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INTERBRANCH COMMISSION ON JUVENILE JUSTICE
PUBLIC HEARING

BEFORE: HONORABLE JOHN M. CLELAND, CHAIRMAN
KENNETH J. HOROHO, JR., MEMBER
HONORABLE JOHN C. UHLER, MEMBER
JASON J. LEGG, ESQUIRE, MEMBER
TOD C. ALLEN, MEMBER
HONORABLE DWAYNE D. WOODRUFF, MEMBER
HONORABLE JAMES A. GIBBONS, MEMBER
ROBERT L. LISTENBEE, ESQUIRE, MEMBER
GEORGE D. MOSEE, JR., ESQUIRE, MEMBER
RONALD P. WILLIAMS, MEMBER

DATE: MAY 27, 2010, 10:00 A.M.

PLACE: PENNSYLVANIA JUDICIAL CENTER
601 COMMONWEALTH AVENUE
HARRISBURG, PENNSYLVANIA

APPEARANCES:

BY: DARREN BRESLIN, ESQUIRE
FOR - COMMISSION

DONNA E. GLADWIN, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN CLELAND: Good morning. Today we are meeting
2 for what we expect will be the last public hearing of the
3 Interbranch Commission on Juvenile Justice. And the purpose of
4 our meeting today is to adopt our report and recommendations,
5 and then to submit them to the Governor, the Chief Justice of
6 Pennsylvania, and the legislative leadership which formed this
7 Commission.

8 I'm joined at the table this morning by the other
9 members of the Commission, Tod C. Allen, Director of Court
10 Advocacy of the Crime Victim Center in Erie County; Kenneth J.
11 Horoho, a Pittsburgh attorney and former president of the
12 Pennsylvania Bar Association; Magisterial District Judge James
13 A. Gibbons from Lackawanna County; Jason J. Legg, the District
14 Attorney of Susquehanna County; Robert L. Listenbee, Chief of
15 the Juvenile Unit of the Defender Association of Pennsylvania;
16 George D. Mosee, Chief of the Juvenile Division and Deputy
17 District Attorney of Philadelphia; Judge John C. Uhler, a judge
18 of the Court of Common Pleas of York County and former
19 President Judge of that court; Ronald P. Williams, Regional
20 Director of the Pennsylvania Department of Agriculture; Judge
21 Dwayne D. Woodruff, a juvenile court judge from Allegheny
22 County; and Darren Breslin, counsel to the Commission.

23 Our final Commissioner, Valerie Bender, is a private
24 consultant on juvenile justice issues from Pittsburgh, and she
25 is unable to be with us today because of a death in the family.

1 Our report, to those of you who now have it in hand,
2 will see that it consists of five parts, an introduction, a
3 narrative, which is a comprehensive statement detailing what we
4 believe happened in Luzerne County that gave rise to the
5 juvenile justice scandal resulting in the creation of this
6 Commission, a summary of our proceedings, a series of
7 recommendations to address the issues that we have identified,
8 and finally, a conclusion in which we reflect on what happened
9 in Luzerne County and its meaning for the larger system of
10 justice in Pennsylvania.

11 The statute creating this Commission requires that our
12 recommendations be adopted at a public hearing. The work of
13 the Commission is not covered by either the Sunshine Act or the
14 Open Meetings Law. Nevertheless, we have tried to be as
15 transparent as possible by holding our public hearings and
16 taking testimony and posting all of the proceedings on the --
17 of the Commission on the Administrative Office of Pennsylvania
18 Courts website.

19 So while there's no debate or discussion this morning,
20 or at least I don't anticipate that there will be any, it's
21 because each of the Commissioners has previously carefully
22 reviewed at length the report and the various recommendations
23 that we are about to vote on.

24 To expedite the proceedings we will not be voting
25 individually on the 43 plus recommendations that we are making,

1 but we will be voting on those recommendations by category of
2 the some 20 categories that are summarized in our report.

3 With that we will begin consideration of the
4 recommendations regarding crime victims. The creation of the
5 statewide office of Juvenile Justice Victim Advocate, the
6 restoration of funding for the Victims of Juvenile Offenders
7 Program to 2005 levels, and the creation of a Luzerne County
8 Victims of Juvenile Crime Restitution Fund to pay restitution
9 to those original victims whose orders of restitution were
10 expunged.

11 Is there a motion that we adopt those three
12 recommendations?

13 MR. WILLIAMS: So moved.

14 CHAIRMAN CLELAND: Is there a second?

15 JUDGE GIBBONS: Second.

16 CHAIRMAN CLELAND: All those in favor say aye.

17 (All Commission members indicate aye.)

18 CHAIRMAN CLELAND: We'll turn to the section regarding
19 judicial ethics, which recommends that the Supreme Court
20 re-examine the Code of Judicial Conduct to ensure ethical
21 provisions and reporting requirements are adequate.

22 Is there a motion to adopt that recommendation?

23 JUDGE WOODRUFF: So moved.

24 JUDGE UHLER: Second.

25 CHAIRMAN CLELAND: Any discussion?

1 (No response.)

2 CHAIRMAN CLELAND: All in favor say aye.

3 (All Commission members indicate aye.)

4 CHAIRMAN CLELAND: Opposed?

5 (No response.)

6 CHAIRMAN CLELAND: Regarding the issue of judicial
7 discipline, there are short term and long term recommendations.
8 The short term recommendations involve reviewing and revising
9 the recently adopted Judicial Conduct Board Internal Operating
10 Procedures, reviewing the role and independence of the Judicial
11 Conduct Board staff as regards the Judicial Conduct Board
12 members, to revise and enhance the Judicial Conduct Board
13 annual reports, to revise and enhance the Judicial Conduct
14 Board website, and to ensure that judges and lawyers are aware
15 of the ethical responsibility to report misconduct, and to
16 develop educational materials so the general public is aware of
17 how to report judicial misconduct.

18 And the longer term recommendation being to review the
19 Pennsylvania constitutional provisions regarding judicial
20 discipline to ensure that standards of accountability for the
21 Judicial Conduct Board are in place.

22 Is there a motion to adopt those recommendations?

23 MR. ALLEN: I make that motion.

24 CHAIRMAN CLELAND: Mr. Allen. Is there a second?

25 MR. LISTENBEE: I second it.

1 CHAIRMAN CLELAND: Mr. Listenbee. Any discussion?

2 (No response.)

3 CHAIRMAN CLELAND: All in favor say aye.

4 (All Commission members indicate aye.)

5 CHAIRMAN CLELAND: Opposed?

6 (No response.)

7 CHAIRMAN CLELAND: Turning to the issue regarding
8 attorney discipline. There are three recommendations. First,
9 to create educational programming to ensure the bar and the
10 general public understand what constitutes attorney misconduct,
11 to revise and enhance the Attorney Disciplinary Board website,
12 and to increase and enhance attorney continuing legal education
13 ethics requirements.

14 Is there a motion to adopt those recommendations?

15 JUDGE UHLER: So moved.

16 CHAIRMAN CLELAND: Second?

17 MR. LISTENBEE: So seconded.

18 CHAIRMAN CLELAND: All in favor say aye.

19 (All Commission members indicate aye.)

20 CHAIRMAN CLELAND: Opposed?

21 (No response.)

22 CHAIRMAN CLELAND: Regarding continuing education,
23 four recommendations. The Commission endorses the training
24 standards adopted by the Pennsylvania District Attorney's
25 Association and the Juvenile Defender's Association of

1 Pennsylvania.

2 It recommends that the District Attorney and
3 Defender's Association develop and present continuing legal
4 education courses for both prosecutors and defense counsel,
5 that continuing legal education should be mandatory for judges,
6 masters, and hearing officers who handle juvenile justice
7 cases, and emphasis should be placed on the importance of
8 working in the field of juvenile justice.

9 Is there a motion to adopt those recommendations?

10 JUDGE GIBBONS: So moved, Mr. Chairman.

11 CHAIRMAN CLELAND: Second?

12 MR. HOROHO: Second.

13 CHAIRMAN CLELAND: Any discussion?

14 (No response.)

15 CHAIRMAN CLELAND: All in favor say aye.

16 (All Commission members indicate aye.)

17 CHAIRMAN CLELAND: Opposed?

18 (No response.)

19 CHAIRMAN CLELAND: Turning to the section regarding
20 juvenile prosecutors. The Pennsylvania District Attorney's
21 Association standards for prosecutors in juvenile court should
22 be implemented and resources needed to achieve them should be
23 adequately funded.

24 Is there a motion to adopt that recommendation?

25 MR. MOSEE: So moved.

1 CHAIRMAN CLELAND: Second?

2 MR. LEGG: Second.

3 CHAIRMAN CLELAND: All in favor say aye.

4 (All Commission members indicate aye.)

5 CHAIRMAN CLELAND: Opposed?

6 (No response.)

7 CHAIRMAN CLELAND: Regarding juvenile defense lawyers,
8 three recommendations. First, creating a state-based funding
9 stream for indigent juvenile defense, creation of a Center For
10 Juvenile Defense Excellence, and ensuring access to defense
11 counsel by deeming all juveniles indigent for purposes of
12 appointing counsel, and by restricting the right of juveniles
13 to waive counsel, and by requiring standby counsel if the
14 juvenile waives counsel.

15 Is there a motion to adopt those recommendations?

16 MR. LISTENBEE: So moved, Mr. Chairman.

17 CHAIRMAN CLELAND: Is there a second?

18 MR. ALLEN: I second it.

19 CHAIRMAN CLELAND: Any discussion?

20 (No response.)

21 CHAIRMAN CLELAND: All in favor say aye.

22 (All Commission members indicate aye.)

23 CHAIRMAN CLELAND: Any opposed?

24 (No response.)

25 CHAIRMAN CLELAND: Regarding the ethics for juvenile

1 probation officers. The Chief Juvenile Probation Officers
2 Association and all county Probation Departments should adopt
3 standards of conduct as well as rules prohibiting partisan
4 political activities for all employees.

5 Is there a motion to adopt that recommendation?

6 JUDGE UHLER: So moved.

7 CHAIRMAN CLELAND: Second?

8 MR. WILLIAMS: Second.

9 CHAIRMAN CLELAND: Any discussion?

10 (No response.)

11 CHAIRMAN CLELAND: All in favor say aye.

12 (All Commission members indicate aye.)

13 CHAIRMAN CLELAND: Any opposed?

14 (No response.)

15 CHAIRMAN CLELAND: Regarding court hiring practices.

16 The Court Administrator of Pennsylvania should undertake a
17 national review to determine best practices for hiring -- for
18 court hiring policies and present the findings of that study to
19 the Supreme Court of Pennsylvania for review.

20 Is there a motion to adopt that recommendation?

21 JUDGE GIBBONS: So moved, Mr. Chairman.

22 CHAIRMAN CLELAND: Second?

23 MR. HOROHO: Second.

24 CHAIRMAN CLELAND: Any discussion?

25 (No response.)

1 CHAIRMAN CLELAND: All in favor say aye.

2 (All Commission members indicate aye.)

3 CHAIRMAN CLELAND: Opposed?

4 (No response.)

5 CHAIRMAN CLELAND: Regarding continuing Supreme Court
6 oversight. It is the recommendation of the Commission that
7 continuing oversight of the Luzerne County Juvenile Justice
8 System be maintained.

9 Is there a motion to adopt that recommendation?

10 MR. WILLIAMS: So moved.

11 CHAIRMAN CLELAND: Second?

12 MR. HOROHO: Second.

13 CHAIRMAN CLELAND: Any discussion?

14 (No response.)

15 CHAIRMAN CLELAND: All in favor say aye.

16 (All Commission members indicate aye.)

17 CHAIRMAN CLELAND: Opposed?

18 (No response.)

19 CHAIRMAN CLELAND: Regarding the use of data and
20 statistics. It is recommended to ensure that adequate
21 resources are available for the Juvenile Court Judges
22 Commission to collect appropriate juvenile justice data and
23 conduct additional data analysis. And second, that enhanced
24 data collection and data sharing among various entities that
25 collect data regarding the juvenile justice system.

1 Is there a motion to adopt those recommendations?

2 MR. HOROHO: So moved.

3 CHAIRMAN CLELAND: Second?

4 MR. LEGG: Second.

5 CHAIRMAN CLELAND: Any discussion?

6 (No response.)

7 CHAIRMAN CLELAND: All in favor say aye.

8 (All Commission members indicate aye.)

9 CHAIRMAN CLELAND: Opposed?

10 (No response.)

11 CHAIRMAN CLELAND: Regarding stating dispositional
12 reasons on the record. It is recommended that we revise the
13 statutes and Rules of Court to require judges to state on the
14 record how a juvenile disposition furthers the goals of the
15 Juvenile Act.

16 Is there a motion to adopt that recommendation?

17 MR. LISTENBEE: So moved, Mr. Chairman.

18 CHAIRMAN CLELAND: Second?

19 JUDGE UHLER: Second.

20 CHAIRMAN CLELAND: Any discussion?

21 (No response.)

22 CHAIRMAN CLELAND: All in favor say aye.

23 (All Commission members indicate aye.)

24 CHAIRMAN CLELAND: Opposed?

25 (No response.)

1 CHAIRMAN CLELAND: To reduce or eliminate the practice
2 of shackling. The Juvenile Justice Delinquency Prevention
3 Committee of the Pennsylvania Commission on Crime and
4 Delinquency should study and recommend ways to reduce or
5 eliminate shackling in juvenile courtrooms.

6 Is there a motion to adopt that recommendation?

7 JUDGE UHLER: So moved.

8 CHAIRMAN CLELAND: Second?

9 MR. LISTENBEE: Second, Mr. Chairman.

10 CHAIRMAN CLELAND: Any discussion?

11 (No response.)

12 CHAIRMAN CLELAND: All those in favor say aye.

13 (All Commission members indicate aye.)

14 CHAIRMAN CLELAND: Any opposed?

15 (No response.)

16 CHAIRMAN CLELAND: Regarding juvenile placement
17 decisions. The recommendation -- two recommendations. First,
18 to implement the Juvenile Detention Alternatives Initiative as
19 a detention assessment instrument, and the endorsement of the
20 modifications of the Juvenile Court Judges Commission standards
21 governing the use of secure detention.

22 Is there a motion to adopt those recommendations?

23 MR. LISTENBEE: So moved, Mr. Chairman.

24 CHAIRMAN CLELAND: Second?

25 MR. ALLEN: Second.

1 CHAIRMAN CLELAND: Any discussion?

2 (No response.)

3 CHAIRMAN CLELAND: All in favor say aye.

4 (All Commission members indicate aye.)

5 CHAIRMAN CLELAND: Opposed?

6 (No response.)

7 CHAIRMAN CLELAND: Regarding Youth Level of Services
8 Initiative. The recommendation is to expand as a pilot program
9 the Youth Level of Service Case Management Inventory Risk/Needs
10 Instrument and the employment of valid research and other
11 evidence-based risk assessment instruments.

12 Is there a motion to adopt that recommendation?

13 JUDGE WOODRUFF: So moved.

14 CHAIRMAN CLELAND: Second?

15 MR. WILLIAMS: Second.

16 CHAIRMAN CLELAND: Any discussion?

17 (No response.)

18 CHAIRMAN CLELAND: All in favor say aye.

19 (All Commission members indicate aye.)

20 CHAIRMAN CLELAND: Opposed?

21 (No response.)

22 CHAIRMAN CLELAND: Regarding appellate rights. To
23 develop a form advising juveniles of their right to appeal and
24 seek other post-dispositional relief. And second, to develop
25 internet-based resources explaining how the post-dispositional

1 process works and how parents and children can get assistance.

2 Is there a motion to adopt those recommendations?

3 MR. HOROHO: So moved, Mr. Chairman.

4 CHAIRMAN CLELAND: Second?

5 MR. LISTENBEE: Second, Mr. Chairman.

6 CHAIRMAN CLELAND: Any discussion?

7 (No response.)

8 CHAIRMAN CLELAND: All in favor say aye.

9 (All Commission members indicate aye.)

10 CHAIRMAN CLELAND: Opposed?

11 (No response.)

12 CHAIRMAN CLELAND: Regarding appellate review. There
13 is a recommendation that there be expedited appellate review,
14 meaning that the Superior Court resolve cases within 90 days of
15 filing in certain identified categories. And second, the
16 creation of a statewide office to provide assistance in appeals
17 under the Juvenile Act.

18 Is there a motion to adopt those recommendations?

19 JUDGE UHLER: So moved.

20 CHAIRMAN CLELAND: Second?

21 MR. ALLEN: Second.

22 CHAIRMAN CLELAND: Any discussion?

23 (No response.)

24 CHAIRMAN CLELAND: All in favor say aye.

25 (All Commission members indicate aye.)

1 CHAIRMAN CLELAND: Any opposed?

2 (No response.)

3 CHAIRMAN CLELAND: Regarding nunc pro tunc relief.

4 The recommendation is that the Superior Court and the Supreme
5 Court give enhanced allowance to nunc pro tunc relief, meaning
6 that appeals that may not otherwise be timely would be
7 considered for review and disposition.

8 Is there a motion to adopt that recommendation?

9 MR. LISTENBEE: So moved, Mr. Chairman.

10 CHAIRMAN CLELAND: Second?

11 JUDGE UHLER: Second.

12 CHAIRMAN CLELAND: Any discussion?

13 (No response.)

14 CHAIRMAN CLELAND: All in favor say aye.

15 (All Commission members indicate aye.)

16 CHAIRMAN CLELAND: Opposed?

17 (No response.)

18 CHAIRMAN CLELAND: Regarding the County Commissioners.

19 The Commission recommends that we encourage County
20 Commissioners to attend the County Commissioner's Association
21 of Pennsylvania Academy for Excellence in County Government,
22 and to promote enhanced understanding of the respective roles
23 and obligations of county level and court officials and county
24 executive officials that the Pennsylvania Court management and
25 the County Commissioner's Association of Pennsylvania engage in

1 joint trainings and meetings.

2 MR. WILLIAMS: So moved, Mr. Chairman.

3 CHAIRMAN CLELAND: Is there a motion to adopt that,
4 Mr. Williams?

5 MR. WILLIAMS: So moved.

6 CHAIRMAN CLELAND: Second?

7 MR. ALLEN: Second.

8 CHAIRMAN CLELAND: Any discussion?

9 (No response.)

10 CHAIRMAN CLELAND: All in favor say aye.

11 (All Commission members indicate aye.)

12 CHAIRMAN CLELAND: Regarding the Pennsylvania
13 Department of Education. The recommendations are that the zero
14 tolerance policy should be discouraged, that there be enhanced
15 understanding of the roles and obligations among educational
16 law enforcement and juvenile justice stakeholders, that
17 enhanced cooperation among educational law enforcement and
18 juvenile justice stakeholders be promoted to maintain safety
19 and security within the schools, that the status of juvenile --
20 children involved in the juvenile justice system be kept
21 confidential, and that the educational curriculum for children
22 in placement should be reviewed and assured of its quality.

23 Is there a motion to adopt those recommendations?

24 MR. HOROHO: So moved, Mr. Chairman.

25 CHAIRMAN CLELAND: Is there a second?

1 MR. LISTENBEE: Second, Mr. Chairman.

2 CHAIRMAN CLELAND: Any discussion?

3 (No response.)

4 CHAIRMAN CLELAND: All in favor say aye.

5 (All Commission members indicate aye.)

6 CHAIRMAN CLELAND: Any opposed?

7 (No response.)

8 CHAIRMAN CLELAND: All recommendations having been
9 adopted, the record will note that the vote was unanimous on
10 all recommendations.

11 It strikes me reading those, just those cold
12 recommendations, that they arise out of a very dramatic and sad
13 chapter, and that to fully understand what those
14 recommendations are I recommend all of you to the first part of
15 the report, which summarizes exactly what happened in Luzerne
16 County to give rise to those recommendations.

17 And so after nine months of work, including now 12
18 days of public hearings, seven days of private work sessions,
19 twice a week conference calls, and hours and hours of research
20 and preparation by the members of this Commission, the work of
21 this Commission is essentially completed.

22 We have summarized the facts surrounding the juvenile
23 justice scandal as those facts were developed at our public
24 hearings. Based on those facts we have now adopted more than
25 43 specific recommendations covering 20 subject areas.

1 Where all this goes now is out of our hands. We have
2 every confidence, however, that the Governor, the Chief
3 Justice, and the legislature will thoughtfully consider our
4 recommendations and take appropriate action.

5 The statute which created this Commission provided
6 that the Commission will cease to exist as of June 30.
7 However, each of us individually will continue to be available
8 to provide all appropriate assistance to any entities working
9 to address the issues we have identified in our report.

10 Before we adjourn I want to thank all the members of
11 the Commission who have performed so admirably to meet the very
12 ambitious deadlines set for us last August. You have all
13 performed, in my view, a genuine service to the citizens of
14 Pennsylvania, and more important to the children of
15 Pennsylvania.

16 I've served on a lot of Commissions and Committees
17 over the years, but never have I been associated with a group
18 of people who have taken their work so seriously and put so
19 much effort into it. And thank you to all of you.

20 I also want to thank those from the Administrative
21 Office of Pennsylvania Courts who have provided the
22 administrative support for the Commission. And without their
23 help this work simply could not have been done. Tom Darr, the
24 Deputy Court Administrator of Pennsylvania, who was responsible
25 for coordination among the three branches of government that

1 created this Commission; Nicholene DiPasquale, Director of
2 Judicial Services, who coordinated the logistical arrangements
3 for 20 days of hearings and meetings, as well as doing the
4 print and layout design for our report; Stu Ditzen, who did a
5 masterful job in editing the report and condensing hours and
6 hours of testimony into a readable and very compelling account;
7 and Darren Breslin, counsel to the Commission who provided
8 invaluable legal and organizational structure and assistance.

9 In addition I think I want to --it's important to
10 recognize three other people who felt so strongly about
11 righting the wrongs of injustice that they worked to assist us
12 as volunteers and provided hours and hours of service at no --
13 at no cost. Bill Fisher, who was retired Assistant District
14 Attorney in Philadelphia, who performed incredibly valuable
15 investigative work in Luzerne County; and Art Stroyd and Bill
16 Stickman of the Law Firm of DelSole, Cavanaugh and Stroyd in
17 Pittsburgh, who represented the Commission twice in litigation
18 before the Pennsylvania Supreme Court and were fully prepared
19 to go a third time. So thank you to those people as well.

20 As has been the custom in all of our conference calls,
21 I'll now turn to the other members of the Commission and find
22 out if there's anything else anybody wants to say before we
23 adjourn for the last time.

24 MR. LISTENBEE: Your Honor, if I may. I would just
25 like to say that as a Commissioner I would like to thank you

1 for the leadership you provided us. This has been an extremely
2 difficult challenge, but Judge Cleland was always there and
3 provided guidance and helped us reach consensus on some
4 extremely difficult issues.

5 He did an awful lot of writing and helped us
6 understand some of the complex issues involved. I'd just like
7 to thank you very much for your work, sir.

8 CHAIRMAN CLELAND: Thank you. With that, thank you to
9 all of you. I see many familiar faces in the audience who have
10 attended so many of our hearings, and I appreciate your support
11 and interest. And I will miss seeing some of you as well. So
12 thank you. And with that, we are adjourned.

13 (Whereupon, the hearing was adjourned at 10:23 a.m.)

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1 I hereby certify that the proceedings and evidence
2 are contained fully and accurately in the notes taken by me on
3 the hearing of the above cause, and that this is a correct
4 transcript of the same.

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Date

Donna E. Gladwin, RPR

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