative quality of juries
17 because more segments of the community can
18 then afford to serve.

19 When jury pay is increased, courts
20 and funding sources tend to look more closely
21 at jury utilization rates.

22 When funding is principally generated
23 at the local government level, the juror fees
24 can become an unfunded mandate on local
25 governments.

1 metrics that pertain.

2 With that, I'll stop, and I'm not
3 sure if you want to take questions now or
4 after Lynn Marks has completed her statement.

5 CHAIRMAN WALKO: Thank you, Judge. I
6 think we'll go to Lynn Marks and then together
7 you can answer questions, if that's all
8 right.

9 Thank you, Miss Marks.

10 MS. MARKS: Good morning, and thanks
11 to Representative Walko for holding this
12 hearing and permitting me to testify. And
13 thanks to sponsors Representative Waters and
14 Marsico for beginning this important
15 conversation. And I do notice that at least
16 Representatives Creighton and James have also
17 introduced in the past bills dealing with jury
18 compensation.

19 This hearing is particularly timely
20 because exactly two weeks ago Pennsylvanians
21 observed Jury Appreciate Week, which had
22 resolutions by both houses, the legislature,
23 and the House Representative Manderino was the
24 prime sponsor, and there were resolutions by
25 the governor and the chief justice.

1 And there were festivities in some
2 counties to honor jurors who serve, and I know
3 Representative Manderino was recently on a --
4 or was called but there was -- I was hoping it
5 would be during Jury Appreciation Week so she
6 could have been the speaker at Jury Appreciate
7 Day in Philadelphia.

8 I'm Lynn Marks. I'm executive
9 director of Pennsylvanians for Modern Courts.
10 We are a state-wide, nonpartisan, nonprofit
11 organization founded to improve and strengthen
12 our courts by improving the jury system, court
13 financing, reforming judicial selection
14 system, and assisting citizens in navigating
15 the courts, whether they're litigants,
16 witnesses, or jurors.

17 And our work with the jury system is
18 to -- the goals are to increase the number of
19 citizens who serve, to increase the diversity
20 of jury pools so they represent the
21 communities from which they're drawn, making
22 service more convenient, more juror friendly,
23 and working on jury appreciation activities.

24 I also chair the joint committee of
25 the Jury Services Committee of the Interbranch

1 Commission of Gender, Racial, and Ethnic
2 Fairness and the Pennsylvania Commission on
3 Justice Initiatives. And I'm a member of the
4 American Bar Association's jury committee
5 with -- on the Pennsylvania Commission
6 Committee on Gender and Racial Bias in the
7 justice system.

8 And the reason I mention all of these
9 is that all of these organizations as well as
10 Pennsylvanians for Modern Courts support
11 increased compensation for jurors.

12 And as a citizen group, another
13 reason that we advocate for increased juror
14 compensation is that jurors represent a
15 specific group, but, you know, they don't have
16 a specific constituency; they don't have a
17 natural spokesperson.

18 And the whole notion of the jury,
19 though, as a group of randomly selected
20 citizen decision makers is really a symbol of
21 America. Without dedicated juror, our justice
22 system would come to a halt.

23 Ensuring adequate compensation is not
24 only the right thing to do, but you heard from
25 the previous speaker, Judge Mize, that

1 increasing compensation reduces the rate of
2 citizens being excused for hardship, but I
3 want to point out it also reduces the rate of
4 people who just don't show up, which is a
5 problem.

6 As you've heard, jurors have received
7 \$9 a day since 1959. It was increased in 1980
8 for the \$25 a day for the fourth day and
9 thereafter, and jurors are paid 17 cents per
10 mile, as you've heard.

11 And the reason Representative
12 Manderino didn't receive money for traveling
13 was, in Philadelphia, there is no -- there is
14 no reimbursement for traveling.

15 Our system does recognize that jury
16 duty may provide an untenable burden on people
17 serving, and so there is a excusal for extreme
18 inconvenience or undue hardship, and that
19 includes economic hardship. But certainly,
20 jury duty should not be a financial windfall
21 to anyone, but at the same token, it should
22 not impose a financial hardship on anyone.

23 I haven't heard anybody who is
24 opposed to the idea of increasing juror
25 compensation for citizens to perform for their

1 civic duty. I think the bottom line, though,
2 is who's going to pay for it. And the
3 challenge is to make sure it's accomplished in
4 a fiscally responsible way.

5 You've heard from the previous
6 speakers and the sponsors about the two bills,
7 so I'm not going to go into that part of my
8 testimony, analyzing the bills. But the
9 reality is, as you've heard, increased
10 compensation does create an increased burden
11 on both the state and the county budgets,
12 particularly on the counties.

13 We strongly believe that the
14 government should increase juror pay, but as
15 we know, there's resistance from governments,
16 particularly county governments to increase
17 juror compensation because of the additional
18 burdens on their budget, so what I'd like to
19 do is to use my remaining time talking about
20 some innovative funding plans that some other
21 states have used in order to allow them to
22 increase juror compensation. And some of
23 these may or may not work in Pennsylvania, and
24 there might be others as well.

25 First is not paying for the first day

1 of service so that there's more money left in
2 the pot to increase the amount for longer
3 service. Of course, there are down sides to
4 that as well.

5 There's increasing filing fees or
6 fees assessed on the parties or even, in some
7 states, driver license filing fees. Some
8 states increase fines for those who --
9 increase their pool by increasing fines for
10 those who don't show up for jury duty and also
11 implementing lengthy trial fund programs. For
12 more information on all these, I suggest that
13 you turn to the National Center for State
14 Courts.

15 In addition, it may be productive to
16 retain but amend the current practice of using
17 different rates of compensation depending on
18 length of service. And there's several ways
19 to accomplish this.

20 Pennsylvania could eliminated pay for
21 the first day of service, as I said, and then
22 establish one for, let's say, two to three
23 days, and then increase it even more for
24 trials which are -- which go on beyond three
25 days.

1 However, jurors could, serving one
2 day, could receive reimbursement for
3 reasonable out-of-pocket expenses such as
4 transportation, parking, meals, and some
5 places, maybe, child care.

6 Many would not seek reimbursement at
7 all for that first day, just as you heard from
8 Representative Walko, who didn't use his \$9,
9 and in some counties, I know particularly in
10 Allegheny County, where they do have, as
11 you've heard from Representative Walko, a jury
12 donation program where people can give their
13 money back, and that way it goes into a pool
14 and the county can use it for jurors
15 services.

16 Elsewhere, money has been generated
17 by the imposition of new fees on court users,
18 such as \$5 civil case filing fee to be paid in
19 to the compensation fund. But as policy
20 makers, before you do that, I would just
21 encourage you to consider the impact on
22 low-income people and the increase that puts
23 on the price of access to justice.

24 Also, I mentioned before, driver's
25 license fees. One state has collected much

1 more money than they expected from fees paid
2 for the reinstatement of driver's license.

3 And I don't want to let you all off
4 the hook by not increasing juror compensation,
5 but there are ways, in addition to just
6 increasing the fee, that steps can be taken to
7 ease the financial burden on jurors.

8 You've heard already about a tax
9 credit for businesses and making employers
10 responsible for at least part of juror
11 compensation. Of course, that doesn't deal
12 with everybody. Not everybody is employed or
13 is in a different category or they're self-
14 employed.

15 I'll let you know that the
16 Pennsylvania Supreme Court Committee on Gender
17 and Racial Bias in the justice system did
18 support legislation to require employers to
19 pay for service, but the joint commission in
20 2003 of Minority Representation and Jury
21 Selection did not support that but thought it
22 should be -- thought it should be voluntary.

23 There also could be help with
24 childcare costs, because childcare can be so
25 expensive, and at least two counties I know

1 have established a childcare facility in the
2 courthouses, and in some jurisdictions across
3 the country, courts have arrangements with
4 offsite childcare programs.

5 Also, reducing transportation and
6 parking costs. Some courts or county
7 officials could be seeking free or discounted
8 parking and public transportation. And the
9 same thing goes for meals for jurors, either
10 paying for them or reimbursement.

11 So, again, thank you for allowing me
12 to submit this testimony. Of course, the
13 biggest hurdles are deciding not only how the
14 extra money should be raised to fund the
15 increase, but how the state and/or the
16 counties should shoulder the cost.

17 In other states, it's the state or
18 the county that pays. As we know, we are kind
19 of an unusual situation there with our split
20 county/state reimbursement.

21 So, I think significant political
22 will would be necessary, and I hope that today
23 is the first step in that direction.

24 Thank you.

25 CHAIRMAN WALKO: Thank you, Miss

1 Marks.

2 Now, I guess together you would be
3 willing to answer questions.

4 Are there any questions?

5 Chairman Marsico -- I mean, Chairman
6 Caltagirone.

7 REPRESENTATIVE CALTAGIRONE: Why, one
8 thing I just want to share with the members
9 especially and you all that are here, is that
10 I just don't think we should ad any more
11 costs. We were just at the AOPC yesterday and
12 we were talking about what's reasonable and
13 what isn't reasonable as far as collections,
14 and I just keep thinking, it's like a layer
15 cake. We keep adding more and more.

16 You know, in reality, they're not
17 collecting it, in many cases, and I get a
18 little, you know, queasy when we start talking
19 about that because there's got to be other
20 ways, and I do like other suggestions, by the
21 way. I think that they're very original and
22 should be certainly considered.

23 And I do believe -- I want to just
24 come back to it -- the responsibility of this
25 commonwealth. It's our responsibility. We

1 ought to be paying that. And whatever it
2 takes as far as -- how many times I say it --
3 level the playing field. We shouldn't be
4 taking our own people back home in our
5 counties the responsibility.

6 It's the state's responsibility. We
7 need to bite the bullet and do the right thing
8 here. And whether or not, you know, the
9 counties going to afford the some assistance
10 with either free parking or some other venues
11 that had been suggested, I think it would
12 supplement that.

13 But I absolutely think that the
14 commonwealth should accept the
15 responsibilities and just do it.

16 Thank you both for testifying.

17 CHAIRMAN WALKO: Questions?

18 I do have a brief question regarding,
19 you know, Mrs. Marks noted childcare
20 services.

21 Are any courts in Pennsylvania
22 providing childcare services?

23 MS. MARKS: I know that Montgomery
24 County and Allegheny County offer childcare
25 for jurors, and that there is a Statute 42

1 Pennsylvania Consolidated Statute Section 3721
2 which allows for start-up and operating costs
3 for such facilities, so I encourage other
4 counties to look into that.

5 CHAIRMAN WALKO: Thank you.

6 MS. MARKS: There's all kinds of
7 issues about liability which has been raised
8 by some, but Allegheny County is a model
9 that's dealt with that.

10 CHAIRMAN WALKO: Thank you.

11 Judge Mize, of all the states you've
12 studied and different set-ups, which would be
13 the state-of-the-art best case, best set-up
14 that you would recommend that we look into?

15 JUDGE MIZE: That's a difficult
16 question to answer because the one thing
17 that's come home to me in the last four years
18 in gathering data across the country to
19 conclude the State-of-the-States Survey is how
20 different the cultures are state to state, and
21 I'm sure here in Pennsylvania, county to
22 county. You know what's good for the hill
23 country was not good for the urban setting.
24 There's all sorts of factors.

25 That said, I think that the nation

1 has learned more from Arizona than any other
2 state in the nation. Starting in the mid
3 1990s, they created a commission of judges and
4 lawyers to study how they do jury trials in
5 Arizona.

6 And with the leadership of a very
7 creative and, I think, courageous judge, a
8 report called The Power of Twelve was
9 delivered to the Arizona Supreme Court. And
10 it's like all of the stars line up, because
11 the chief justice of the Arizona Supreme Court
12 at that time was very welcoming of the series
13 of recommendations that really sought to
14 empower jurors.

15 A large part of the recommendation
16 happens to be what happens in the courtroom
17 during trial, but there were also outside-the-
18 courtroom reforms about jury compensation and
19 summoning procedures.

20 But the series of recommendations
21 which included were giving jurors a Bill of
22 Rights and included the ability to ask written
23 questions of witnesses that are vetted by the
24 judge and the lawyers before they're ever
25 asked. That was one of the empowering

1 recommendations.

2 It gets to the Arizona Supreme
3 Court. Within six months, the Arizona Supreme
4 Court amended the Rules of Criminal Procedure
5 and Civil Procedure for all trials throughout
6 the state, and many of these recommendations
7 became the practice beginning in the mid
8 1990s.

9 The Arizona legislature had to deal
10 with other issues involving compensation. The
11 Arizona legislature is the one that created,
12 in relatively recent time, this lengthy-trial
13 funds that I referenced in my statement.

14 So that is one state that it just --
15 things fit. They get it done, and there's an
16 eagerness and there's leadership to get it
17 done, and I highlight that one.

18 CHAIRMAN WALKO: Thank you.

19 Are there other questions or
20 comments?

21 Thank you very much.

22 Okay. We are a little wee bit ahead
23 of schedule.

24 Mr. Nevin Mindlin, legislative
25 director of the Pennsylvania Bar Association.

1 Thanks again for being here. And this is a
2 follow-up to your suggestion at lunch back
3 around Christmas at the El Sol; remember?

4 MR. MINDLIN: I do remember that, and
5 I want to thank you and Chairman Creighton
6 and -- Chairman Caltagirone and Chairman
7 Marsico and other members of the committee who
8 are here for actually doing this. I think
9 this is an excellent start at addressing this
10 issue, which is truly an important issue.

11 The Pennsylvania Bar Association
12 stands in support of House Bill 601 and House
13 Bill 1356, both of which would increase the
14 compensation to jurors.

15 Service on a jury is arguably one of
16 the most important functions that citizens are
17 asked to provide in the constitutional
18 democracy. As one commentator has noted, it
19 joins paying taxes and selective service
20 registration as the only public service
21 obligations in the United States today. This
22 juror service obligation is not surprising, as
23 judiciary is a fundamental part of a
24 constitutional democracy.

25 The jury, in turn, is a fundamental

1 part of the judicial system. The jury
2 connects citizens with government and lets
3 them have a direct part in the functioning of
4 the judicial branch.

5 I would add, while judges are the
6 sole determiners of the law, the jury is the
7 sole judge of the facts and the application of
8 the law to those facts.

9 We invest awesome power in the jury,
10 the power to resolve disputes between parties
11 in civil cases, disputes that the parties
12 themselves cannot resolve, and the power to
13 determine guilt or innocence in criminal
14 cases.

15 The jury, in our democracy, is
16 protector of our of rights and liberties, the
17 protector of our life, liberty, and property.
18 Simply, jury participation empowers citizens
19 and democratizes the courts.

20 The current rate of juror
21 compensation, the purpose of which is not,
22 strictly speaking, to pay jurors for their
23 work, but rather to offset costs incurred when
24 serving as a juror, either in lost time or
25 wages, or to offset money jurors must spend in

1 order to serve in terms of travel, parking,
2 meals, et cetera, is clearly not commensurate
3 with its importance.

4 Too often, citizen make efforts to
5 avoid jury service because the lost time is
6 simply too great.

7 In light of Act 37 of 2007, supported
8 by the Pennsylvania Bar Association, which
9 provides for diversity in the selection of
10 prospective jurors, it is all the more
11 important to make jury compensation realistic,
12 permitting those living week to week on their
13 salary or wage as well as others to afford to
14 serve.

15 Such an increase in compensation will
16 make it less likely that citizens will seek
17 exemption from or make excuses to avoid jury
18 service. As a result, there may be an
19 important -- there may be an improvement in
20 the representative nature of the panels from
21 which jurors are selected.

22 Moreover, if jurors receive more
23 realistic compensation, they may experience
24 greater satisfaction with the jury process.
25 And a satisfied juror is more likely to be a

1 better juror.

2 Citizens may also perceive that jury
3 service more worthwhile to the justice system.
4 This perception, coupled with greater juror
5 satisfaction, will translate into a deeper
6 commitment by the citizenry to the civil and
7 criminal justice system.

8 While it is incorrect to view a
9 juror's service as work, so to speak, as
10 opposed to public service, it is clear that
11 citizens' perception of the importance of
12 service on a jury is partially affected by the
13 sum of money received as compensation for so
14 serving.

15 One who receives \$9 per day will be
16 less likely to place a substantial value on
17 their contribution to society, while one who
18 receives realistic compensation will be more
19 likely to place a greater value on their
20 contribution to our judicial system.

21 The end goal is for jury service to
22 be perceived as a public service as opposed to
23 a burden to be avoided. Constitutionally, the
24 courts could not function without jurors.

25 We need recognition that jury duty is

1 a fundamental function of the democracy, and
2 as such, jury duty deserves priority treatment
3 in securing adequate funding for jury
4 participation.

5 For this reason, the Pennsylvania Bar
6 Association, consisting of 29,000 Pennsylvania
7 attorneys, supports House Bill 601 and House
8 Bill 1356, and we thank you very much for this
9 opportunity to testify.

10 CHAIRMAN WALKO: Thank you,
11 Mr. Mindlin.

12 Do we have any questions or comments
13 from members of the panel?

14 Doesn't seem to. Deeply appreciate
15 your thoughts and your ongoing efforts
16 regarding these initiatives.

17 MR. MINDLIN: And we very deeply
18 appreciate your willingness to take up this
19 issue, because it is a very important one to
20 our democracy. Thank you very much.

21 CHAIRMAN WALKO: Thank you.

22 Are there any other questions of any
23 of the former testifiers who remain in the
24 room?

25 Ms. Manderino.

1 REPRESENTATIVE MANDERINO: More as a
2 comment, if I may, Mr. Chairman.

3 I would like to see us, as I'm sure
4 is your intent, kind of figure out, based on
5 what we heard today, the suggestions, the two
6 bills, and even past bills, some sort of our
7 best effort at what we think we can get passed
8 and really try to move it.

9 So having said that, I think if I --
10 to the extent that I guess it would be a
11 request to Doug Hill and maybe, Dave, if you
12 can help us on the AOPC side, really think our
13 first step is to get a handle on what it's
14 costing us now, so that we can -- because
15 really, it's all going to come down to what we
16 craft is going to be all about what we think
17 we can sell in terms of the money.

18 But I personally like the suggestion
19 that -- a couple of the combined suggestions
20 that were made from the judge about the --
21 considering the tax credit idea for longer
22 service and, for Mr. Hill, about considering
23 kind of functionally moving this cost to the
24 state. And getting those numbers would be a
25 very good starting place.

1 CHAIRMAN WALKO: I agree with Miss
2 Manderino.

3 Chairman Marsico?

4 REPRESENTATIVE MARSICO: Thank you,
5 Mr. Chairman.

6 I concur with Representative
7 Manderino. We should take further steps to
8 examine this whole compensation issue.

9 Just to put things in a perspective,
10 that the criminal -- the Pennsylvania judicial
11 system receives about 1 percent of the -- will
12 receive with this proposed budget, 1 percent
13 of the entire budget, and obviously that's a
14 very small price to pay for the efficient
15 administration of justice throughout our
16 state. And that we should -- we should stress
17 and we should move forward and try to increase
18 that percentage so there is a fair and also a
19 balanced approach to this whole justice budget
20 and -- for our state.

21 So I agree that we should move on,
22 move forward with those folks that have come
23 forward, maybe should work some things out,
24 and obviously we don't want to put half the
25 burden or 30 percent of the burden on the

1 county, but, you know, I think we need to work
2 some things out for the revenue projections
3 that are coming in and work on that from now
4 on.

5 Thanks.

6 CHAIRMAN WALKO: Thank you,
7 Mr. Chairman.

8 I do agree with both. I think we
9 should consider specific amendments as we go
10 through the budget process in June. I
11 remember Justices Saylor and Baer testifying
12 that it's obvious we are not adequately
13 funding the court system now. And I think we
14 should move as part and parcel of that would
15 be the jury process, that we should move
16 forward on that as we go through the June
17 budget marathon.

18 Any further questions or comments?

19 Marathon, but the marathon has an
20 ending, like June 30.

21 Any further comments or questions?

22 MR. LANE: I would like to help the
23 chairman. It is .6 of 1 percent.

24 CHAIRMAN WALKO: It is .6, not 1
25 percent, of the state budget.

1 All right. Do I have a --

2 REPRESENTATIVE MARSICO: Is that for
3 the whole system or just the jurors?

4 MR. LANE: The whole system, the
5 whole system, the whole -- the courts
6 percentage of that is .06 percent.

7 REPRESENTATIVE MARSICO: Oh, .6.

8 MR. LANE: Of 1 percent.

9 CHAIRMAN WALKO: Thank you very
10 much. This hearing is adjourned.

11 11:20 a.m.

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15 (Whereupon, the following was
16 submitted for the record in written form.)

17 The Pennsylvania State Association of
18 Jury Commissioners, Louise Hildebrand,
19 President, May 19, 2008.

20 Dear Sir: It is with great pleasure
21 that I am writing this letter in support of
22 this hearing to discuss a change in the pay
23 awarded to jurors in Pennsylvania.

24 House Bill 601 and 1356 address this
25 issue using two different approaches. It is

1 obvious to anyone that the present pay of \$9
2 per day and \$25 per day after three days of
3 service is no longer acceptable.

4 The cost of mileage, at 17 cents a
5 mile, is even more unacceptable, considering
6 the drastic rise in the cost of gasoline.

7 However, we, as jury commissioners,
8 do recognize the impact an increase in jurors'
9 pay would have on the already heavily
10 encumbered budgets of counties throughout
11 Pennsylvania and the budget of Pennsylvania
12 itself.

13 As far as the interest we as jury
14 commissioners in 58 counties have in this
15 issue, it is only the impact that any increase
16 in compensation for jurors would make in our
17 jobs of selecting jurors. Without question,
18 enough of the citizens of Pennsylvania who are
19 ultimately summoned to court react positively
20 and serve admirably.

21 However, there are many others who
22 are truly inconvenienced by the lost wages
23 when they are self-employed or they do not
24 have the benefit of their employers who
25 continue to pay their wages as they serve.

1 Anymore, \$9 a day barely covers the cost of
2 lunch or dinner, if required.

3 Written on the tens of thousands of
4 affidavits completed by potential jurors,
5 which we a jury commissioners read each year,
6 the question of pay surfaces on many of them.
7 Many indicate that only retirees, unemployed
8 individuals, or public-assistance recipients
9 should serve.

10 Of course, that is unrealistic and
11 unacceptable. Of those people who comment,
12 many serve out of duty with little further
13 question. However, it does cause real
14 financial hardship in other instances.

15 These are real questions that have to
16 be dealt with when it comes to choosing jurors
17 whether for one day, several days, or in much
18 rarer situations, for a week or even longer.

19 The Pennsylvania State Association of
20 Jury Commissioners supports an increase in
21 jurors' pay that is fair and reasonable. We
22 do understand the budgetary restraints of the
23 entities involved, and the efforts they are
24 making to resolve this issue.

25 Pennsylvanians are civic-minded

1 individuals who recognize their duty when
2 called but deserve some form of fair
3 compensation for their time and expenses.

4 Sincerely, Louise Hildebrand,
5 President, PA State Association of Jury
6 Commissioners, Indiana County Jury
7 Commissioner, phone 724-464-4119, email
8 mdellafio@aol.com.

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

BRENDA J. PARDUN, RPR
Court Reporter/Notary Public