

INTERBRANCH COMMISSION ON JUVENILE JUSTICE

Opening Statement of the Hon. John M. Cleland, Commission Chair

October 14, 2009

Good morning. I am John M. Cleland, a judge of the Superior Court of Pennsylvania and Chair of the Interbranch Commission on Juvenile Justice.

This morning our Commission begins its public hearings to assess the breathtaking collapse of the juvenile justice system in Luzerne County.

It is our intention to shine light onto some very dark days of the Pennsylvania judiciary – days that have disrupted the lives of children and their families; brought shame to an entire community; and sewn seeds of distrust throughout the legal system.

Two judges stand criminally charged for conduct that had the unmistakable effect of harming children. Whether they are guilty or innocent of any specific criminal charge brought by the United States Attorney is not for this Commission to decide. But, there is little doubt that their conduct, whether criminal or not, had disastrous consequences for the juvenile justice system that must be understood and prevented from happening again.

Our focus is on developing recommendations to improve Pennsylvania's juvenile justice system. That is the task the Legislature defined for us. It is not within the scope of what we have been asked to do to conduct a criminal investigation, or to pursue allegations of other misconduct in the courts or governmental entities of Luzerne County, except as those may relate to our mission of improving the juvenile justice system.

Our concern, however, is not only the action of two Luzerne County judges. Our concern is also the inaction of others. Inaction by judges, prosecutors, public defenders, the defense bar, public officials and private citizens -- those who knew but failed to speak; those who saw but failed to act.

Our concern is also the inaction of those who would have acted but did not have the tools needed to assess the information that might have been an early warning of the system's breakdown.

All of those involved -- whether by action, inaction or silence -- whether by willful choice or benign ignorance -- engaged in an assault on the fairness and impartiality of our legal system. It was an assault on the very rule of law.

This is a serious matter indeed, because an attack on the rule of law is an attack on democracy itself. The sense of community that underlies democratic government is sustained by the sure faith that law will be applied uniformly and fairly, without fear or favor, or corruption.

Judges, prosecutors, and defense attorneys serve as officers of the court, servants of the high calling of the pursuit of justice. When that noble service is diverted to improper ends, however, we all suffer the consequences.

But, we must remember it is not only members of the Bar who are called to pursue justice. Every citizen bears that burden, every citizen shares that responsibility, because in a democracy the pursuit of justice is the essence of civic obligation.

The Interbranch Commission on Juvenile Justice was created in August by an act passed by the Legislature and signed into law by the Governor. Its impetus was an effort among the three branches of government – the judicial, the legislative, and the executive

– to learn what happened to cause such harm in the juvenile justice system in Luzerne County, to develop the means to prevent it from happening again or from happening in other courts of the Commonwealth, and to begin to repair the damage to public trust this scandal has caused.

Eleven members of the Commission have been appointed: three by the Governor, four by the Legislature, and four by the Chief Justice.

The members of the Commission are:

- ◆ Tod C. Allen, Director of Court Advocacy, the Crime Victim Center, Erie County;
- ◆ Valerie Bender, Senior Research Associate at the National Center for Juvenile Justice in Pittsburgh;
- ◆ Kenneth J. Horoho, a Pittsburgh attorney and former President of the Pennsylvania Bar Association;
- ◆ Magisterial District Judge James A. Gibbons from Lackawanna County;
- ◆ Jason J. Legg, District Attorney of Susquehanna County;
- ◆ Robert L. Listenbee, Chief of the Juvenile Unit of the Defender Association of Philadelphia;
- ◆ George D. Mosee, Jr., Chief of the Juvenile Division and Deputy District Attorney of Philadelphia;
- ◆ Judge John C. Uhler, a judge of the Court of Common Pleas of York County, and former President Judge of the Court;
- ◆ Ronald P. Williams, Regional Director of the Pennsylvania Department of Agriculture;

- ◆ Judge Dwayne D. Woodruff, a juvenile court judge from Allegheny County.

In late August we met together for two days to organize the Commission and to begin to prepare for our public hearings. We continued our preparatory work for two days in September, and met again last night.

Ours is a complex task. There is no precedent that provides guidance about how to proceed with anything we are being asked to do. No such commission has ever been created in Pennsylvania to assess a scandal of this kind and of this proportion. We are taking this step by logical step. We approach this task with a realistic view of its complexity and its importance.

We intend to act quickly to collect information about what happened in the Luzerne County juvenile justice system, and to develop recommendations for appropriate changes in law, rules of court, governmental regulatory oversight, and ethical and disciplinary enforcement.

In addition to our hearing today, we will hold two days of hearings in Wilkes Barre on November 9 and 10. Other days have also been reserved for subsequent hearings which will be announced later.

We will conduct our hearings and adopt our final recommendations in public, to the extent we can do so without interfering with ongoing criminal or other governmental investigations.

We view public action as a first step in assuring that the veil of darkness that has permitted this scandal to develop will be lifted.

We intend to hear from witnesses today who can provide background information that will be useful to us as we begin next month to take testimony about the specifics of the Luzerne County juvenile system.

Representative Todd Eachus and Senator Lisa Baker were the prime sponsors of the legislation which created this Commission and we welcome their presence here this morning.

Luzerne County President Judge Chester Muroska, since becoming President Judge earlier this year, has received plaudits for his work in leading the reform efforts underway in the Luzerne County court system.

Philadelphia Deputy District Attorney John Delaney will provide background information about how the juvenile justice system is supposed to work, if the Rules of Juvenile Procedure as adopted by the Pennsylvania Supreme Court are properly applied.

And in the afternoon session we will hear from Carl D. Buchholz, Vice-chair of the Disciplinary Board of the Supreme Court of Pennsylvania, who will discuss the ethical obligations of attorneys.

We had anticipated that today we would also receive testimony from a representative of the Judicial Conduct Board. That testimony, however, will be deferred until a later hearing. That will give the Interbranch Commission and the Judicial Conduct Board the opportunity to address the scope of what the Board may legally reveal to us in light of the provisions of Article V of the Pennsylvania Constitution which requires the Judicial Conduct Board to maintain confidentiality regarding its proceedings until a formal complaint is filed with the Court of Judicial Discipline.

Next month, as our hearings move to Luzerne County, we will hear from Senior Judge Arthur Grim who was appointed by the Supreme Court as a special master to address juvenile justice cases. We will hear from those who directly participated in the juvenile court hearings. And, most important, we hope to hear from the children themselves, and their families, about what happened to them. Their testimony will help us glean an insight into the dark consequences of a breakdown of the rule of law. To date, however, attorneys for the juveniles involved in the class action litigation have told us they will advise the children not to appear and testify.

We also request that anyone who can provide information useful to us to contact the Commission through the contact information which appears on our website: www.pacourts.us, and click on the ‘for the public’ tab. Notices that will also appear in Luzerne County newspapers.

