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P.H. ON MUNICIPAL COURT
REFORM

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P U B L I C H E A R I N G

before

THE ASSEMBLY JUDICIARY COMMITTEE

on

A-333, A-678, A-1785, A-1786, A-1787, A-1968,
A-1969, A-1970, A-1971, A-1972, A-1973,
A-1974, A-1975, and A-1976
(Municipal court reform)

1.Rc
2.VAB

May 1, 1986
Bergen County
Community College
Paramus, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Walter M.D. Kern, Chairman
Assemblyman Gary W. Stuhltrager, Vice Chairman
Assemblywoman Elizabeth J. Randall
Assemblyman William Pat Schuber
Assemblyman Eugene H. Thompson
Assemblyman John A. Girgenti

ALSO PRESENT:

Assemblyman Harry A. McEnroe

Steven McGettigan
Office of Legislative Services
Aide, Assembly Judiciary Committee

* * * * *

Public Hearing Recorded and Transcribed by
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State House Annex
CN 068
Trenton, New Jersey 08625

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WALTER M. D. KERN, JR.
Chairman
GARY W. STUHLTRAGER
Vice-Chairman
ELIZABETH E. RANDALL
WILLIAM P. SCHUBER
THOMAS J. SHUSTED
JOHN A. GIRGENTI
EUGENE H. THOMPSON

New Jersey State Legislature
ASSEMBLY JUDICIARY COMMITTEE
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 292-5526

April 18, 1986

NOTICE OF PUBLIC HEARING

The Assembly Judiciary Committee will hold a public hearing on Thursday, May 1, 1986, at 10:00 a.m. in Room S-138 in the main building of Bergen Community College, 400 Paramus Road, Paramus, New Jersey.

The purpose of the hearing is to discuss legislation concerning municipal court reform.

Anyone wishing to testify should contact Steven McGettigan, Committee Aide, at (609) 292-5526.



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M E M O R A N D U M

April 18, 1986

TO: MEMBERS OF THE ASSEMBLY JUDICIARY COMMITTEE
FROM: ASSEMBLYMAN WALTER M. D. KERN, Jr., CHAIRMAN
SUBJECT: PUBLIC HEARING/COMMITTEE MEETING - MAY 1, 1986

Please address comments and questions to Steven V. McGettigan, Committee Aide.

The next meeting of the Assembly Judiciary Committee is scheduled to be held on Thursday, May 1, 1986 immediately following the Public Hearing on Municipal Court Reform which is scheduled to begin at 10:00 a.m. Both the Public Hearing and the committee meeting will be held in Room S-136 of the main building of Bergen Community College, 400 Paramus Road, Paramus, New Jersey.

The following bills will be considered:

A-333 Kern	Provides tenure for municipal court judges.
A-678 Rooney	Exempts from municipal cap increases in municipal court costs.
A-1569 Kern	Grades attempted murder as a crime of the first degree.
A-1785 McEnroe	Establishes certain procedures relating to domestic violence cases.
A-1786 McEnroe	Provides for tenure for municipal court judges and for certain appointment eligibility requirements.
A-1787 McEnroe	Requires municipalities to use at least 25% of motor vehicle fine receipts to upgrade case processing and defray operating costs.
A-1968 Donovan	Amends various provisions of the "Prevention of Domestic Violence Act" and establishes a statewide contempt procedure.

A-1969 Thompson	Requires domestic violence offense reports to be forwarded to the municipal court adjudicating the offense.
A-1970 Shusted	Provides for tenure for municipal judges and for certain training and eligibility requirements.
A-1971 Kern	Creates the position of presiding judge of the municipal courts within each vicinage of the Superior Court.
A-1972 Singer	Provides for State indemnification and representation for municipal court employees.
A-1973 Girgenti	Exempts amounts expended by municipality for support of municipal court from the "cap law" limitation on budget increases.
A-1974 Stuhltrager	Increases court costs for motor vehicle offenses.
A-1975 Collins	Requires certain money collected from motor vehicle offenses to be used to defray the costs of municipal court operations.
A-1976 Catrillo	Authorizes the suspension of a driver's license held by a person who defaults on a fine or who fails to appear in court.
S-103 Bubba	Increases to a fourth degree crime the offense of obstructing the administration of law in certain cases.
S-1193 O'Connor	Extends the term of imprisonment which may be imposed for attempted murder.

ASSEMBLY, No. 333

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman KERN

ASSEMBLY, No. 1501

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 27, 1984

By Assemblymen KERN and SCHUBER

AN Act concerning the tenure of the judges of the municipal courts
and amending N. J. S. 2A:8-5.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2A:8-5 is amended to read as follows:

2 2A:8-5. **[Each]** *a. Except as provided in subsection c. of this*
3 *section, each judge of the municipal court shall serve for a term*
4 *of three years from the date of his appointment and until his suc-*
5 *cessor is appointed and qualified. Any appointment to fill a vacancy*
6 *caused other than by expiration of term shall be made for the*
7 *unexpired term only; provided, however, that if a municipality*
8 *shall by ordinance require the judge of the municipal court to*
9 *devote full-time to his duties, the first appointment after such*
10 *ordinance shall be for a full term of three years.*

11 *b. Each judge of a municipal court of a single municipality shall*
12 *be appointed as follows:*

13 *In municipalities governed by a mayor-council form of govern-*
14 *ment, by the mayor with the advice and consent of council;*
15 *provided, that in municipalities governed under the borough law*
16 *(chapters 86 to 94 of Title 40 of the Revised Statutes), if the*
17 *mayor fails to nominate a judge within 30 days after the office*
18 *becomes vacant, or the council fails to confirm any nomination*
19 *made by the mayor within 30 days after the same is made, then*
20 *the council shall appoint the judge; and*

21 *In all other municipalities, by the governing body of the munici-*
22 *pality.*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

23 Each judge of a municipal court of two or more municipalities
24 shall be nominated and appointed by the Governor with the advice
25 and consent of the Senate.

26 *c. Any judge of a municipal court who shall have served for six*
27 *successive years as a judge of the same municipal court shall*
28 *have tenure in office during good behavior and shall be retired*
29 *upon attaining the age of 70 years. However, no judge of a munic-*
30 *ipal court shall have tenure in office under the provisions of this*
31 *subsection until he shall have been appointed to the office in accor-*
32 *dance with subsection b. of this section and his appointment con-*
33 *firmed in accordance with subsection b. of this section.*

1 2. This act shall take effect immediately.

STATEMENT

A municipal court is the first and only court to which many citizens are exposed. Consistent high quality jurisprudence in the municipal court system is important in the maintenance of the public's confidence in our judicial system as a whole. However, present law does not provide for tenure of municipal court judges. As a result, these judges are subject to the political pressure of reappointment. This bill provides for tenure to insulate these judges from the pressure of reappointment, to encourage these judges to make a greater career commitment to the municipal courts, and to thereby increase public confidence in the system.

ASSEMBLY, No. 678

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION
By Assemblyman ROONEY

ASSEMBLY, No. 230

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Assemblymen ROONEY, MARKERT, FRANKS, Assemblywoman
OGDEN and Assemblyman HENDRICKSON

AN ACT concerning limitations imposed on increases in municipal
final appropriations and amending P. L. 1976, c. 68.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 read as follows:

3 3. In the preparation of its budget a municipality shall limit any
4 increase in said budget to 5% or the index rate, whichever is less,
5 over the previous year's final appropriations subject to the follow-
6 ing exceptions:

7 a. The amount of revenue generated by the increase in its valua-
8 tions based solely on applying the preceding year's general tax rate
9 of the municipality to the assessed value of new construction or
10 improvements;

11 b. Capital expenditures including appropriations for current
12 capital expenditures whether in the capital improvement fund, or
13 as a component of a line item elsewhere in the budget, provided
14 that any such current capital expenditure would be otherwise bond-
15 able under the requirements of N. J. S. 40A:2-21 and 40A:2-22;

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

23 40A:4-53, or (3) special emergency appropriations made pursuant
 24 to N. J. S. 40A:4-54, section 1 of P. L. 1961, c. 22 (C. 40A:4-55.1)
 25 or section 1 of P. L. 1968, c. 194 (C. 40A:4-55.13). Emergency
 26 temporary appropriations, special emergency appropriations and
 27 emergency appropriations under (1) and (2) above shall be
 28 approved by at least two-thirds of the governing body and by the
 29 Director of the Division of Local Government Services, and shall
 30 not exceed in the aggregate 3% of the previous year's final current
 31 operating appropriations. Special emergency appropriations under
 32 (3) above shall be approved by at least two-thirds of the governing
 33 body, and shall not exceed in the aggregate 3% of the previous
 34 year's final current operating appropriations. Neither procedure
 35 shall apply to appropriations adopted for a purpose referred to in
 36 subsection d. or j. below;

37 d. All debt service, including that of a Type I school district;

38 e. Amounts required for funding a preceding year's deficit;

39 f. Amounts reserved for uncollected taxes;

40 g. Expenditures mandated after the effective date of this act
 41 pursuant to State or federal law;

42 h. Expenditure of amounts derived from new or increased service
 43 fees imposed by ordinance, or derived from the sale of municipal
 44 assets;

45 i. When approved by referendum;

46 j. Amounts required to be paid pursuant to any contract with
 47 respect to use, service or provision of any project, facility or public
 48 improvement for water, sewer, solid waste, parking, senior citizen
 49 housing or any similar purpose, or payments on account of debt
 50 service therefor, between a municipality and any other municipality,
 51 county, school or other district, agency, authority, commission,
 52 instrumentality, public corporation, body corporate and politic or
 53 political subdivision of this State. With respect to the amounts
 54 required to be paid for senior citizen housing in the above cited
 55 political subdivisions or bodies, the exceptions shall be subject to
 56 the review and approval of the Local Finance Board;

57 k. Amounts required to be paid by any constituent municipality
 58 of the Hackensack Meadowlands District established pursuant to
 59 article 2 of the "Hackensack Meadowlands Reclamation and
 60 Development Act" (P. L. 1968, c. 404; C. 13:17-4), to the inter-
 61 municipal account established pursuant to article 9 of said act
 62 (C. 13:17-60 through 13:17-76);

63 l. Programs funded wholly or in part by federal or State funds
 64 and amounts received or to be received from federal, State or other
 65 funds in reimbursement for local expenditures;

66 m. Amounts appropriated to fund any increase in public utility,
67 fuel oil, gasoline or heating oil charges which exceeds by more than
68 10% the amount produced by subtracting from the amount appro-
69 priated in the previous year for these purposes that amount which
70 was excepted pursuant to this subsection in that previous year;

71 n. Increased revenue from payments in lieu of taxes on any prop-
72 erty owned by a tax-exempt public entity, to the extent that the pay-
73 ment received for any single property exceeds the amount of real
74 property taxes received on that property in the year immediately
75 prior to acquisition by the public entity, or, in the case of State
76 property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the
77 extent that the total State payment exceeds the amount of the pay-
78 ment received in the 1982 budget year;

79 o. Any decrease in amounts received pursuant to any federal
80 general purposes aid program from the amounts received in local
81 budget year 1982, after deducting from the decrease any amount of
82 new or increased federal or State general purposes aid explicitly
83 provided for the purpose of replacing the decrease in federal aid;

84 **[or]**

85 p. Amounts expended for the conduct of a special election re-
86 quired by law to be held at a time other than the time of the general
87 election or the time of a regular municipal election; *or*

88 *g. Amounts appropriated to fund any increase in costs necessary*
89 *to the operation of the municipal court, including compensation paid*
90 *to the municipal judge, prosecutor, defender, clerk and other court*
91 *personnel.*

1 2. This act shall take effect immediately.

STATEMENT

This bill exempts from the limitation imposed on municipal final appropriations, any increase in costs a municipality incurs in the operation of the municipal court.

ASSEMBLY, No. 1785

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Assemblymen McENROE and THOMPSON

AN ACT providing for a Statewide contempt procedure for violations of restraining orders in domestic violence cases, amending P. L. 1981, c. 426 and supplementing Title 2C of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 5 of P. L. 1981, c. 426 (C. 2C:25-5) is amended to
2 read as follows:

3 5. A law enforcement officer **may arrest** *shall place into custody*
4 *and bring before a judicial officer a person when:*

5 a. **When** the officer **has probable cause to believe** *believes*
6 that a person has violated the terms of an order issued pursuant to
7 section 10, 11, 13 or 14 of this act and that service has been effected
8 either in person or by substituted service. The officer may verify,
9 if necessary, the existence of an order with the appropriate law
10 enforcement agency; or

11 b. **A** a victim exhibits signs of injury or there is other prob-
12 able cause to believe that an act of domestic violence has been com-
13 mitted. *The judicial officer shall determine whether the person shall*
14 *be arrested or released.*

1 2. Section 8 of P. L. 1981, c. 426 (C. 2C:25-8) is amended to
2 read as follows:

3 8. a. It shall be the duty of a law enforcement officer who re-
4 sponds to a domestic violence call to complete a domestic violence
5 offense report. All information contained in the domestic violence

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
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6 offense report shall be forwarded to the *appropriate county bureau*
7 *of identification and the State bureau of records and identification*
8 *in the Division of State Police in the Department of Law and*
9 *Public Safety. This information shall be sent to the municipal court*
10 *which has jurisdiction, unless the family part of the Chancery Divi-*
11 *sion of the Superior Court has asserted jurisdiction.*

12 b. The domestic violence offense report shall be on a form pre-
13 scribed by the supervisor of the State bureau of records and identi-
14 fication which shall include, but not be limited to, the following
15 information:

- 16 (1) The relationship of the parties;
- 17 (2) The sex of the parties;
- 18 (3) The time and date of the incident;
- 19 (4) The number of domestic violence calls investigated;
- 20 (5) Whether children were involved, or whether the alleged act
- 21 of domestic violence had been committed in the presence of children;
- 22 (6) The type and extent of abuse;
- 23 (7) The number and type of weapons involved;
- 24 (8) The action taken by the law enforcement officer;
- 25 (9) The existence of any prior court orders issued pursuant
- 26 to section 10, 11, 13 or 14 of this act concerning the parties; and
- 27 (10) Any other data that may be necessary for a complete anal-
- 28 ysis of all circumstances leading to the alleged incident of domestic
- 29 violence.

30 c. It shall be the duty of the Superintendent of the State Police
31 with the assistance of the Division of Systems and Communica-
32 tions in the Department of Law and Public Safety to compile and
33 report annually for a period of five years to the Governor, the
34 Legislature and the Advisory Council on Shelters for Victims of
35 Domestic Violence on the tabulated data from the domestic violence
36 offense reports.

1 3. Section 12 of P. L. 1981, c. 426 (C. 2C:25-12) is amended to
2 read as follows:

3 12. a. A victim may file a complaint alleging the commission of
4 an act of domestic violence with the [juvenile and domestic rela-
5 tions court] *family part of the Chancery Division of the Superior*
6 *Court* in conformity with the rules of court. The court [in domestic
7 violence actions] shall not dismiss any complaint or delay disposi-
8 tion of a case because the victim has left the residence to avoid
9 further incidents of domestic violence. Filing a complaint pursuant
10 to this section shall not prevent the filing of a criminal complaint
11 for the same act.

12 b. The **[juvenile and domestic relations]** court shall waive any
13 requirement that the petitioner's place of residence appear on the
14 complaint.

15 c. The clerk of the court, or other person designated by the
16 court, shall assist the parties in completing any forms necessary
17 for the filing of a summons, complaint, answer or other pleading.

18 d. Summons and complaint forms shall be readily available at the
19 clerk's office and at the municipal courts.

20 e. *As soon as the domestic violence complaint is filed, a repre-*
21 *sentative of the juvenile-family crisis intervention unit, established*
22 *pursuant to section 1 of P. L. 1982, c. 80 (C. 2A:4A-76), shall be*
23 *made available to speak to a victim of domestic violence and to give*
24 *advice and counseling.*

1 4. Section 14 of P. L. 1981, c. 426 (C. 2C:25-14) is amended to
2 read as follows:

3 14. a. On weekends, holidays and other times when the court
4 is closed a **[juvenile and domestic relations court]** judge of the
5 family part of the Chancery Division of the Superior Court or, as
6 a last resort, a municipal court judge shall be assigned to issue a
7 temporary restraining order pursuant to this act. The order shall
8 be made by the judge of the jurisdiction where the alleged domestic
9 violence occurred or the jurisdiction where the plaintiff resides
10 using the same procedure now available on other emergent applica-
11 tions.

12 b. If it appears that the plaintiff is in danger of domestic
13 violence, the **[municipal court]** judge shall, upon consideration of
14 the plaintiff's domestic violence complaint, order emergency relief
15 including ex parte relief, in the nature of a temporary restraining
16 order. A decision shall be made by the judge regarding the emer-
17 gency relief forthwith. An order granting emergency relief, to-
18 gether with all pleadings, process and other orders, shall
19 immediately be forwarded to the sheriff for immediate service of
20 the order for emergency relief upon the defendant.

21 c. An order for emergency relief shall be granted upon good
22 cause shown and shall remain in effect until the **[juvenile and**
23 **domestic relations]** court issues a final order. The **[juvenile and**
24 **domestic relations]** court shall hold a hearing on an emergency
25 order within 10 days. Any order hereunder may be dissolved or
26 modified on 24 hours' notice or immediately appealable for a ple-
27 nary hearing de novo not on the record before the **[juvenile and**
28 **domestic relations court]** family part of the Chancery Division of
29 the Superior Court of the county in which the plaintiff resides.

30 d. Emergency relief may include forbidding the defendant from
31 returning to the scene of the domestic violence together with any
32 other appropriate relief.

33 e. The judge may permit the defendant to return to the scene of
34 the domestic violence to pick up personal belongings and effects
35 but may by order restrict the time and duration and provide for
36 police supervision of such visit.

37 f. Notice of temporary restraining orders issued pursuant to
38 this section shall be sent by the clerk of the court or other person
39 designated by the court to the appropriate chiefs of police, mem-
40 bers of the State Police and any other appropriate law enforce-
41 ment agency.

42 g. An application for a temporary restraining order pursuant
43 to this section shall, upon filing and issuance, be immediately
44 forwarded to the clerk of the [juvenile and domestic relations
45 court] *family part of the Chancery Division of the Superior Court*
46 of the plaintiff's vicinage for a final order.

1 5. (New section) a. If a law enforcement officer believes that a
2 violation of an order restricting contact with a victim issued pur-
3 suant to section 10, 11, 13, or 14 of P. L. 1981, c. 426 (C. 2C:25-10,
4 2C:25-11, 2C:25-13 or 2C:25-14) has occurred, the officer shall,
5 during regular court hours, place the defendant into custody and
6 transport him to the presence of a judicial officer. The law en-
7 forcement officer shall also arrange to transport the victim to the
8 presence of that judicial officer.

9 b. The victim shall fill out a new domestic violence complaint
10 with the assistance of the court clerk. The complaint shall specify
11 that the relief sought is to hold the defendant in contempt of court
12 for violation of a prior judicial order. The victim shall specify the
13 name of the judge who signed the prior order, the date on which
14 it was signed, and shall explain the circumstances of the violation.
15 The victim may also request other emergency relief.

16 c. After the victim has signed the complaint, the judge shall be
17 alerted to the presence of the victim and defendant and they shall
18 be brought before the judge. The judge shall set bail for the de-
19 fendant and both parties shall be informed of the date of the con-
20 tempt of court hearing. The court may also grant other emergency
21 relief it deems appropriate.

22 d. If the defendant cannot post bail, he shall be incarcerated at
23 police headquarters or at the county jail. If the defendant is taken
24 to the jail, the transporting officer shall present to the jail a copy
25 of the signed domestic violence complaint.

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- 26 e. At the earliest opportunity on the next working day, the officer
27 shall notify the court clerk of the existence of the contempt of court
28 complaint. The clerk's office of the family part shall be made aware
29 of all pertinent details of the case.
- 30 f. An assistant prosecutor shall be assigned to prosecute the
31 contempt of court violation, and shall keep the arresting officer
32 apprised of the status of the case.
- 1 6. This act shall take effect immediately.

STATEMENT

This bill establishes a Statewide contempt procedure for violations of restraining orders in domestic violence cases. It also provides for mandatory detention of persons by law enforcement officers where the officer believes the person has violated a court order. A person taken into custody shall be taken before a judicial officer who shall determine whether the individual should be arrested or released. Lastly, the bill makes some technical revisions to the "Prevention of Domestic Violence Act," P. L. 1981, c. 426 (C. 2C:25-1 et seq.).

DOMESTIC VIOLENCE

Establishes a Statewide contempt procedure for violations of restraining orders in domestic violence cases.

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Assemblymen McENROE and THOMPSON

AN ACT concerning the qualifications and terms of office of municipal court judges and amending N. J. S. 2A:8-5 and N. J. S. 2A:8-7.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2A:8-5 is amended to read as follows:

2 2A:8-5. Each judge of the municipal court shall serve for a term
3 of three years from the date of his appointment and until his suc-
4 cessor is appointed and qualified. *Upon a third or subsequent con-*
5 *secutive appointment, a municipal judge who by ordinance has been*
6 *required to devote full-time to judicial duties or to limit any prac-*
7 *tice of law to matters not involving litigation shall serve during*
8 *good behavior and shall not be removed except for cause and after*
9 *a hearing thereon.*

10 Any appointment to fill a vacancy caused other than by expira-
11 tion of term shall be made for the unexpired term only; provided,
12 however, that if a municipality shall by ordinance require the judge
13 of the municipal court to devote full-time to **[his]** *judicial* duties
14 *or to limit any practice of law to matters not involving litigation,*
15 the first appointment after such ordinance shall be for a full term
16 of three years. Each judge of a municipal court of a single mu-
17 nicipality shall be appointed as follows:

18 In municipalities governed by a major-council form of govern-
19 ment, by the mayor with the advice and consent of council;
20 provided, that in municipalities governed under the borough law
21 (chapters 86 to 94 of Title 40 of the Revised Statutes), if the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

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 22 mayor fails to nominate a judge within 30 days after the office
 23 becomes vacant, or the council fails to confirm any nomination
 24 made by the mayor within 30 days after the same is made, then
 25 the council shall appoint the judge; and

26 In all other municipalities, by the governing body of the
 27 municipality.

28 Each judge of a municipal court of two or more municipalities
 29 shall be nominated and appointed by the Governor with the advice
 30 and consent of the Senate.

1 2. N. J. S. 2A:8-7 is amended to read as follows:

2 2A:8-7. Every municipal court[magistrate] judge shall be a
 3 resident[,] of this State and an attorney at law[,] of this State[,
 4 or a person holding on January 1, 1952 the office of municipal court
 5 magistrate, recorder, police judge or justice of the peace] for at
 6 least five years preceding appointment as a municipal court judge,
 7 or shall be a person holding on January 1, 1985 the office of mu-
 8 nicipal court judge.

9 A [magistrate who is an attorney at law] municipal court judge
 10 need not be a resident of the municipality or municipalities to which
 11 the jurisdiction of the court extends[, but a magistrate not an
 12 attorney shall be a resident thereof].

1 3. This act shall take effect immediately and shall be applicable
 2 to appointments made after its effective date.

STATEMENT

This bill provides that municipal court judges who serve on a full-time basis or whose practice is limited to matters not involving litigation and who are appointed to a third or subsequent consecutive term shall have tenure in office.

The bill also requires that in order for a person to be qualified to serve as a municipal court judge, the person must be admitted to the practice of law in this State for at least five years prior to appointment.

JUDGES

Provides for tenure for municipal court judges and for certain appointment eligibility requirements.

ASSEMBLY, No. 1787

STATE OF NEW JERSEY

INTRODUCED JANUARY 30, 1986

By Assemblymen McENROE and THOMPSON

AN ACT concerning motor vehicle fines, penalties and forfeitures
and amending R. S. 39:5-41.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 39:5-41 is amended to read as follows:

2 39:5-41. All fines, penalties and forfeitures imposed and collected
3 under authority of law for any violations of the provisions of this
4 Title, other than those violations in which the complainant is the
5 director, a member of his staff, a member of the State Police, an
6 inspector of the Board of Public Utilities, or a law enforcement
7 officer of any other State agency, shall be forwarded by the judge
8 to whom the same have been paid to the proper financial officer of
9 the county wherein they were collected, to be used by the county as
10 a fund for the construction, reconstruction, maintenance and repair
11 of roads and bridges, snow removal, the acquisition and purchase
12 of rights-of-way, and the purchase, replacement and repair of
13 equipment for use on said roads and bridges therein. Whenever the
14 amount of the moneys to be forwarded to the counties pursuant to
15 this section rises above the level forwarded to them in fiscal year
16 1980, the increase, up to the amount forwarded to the counties, shall
17 be forwarded to the proper financial officer of the respective municipi-
18 palities wherein the violations occurred^{**[**}, to be used by the municipi-
19 palities as^{**]**}. *At least 25% of the money received by a municipality*
20 *pursuant to this section shall be used to upgrade case processing*
21 *and to defray the cost of operating the municipal court. The re-*
22 *mainder of the money received by a municipality shall be forwarded*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

23 to a fund for general municipal use [and to defray the cost of
 24 operating the municipal court]. When the amount of moneys for-
 25 warded to the municipalities equals the amount forwarded to the
 26 counties, any additional increase shall be paid one-half to the county
 27 wherein the funds were collected and one-half to the municipality
 28 wherein the funds were collected.

29 Whenever any county has deposited moneys collected pursuant
 30 to this section in a special trust fund in lieu of expending the same
 31 for the purposes authorized by this section, it may withdraw from
 32 said special trust fund in any year an amount which is not in excess
 33 of the amount expended by the county over the immediately pre-
 34 ceding three-year period from general county revenues for said
 35 purposes. Such moneys withdrawn from the trust fund shall be
 36 accounted for and used as are other general county revenues.

1 2. This act shall take effect on January 1 next following enact-
 2 ment.

STATEMENT

This bill amends current law in order to require a municipality to use at least 25% of the money it receives for motor vehicle fines, penalties and forfeitures under the distribution procedure set forth in R. S. 39:5-41 to upgrade case processing and defray the costs of operating the municipal court.

Current law states that the money received by a municipality under R. S. 39:5-41 is to be deposited in a fund for general municipal use and to defray the costs of operating the municipal court.

MOTOR VEHICLE—GENERAL

Requires municipalities to use at least 25% of motor vehicle fine receipts to upgrade case processing and defray operating costs.

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblywoman DONOVAN

AN ACT concerning various provisions of the "Prevention of Domestic Violence Act," and establishing a Statewide contempt procedure, and amending and supplementing P. L. 1981, c. 426.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 5 of P. L. 1981, c. 426 (C. 2C:25-5) is amended to
2 read as follows:

3 5. *a.* A law enforcement officer **[may arrest]** *shall place into*
4 *custody and bring before a judge* a person**[:]**

5 a. When**]** *when* the officer has probable cause to believe that **[a]**
6 person has violated the terms of an order issued pursuant to sec-
7 tion 10, 11, 13 or 14 of this act and that service has been effected
8 either in person or by substituted service. The officer **[may]** *shall*
9 verify**[, if necessary,]** the existence of an order with the appro-
10 priate law enforcement agency**[:or]**.

11 b. *A law enforcement officer may arrest a person if a victim ex-*
12 *hibits signs of injury or there is other probable cause to believe*
13 *that an act of domestic violence has been committed.*

1 2. Section 8 of P. L. 1981, c. 426 (C. 2C:25-8) is amended to
2 read as follows:

3 8. *a.* It shall be the duty of a law enforcement officer who re-
4 sponds to a domestic violence call to complete a domestic violence
5 offense report. All information contained in the domestic violence
6 offense report shall be forwarded to the *appropriate county bureau*
7 *of identification and to the State bureau of records and identifica-*
8 *tion in the Division of State Police in the Department of Law*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

9 and Public Safety. *A copy of the domestic violence offense report*
 10 *shall be forwarded to the municipal court where the offense was*
 11 *committed unless the case has been transferred to the Superior*
 12 *Court.*

13 b. The domestic violence offense report shall be on a form pre-
 14 scribed by the supervisor of the State bureau of records and identi-
 15 fication which shall include, but not be limited to, the following
 16 information:

- 17 (1) The relationship of the parties;
- 18 (2) The sex of the parties;
- 19 (3) The time and date of the incident;
- 20 (4) The number of domestic violence calls investigated;
- 21 (5) Whether children were involved, or whether the alleged act
 22 of domestic violence had been committed in the presence of children;
- 23 (6) The type and extent of abuse;
- 24 (7) The number and type of weapons involved;
- 25 (8) The action taken by the law enforcement officer;
- 26 (9) The existence of any prior court orders issued pursuant
 27 to section 10, 11, 13 or 14 of this act concerning the parties; and
- 28 (10) Any other data that may be necessary for a complete anal-
 29 ysis of all circumstances leading to the alleged incident of domestic
 30 violence.

31 c. It shall be the duty of the Superintendent of the State Police
 32 with the assistance of the Division of Systems and Communica-
 33 tions in the Department of Law and Public Safety to compile and
 34 report annually for a period of five years to the Governor, the Leg-
 35 islature and the Advisory Council on Shelters for Victims of
 36 Domestic Violence on the tabulated data from the domestic violence
 37 offense reports.

1 3. Section 13 of P. L. 1981, c. 426 (C. 2C:25-13) is amended
 2 to read as follows:

3 13. a. A hearing shall be held in [juvenile and domestic relations
 4 court] *the Family Part of the Chancery Division of the Superior*
 5 *Court* within 10 days of the filing of a complaint pursuant to sec-
 6 tion 12 of this act. A copy of the complaint shall be served on the
 7 defendant in conformity with the rules of court. If a criminal
 8 complaint arising out of the same incident which is the subject
 9 matter of a complaint brought under P. L. 1981, c. 426 (C. 2C:25-1
 10 et seq.) is filed, notice of any hearing on the complaint shall be
 11 given to the prosecuting attorney so that he may be heard with
 12 respect to a stay of that proceeding pending disposition of the
 13 criminal proceeding. At the hearing the standard for proving the

14 allegations in the complaint shall be by a preponderance of the
15 evidence. The court shall consider but not be limited to the follow-
16 ing factors:

- 17 (1) The previous history of domestic violence between the co-
18 habitants including threats, harassment and physical abuse;
- 19 (2) The existence of immediate danger to person or property;
- 20 (3) The financial circumstances of the cohabitants;
- 21 (4) The best interests of the victim and the child;
- 22 (5) In determining custody and visitation the protection of the
23 victim's safety; and
- 24 (6) Whether the application was made in a reasonable time
25 after the alleged act of domestic violence occurred.

26 b. At the hearing the [juvenile and domestic relations court]
27 the judge of the Family Part may issue an order granting any or
28 all of the following relief:

- 29 (1) An order prohibiting the defendant from having contact
30 with the victim including, but not limited to, restraining the de-
31 fendant from entering the plaintiff's residence, place of employment
32 or business, or school. The court shall prohibit the defendant from
33 harassing the plaintiff or plaintiff's relatives in any way;
- 34 (2) An order granting possession to the plaintiff of the residence
35 to the exclusion of the defendant when the residence or household
36 is jointly owned or leased by the parties; provided that this issue
37 has not been resolved nor is being litigated between the parties in
38 another action. The court may amend its order at any time upon
39 petition by either party;
- 40 (3) When the defendant has a duty to support the plaintiff or
41 minor children living in the residence or household and the defen-
42 dant is sole owner or lessee of the residence, an order granting
43 possession to the plaintiff of the residence or household to the ex-
44 clusion of the defendant may be issued or, upon consent of the
45 parties, allowing the defendant to provide suitable, alternate hous-
46 ing; provided that this issue has not been resolved nor is being
47 litigated between the parties in another action;
- 48 (4) When the parties are married, sole ownership in the name
49 of the defendant of the real property constituting the residence of
50 the parties shall not bar the court from entering an order restrain-
51 ing the defendant from entering the marital residence. No order
52 shall affect any interest in the residence held by either party;
- 53 (5) An order determining child support, child custody, or estab-
54 lishing visitation rights, provided that these issues have not been
55 resolved nor are being litigated between the parties in another

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56 action. The court shall protect the safety of the plaintiff by
57 specifying a place of visitation away from the plaintiff or take
58 any other appropriate precaution necessary to protect the safety
59 and well-being of the plaintiff and minor children;

60 (6) An order requiring the defendant to pay to the victim
61 monetary compensation for losses suffered as a direct result of the
62 act of domestic violence. Compensatory losses shall include, but not
63 be limited to, loss of earnings or support, out-of-pocket losses for in-
64 juries sustained, moving expenses, reasonable attorney's fees and
65 compensation for pain and suffering. Where appropriate, punitive
66 damages may be awarded in addition to compensatory damages;

67 (7) An order requiring the defendant to receive professional
68 counseling from either a private source or a source appointed
69 by the court and, in that event, at the court's discretion requiring
70 the defendant to provide the court at specified intervals with
71 documentation of attendance at the professional counseling. The
72 court may order the defendant to pay for the professional
73 counseling.

74 c. In addition to the relief sought in subsection b. of this section
75 a plaintiff may seek emergency, ex parte relief in the nature of a
76 temporary restraining order. The [juvenile and domestic relations
77 court] *judge of the Family Part* may enter ex parte orders when
78 necessary to protect the life, health or well-being of a victim on
79 whose behalf the relief is sought. A hearing shall be held on an
80 ex parte order within 10 days of the issuance thereof.

81 Whenever emergency relief is sought by the plaintiff, the clerk of
82 the court or other person designated by the court shall immediately
83 transmit the complaint to the presiding [juvenile and domestic re-
84 lations court] *judge of the Family Part* regarding the emergency
85 relief sought by the close of business on the day relief is sought.
86 An order granting emergency relief shall immediately be forwarded
87 to the sheriff for immediate service of the order for emergency
88 relief upon the defendant.

89 d. An order for emergency relief shall be granted upon good
90 cause shown.

91 e. Emergency relief may constitute all relief available under this
92 act together with any other appropriate relief. A temporary re-
93 straining order shall remain in effect until further action by the
94 court.

95 f. Notice of orders issued pursuant to this section shall be sent
96 by the clerk of the [juvenile and domestic relations court] *Family*
97 *Part of the Chancery Division of the Superior Court* or other per-

98 son designated by the court to the appropriate chiefs of police,
99 members of the State Police and any other appropriate law en-
100 forcement agency.

101 g. All pleadings, process, and other orders filed pursuant to this
102 act shall be served upon the defendant in accordance with the rules
103 of court. If personal service cannot be effected upon the defendant,
104 the court may order other appropriate substituted service.

1 4. Section 14 of P. L. 1981, c. 426 (C. 2C:25-14) is amended
2 to read as follows:

3 14. a. On weekends, holidays and other times when the court is
4 closed a [juvenile and domestic relations court] judge of the *Fam-*
5 *ily Part of the Chancery Division of the Superior Court* and or a
6 municipal court [judge] judges shall be assigned to issue a tem-
7 porary restraining order pursuant to this act. The order shall be
8 made by the judge of the jurisdiction where the alleged domestic
9 violence occurred or the jurisdiction where the plaintiff resides
10 using the same procedure now available on other emergent appli-
11 cations.

12 b. If it appears that the plaintiff is in danger of domestic
13 violence, the [municipal court] judge shall, upon consideration of
14 the plaintiff's domestic violence complaint, order emergency relief
15 including ex parte relief, in the nature of a temporary restraining
16 order. A decision shall be made by the judge regarding the emer-
17 gency relief forthwith. An order granting emergency relief, to-
18 gether with all pleadings, process and other orders, shall im-
19 mediately be forwarded to the sheriff for immediate service of
20 the order for emergency relief upon the defendant.

21 c. An order for emergency relief shall be granted upon good
22 cause shown and shall remain in effect until the [juvenile and
23 domestic relations court] a judge of the *Family Part* issues a final
24 order. The [juvenile and domestic relations court] *Family Part*
25 *of the Chancery Division of the Superior Court* shall hold a hearing
26 on an emergency order within 10 days. Any order hereunder may
27 be dissolved or modified on 24 hours' notice or immediately appeal-
28 able for a plenary hearing de novo not on the record before [the
29 juvenile and domestic relations court] a judge of the *Family Part*
30 of the county in which the plaintiff resides.

31 d. Emergency relief may include forbidding the defendant from
32 returning to the scene of the domestic violence together with any
33 other appropriate relief.

34 e. The judge may permit the defendant to return to the scene of
35 the domestic violence to pick up personal belongings and effects

36 ~~but may by order restrict the time and duration and provide for~~
 37 police supervision of such visit.

38 f. Notice of temporary restraining orders issued pursuant to
 39 this section shall be sent by the clerk of the court or other person
 40 designated by the court to the appropriate chiefs of police, mem-
 41 bers of the State Police and any other appropriate law enforce-
 42 ment agency:

43 g. An application for a temporary restraining order pursuant
 44 to this section shall, upon filing and issuance, be immediately
 45 forwarded to the clerk of the [juvenile and domestic relations
 46 court] *Family Part* of the plaintiff's vicinage for a final order.

1 5. Section 15 of P. L. 1981, c. 426 (C. 2C:25-15) is amended to
 2 read as follows:

3 15. a. Upon the issuance of an order pursuant to section 10, 11,
 4 13 or 14 of this act the court may order a law enforcement officer
 5 to accompany either party to the residence to supervise the removal
 6 of personal belongings in order to insure the personal safety of
 7 the plaintiff.

8 b. Violation of an order issued pursuant to section 10, 11, 13 or
 9 14 of this act shall constitute contempt and each order shall so
 10 state. *Procedures set forth in section 6 of P. L., c.*
 11 *(C.) (now pending before the Legislature as this bill)*
 12 *shall be followed when a violation of these orders results in con-*
 13 *tempt.*

1 6. (New section) A defendant who commits contempt pursuant
 2 to subsection b. of section 15 of P. L. 1981, c. 426 (C. 2C:25-15b.)
 3 shall be taken into custody following arrest by a law enforcement
 4 officer. The law enforcement officer shall follow these procedures:

5 a. On weekends, holidays and other times when the court is
 6 closed, the law enforcement officer shall transport the defendant
 7 and the complainant to police headquarters separately. The de-
 8 fendant and the complainant may oly be transported in the same
 9 vehicle if there is no reasonable alternative. The law enforcement
 10 officer shall:

11 (1) Require the complainant to complete and sign a complaint
 12 concerning the incident which gave rise to the contempt charge;

13 (2) Telephone the appropriate judge assigned pursuant to sec-
 14 tion 14 of P. L. 1981, c. 426 (C. 2C:25-14) and request bail be set
 15 on the contempt charge;

16 (3) If the defendant is unable to meet the bail as set, taken the
 17 necessary steps to insure that the defendant shall be incarcerated
 18 at police headquarters or at the county jail; and

19 (4) On the next working day notify the clerk of the Family Part
20 of the new complaint, the amount of bail, defendant's whereabouts
21 and all other necessary details. In addition, if a municipal court
22 judge set the bail, notify the clerk of that municipal court of this
23 information.

24 b. During regular court hours, the law enforcement officer shall
25 transport the defendant and the complainant to the Family Part
26 of the Chancery Division of the Superior Court. The victim, with
27 the assistance of the clerk of the Family Part, shall complete and
28 sign a complaint concerning the incident which gave rise to the
29 contempt charge, and the defendant shall have bail set by a judge
30 that day.

31 Nothing in this section shall be construed to prevent the court
32 from granting any other emergency relief it deems necessary.

1 7. This act shall take effect immediately.

STATEMENT

This bill amends various sections of the "Prevention of Domestic Violence Act."

Police officers are required to arrest a person who violates any of several types of orders issued pursuant to the act when the existence of such an order is verified. The violator shall be charged with contempt of court. Specific procedures for law enforcement officers to follow in these circumstances are set forth in the bill.

The bill also requires that information contained in domestic violence offense reports be forwarded to the county bureau of identification, in addition to the State bureau.

It further requires that both a Superior Court judge as well as municipal judges be available when the court is not open for routine business to issue temporary restraining orders under the act.

COURTS

DOM. VIOL.—ORDER VIOL. CONTEMPT

Amends various provisions of the "Prevention of Domestic Violence Act" and establishes a Statewide contempt procedure.

ASSEMBLY, No. 1969

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblyman THOMPSON

AN ACT concerning domestic violence offense reports and amending
P. L. 1981, c. 426.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 8 of P. L. 1981, c. 426 (C. 2C:25-8) is amended to
2 read as follows:

3 8. a. It shall be the duty of a law enforcement officer who re-
4 sponds to a domestic violence call to complete a domestic violence
5 offense report. All information contained in the domestic violence
6 offense report shall be forwarded to *the appropriate municipal*
7 *court and* the State bureau of records and identification in the
8 Division of State Police in the Department of Law and Public
9 Safety.

10 b. The domestic violence offense report shall be on a form pre-
11 scribed by the supervisor of the State bureau of records and identi-
12 fication which shall include, but not be limited to, the following
13 information:

- 14 (1) The relationship of the parties;
15 (2) The sex of the parties;
16 (3) The time and date of the incident;
17 (4) The number of domestic violence calls investigated;
18 (5) Whether children were involved, or whether the alleged act
19 of domestic violence had been committed in the presence of children;
20 (6) The type and extent of abuse;
21 (7) The number and type of weapons involved;
22 (8) The action taken by the law enforcement officer;

Matter printed in italics thus is new matter.

23 You (a) The existence of any prior court order is issued pursuant
 24 to sections 10, 11, 13 or 14 of this act concerning the parties; and
 25 (10) Any other data that may be necessary for a complete anal-
 26 ysis of all circumstances leading to the alleged incident of domestic
 27 violence.

28 c. It shall be the duty of the Superintendent of the State Police
 29 with the assistance of the Division of Systems and Communica-
 30 tions in the Department of Law and Public Safety to compile and
 31 report annually for a period of five years to the Governor, the
 32 Legislature and the Advisory Council on Shelters for Victims of
 33 Domestic Violence on the tabulated data from the domestic violence
 34 offense reports.

1 2. This act shall take effect immediately.

STATEMENT

This bill requires that domestic violence reports completed by law enforcement officers who respond to domestic violence calls be forwarded to the appropriate municipal court as well as to the State bureau of records and identification in the Division of State Police.

Forwarding domestic violence reports to the municipal court is necessary so that municipal court judges will have access to them for the purpose of adjudicating domestic violence matters that come before them.

The statutory changes contained in this bill were recommended by the 1985 "Report of the Supreme Court Task Force on the Improvement of Municipal Courts."

CRIME—INVESTIGATION, ARREST, PROSECUTION

Dom. viol. rpt.—to mun. ct.

Requires domestic violence offense reports to be forwarded to the municipal court adjudicating the offense.

ASSEMBLY, No. 1970

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblymen SHUSTED, ROCCO, SINGER, MORAN and
HENDRICKSON

AN ACT concerning the qualifications and terms of office of municipal court judges and amending N. J. S. 2A:8-5, N. J. S. 2A:8-7 and N. J. S. 2A:12-3.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2A:8-5 is amended to read as follows:

2 2A:8-5. **[Each]** *a. Except as provided in subsection c. of this*
3 *section, each judge of the municipal court shall serve for a term*
4 *of three years from the date of his appointment and until his*
5 *successor is appointed and qualified. Any appointment to fill a*
6 *vacancy caused other than by expiration of term shall be made*
7 *for the unexpired term only; provided, however, that if a municipi-*
8 *pality shall by ordinance require the judge of the municipal court*
9 *to devote full time to his duties, the first appointment after such*
10 *ordinance shall be for a full term of three years. A person ap-*
11 *pointed to serve as a municipal court judge shall not be deemed*
12 *qualified to assume that office until that person has successfully*
13 *completed a training course for municipal court judges adminis-*
14 *tered by the Administrative Office of the Courts.*

15 *b. Each judge of a municipal court of a single municipality shall*
16 *be appointed as follows:*

17 *In municipalities governed by a mayor-council form of govern-*
18 *ment, by the mayor with the advice and consent of council:*
19 *provided, that in municipalities governed under the borough law*
20 *(chapters 86 to 94 of Title 40 of the Revised Statutes), if the*

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

Matter printed in italics thus is new matter.

21 ~~mayor fails to nominate a judge within 30 days~~ after the office
 22 becomes vacant, or the council fails to confirm any nomination
 23 made by the mayor within 30 days after the same is made, then
 24 the council shall appoint the judge; and

25 In all other municipalities, by the governing body of the munici-
 26 pality.

27 Each judge of a municipal court of two or more municipalities
 28 shall be nominated and appointed by the Governor with the advice
 28A and consent of the Senate.

29 *c. Any judge of a municipal court who shall have served for six*
 30 *successive years as a judge of the same municipal court shall have*
 31 *tenure in office during good behavior and shall be retired upon*
 32 *attaining the age of 70 years. However, no judge of a municipal*
 33 *court shall have tenure in office under the provisions of this sub-*
 34 *section until he shall have been appointed to the office in accor-*
 35 *dance with subsection b. of this section and his appointment con-*
 36 *firmed in accordance with subsection b. of this section.*

1 2. N. J. S. 2A:8-7 is amended to read as follows:

2 Every municipal court **[magistrate]** judge shall be a resident**[.]**
 3 of this State and an attorney at law**[.]** of this State**[,** or a person
 4 holding on January 1, 1952 the office of municipal court magistrate,
 5 recorder, police judge or justice of the peace**]** for at least five years
 6 preceding appointment as a municipal court judge, or shall be a
 7 person holding on January 1, 1985 the office of municipal court
 8 judge.

9 A **[magistrate who is an attorney at law]** municipal court judge
 10 need not be a resident of the municipality or municipalities to which
 11 the jurisdiction of the court extends**[,** but a magistrate not an at-
 12 torney shall be a resident thereof**].**

1 3. N. J. S. 2A:12-3 is amended to read as follows:

2 The director shall, subject to the direction of the chief justice,
 3 perform the following functions:

4 (a) Examine the administrative methods, systems and activities
 5 of the judges, clerks, stenographic reporters and employees of the
 6 courts and their offices and make recommendations to the chief
 7 justice with respect thereto.

8 (b) Examine the state of the dockets of the courts, secure in-
 9 formation as to their needs for assistance, if any, prepare statistical
 10 data and reports of the business of the courts and advise the chief
 11 justice to the end that proper action may be taken.

12 (c) Prepare and submit budget estimates of state appropriations
 13 necessary for the maintenance and operation of the courts and
 14 make recommendations with respect thereto.

15 (d) File requests for appropriations or permission to spend, as
16 request officer for the supreme and superior courts and, as approval
17 officer, approve and sign all encumbrance requests and statements
18 of indebtedness on behalf of said courts.

18A (e) Make necessary arrangements for accommodations for the
19 use of the supreme and superior courts and the clerks thereof and
20 for the purchase, exchange, transfer and distribution of equipment
21 and supplies for said courts and clerks.

22 (f) Investigate and collect statistical data and make reports re-
23 lating to the expenditures of public moneys, state, county and mu-
24 nicipal, for the maintenance of the courts and the offices connected
25 therewith.

26 (g) Examine, from time to time, the operation of the courts, in-
27 vestigate complaints with respect thereto, and formulate and
28 submit to the chief justice recommendations for the improvement
29 thereof.

30 (h) Act as secretary of the judicial conference held pursuant
31 to supreme court rules.

32 (i) Attend to such other matters as may be assigned by the chief
33 justice.

34 *j. Develop and administer a training course for municipal court*
35 *judges.*

1 4. This act shall take effect immediately and shall be applicable
2 to appointments made after its effective date.

STATEMENT

A municipal court is the first and only court to which many citizens are exposed. Consistent high quality jurisprudence in the municipal court system is important in the maintenance of the public's confidence in our judicial system as a whole. In order to insure that this high quality of jurisprudence is maintained, this bill provides that a person appointed as a municipal court judge shall not be deemed qualified to serve in that office until the person has successfully completed a training course for municipal court judges developed and administered by the Administrative Office of the Courts.

The bill also provides that in order to be eligible to serve as a municipal court judge, a person must be admitted to the practice of law in New Jersey for at least five years prior to appointment.

Additionally, in order to insulate municipal court judges from the political pressure of reappointment, the bill provides that if a judge serves six successive years as a judge of the same municipal court, the judge shall have tenure in that office.

JUDGES

Mun. Judges — Qualifs, Tenure

Provides for tenure for municipal judges and for certain training and eligibility requirements.

ASSEMBLY, No. 1971

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By ~~Assemblyman~~ KERN

AN ACT creating the position of presiding judge of the municipal court, amending P. L. 1973, c. 140 and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) As used in this act "vicinage" means a dis-
2 trict of the Superior Court from which jurors are called and
3 which is presided over by an assignment judge of the Superior
4 Court.

1 2. a. (New section) There is created within each vicinage of
2 the Superior Court of the State of New Jersey the position of
3 presiding judge of the municipal courts. This judge shall be
4 responsible for the management of all municipal courts within
5 the vicinage and shall report directly to the assignment judge
6 in that vicinage.

7 b. The duties of the presiding judge shall include but shall not
8 be limited to:

9 (1) serving as liaison among municipal court judges, the assign-
10 ment judges, the Administrative Office of the Courts and Supreme
11 Court, to insure promulgation of and compliance with court rules
12 and directives; and

13 (2) hearing conflict cases or matters in which a municipal court
14 judge has been disqualified or is not available; and

15 (3) conducting studies of caseloads and backlogs in each mu-
16 nicipal court and recommending methods for eliminating back-

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is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

17 logs and efficiently processing all cases; and

18 (4) coordinating evening and weekend emergency availability
19 of municipal court judges; and

20 (5) reviewing all recommendations by the county prosecutor
21 to downgrade, remand or conditionally remand cases to municipal
22 courts; and

23 (6) assisting municipal court judges and clerks in solving their
24 day-to-day administrative problems; and

25 (7) assisting in the preparation of annual municipal court
26 budgets and discussing matters of concern with local governing
27 bodies when necessary.

1 3. (New section) Each presiding judge of the municipal courts
2 shall be nominated and appointed by the Governor, with the
3 advice and consent of the Senate, and shall hold office for five
4 years from the date of appointment until a successor is ap-
5 pointed and qualified. The presiding judge of the municipal court
6 shall, prior to his appointment, have been admitted to the prac-
7 tice of law in this State for at least five years.

1 4. (New section) Each presiding judge of the municipal courts
2 shall devote full-time to these judicial duties and shall not engage
3 in the outside practice of law.

1 5. (New section) Any presiding judge of the municipal courts
2 who shall have served for 10 years successively in that office
3 and shall be in his third term shall hold that office during good
4 behavior and shall be retired upon attaining the age of 70 years
5 upon the same terms and conditions as a judge of the Superior
6 Court.

1 6. Each presiding judge of the municipal courts shall receive
2 for his services an annual salary which shall be the same as the
3 amount payable to a judge of the Superior Court and which shall
4 not be diminished during the term of his appointment.

1 7. Each presiding judge of the municipal courts shall be en-
2 titled to the same pension rights and privileges as judges of the
3 Superior Court.

1 8. Section 3 of P. L. 1973, c. 140 (C. 43:6A-3) is amended to
2 read as follows:

3 3. As used in this act:

4 a. "Accumulated deductions" means the sum of all amounts,
5 deducted from the compensation of a member or contributed by
6 him or on his behalf, standing to the credit of his individual
7 account in the annuity saving fund.

8 b. "Annuity" means payments for life derived from the accu-
9 mulated deductions of a member as provided in this amendatory
10 and supplementary act.

11 c. "Annuity reserve" means the present value of all payments
12 to be made on account of any annuity or benefit in lieu of an
13 annuity computed on the basis of such mortality tables recom-
14 mended by the actuary as the State House Commission adopts
15 with regular interest.

16 d. "Beneficiary" means any person entitled to receive any
17 benefit pursuant to the provisions of this act by reason of the
18 death of a member or retirant.

19 e. "Child" means a deceased member's or retirant's unmarried
20 child who is either (a) under the age of 18; (b) of any age who,
21 at the time of the member's or retirant's death, is disabled because
22 of mental retardation or physical incapacity, is unable to do any
23 substantial, gainful work because of the impairment and his im-
24 pairment has lasted or can be expected to last for a continuous
25 period of not less than 12 months, as affirmed by the medical
26 board; or (c) under the age of 21 and is attending school full-time.

27 f. "Compensation" means the base salary, for services as a
28 member as defined in this act, which is in accordance with estab-
29 lished salary policies of the State for all employees in the same
30 position but shall not include individual salary adjustments which
31 are granted primarily in anticipation of the member's retirement
32 or additional remuneration for performing temporary duties
33 beyond the regular work schedule.

34 g. "Final salary" means the annual salary received by the
35 member at the time of his retirement or death.

36 h. "Fiscal year" means any year commencing with July 1 and
37 ending with June 30 next following.

38 i. "Medical board" means the board of physicians provided
39 for in section 29 of this act.

40 j. "Member" means the Chief Justice and associate justices
41 of the Supreme Court, judges of the Superior Court *including*
42 *any of its parts or divisions*, [county district courts,] tax court
43 and [juvenile and domestic relations courts] *presiding judges*
44 *of the municipal courts as that office was established by section 2*
45 *of P. L. , c. (C.) (now pending before the*
46 *Legislature as this 1986 amendatory and supplementary act)* of
47 the State of New Jersey required to be enrolled in the retirement
48 system established by this act.

49 For purposes of this act, the person holding the office of stand-
50 ing master by appointment pursuant to P. L. 1948, c. 382 or N. J. S.
51 2A:1-7 shall have the same privileges ~~and obligations under this~~
52 act as a judge of a Superior Court.

53 k. "Parent" means the parent of a member who was receiving
54 at least one-half of his support from the member in the 12-month
55 period immediately preceding the member's death or the accident
56 which was the direct cause of the member's death. The depen-
57 dency of such a parent will be considered terminated by marriage
58 of the parent subsequent to the death of the member.

59 l. "Pension" means payment for life derived from contribu-
60 tions by the State.

61 m. "Pension" means payment for life derived from contribu-
62 tions to be made on account of any pension or benefit in lieu of
63 a pension computed on the basis of such mortality tables recom-
64 mended by the actuary as shall be adopted by the State House
65 Commission with regular interest.

66 n. "Regular interest" means interest as determined annually
67 by the State Treasurer after consultation with the Directors of
68 the Divisions of Investment and Pensions and the actuary of
69 the system. It shall bear a reasonable relationship to the percen-
70 tage rate of earnings on investments but shall not exceed 105%
71 of such percentage rate.

72 o. "Retirant" means any former member receiving a pension
73 or retirement allowance as provided by this act.

74 p. "Retirement allowance" means the pension plus the annuity.

75 q. "Retirement system" herein refers to the "Judicial Retire-
76 ment System of New Jersey," which is the corporate name of the
77 arrangement for the payment of pensions, retirement allowances
78 and other benefits under the provisions of this act including the
79 several funds placed under said system. By that name, all of its
80 business shall be transacted, its funds invested, warrants for
81 money drawn, and payments made and all of its cash and securi-
82 ties and other property held.

83 r. "Service" means public service rendered for which credit
84 is allowed on the basis of contributions made by the State.

85 s. "Several courts" means the Supreme, Superior, [county dis-
86 trict,] tax and [juvenile and domestic relations courts] *the pre-*
87 *siding judges of the municipal court as that office was estab-*
88 *lished by section 2 of P. L. , c. (C.) (now*
89 *pending before the Legislature as this 1986 amendatory and sup-*
90 *plementary act).*

91 t. "Widow" means the woman to whom a member or a retirant
 92 was married at least four years before the date of his death and
 93 to whom he continued to be married until the date of his death.
 94 The eligibility of such a widow to receive a survivor's benefit will
 95 be considered terminated by the marriage of the widow subsequent
 96 to the member's or the retirant's death. In the event of accidental
 97 death the four-year qualification shall be waived. When used in
 98 this act, the term "widow" shall mean and include "widower" as
 99 may be necessary and appropriate to the particular situation.

100 u. "Widower" means the man to whom a member or a retirant
 101 was married at least four years before the date of her death and
 102 to whom she continued to be married until the date of her death.
 103 The eligibility of such a widower to receive a survivor's benefit
 104 will be considered terminated by the marriage of the widower
 105 subsequent to the member's or retirant's death. In the event of
 106 accidental death the four-year qualification shall be waived.

1 9. Section 5 of P. L. 1973, c. 140 (C. 43:6A-5) is amended to
 2 read as follows:

3 5. The membership of the retirement system shall include:

4 a. The Chief Justice and the associate justices of the supreme
 5 court;

6 b. Any judge of the [superior court] *Superior Court or any*
 6A *of its parts or divisions;*

7 c. [Any judge of the county court;] *Deleted by amendment,*
 8 *P. L. , c. .*

9 d. [Any judge of the county district court, who is required by
 10 law to devote his entire time to his judicial duties and is pro-
 11 hibited from practice of law; and] *Deleted by amendment, P. L.*
 12 *, c. .*

13 e. [Any judge of the juvenile and domestic relations court of
 14 any county, who is required by law to devote his entire time to his
 15 judicial duties and is prohibited from practice of law.] *Deleted*
 16 *by amendment, P. L. , c. .*

17 f. *Any presiding judge of the municipal court as that position*
 18 *was established by section 2 of P. L. , c. (C.)*
 19 *(now pending before the Legislature as this 1986 amendatory*
 20 *and supplementary act.*

21 Membership in the retirement system is a condition for judicial
 22 service for the members of the Judiciary herein listed.

23 Membership in the retirement system shall cease upon retire-
 24 ment, death or resignation.

1 10. This act shall take effect immediately.

STATEMENT

This bill creates the position of presiding judge of the municipal courts in a vicinage. This presiding judge would oversee all municipal court operations in that vicinage and report directly to the assignment judge of the vicinage. The presiding judge would devote full-time to these judicial duties, be paid the same salary as a judge of the Superior Court and be included in the judicial retirement system.

Nominations and appointments would be made by the Governor with the advice and consent of the Senate.

COURTS

Creates the position of presiding judge of the municipal courts within each vicinage of the Superior Court.

ASSEMBLY, No. 1972

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblyman SINGER

AN ACT providing for State indemnification and representation of municipal court judges and municipal court personnel and amending N. J. S. 59:10-1, N. J. S. 59:10-2, N. J. S. 59:10-3, and P. L. 1972, c. 48.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1 N. J. S. 59:10-1 is amended to read as follows:

2 59:10-1. Indemnification. If pursuant to the provisions of P. L.
3 1972, c. 48 **[Senate Bill No. 993 now pending before the Legislature]**
4 *(C. 59:10A-1 et seq.)* the Attorney General provides for the de-
5 fense of an employee or former employee, the State shall provide
6 indemnification for the State *or municipal court* employee.

7 Nothing in this section authorizes the State to pay for punitive
8 or exemplary damages or damages resulting from the commission
9 of a crime.

1 2. N. J. S. 59:10-2 is amended to read as follows:

2 59:10-2. Refusal to defend—indemnification. If the Attorney
3 General refuses to provide for the defense of **[a State]** *an* employee
4 as required by the provisions of P. L. 1972, c. 48 **[Senate Bill No.**
5 **993 now pending before the Legislature]** *(C. 59:10A-1 et seq.)*,
5A the employee or former employee **[of the State]** shall be entitled
6 to indemnification from the State if he establishes that the act or
7 omission upon which the claim or judgment was based occurred
8 within the scope of his employment **[as an employee of the State]**
9 and the State fails to establish that he acted or failed to act because
10 of actual fraud, actual malice or willful misconduct.

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

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 12 If the **[State]** employee establishes that he was entitled to a de-
 13 fense under the provisions of this chapter, the State shall pay or
 14 reimburse him for any bona fide settlement agreements entered
 15 into by the employee, and shall pay or reimburse him for any judg-
 16 ments entered against the employee, and shall pay or reimburse
 17 him for all costs of defending the action, including reasonable coun-
 18 sel fees and expenses, together with costs of appeal, if any.

18 Nothing in this section authorizes the State to pay for punitive
 19 or exemplary damages or damages resulting from the commission
 20 of a crime.

1 3. N. J. S. 59:10-3 is amended to read as follows:

2 59:10-3. Public employee's duty to notify and cooperate with
 3 Attorney General. **[A State]** An employee shall not be entitled to
 4 indemnification under this act unless within 10 calendar days of the
 5 time he is served with any summons, complaint, process, notice,
 6 demand or pleading, he delivers the original or a copy thereof to
 7 the Attorney General or his designee. Upon such delivery the
 8 Attorney General may, pursuant to the provisions of P. L. 1972,
 9 c. 48 **[Senate Bill No. 993 now pending before the Legislature]**,
 10 (C. 59:10A-1 et seq.), assume exclusive control of the employee's
 11 representation and such employee shall cooperate fully with the
 12 Attorney General's defense.

1 4. Section 1 of P. L. 1972, c. 48 (C. 59:10A-1) is amended to read
 2 as follows:

3 1. Attorney General's duty to defend State employees.

4 Except as provided in section 2 hereof, the Attorney General
 5 shall, upon a request of an employee or former employee of the
 6 State or of a municipal court, provide for the defense of any action
 7 brought against such State employee or former **[State]** employee
 8 on account of an act or omission in the scope of his employment.

9 For the purposes of this section, the Attorney General's duty
 10 to defend shall extend to a cross-action, counterclaim or cross-
 11 complaint against an employee or former employee.

1 5. Section 3 of P. L. 1972, c. 48 (C. 59:10A-3) is amended to read
 2 as follows:

3 3. The Attorney General's authority to represent.

4 In any other action or proceeding, including criminal proceedings,
 5 the Attorney General may provide for the defense of a State or mu-
 6 nicipal court employee or former State or municipal court em-
 7 ployee, if he concludes that such representation is in the best in-
 8 terest of the State.

1 6. Section 4 of P. L. 1972, c. 48 (C. 59:10A-4) is amended to read
 2 as follows:

3 4. Attorney General's exclusive control over litigation.

4 Whenever the Attorney General provides for the defense of [a
5 State] an employee or former [State] employee pursuant to this
6 act, the Attorney General may assume exclusive control over the
7 representation of such employee or former [State] employee
8 and such employee or former [State] employee shall cooperate
9 fully with the Attorney General's defense.

1 7. This act shall take effect immediately.

STATEMENT

This bill provides for State indemnification and State representation of municipal court employees and municipal court judges for acts and omissions in the scope of their employment. Presently municipalities are not required to provide indemnification and representation for these individuals. Some may be protected by the municipality's liability insurance coverage. Others may not. This bill would ensure that all municipal court employees would receive State indemnification and representation in a law suit brought against them.

This legislation is a recommendation of the Supreme Court Task Force on the Improvement of Municipal Courts.

COURTS

"Tort Claims Act"—amends

Provides for State indemnification and representation for municipal court employee.

ASSEMBLY, No. 1973

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblyman GIRGENTI

AN ACT exempting amounts expended by a municipality for the support of the municipal court from the limitation imposed on budget increases, and amending P. L. 1976, c. 68.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 3 of P. L. 1976, c. 68 (C. 40A:4-45.3) is amended to
2 read as follows:

3 3. In the preparation of its budget a municipality shall limit any
4 increase in said budget to 5% or the index rate, whichever is less,
5 over the previous year's final appropriations subject to the follow-
6 ing exceptions:

7 a. The amount of revenue generated by the increase in its valua-
8 tions, based solely on applying the preceding year's general tax rate
9 of the municipality to the assessed value of new construction or
10 improvements;

11 b. Capital expenditures, including appropriations for current
12 capital expenditures, whether in the capital improvement fund or
13 as a component of a line item elsewhere in the budget, provided
14 that any such current capital expenditure would be otherwise bond-
15 able under the requirements of N. J. S. 40A:2-21 and 40A:2-22;

16 c. An increase based upon: (1) emergency temporary appropria-
17 tions made pursuant to N. J. S. 40A:4-20 to meet an urgent situa-
18 tion or event which immediately endangers the health, safety or
19 property of the residents of the municipality, and over which the
20 governing body had no control and for which it could not plan; (2)
21 emergency appropriations made pursuant to N. J. S. 40A:4-46 and
22 special emergency appropriations made pursuant to N. J. S.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

66 m. Amounts appropriated to fund any increase in public utility,
67 fuel oil, gasoline or heating oil charges which exceeds by more than
68 10% the amount produced by subtracting from the amount appro-
69 priated in the previous year for these purposes that amount which
70 was excepted pursuant to this subsection in that previous year;

71 n. Increased revenue from payments in lieu of taxes on any prop-
72 erty owned by a tax-exempt public entity, to the extent that the pay-
73 ment received for any single property exceeds the amount of real
74 property taxes received on that property in the year immediately
75 prior to acquisition by the public entity, or, in the case of State
76 property subject to P. L. 1977, c. 272 (C. 54:4-2.2a et seq.), to the
77 extent that the total State payment exceeds the amount of the pay-
78 ment received in the 1982 budget year;

79 o. Any decrease in amounts received pursuant to any federal
80 general purposes aid program from the amounts received in local
81 budget year 1982, after deducting from the decrease any amount of
82 new or increased federal or State general purposes aid explicitly
83 provided for the purpose of replacing the decrease in federal aid;

84 p. Amounts expended for the conduct of a special election re-
85 quired by law to be held at a time other than the time of the general
86 election or the time of a regular municipal election;

87 q. Expenditures of amounts to fund the purchase of vehicles
88 used by the municipal police department and all equipment installed
89 in or on the vehicles; **[or]**

90 r. Amounts expended to fund a free public library established
91 pursuant to the provisions of R. S. 40:54-1 through 40:54-29,
92 inclusive; *or*

93 s. *Amounts expended for the staffing and operation of the mu-*
94 *nicipal court.*

1 2. This act shall take effect immediately.

STATEMENT

This bill exempts amounts expended by a municipality for the staffing and operation of the municipal court from the limit imposed on budget increases by P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), commonly referred to as the "cap law."

LOCAL BUDGET AND FINANCE

Cap law exempt—Municipal court

Exempts amounts expended by municipality for support of municipal court from the "cap law" limitation on budget increases.

ASSEMBLY, No. 1974

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblymen STUHLTRAGER, MUZIANI and CHINNICI

AN ACT concerning fees and costs of municipal courts and
amending N. J. S. 22A:3-4.

BE IT ENACTED *by the Senate and General Assembly of the State
of New Jersey:*

1. N. J. S. 22A:3-4 is amended to read as follows:

22A:3-4. The fees provided in the following schedule, and no
other charges whatsoever, shall be allowed for court costs in any
proceedings of a criminal or quasi-criminal nature in all [county
district courts, criminal judicial district courts, county traffic
courts,] municipal courts[, park police courts, or other inferior
courts of limited criminal jurisdiction], but no charge shall be
made for the services of any salaried police officer of the State,
county or municipal police, or a State motor vehicle inspector.

COURT

For violations of Title 39 of the Revised Statutes, or of traffic
ordinances, at the discretion of the court. [up to but not exceeding
\$15.00] *not less than \$10.00 or more than \$25.00.*

For all other cases, at the discretion of the court, up to but not
exceeding \$25.00.

The provisions of this act shall not prohibit the taxing of addi-
tional costs when authorized by [section] R. S. 39:5-39 [of the
Revised Statutes].

For certificate of judgment	\$2.00
For certified copy of paper filed with the court as a public record:	
First page	2.00

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

22	You Are Viewing an Archived Report from the New Jersey State Library	
22	Each additional page or part thereof	.50
23	For copy of paper filed with the court as a public record:	
24	First page	1.00
25	Each additional page or part thereof	.50

CONSTABLES OR OTHER OFFICERS

26 From the fees allowed for court costs in the foregoing schedule,
 27 the clerk of the court shall pay the following fees to constables or
 28 other officers:

- 29 Serving warrant or summons, \$0.75.
- 30 Serving every subpoena, \$0.35.
- 31 Serving every execution, \$0.75.
- 32 Advertising property under execution, \$0.35.
- 33 Sale of property under execution, \$0.50.
- 34 Serving every commitment, \$0.75.
- 35 Transport of defendant, actual cost.
- 36 Mileage, for every mile of travel in serving any warrant, sum-
 37 mons, commitment, subpoena or other process, computed by count-
 38 ing the number of miles in and out, by the most direct route from
 39 the place where such process is returnable, exclusive of the first
 40 mile, \$.10.

41 If defendant is found guilty of the charge laid against him, he
 42 shall pay the costs herein provided, but if, on appeal, the judgment
 43 is reversed, the costs shall be repaid to defendant. If defendant is
 44 found not guilty of the charge laid against him, the cost shall be
 45 paid by the prosecutor, except when the Director of Motor Vehicles
 46 or the inspector of motor vehicles, a peace officer, or a police officer
 47 shall have been prosecutor.

1 2. This act shall take effect immediately.

STATEMENT

This bill raises from \$15.00 to \$25.00 the maximum court costs allowed in the municipal courts for violations of Title 39 of the Revised Statutes, and sets the minimum at \$10.00.

COURTS

MV offenses, ct costs—increase
 Increases court costs for motor vehicle offenses.

ASSEMBLY, No. 1975

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblyman COLLINS

AN ACT allocating specific revenue from motor vehicle offenses for
municipal court operations and amending R. S. 39:5-41.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. R. S. 39:5-41 is amended to read as follows:

2 39:5-41. All fines, penalties and forfeitures imposed and collected
3 under authority of law for any violations of the provisions of this
4 Title, other than those violations in which the complainant is the
5 director, a member of his staff, a member of the State Police, an
6 inspector of the Board of Public Utilities, or a law enforcement
7 officer of any other State agency, shall be forwarded by the judge
8 to whom the same have been paid to the proper financial officer of
9 the county wherein they were collected, to be used by the county as
10 a fund for the construction, reconstruction, maintenance and repair
11 of roads and bridges, snow removal, the acquisition and purchase
12 of rights-of-way, and the purchase, replacement and repair of
13 equipment for use on said roads and bridges therein. Whenever the
14 amount of the moneys to be forwarded to the counties pursuant to
15 this section rises above the level forwarded to them in fiscal year
16 1980, the increase, up to the amount forwarded to the counties, shall
17 be forwarded to the proper financial officer of the respective munici-
18 palities wherein the violations occurred^{**[**}, to be used by the munici-
19 palities as a fund for general municipal use and to defray the cost
20 of operating the municipal court^{**]**}. *Fifty percent of this money shall*
21 *be designated by the municipality to upgrade case processing and*
22 *to defray municipal court operating costs and the remaining money*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

23 ~~shall be forwarded to a fund for general municipal use.~~ When the
24 amount of moneys forwarded to the municipalities equals the
25 amount forwarded to the counties, any additional increase shall be
26 paid one-half to the county wherein the funds were collected and
27 one-half to the municipality wherein the funds were collected.

28 Whenever any county has deposited moneys collected pursuant
29 to this section in a special trust fund in lieu of expending the same
30 for the purposes authorized by this section, it may withdraw from
31 said special trust fund in any year an amount which is not in excess
32 of the amount expended by the county over the immediately pre-
33 ceding three-year period from general county revenues for said
34 purposes. Such moneys withdrawn from the trust fund shall be
35 accounted for and used as are other general county revenues.

1 2. This act shall take effect immediately.

STATEMENT

This bill requires that 50% of the revenue derived from motor vehicle offenses be earmarked to defray the costs of municipal court operations.

COURTS

MV fines, cert., mun. court fund.

Requires certain money collected from motor vehicle offenses to be used to defray the costs of municipal court operations.

ASSEMBLY, No. 1976

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1986

By Assemblymen CATRILLO, GARGIULO, ARANGO and DARIO

AN ACT concerning the suspension of motor vehicle driver's licenses, amending N. J. S. 2C:46-2 and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:46-2 is amended to read as follows:

2 2C:46-2. Consequences of Nonpayment; Summary Collection.

3 a. When a defendant sentenced to pay a penalty assessment, fine
4 or make restitution defaults in the payment thereof or of any
5 installment, the court, upon the motion of the person authorized
6 by law to collect the payment, the motion of the prosecutor, the
7 motion of the victim entitled to payment of restitution, the motion
8 of the Violent Crimes Compensation Board or upon its own motion,
9 may recall him, or issue a summons or a warrant of arrest for his
10 appearance. After a hearing, the court may reduce or suspend the
11 fine or modify the payment or installment plan for the fine, penalty
12 assessment or restitution or, if none of these alternatives is war-
13 ranted, may impose a term of imprisonment to achieve the objective
14 of the fine. The term of imprisonment in such case shall be speci-
15 fied in the order of commitment. It need not be equated with any
16 particular dollar amount but it shall not exceed one day for each
17 \$20.00 of the fine nor 40 days if the fine was imposed upon convic-
18 tion of a disorderly persons offense nor 25 days for a petty dis-
19 orderly persons offense nor one year in any other case, whichever
20 is the shorter period. In no case shall the total period of imprison-

Matter printed in italics thus is new matter.

21 ~~ment in the case of a disorderly persons offense for both the sen-~~
 22 ~~tence of imprisonment and for failure to pay a fine exceed six~~
 23 ~~months. When failure to pay a penalty assessment or restitution~~
 24 ~~is determined to be willful, the failure to do so shall be considered~~
 25 ~~to be contumacious. When a fine, penalty assessment or restitution~~
 26 ~~is imposed on a corporation, it is the duty of the person or persons~~
 27 ~~authorized to make disbursements from the assets of the corpora-~~
 28 ~~tion or association to pay it from such assets and their failure so~~
 29 ~~to do may be held to be contumacious.~~

30 b. Upon any default in the payment of a fine, penalty assess-
 31 ment, restitution, or any installment thereof, execution may be
 32 levied and such other measures may be taken for collection of it
 33 or the unpaid balance thereof as are authorized for the collection
 34 of an unpaid civil judgment entered against the defendant in an
 35 action on a debt.

36 c. Upon any default in the payment of restitution or any install-
 37 ment thereof, the victim entitled to the payment may institute
 38 summary collection proceedings authorized by subsection b. of
 39 this section.

40 d. Upon any default in the payment of a penalty assessment or
 41 any installment thereof, the Violent Crimes Compensation Board
 42 or the party responsible for collection may institute summary
 43 collection proceedings authorized by subsection b. of this section.

44 e. *The person authorized by law to collect payment for a penalty*
 45 *assessment, fine or restitution shall notify the court of a default*
 46 *within 15 days of the date the payment was due. The court shall,*
 47 *in addition to any other penalty it may impose, order the suspen-*
 48 *sion of the driver's license or nonresident reciprocity privilege of*
 49 *the person who failed to make a payment, or prohibit the person*
 50 *from renewing or obtaining a driver's license until the penalty*
 51 *assessment, fine or restitution is paid in full. The court shall notify*
 52 *the Director of the Division of Motor Vehicles of its action.*

1 2. (New section) When a court issues a warrant for the arrest
 2 of a defendant who failed to appear before the court on a criminal
 3 matter, the court shall order the suspension of the defendant's
 4 driver's license or nonresident reciprocity privilege, or prohibit
 5 the person from renewing or obtaining a driver's license until the
 6 defendant appears before the court, either voluntarily or involun-
 7 tarily, in answer to the criminal matter. The court shall notify the
 8 Director of the Division of Motor Vehicles of its action.

1 3. This act shall take effect immediately.

STATEMENT

This bill requires a court to suspend the driver's license or non-resident reciprocity privilege of a person, or prohibit a person from renewing or obtaining a driver's license if the person defaults on the payment of a penalty, fine or restitution or if the person failed to appear in court on a criminal charge.

CRIME—INVESTIGATION, ARREST, PROSECUTION

Driver's license susp., cert.

Authorizes the suspension of a driver's license held by a person who defaults on a fine or who fails to appear in court.

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ASSEMBLYMAN WALTER M.D. KERN, JR.: If I may call this meeting to order-- This is going to be a public hearing and Committee meeting. With respect to the Committee meeting, that will be after the public hearing, and it will be with respect to A-1569, S-103, and S-1193. The balance of the agenda is bills that have been introduced to date with respect to reforms and the municipal court system.

The purpose of the public hearing is to solicit opinions and evaluations of the legislation that has been proposed, comments with respect to the present workings of the municipal court system, and why legislation is needed in various areas that bills have been introduced on.

What we want to do is demonstrate to the public that there is a definite need for reform in the area of municipal courts. There has been some newspaper coverage with respect to the subject matter, and I think the Committee is cognizant of that. We are also aware of the subcommittee that was established by the Supreme Court, which brought forth last year the Clifford Report, as it is commonly known. That report is the basis for many of the bills that have been introduced.

What I would like to do is start off with hearing from Dennis Bliss, who is Assistant Director in Charge of Municipal Courts in the Administrative Office of the Courts.

D E N N I S B L I S S: Good morning, Mr. Chairman, members of the Committee. We are pleased to be here to offer testimony at these proceedings on behalf of the Judiciary and the Municipal Courts Services Division. I would like to extend, also, our best wishes from Chief Justice Wilentz and from Bob Lipscher, Administrative Director of the Courts.

You know, it doesn't really look very much like 1947, but that's where we are today. Our State's municipal courts system has never been given this much thoughtful consideration by so many distinguished and motivated people, both in and out of government, under our present Constitution. This attention has been long overdue.

Beginning in 1983, the Supreme Court appointed a Task Force on the Improvement of the Municipal Courts, chaired by Justice Robert Clifford and composed of leading jurists, attorneys, distinguished members of the public, State and local government officials, and others. They produced a final report, which you mentioned in your opening remarks, which exhaustively examines and addresses eight major subject areas. They include: The statewide management structure of the court system; calendar management; municipal court personnel; budgets and financing; trials and case processing; accountability and special issues of public interest; court facilities and operations; and, implementation and funding.

That report and its recommendations are currently being considered by the Supreme Court. I think in today's hearing it is important to note that the 534 municipal courts pay their own way. In 1984, \$121.7 million was collected through the municipal court system. In comparison, in 1983, only \$31 million was expended to operate the municipal court system. Between 1982 and 1985, cases added to the municipal court dockets increased from 4.8 million to 5.4 million cases, while in the Superior Court, 737,000 cases to 750,000 cases were added during that same period.

In our view, the municipal court system is the front door to our State's judicial house. We all know how important first impressions are. They are usually lasting. The average citizen's only entry into, or contact with, our system of justice is through the municipal courts. Therefore, the public's perceptions and stereotypes of those courts and of the entire judicial system -- its judges, prosecutors, defense counsels, clerks, and others who serve it -- are formed, in large measure, by their municipal court experiences.

The Spring of 1986 is also the springtime of municipal court reform. As with our own homes, it is time to fix up, paint up, and improve the system, to help ensure that in each

future encounter every citizen receives even-handed justice, courteous treatment, efficient and prompt processing, and adjudication of each matter, all through proceedings conducted in dignified surroundings by public servants who are well-qualified, trained professionals. Therefore, the interest in improving the municipal court system that is being taken by this Committee and the sponsors of the pending legislation is positive and encouraging. We in the Judiciary appreciate and welcome your efforts in probing the system and complementing and supporting the work of the Supreme Court Task Force to devise solutions to the problems that must be addressed now if our house is to be put in proper order for the coming summertimes.

Thank you very much for your attention. I have here with me some other members of the judiciary system, who would be willing, and are available, to address the Committee. We have Belle Weisz, who is the Assistant Trial Court Administrator for Bergen County; we have Gus Licari, who is the Court Administrator for the City of Trenton; we have the Honorable Samuel Serata, who is the Presiding Judge of Atlantic County, which is one of the four pilot counties in which we are testing the presiding judge concept; we have Ira Sheff, who is the Chief of the Court Operations Unit in my Division; and, John Podeswa, who is Chief of the Court Programs Unit in my Division. If there are any questions, we will be pleased to address them at this time.

ASSEMBLYMAN KERN: All right. Thank you very much, Mr. Bliss. I do have a number of questions, but one of the persons I would like to hear from-- I notice that Judge Serata comes from a long distance, and I don't know what his schedule is.

J U D G E S A M U E L S E R A T A: I am at your disposal.

ASSEMBLYMAN KERN: Oh, good. All right then, I wasn't sure. I thought maybe you would have to drive back another three or four hours.

One of the things that I am concerned about -- and I would like some comment on, Mr. Bliss -- is the concept of the presiding judge. There is a pilot project under way right now, and I believe it is in five counties.

MR. BLISS: Four counties.

ASSEMBLYMAN KERN: Four counties. What experiences, generally speaking, have there been to date? Then I want to question you after that with respect to suggestions, with respect to legislation. As you know, there is legislation in this package that deals with the concept.

MR. BLISS: Yes. The Municipal Court Task Force recommendation concerning the concept of presiding judges suggests that a State-funded presiding judge for the municipal courts be established in each of the vicinages. That concept is the centerpiece for the administration of the municipal court system in our State. We have had a great deal of success in the Superior Court with a similar concept, where there are presiding judges of each of the parts of the Superior Court in each vicinage, headed by the Assignment Judge.

In our view, without a presiding judge, and without the implementation of that concept, it is questionable whether the appropriate management support for the municipal court system can ever really be effectively put into place. That is our conviction at this point, but until the pilot projects are concluded -- which will be in December of this year -- and the results of that project have been assessed and evaluated and considered by the Supreme Court, we are not in a position, at this point, to endorse the concept, either of the presiding judge or, obviously, the pilot project.

But, as I said, our conviction, and every indication we have from our experience in other areas, is that it will be successful.

ASSEMBLYMAN KERN: Why was the concept of the presiding judge brought forward?

MR. BLISS: I think -- and John can correct me if I am wrong -- that the original concerns of the Task Force were: How do we manage caseload, handle overflow? How do we handle remands? How do we handle conflicts between a number of judges, in the same vicinage obviously, who have territorial jurisdiction, and make the most efficient use of our judicial manpower throughout a vicinage? I think those concerns prompted the debate and, based on the success of the presiding judge management structure in the Superior Court, it was felt that it was worth trying in the municipal court system.

ASSEMBLYMAN KERN: I understand there are some 600,000 complaints filed every year in municipal courts. Is that true? Is it some number of that size?

MR. BLISS: Well, I can-- The numbers I have at this juncture indicate that in 1985 there were 5.4 million matters entered. To give you an example, I don't have the 1985 cleared rate, but for '84 it was 5,160,000 entered, and 4,234,000 cleared. That gives you an idea of the volume. It's staggering when you just look at the numbers, which would suggest, again, the need for case management, automation, and computerization, all of the efficiency tools that modern technology can bring to the municipal court system. Now is the time to bring them to bear. They have not been brought to bear, with the exception of 100 of the municipal courts that are either partially or wholly automated in the State.

ASSEMBLYMAN KERN: So, evidently there is clearly a need to separate this kind of duty from the assignment judge, based on the volume that is involved.

MR. BLISS: Well, it wouldn't be necessary to separate the duty from the assignment judge. It would be to give the assignment judge, who now has the responsibility for the administration of the courts, the management resources that he needs to exercise that responsibility. It is very difficult to place responsibility, including successes and failures, on an

individual, and then not give that individual the tools to effectively exercise his responsibility. As with the Superior Court system, the assignment judge has, as tools, the presiding judges of each of the parts of the Superior Court -- Chancery, Criminal, Civil, and the like -- and Family. We're looking for that same tool to be provided to him for the first time for the municipal courts within each vicinage, with, of course, the Chief Justice being the Administrative Head of the Judicial Branch, in effect, as an extension of the tool for him, through the assignment judges.

ASSEMBLYMAN KERN: The legislation proposes a presiding judge as a new position within the municipal court system. I know there have been -- since the initial legislation was introduced -- other suggestions developed as a way of providing for this particular type of service. Perhaps you might comment on some of the other alternatives that may be dealt with.

MR. BLISS: It would be difficult for me to comment substantively because the position of the Judiciary, of course, is that until the policy issues are reached by the Supreme Court, which is still considering the Task Force recommendations, we would be then entering into policy areas. But, our concern is that the Legislature, this Committee, and the sponsors of the bill can develop legislation that would be supportive of the presiding judge concept. The mechanics of that are a matter that would be within the Legislature's realm. Our concern is that we do have a presiding judge, as recommended by the Task Force as a management tool.

ASSEMBLYMAN KERN: Before I go to any other area, I would entertain any questions or comments from members of the Committee. I would like to also acknowledge that Assemblyman McEnroe has joined us. He is the sponsor of many of the bills that have been introduced, and was a member of the Study Commission that developed the report.

ASSEMBLYMAN McENROE: Thank you.

ASSEMBLYMAN KERN: Assemblyman Schuber?

ASSEMBLYMAN SCHUBER: Mr. Chairman, if I might, several questions. I know that Assemblyman Shusted has a bill in that would require a certain amount -- that a municipal court judge would have to undergo a certain training period in a course, I guess, developed by the AOC. My question to you would be, what is your position with regard to that, number one, and number two, what type of training program is provided for municipal court judges at the present time?

MR. BLISS: As to the first, again because that is pretty much consistent with the recommendation of the Task Force in terms of having, not only training for judges, but it would extend to clerks and other professionals within the system-- That concept would be consistent with the Task Force recommendation, but until the Supreme Court acts on that recommendation, we would have no policy position on it.

In terms of the kinds of training specifically that are now offered to judges, Ira Sheff will be able to fill you in in detail, and I will turn the discussion over to Ira.

ASSEMBLYMAN SCHUBER: Just before Ira does that, if I might-- Do you have on the drawing boards at the present time the outlines of a potential course, if the legislation is to pass?

MR. BLISS: We do not have an outline on the drawing boards. We would build -- if that were to be the will of the Legislature -- a course which would be based pretty much on the content of the course of instruction for new municipal court judges that we now have. We have been in the business of training new judges for a number of years and, depending on the outcome of the legislation whether we would be actually training, certifying training, or devising curricula -- there are a number of alternatives -- that would, I guess, give us direction as to what our participation would be. Ira?

I R A S H E F F: Yes, thank you, Dennis. Right now, in terms of new judges, we have what we call a Municipal Court Judges Orientation Seminar. That has basically varied between two full days to two and a half days, going back and forth depending upon the feelings of the judges after getting their evaluations of our program. Basically, it is a two-day program. It is directed toward the new judges' orientation. What we are trying to do is familiarize them with the conflicts -- limitations that are applicable to their practice as a result of becoming new judges, judicial conduct that is required, and areas of substantive law, as well as the basic requirement of administrative procedure, because they are the bosses and the managers of their own courts. That is really one aspect.

The other aspect--

ASSEMBLYMAN SCHUBER: What's that done -- once a year?

MR. SHEFF: That's done once a year. It's done now in March. What we try to do is-- Most of the judges come on around January at the reorganization meetings, so we try to catch most of them. Admittedly, some of them will have come on, for one reason or another--

ASSEMBLYMAN SCHUBER: Later on.

MR. SHEFF: --during the off season, but I would say that anywhere from 75% to 80% come on around reorganization time.

ASSEMBLYMAN SCHUBER: Is this mandatory, or is this--

MR. SHEFF: Yes.

ASSEMBLYMAN SCHUBER: It is mandatory?

MR. SHEFF: Yes, it is mandated by the Chief.

The second aspect, which is also mandatory, is a conference -- a judicial conference -- of municipal court judges, which is held once a year. It is a full-day session. It's almost invariably held in October. Again, it brings all the judges together for a one-day program, constituting mostly

plenary session where information of general knowledge is passed along to the judges, as well as workshops. We have organized, in recent years, into a workshop concept, where topics such as developments in evidence, driving while intoxicated, panel discussions, and various other areas are covered. Judges pre-register for these courses, and basically they try to pick the ones they are most interested in which will, you know, help them in managing their court the most.

ASSEMBLYMAN SCHUBER: I guess that is based on the same concept that the Superior Court judges have with their judicial conference once a year.

MR. SHEFF: Yeah. I am not completely familiar with the judicial-- Yes, there is a judicial conference.

ASSEMBLYMAN SCHUBER: I mean, it's the same concept. I think it is probably a different format, but it's--

MR. BLISS: Format.

MR. SHEFF: Yeah, yeah. There has been a recent development, as well--

ASSEMBLYMAN SCHUBER: By the way--

MR. SHEFF: Oh, I'm sorry.

ASSEMBLYMAN SCHUBER: --is that one conference? I mean, is it statewide? Is this the one statewide judicial conference for all municipal court judges throughout the State, or do you hold them county by county, or--

MR. SHEFF: No, the one that is sponsored by the AOC is once, and it is in October.

ASSEMBLYMAN SCHUBER: I realize that the counties-- I believe many of the counties have judicial associations of their judges; I appreciate that.

MR. BLISS: In addition, the assignment judges regularly call--

ASSEMBLYMAN SCHUBER: Correct.

MR. BLISS: --vicinage meetings of their municipal court judges, where they give the judges directly their guidance on--

MR. SHEFF: In line with what Dennis has just indicated, there has been a recent development to try to, again, dovetail with the meetings that the assignment judges have with their municipal court judges in their counties. We have developed a vicinage level training program, where we bring trainers out from the vicinages and train them in specific areas that are, for example, hot items at the time. We have run vicinage training programs on search warrants and domestic violence. We recently had one on the developmentally disabled, as well as one on sentencing.

What happens is, the trainers then go back to the vicinages and, in coordination with the assignment judge's meeting with the municipal court judges, one segment of that program is the training concept.

That basically covers the three outlines of training we are conducting with respect to municipal court judges.

ASSEMBLYMAN SCHUBER: Do you, at the present time, conduct training with regard to municipal court personnel, particularly the clerks, I mean?

MR. SHEFF: Yes. In fact, right now we are in the midst of doing it. We conduct three sessions in the spring and three sessions in the fall. We are just in the process of-- They are conducted in the central, northern, and southern parts of the State. We try to bring in all the clerks who need the training the most at the time. They may be new, or they may have just moved into an important position. We train about -- in the course of a year -- close to 300, maybe anywhere from 250 to 300. Before they -- I guess the language would be before they have been in the position too long and have developed bad habits, we try to give them a basic course on principles of administration.

ASSEMBLYMAN SCHUBER: Mr. Chairman, that is all the questions I have at this time. I look forward to hearing from Judge Serata, too, as to his experience with the pilot program.

ASSEMBLYMAN KERN: What happens if somebody doesn't attend?

MR. SHEFF: A municipal court--

ASSEMBLYMAN KERN: If a municipal court judge doesn't show up?

MR. SHEFF: With respect to the orientation seminar, they are required to attend. If they have an excellent reason why they can't attend, let's say, this March, they will be sent the tapes. We have an audio tape library. They are required to listen to the tapes, and they will be required to attend next year. All the judges are required to attend the judicial conference unless they are excused by the Chief or, for some extreme reason, the assignment judge of an--

ASSEMBLYMAN KERN: What authority do you have to do something with respect to someone who doesn't participate?

MR. BLISS: I would say the persuasive authority, the Chief Justice, as the Administrative Head of the Judiciary. Beyond that there is no formal disciplinary system per se, nor is there one, of course, with the Superior Court. It is simply a question of, they are sworn to perform their duty, and part of their duty is to respond to the direction of the Administrative Head of the Judicial Branch.

ASSEMBLYMAN KERN: All right. Does anybody else have a question?

ASSEMBLYMAN McENROE: Yes, one quick question, Mr. Chairman.

ASSEMBLYMAN KERN: Assemblyman McEnroe?

ASSEMBLYMAN McENROE: Through the Chair, you mentioned -- very quickly -- pilot programs in the various counties.

MR. BLISS: Yes.

ASSEMBLYMAN McENROE: What counties have you identified?

MR. BLISS: The pilot program is now in place in Union County, in Mercer County -- actually, I should say vicinages;

those counties are also vicinages -- and the Atlantic/Cape May vicinage, which covers, obviously, Atlantic and Cape May Counties. So those are the four vicinages where the pilots are in place.

ASSEMBLYMAN MCENROE: Could I ask why you are identifying four vicinages and not using one as a beginning?

MR. BLISS: The basic idea behind the pilot projects was to experiment with the presiding judge concept in counties that have geographical differences and perhaps different problems that could arise. The idea is that there will be a basic theme in all of the counties, but with local variations to meet the particular needs of a given county. Two of the counties, of course, are in southern New Jersey, one is in central, and one is in the north. That is the basic scheme of selecting four counties. It is also a better way to validate the experience from the counties and compare and contrast, in a very short period of time, what things we would have to put in place if it is successful to replicate it statewide.

ASSEMBLYMAN KERN: Any other member of the Committee?

ASSEMBLYMAN STUHLTRAGER: Yes.

ASSEMBLYMAN KERN: Assemblyman Stuhltrager, the Vice Chairman.

ASSEMBLYMAN STUHLTRAGER: Thank you, Mr. Chairman. Can you delineate the judicial as opposed to the administrative functions that you envision this judge having?

MR. BLISS: In terms of the judicial functions, we are not now performing judicial functions per se in the pilots because of obvious jurisdictional issues. The Chief Justice has, in essence, designated city municipal court judges to serve, but that designation can't give them jurisdiction or any powers that they do not currently possess. So, they are essentially performing administrative duties at this time. But the judicial duties that they would perform would be to handle remand matters, conflicts matters, where a judge, perhaps, has

to refuse himself because of a conflict or an unavailability. It would allow for matters to be heard in the sense of a venue change from one municipality to another. The judge would not have to sit in that municipality. He would be able to dispose of matters on remand, matters that are processed through the central judicial processing system, which allows for triage decisions to be made on cases that are flowing up to the county that may be indictable that would be downgraded; those types of judicial duties, including actually trying cases. I mentioned that conflicts situations would be, you know, the basic work of the presiding judge.

ASSEMBLYMAN STUHLTRAGER: Do you think that this judge would handle all conflicts cases?

MR. BLISS: Maybe not handle all conflicts cases, but he could handle selective conflicts cases because one of the things that you would want to be in a position to do, would be to be able to have someone manage the assignment of conflicts cases within a vicinage, to make them efficient for the parties involved -- meaning the witnesses and the defendants, as well as the judges.

So, it may very well make sense to have conflicts matters handled in another part of the county, rather than at the county seat, for everyone's convenience, and that would be one of the things that the presiding judge would have to take into account.

ASSEMBLYMAN STUHLTRAGER: But the process whereby conflicts cases now are handled by another municipal court would still continue. I just don't see how one judge -- he couldn't handle all the conflicts cases.

MR. BLISS: Oh, no; oh, no. The primary responsibility of the presiding judge is to be a monitoring and an overseeing presence in a helpful way, and not to be another layer of, you know, a full-time worker who is going to just get immersed in moving cases personally. His job is to know the

vicinage, know its problems, know its physical plant needs, the case clearance rates, to help judges plug them into sources of aid, to help them to move their calendars, kind of a vicinage jack-of-all-trades, traffic cop, controller, clearing house, so to speak, and that is the real value of having someone who has no other concern but addressing those problems in the municipal court system, which is the way we have it in the Superior Court system. Right now, obviously the assignment judge can't do those things personally with regard to the municipal courts; that is why we need the presiding judge.

ASSEMBLYMAN STUHLTRAGER: Thank you.

ASSEMBLYMAN KERN: And you have right now -- I guess you intimated -- no jurisdictional basis for the judicial functions.

MR. BLISS: That is correct, and so at this point the presiding judges have simply been designated as such to perform the administrative testing. I mean, we can-- The judicial function really does not have to be tested in the pilot project. Trying a case is trying a case. It's simply a matter of deciding how many and so on, and that is something you can evolve independently of the pilot concept. In the pilot areas, we are really looking to see how the administrative function will work and how effective the presiding judge can be as an administrator.

ASSEMBLYMAN SCHUBER: Walter, may I follow that up for a second?

ASSEMBLYMAN KERN: Yes, sure.

ASSEMBLYMAN SCHUBER: I would like to just follow up on the presiding judge concept a little bit. How long have the pilot programs been in existence now?

MR. BLISS: They started in January of this year, and we plan to have them conclude by December 31 of this year, at which point the projects will be evaluated and a recommendation will be made to the Supreme Court.

ASSEMBLYMAN SCHUBER: Now, I notice that the legislation, which I think is Assemblyman Kern's bill, which would provide for a presiding judge -- the presiding judge concept for a vicinage -- provides that they would be full-time judges, on a par basically with the Superior Court.

MR. BLISS: Yeah, and that is consistent with the Task Force recommendation.

ASSEMBLYMAN SCHUBER: Correct, right.

MR. BLISS: The feeling, obviously, is to devote the kind of attention that is necessary. The judge should be full time, first; and second, to attract the most qualified and best possible people to the position. If it is full time, you have to have some incentive, obviously, to give up private practice. I think that is why-- Is that correct, John?

J O H N P O D E S W A: Yes, sir.

MR. BLISS: The concern of the Task Force was in making them full time and having that parody arrangement salary-wise with the Superior Court.

ASSEMBLYMAN SCHUBER: Are the four judges who are now in the experimental program -- I realize one of them is here-- Are they doing this full time now?

MR. BLISS: No.

ASSEMBLYMAN SCHUBER: It's on a part-time--

MR. BLISS: Because they are currently city municipal court judges, they are participating in the project, on average, about three days a week.

ASSEMBLYMAN SCHUBER: Right.

MR. BLISS: In some weeks it may be more or less. It depends on their individual court schedules in the municipalities where they sit, and they are doing it, in effect, on a part-time basis.

ASSEMBLYMAN SCHUBER: Logistically now-- Let me ask you, where are these four judges sitting at the present time? Is space being made for them in the county courthouses?

MR. BLISS: Yeah.

ASSEMBLYMAN SCHUBER: If this was to be made a permanent part of the law, where would you envision them being--

MR. BLISS: We would envision them being housed along with the other presiding judges who report to the assignment judge in the county courthouse, where they would have easy access to the assignment judge, as the rest of his managers do. In addition, of course, they would go out into the vicinage as their duties required.

ASSEMBLYMAN SCHUBER: I assume that would require its own staff, etc. Is that--

MR. BLISS: Yeah. The Task Force recommendation in terms of staffing suggests that -- and we haven't tested this yet, obviously for financial reasons -- but the Task Force recommends that the presiding judge be supported by a secretary and by a case manager. So that would be a full-time court administrator, which is not unlike the trial court administrators and the assistant trial court administrators who now assist the assignment judge and the Superior Court presiding judges. So, that would be the extent of the staff that the Task Force envisioned.

ASSEMBLYMAN SCHUBER: Yeah. Well, how would the assistant administrators now-- For instance, in Bergen, Belle Weisz has done a tremendous job for the municipal courts here, and makes the rounds, you know, watching each one, how they are performing, and things like that. Where does that fit now into the system?

MR. BLISS: Well, we can take this county as an example. There would be a presiding judge and a case manager who would report to that presiding judge and also report to the trial court administrator within the vicinage. So, it would be a matter of personnel management within each vicinage to determine. In some counties, the trial court administrator may want to have, in addition to the case manager, an assistant

trial court administrator, part time or full time, also assigned to provide staff support. It would depend on the work load and the needs of each vicinage.

ASSEMBLYMAN SCHUBER: Thank you, Mr. Chairman.

ASSEMBLYMAN KERN: Yes, Assemblyman Stuhltrager.

ASSEMBLYMAN STUHLTRAGER: Why a municipal court presiding judge and not just another judge for a vicinage to be assigned by the Supreme Court?

MR. BLISS: The concept of a presiding judge is one of being an administrator and, as we have done in the Superior Court from among sitting Superior Court judges, in each vicinage there have been designated by the Chief Justice presiding judges of each of the parts. That provides a management structure and an organizational structure flowing from each of the Superior Court judges and each of the divisions, through the presiding judge to the assignment judge, and then from the assignment judge to the Chief Justice.

This would mirror that same management structure. From among city municipal court judges, as the Task Force recommends, you would have a presiding municipal court judge who would report to the assignment judge, and through the assignment judge to the Chief Justice. So, it is the success of the Superior Court management system that has driven the municipal court management system.

ASSEMBLYMAN KERN: In other words, success in one area, you feel, would transcend into another area.

MR. BLISS: John, maybe you can address that from your experience with the Task Force. Is that--

MR. PODESWA: Yes, sir. There may be one more factor--

ASSEMBLYMAN KERN: If you would move the mike.

MR. PODESWA: Oh, excuse me. The Task Force discussed this issue extensively. One of the feelings that the Task Force had was that there is a body of experience that a municipal court judge gains by the mere fact of doing the job

and the training programs that are supplied by the Administrative Office of the Courts. This experience is incredibly helpful when that person attempts to manage all the municipal courts, in effect, by delegated authority by the assignment judge in a vicinage.

Two, a Superior Court judge may or may not have that body of experience. For example, when the presiding judges of the Superior Court were appointed, many of them were appointed from areas of their own expertise. Family court judges were appointed as family court presiding judges. Criminal court judges were appointed as presiding criminal court judges, and so on and so forth. The Task Force looked at the experience issue and the unique training that arrives from being a municipal court judge, and it is absolutely necessary for the management of the municipal court system on a vicinage level.

ASSEMBLYMAN KERN: Well, arguendo, couldn't we also create an additional Superior Court judge and designate that kind of function?

MR. BLISS: That would be one of the options that clearly would be available. Again, that would be within the policy prerogative of the Legislature, sure.

ASSEMBLYMAN STUHLTRAGER: Isn't really the whole exercise here to make sure that you get the kind of experience that you want and that could, theoretically -- and maybe more than theoretically -- be done in the system that you have now? I mean, Superior Court judges are appointed; they get assigned to family; they get assigned to chancery; sometimes without prior experience, sometimes with prior experience.

MR. BLISS: The key to the success of managing the municipal court system is that there be the position of presiding judge and that that person have jurisdiction -- or that position have jurisdiction and management authority over all the municipal courts in the vicinage. The way to accomplish that, the Task Force has recommended, is through the

designation of city municipal court judges. That is one option, and that is what the Supreme Court is now considering. Obviously, all of those who were involved in the Task Force felt very strongly about that, but that, obviously, is not the only solution.

ASSEMBLYMAN KERN: Well, isn't it true that you have a municipal court judge in this county who is a Superior Court judge by statute? Because you have, in Bergen County, a municipal court which is part -- a special part -- of the Superior Court.

MR. SHEFF: In Bergen, yes.

MR. BLISS: Yes.

MR. SHEFF: I think there are three counties that have been given a concurrent criminal jurisdiction by the order of the Chief Justice. I think it is Bergen, Warren, and Hudson. The other 18, no. That would be on a case-by-case basis, in the discretion of the assignment judge, given the interests of justice.

ASSEMBLYMAN KERN: Because I know that the Bergen County Superior Court -- the special part -- regularly sits as a municipal court in this County, and has--

ASSEMBLYMAN SCHUBER: For many years.

ASSEMBLYMAN KERN: Yes, as long as my lifetime.

MR. SHEFF: Yeah, I am aware of that through an order.

ASSEMBLYMAN KERN: I know there was legislation on it. The reason for it was that Bergen County, at the time, was the only county with a county-wide Police Department and, therefore, they created the special part.

ASSEMBLYMAN GIRGENTI: Mr. Chairman?

ASSEMBLYMAN KERN: Yes?

ASSEMBLYMAN GIRGENTI: I apologize for being late. I got tied up on the way over here.

ASSEMBLYMAN KERN: Well, I realize that Paterson is a distance. (laughter)

ASSEMBLYMAN McENROE: Yeah, he had to stop in the office; that was the first mistake.

ASSEMBLYMAN KERN: Assemblyman Girgenti?

ASSEMBLYMAN GIRGENTI: Let me just ask you this. On this particular bill, and I understand that you aren't here to speak on the bill, you're just speaking in terms of the whole -- actually the Task Force report-- On this bill what concerns me are some of the things that are being brought out already. The fact of the matter is-- First of all, how many vicinages are there?

MR. BLISS: There are 15.

ASSEMBLYMAN GIRGENTI: All right. And you are combining some counties?

MR. BLISS: Yeah. Some counties in their entirety compose a vicinage, though usually the more populous counties. The less populous counties are combined.

ASSEMBLYMAN GIRGENTI: All right. So, what concerns me is-- One of the things I thought about last night was, why could we not appoint a Superior Court judge to handle this, as you have done in this pilot program? Right? You've had Superior Court judges--

MR. BLISS: No, no. In the pilot program, what the Chief Justice has done in support of the Task Force recommendation is designate a sitting municipal court judge, one from each of the four pilot vicinages, to act as presiding municipal court judge, and to perform the administrative duties.

ASSEMBLYMAN GIRGENTI: Why could we not appoint a Superior Court judge who is presently there? I know one of the arguments may be caseload, but I don't believe that every county has a caseload problem, first of all. What we're doing -- you know, and I'm not saying I am against it completely; I just want to talk about it -- what we're doing is setting up what I feel is another layer, another bureaucracy, and according to even the report-- We have a quote here. It

says: "The time requirements of the position will vary among vicinages, but it is expected to require between one and three days per week, depending on the geography of the vicinage, the number of municipal courts, and the particular management and program needs." The Task Force estimated that at least initially a minimum of three days would be required in the busier or more complex vicinages.

The problem is, these individuals are now going to be entitled to the same pension rights, the same other benefits that we give to our Superior Court judges, if I read the bill correctly.

MR. BLISS: I don't know whether that is exactly--

ASSEMBLYMAN GIRGENTI: Yeah, in this bill--

ASSEMBLYMAN KERN: Yeah, that's true; that's in the bill.

ASSEMBLYMAN GIRGENTI: Yeah, and I am concerned because, you know, I'm not saying it is a bad idea, but according to the report you're saying maybe one to three days per week. We don't have-- I would want to see basically what kind of a caseload we are talking about in each county, information like that. Of course, Walter-- That is something I have to discuss with the Chairman. I just bring that out as a point, that they do say one to three days a week, and are we going to put people in this capacity in a full-time position where -- and pay them-- The report recommended, I believe, 95% of a Superior Court judge. And the bill, I believe, says 100%.

So, I am concerned about that because, you know, maybe it will be good in Essex County or Bergen County, but I don't know what the situation will be--

ASSEMBLYMAN KERN: There is comment from municipal court judges in this county that one isn't enough.

MR. BLISS: I think your concern is very well placed, and I can only suggest that that is precisely the reason why we are piloting the concept in four counties. Before a policy

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decision is made as to whether the presiding judge concept makes sense, the court wanted to get a handle on how much time would be necessary. It may very well be that the proposition offered by the Task Force in the report isn't really on the mark in terms of time. We'll know that by the end of the pilot. I think when you hear Judge Serata, he can give you his experience, how much time he can spend, and how much time he would like to spend if he were full time. That should give you a pretty clear picture of the duties.

ASSEMBLYMAN GIRGENTI: So, would you advise us not to really consider this bill until the pilot program is completed?

MR. BLISS: No, I wouldn't. I wouldn't advise that at all. I would suggest that the legislation be considered and be discussed. This hearing is an opening to that.

ASSEMBLYMAN GIRGENTI: No, I understand that. I am here because obviously I want to hear about it too. But the fact of the matter is, why are we having a pilot program if we aren't going to wait to see the results of that pilot program to see what we are going to do in terms of this particular issue?

MR. BLISS: Well, I think the legislative proposals to assist in implementing the Task Force recommendations can really go in parallel, and I think that is what Chairman Kern is attempting to do in offering the legislation at this time.

ASSEMBLYMAN KERN: That's correct.

ASSEMBLYMAN GIRGENTI: When does the pilot program end?

MR. BLISS: December 31. That is the official ending date. It may very well be that we will have gathered enough experience before then to finalize our report, and the Supreme Court may be in a position to take action before that date.

ASSEMBLYMAN GIRGENTI: Well, would you suggest that we consider that bill before the end of that program?

MR. BLISS: I can't offer advice as to how the Committee should consider its pending legislation.

ASSEMBLYMAN GIRGENTI: All right. You mentioned the three areas, Mercer -- the pilot programs.

MR. BLISS: Four.

ASSEMBLYMAN GIRGENTI: All right, four.

MR. BLISS: Union, Mercer, Camden, and Atlantic/Cape May.

ASSEMBLYMAN GIRGENTI: All right. Atlantic/Cape May is one that is combined?

MR. BLISS: Yes, that is one vicinage. I believe it is Vicinage #1, isn't it, John?

MR. PODESWA: Yes.

ASSEMBLYMAN GIRGENTI: Do they have to work over three days, passed on your experience?

MR. BLISS: The way we're structured is that we are budgeted-- We have budgeted each of the presiding judges on a per diem basis. I have forgotten the exact number of days. I believe it's about 200 days. Do you remember what the number is, John?

MR. PODESWA: A hundred and eighty-two.

MR. BLISS: The number is 182 days. Excuse me, about 182 days, from January 1 to December 31. Following the Task Force concept, they are planning-- Of course, those judges who sit in multiple municipal courts are sitting, on average, about three days a week. Judge Serata can tell you whether he has sat on individual weeks more than three days because of the press of duties. That is really the way we are structured.

ASSEMBLYMAN GIRGENTI: How about Atlantic/Cape May? Do you have any idea?

MR. BLISS: Well, Judge Serata is here and he will--

ASSEMBLYMAN KERN: We have the judge.

MR. BLISS: Judge Serata is here, and I think he will be able to go into all of those questions in detail. I just don't have the information.

ASSEMBLYMAN KERN: Assemblywoman Randall?

ASSEMBLYWOMAN RANDALL: Thank you, Mr. Chairman. My apologies. Westwood is awfully far away I know, and I had a little trouble getting here.

ASSEMBLYMAN GIRGENTI: I followed Lisa.

ASSEMBLYWOMAN RANDALL: Good morning, Dennis.

MR. BLISS: Hi Lisa. Good to see you.

ASSEMBLYWOMAN RANDALL: You too. I just have a question, and I will give you my perspective. Like our Chairman, I have some experience with our municipal courts, and have been -- am -- a municipal prosecutor in several towns -- smaller towns -- up in northern Bergen County. My experience, I am sure, is not an accurate reflection of what the statewide experience is. We, for example, don't have a particular number of backlog problems or unusual problems in terms of receiving cases on a change of venue basis and disposing of them, and likewise, getting cooperation in terms of disposing of cases when we have to change venue on them.

Of all the functions which this presiding judge would have in each of these vicinages, which is the most pressing? I am not asking you to repeat, you know, all of the Task Force recommendations, or to walk me through them. But I am wondering what you would say is the most pressing need in terms of the function and responsibility of each of these judges.

MR. BLISS: There are a number of perhaps co-equal needs in some of the less populated areas of the State. Municipal court facilities are in terrible shape. The public walks in and they see the court held in less than reasonable circumstances.

ASSEMBLYMAN KERN: I've been in a barn.

MR. BLISS: That is precisely the--

ASSEMBLYMAN KERN: In Hunterdon County.

MR. BLISS: --concern. So, facilities is one. The adequacy of acoustics -- this ties in with facilities -- for the sound recording system is another. The ability to-- Right

now we have to use the sound recording field people to get information back as to facilities needs. These are municipalities which don't have the financial wherewithal because of the size of their budgets and even the low volume of their courts, but yet they are still part of the court system. The public walks into those courts and thinks that is the way the court system in New Jersey is. Your good courts get tarred with the public's bad stereotype of the municipal court system by that, to some extent. So there is a need in that regard to devise a funding means, perhaps, to provide financial assistance to those municipalities whose courts need upgrading, but whose municipal court fine and revenue volume is not sufficient to divert money to that purpose. That is one area of concern.

The next area of concern, of course, is quality control of the judges. Unless you have a judge who has the ability, the time, and the inclination -- of course, a presiding judge would have all of those -- to actually observe the performance of his colleagues on the bench, you don't have a mechanism of providing quality control, not only for the judge, but for the way the courtroom is operated, the way the clerk performs his or her duties. That is another area of concern.

The third area of concern would be in the management of the caseload; that is, those towns that have backlogs sitting next to towns that don't have backlogs. There has to be somebody in a position to help the particular judge who is responsible for the operation of his or her court to address the backlog and to overcome it. There is nothing more frustrating to a member of the public than to have cases constantly adjourned. You know, we forget that in a municipal court-- I think all of us who have been connected with the system can tell our own horror stories of witnesses coming in at nine o'clock in the morning, on their own time, not

receiving any compensation at all from the State, and sitting around the courthouse until two o'clock or 2:30 in the afternoon. Then if they get on, fine, or the matter is carried. But that suggests to the public, then, "If I see an accident, or I see an even that is going to come into the courts, I am not going to stop. I am not going to offer myself as a witness because I don't have a day out of my working life to devote to this, and I wouldn't even get a handshake at the end of the presentation."

All of those things combined-- You need somebody who has the ability and the interest to go into the court system, observe those matters, and then who has the authority and the ability to call on all of those resources of the Judiciary, and perhaps the Legislature and the Executive Branch, to solve those problems. I think every vicinage has problem courts. They have problems in processing where automation would help. But we have no focal point in any of the vicinages who has the time, the intention, and the inclination to address those problems. We think the presiding judge concept offers that promise to every vicinage, and through the staff, to the presiding judge -- in this case, the case manager -- to really follow through with what has to be done to reform the system.

ASSEMBLYWOMAN RANDALL: Just one further question. In terms of the staff of the presiding judge, there's a case manager, I guess, that's a part of that staff?

MR. BLISS: Yes. One case manager is recommended by the Task Force.

ASSEMBLYWOMAN RANDALL: How about a prosecutor, for the times when the presiding judge would hear cases?

MR. BLISS: The Task Force recommends that municipalities appoint prosecutors. Ideally, of course, if there was some device that would also provide an incentive to a municipality to not only provide prosecutors, but to provide public defenders, the calendar and the caseload would certainly

move much more quickly. Our experience has been, in those municipalities where there's both a prosecutor and a public defender, the wheels of justice move with blinding speed in comparison to those municipalities that have either one of those two elements missing, or neither of them.

It's very difficult to put a judge -- who is supposed to be not only impartial, but who is supposed to give the appearance to the public of being impartial -- in a position of having to either directly examine or cross-examine witnesses or question the defendant, because the defendant -- because the municipality has not provided either a prosecutor or a defense attorney. That happens in rare circumstances, as expedience, but it does happen. And I think--

ASSEMBLYMAN KERN: Not rare.

MR. BLISS: --it's a common problem that you will not see in the more urbanized courts, where you have adequate staff and you have people represented on both sides. It's almost like stepping into another world. And that's one area -- one problem area that we think the presiding judge, and the concept of having prosecutors and defenders in the municipalities, will solve.

ASSEMBLYWOMAN RANDALL: Thank you.

ASSEMBLYMAN GIRGENTI: Mr. Chairman?

ASSEMBLYMAN KERN: Yes?

ASSEMBLYMAN GIRGENTI: Just a point. I noticed in this report that they have the case manager. Have you-- Do you anticipate legislation for a case manager in terms of the municipal court?

ASSEMBLYMAN KERN: I don't think it's necessary.

MR. BLISS: No. That's not necessary. That would be an appointee within the judicial branch, consistent with the other employees that serve the court system in each vicinage, so there would not be legislation that would have to address either the case manager or the secretary.

ASSEMBLYMAN GIRGENTI: Okay.

MR. BLISS: The primary concern with legislation is to deal with the jurisdictional issues surrounding the presiding judge.

ASSEMBLYMAN KERN: That's the purpose of the legislation.

If we could, maybe-- This is a good time -- I know you started to go into finances, and we're going to have to explore that, but I'd like to hold that for awhile and give Judge Serata an opportunity to testify, because I think it's appropriate, at this time, that we pick up on what has been said with respect to the primary judge.

JUDGE SERATA: Good morning.

ASSEMBLYMAN KERN: Good morning. Judge, if you could give us briefly -- just for the record, because I know that some of the members of the Committee are not acquainted with you -- if you could give us a little bit about about your background, where you sit, and your experience?

JUDGE SERATA: My name is Samuel J. Serata. I am the designated presiding municipal court judge for vicinage one, which constitutes the Counties of Atlantic and Cape May. I am presently the municipal court judge in the City of Sea Isle City, which is located in Cape May County, and I'm also the municipal court judge of an inter-municipal court consisting of three municipalities in Atlantic County. I had experience and served for three and a half years as the sole judge of the City of Vineland Municipal Court in Cumberland County, which is a larger court.

At the present time, I am the only one of the presiding municipal court judges who devotes his time principally to the administrative responsibilities of a presiding municipal court judge. The other three presiding judges are doing two days, I believe, of their three days at the present time, of the CJP -- that's the Central Judicial

Processing, which involves their hearing remand cases. Basically, they meet -- they give first appearance rights to the defendants at one location in the County, and there is present an assistant prosecutor and also, a public defender there. And if the matter is remanded, they are either transferring the matter to a Superior Court judge for sentencing and disposition, or, I believe, in one of the counties -- by reason of cross assignment order -- that judge is also taking care of the sentencing problems, which brings us to one of the questions that I would just like to talk to you about, and that's the jurisdictional problem, and I'm not -- I don't want to discuss policy--

ASSEMBLYMAN KERN: No.

JUDGE SERATA: But at present, there is a problem with the law involving jurisdiction in hearing cases outside of the municipality in which they occur. I believe that the statute is 2(a): A-18.1, which specifically expanded the jurisdiction for hearing cases to the adjoining municipality only. Other than that, there was some thought -- and I believe there's one Appellate Division case that indicates that if you have a trial in another municipality, that the conviction may very well be void, which is something that I think should be investigated. I would just -- and maybe, perhaps clarified.

ASSEMBLYMAN KERN: Don't tell the defense bar.

JUDGE SERATA: I think that they're aware of it, if they read the law.

The other problem is that the rules, of course, provide that then you can be laid in another municipality in the event the judge disqualifies himself by reason of a conflict; or he recuses himself, so that then your problem there is handled. In those conflict cases, in vicinage one, we found that there was no control, or no watchover of those cases -- no surveillance of those cases. Most of them are sensitive in one way or another, because-- There are certain types of

cases where judges recuse themselves because it's a prior client, or because of involvement in litigation, or being on the other side of litigation. There are those sensitive cases which involve the enforcement officials of municipalities, or relatives, or the governing officials themselves, where it makes it very difficult for the sitting municipal court judge to act independently and hear those cases.

In vicinage one, I am the delegate of the assignment judge to supervise the assignment of those cases. Under the rule, in each instance, we're screening the cases and assigning them to other judges, preferably to be heard in the municipality where they originate; but sometimes, for the convenience of the parties, they can also be scheduled in other jurisdictions.

I personally hear many of those conflict cases. I will get a municipality which has six or seven cases, and go sit there for a half a day, or a day, and dispose of the conflict cases, and go to the municipality, in which event, if the prosecutor is not disqualified from pursuing the case, and a special prosecutor then comes in, the municipal prosecutor will pursue the case. In police cases, where I have been hearing the defense cases involving -- cross-complaints involving policemen, for the City of Atlantic City for about a year and a half now, or two years, there are-- Because of the size of the municipality and the nature of the population, there are a number of cross-complaints. And there, the City of Atlantic City provides an independent prosecutor who pursues those cases, and I'd hear no other cases involving the City of Atlantic City except those conflict cases.

I try and avoid hearing conflict cases -- hearing regular cases in any of the other municipalities, where I go in to hear conflict cases. And that is a problem -- it is a problem directing, as far as the duties of this-- The assignment judge of a vicinage is a very busy man. He has all

the housekeeping problems for the Superior Court, all the personnel problems -- I really shouldn't have to describe that -- as well as making sure the cases move. And, he's in charge of the other presiding judges, so that for him to devote time for municipal courts is difficult.

And these are not courts where judges are directly under his wing physically, like Superior Court -- full-time Superior Court judges. The nature of the municipal court system in this State is that predominantly, there are part-time judges who devote themselves largely to other activities than being a municipal court judge. There are relatively few of us in the State who are more or less devoting all of our time, or a great majority of our time, to being a municipal court judge. As a result, there are exigencies that are placed upon those individuals, that even though there are judges and they're responsible for courts, that I don't believe they always act -- I won't say-- I shouldn't say-- I have to be very careful, but I'm not so sure that they devote 100% attention to the court system where it's necessary. That's one of the problems that's involved in the municipal court system, with part-time judges.

That's what we have, and that's where we are, which helps justify, perhaps, the concept of the presiding municipal court judge. The idea, I believe -- as I've read the task force and I participated in the task force -- is that there be a judge who will be a sort of a supervisor and a manager of the municipal courts within the vicinage, and deal principally with the problems involving the municipal courts there the same way as a criminal-part presiding judge or family part presiding judge deals with the problems that arise administratively in those areas in the Superior Court trial divisions.

I don't know if-- Do you want me to tell you what I do? I don't know.

ASSEMBLYMAN KERN: I'd like to hold that. I think

some of the members of the panel would be curious, because of the time that you have to devote-- I'm sure that that might be very informative. But what I'd like to do, at this point, is let you come back, because I understand you do have the whole day for us. I do have some people who are here that have limited time to devote to testimony, and what I'd like to do is call upon those individuals now, and then come back to you, and I think an outline about what you're doing would be very informative, to justify the position.

JUDGE SERATA: Thank you.

ASSEMBLYMAN KERN: Thank you, sir.

I'd like to now call upon Judge John Conte. Judge, if you could, for the record -- because I know that some people are not as familiar with you as I am -- if you could give us something about your background and experience -- where you have sat, and such.

J U D G E J O H N A. C O N T E: Good morning, ladies and gentlemen. I want to thank you for the opportunity to make these comments this morning. My name is John A. Conte. I've been a municipal judge in the Township of Saddle Brook since 1975. At the same time, a few years after that, I was appointed to Rochelle Park, to Elmwood Park, and to Wallington. I was assigned by Judge Trautwein at the time, to sit in Fort Lee to aid with the Port Authority cases that were backed up for five years -- drunk driving cases. So, I sat there for a year.

I also sat, during the energy cases, when we had with the gasoline -- if you recall that, certain judges were assigned to the County, and I sat there. Also, I've been a member of the Municipal Court Action Committee, and the Procedure to Accelerate Criminal Trials. I am presently the President of the Bergen County Municipal Judges Association.

I hope that's some kind of a background.

ASSEMBLYMAN KERN: That helps. Thank you.

JUDGE CONTE: We have certain problems in certain situations. I'm concerned with the problems. And I sat on the Procedure to Accelerate Criminal Trials, and the Municipal Court Action Committee; I was Chairman of the Traffic and Computerization Committee in our County. We file reports, and I've got that green looseleaf book back with about a couple hundred pages of information. If you would only look at the courts the way it really is -- take it down to reality. We have too many people, I believe, in the clouds and not really seeing what's happening in the municipal courts. What the Legislature has done was broaden the jurisdiction of the courts. You gave us jurisdiction that we never, in our wildest dreams 10, 15 years ago, dreamed we would have. And every time, it seems, you pass a law, we get the jurisdiction to administer that law. No one objects. We have no problem in doing whatever you give us to do -- we're delighted to do it. It's our job, and that's what we're there for. But, when you increase our jurisdiction, you have to give us the facilities to increase that jurisdiction.

Several years ago in Saddle Brook, I had two court clerks before I had tollbooth violators, before I had Fish and Game laws violations, and before we had the domestic violence and the commitment -- the municipal commitment to the county hospitals, and before one other broad jurisdiction we picked up. But in any event, before we had all those jurisdictions, I had two people. We started in the bedroom. Saddle Brook's building was a house, and I had the master bedroom. That was the courtroom. So, we graduated from there. But you know, to this day in Saddle Brook, with, I would say, eight to 10 times the jurisdiction and the workload, I have two people and one part-timer. That's all I've got.

We've had problems through the years, in certain towns -- other towns don't have them. I sit in Wallington. If I was the only-- If I only sat in Wallington, I would say, "What are

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these people talking about? There's no problems with the courts. It's wonderful." Because Wallington is a very small town, we sit twice a month, not every week. We only sit so many hours. The calendar moves -- no problems. And I could sit back in Wallington and say, "Gee, this is really great. I love being a municipal court judge."

Then, in Saddle Brook, when I started-- I used to start at 8 o'clock, when I took over for a justice of the peace. We went to 7:30, to 7, to 6:30, to 6 -- I'd go six to midnight. I started at six, I'd say -- I promised everyone in the courtroom I would not go beyond midnight. Sometimes we do; I can't help it. If I had to put cases off, I'd say, "You come back next week at 5:30, or 5 o'clock, or 4:30, and I'll start at 4, 4:30, and go right to midnight," because we had the load. (indiscernible) why didn't you go another day or put on another evening? I can't, because who's going to pay for my staff? My staff works a full week. Now, they commit to court at night -- they don't get paid for that. Should they be paid "comp" time? Should they get comp time, or should they be paid extra? Should there be a public defender paid for that night, which we don't have in Saddle Brook or Elmwood Park? Should the prosecutor get paid? Should I get paid? I don't even care. I never even questioned about being paid for my services, because I felt I had to do it. But if I have to bring additional people, who's going to pay for them? There's no money in the budget.

So, these are the problems that we're having. The courts are expanding to no end, and we don't have the facilities to handle it. I have been before three assignment judges, with mayors of my towns -- Saddle Brook, principally -- to get more help. And we go in, and the court reporter is brought in before-- I can remember Judge Trautwein and Judge Simpson, and the administrator would be brought in and I'd say -- because the AOC-- I must make a comment about the court

administration in Bergen County. I think it's absolutely marvelous, because we get 100% cooperation. We have no problems with change of venue cases, and with the administration of Bergen. But we would go up to the AOC, and principally, Miss Belle Weisz, who can administer my court -- she would see the problems, because I would be complaining to her. I'd say, "I've got a problem. My clerks can't do the work." So, we'd go to see the assignment judges, and he talks to the mayor, the council, whatever -- the administrator, says, "Sure, we're going to see what we can do for you." We're going to go back a year later, the same thing. Another assignment judge, we go back -- same problems arise. We need more help to get the work done.

But how are you going to do it? You passed the law not so long ago -- two or three years ago -- that said half the money we received would be for municipal court purposes. That law wasn't worth the paper it was written on. You wasted your time doing that, because there was a cap law. We didn't get one penny from that money. You wasted our time and your time. Now-- You have a bill now that says 25% or 50% money will be used. But it must be somehow administered by the court itself. We're checked by the AOC constantly. Belle Weisz, Conrad Roncati, and all the parties from the Trenton-- So, we're monitored; there shouldn't be any fear that we can't monitor our own funds. But what you must do is appoint someone who has the authority to go into a town and say, "Listen. You've got to hire more people." And if you don't do that, all this is for naught.

You must give someone the authority-- I used to pray that the AOC would order the town to do it, but they can't, you see. And the assignment judge can't order. Suppose he's got authority over the court -- sure, but the town says, "We don't have the money. Let him pay for it." I've heard that. "Let him pay for it. Let her pay for it."

So, we're working hard, we're putting all these extra hours in, and the court clerks are in a panic. They quit. They can't stand the pressures; they become ill. And I've been through this. New people are hired, and they say, "We can't do the work." So, we got-- I have a new staff in one town, and now they're caught up with everything current -- they're totally current. But I said, "What about those other 10 years, where the records weren't put into the books?" They say, "Judge, we don't have the time. We only have the time to keep up-- We can't even keep up with what we're doing now. How do you want us to do that?" But the AOC comes in and goes over the books -- "Hey, the last 10 years, these markings weren't -- you didn't record these things." So, who's going to do it?

So, if you give us these jurisdictions, we'd be delighted -- we're delighted to take it. All I'm asking is, give us the wherewithal, give us the facilities to do it. I've got one court clerk's room in Saddle Brook that is just -- where you're sitting, that space and about where I am. Three people in that room, plus all the file cabinets, the copying machine -- well, we don't have the copying machine in there. There was a time we couldn't get pencils because there was no money in the budget. The administrator said, "We have no money. You can't order tickets, you can't order pencils, you can't order anything." So, the AOC comes in and says, "Wait a minute. You've got to do these things." Well, how are we going to do it? We can't do it, because you gave us the work to do, but not the funding for it.

Now, I'm not asking for money for us, for me, for anyone. All I'm saying is, you've got to give someone the authority -- someone the authority to order that if a court has a certain workload, that the town is forced to hire the people to do that work. That's my bottom line. I could go on and tell war stories for hours, but I don't think you really want to hear that. But you-- I am just-- Sometimes we are of the

opinion that new laws keep getting passed giving us jurisdiction. Now, with the domestic violence, that means the judge -- the municipal court judge at least once, twice, or three times during the week are awakened from their sleep. It's part of the territory; we understand that. But we didn't have that problem before. But now, we have to do a domestic violence report.

Let me just talk about reports for the court clerks, because I've got to get a plug in for them also, while I'm at it, all right? We used to have to do a monthly report; it was one page on both sides. Now, it's a four-page report. Now we have to do a domestic violence report. We have to do a violent crimes compensation report. And on the DWIs, now we have to do a weekly report on the DWIs. And my clerks say, "Judge, what do you want from us? We can't do it; we don't have the time."

So, that's what you've done to us. And we don't say-- No one's complaining about the work, honestly. What we're just saying is, please, put some teeth in it, so we can get the job done properly. And -- I don't know if you want me to comment on--

ASSEMBLYMAN KERN: If you want to comment on any of the bills specifically--

JUDGE CONTE: --on any of the bills? Let me briefly tell you about the presiding judge. Great idea. But if you make a presiding judge in municipal court, you've got to give him the power to go into a town and say, "You have to have three full-time people, or four full-time people. And the money's got to come out to pay for that person." See, in Saddle Brook, for example, I need more help. In Wallington, when I need more help, they hire somebody, or they put somebody on for a few more hours. Same thing in Elmwood Park. Now, my DAOC just came in and said, "You need more help." I'm sure, if I went to the mayor and council, I'll probably get a part-timer or a full-timer to get the work done. Some towns, it could be

done.

You see, we get the budget problems. Not me, as the judge, but the town. Now we have -- we might now have had a cooperative council or a cooperative administrator before. Now, we've got a cooperative mayor, but the council's constantly at odds with the mayor over the budget. So, how could we get-- He can't get his budget passed, no less me getting more help, or more time to pay for the prosecutor.

I have to also say that probably in Saddle Brook, I have one of the finest prosecutors in the State. I just thought I'd get that in. (laughter) I'm not just saying that because he's here, but Assemblyman Kern is our prosecutor. And he's been there long before me. He's been there about 15 years already, through all types of administrations, and he's still there and he does a great job.

The presiding judge is a great idea, but you've got to give him-- You can't make a presiding judge of the municipal court and make him a firehouse judge -- you know, how many courts are still up in a firehouse. He's got to be a part of the Superior Court system, as you said. He's got-- I think he should be a Superior Court judge with all of the rights and responsibilities as a Superior Court judge. Don't make a chief judge and then degrade him to something less.

But one of the bills was going to have a municipal court presiding judge -- going to pay him 80%, or 70, or 90%. I don't think-- I have an absolutely adverse attitude towards that. If you're going to make him a chief judge, put him in Superior Court and let him monitor the court system. Right there's a great idea.

I don't think I should go over all of the -- about the fines, and the-- I'm more concerned with the administration of the court. I think, basically, that's my general comments. I'd be happy to answer any questions.

ASSEMBLYMAN KERN: All right. Does any member of the

Committee have any questions?

ASSEMBLYMAN GIRGENTI: Walter?

ASSEMBLYMAN KERN: Yes? Assemblyman Girgenti.

ASSEMBLYMAN GIRGENTI: Yes. I know what you're saying, and I sympathize with your plight, although I was the sponsor of the bill that divided the money from the counties to municipalities, because I still think it was a good idea. The county was collecting all the money, and the municipality was paying for the policemen and paying for the cars and everything else, so they were entitled to their share of it. So, I differ with you on that in terms of the overall. I think it did make some sense, because half the money now goes to the municipality and not to the county.

JUDGE CONTE: Sir, I was talking about another bill. I'm not talking about that bill.

ASSEMBLYMAN KERN: He's talking about the allocation of the drunk driving moneys.

JUDGE CONTE: I'm sorry. That bill was fine.

ASSEMBLYMAN GIRGENTI: And I was also the sponsor of the Violent Crimes Compensation Board, that put the money in. But I don't think it took anything away from the local courts, because we made that over and above the courts. So, although it does require a little more work, in the sense of -- I don't know how much work, but just telling the guy he has to pay \$25 more to the Violent Crimes Compensation Board, or whatever it is.

ASSEMBLYMAN KERN: Maybe the judge could tell you how much more work it takes. (laughter)

ASSEMBLYMAN GIRGENTI: Well-- But I understand what you're saying, but if I read the bill that I've just seen before me, it does not in any way compel anyone to mandate the municipality to give more money, or more staffing, towards that. This bill does not take that in. Would you want to see a bill with that in there? Because that's what you're saying,

and I don't think this really addresses that. The presiding judge, as you say, does have some merits, but nowhere in here does it say that it would compel the municipality to put on additional staff.

JUDGE CONTE: That's-- What I'm saying is (indiscernible) -- Yes, there should be something in the bill that gives a municipality -- that forces a municipality, requires them to meet a certain standard. And if the standard is that we bring in \$30,000 a month now, when we used to bring in \$5,000 a month, all right -- and it's still a five dollar fine, five dollar costs on those parking tickets. Thousands of parking tickets that these clerks have to go through -- I'm saying, someone has to be able to tell the town, "You must hire another person to do that work." That's what I'm asking you to do.

ASSEMBLYMAN GIRGENTI: Because right now, presently, there's no recourse, as you said, right? They'll come in and tell you that you need additional staffing, and where can you go?

JUDGE CONTE: That's right. And even if the assignment--

ASSEMBLYMAN GIRGENTI: Who do you feel should have that authority?

JUDGE CONTE: If you have a presiding judge, then it should be through him. If there is not a presiding judge, then I think, through the court administrator of the county, and the assignment judge of the county.

ASSEMBLYMAN SCHUBER: Walter?

ASSEMBLYMAN KERN: Yes, Assemblyman Schubert?

ASSEMBLYMAN SCHUBER: John, I think-- Basically, wouldn't one of the-- I agree with your analysis of the situation, by the way. I think there's no question about it. The municipal court system-- As a former mayor myself, over in Bogota, I know how, basically, municipal court systems from the

fine point of view, now -- from the fines, was a money-making proposition to the municipality, and I know Mayor Lodico was up here, too, and I'm sure he'd agree with me.

But I think, probably what you're looking for would probably be the issue that a percentage -- or a considerable percentage -- of the fines that you take in, be earmarked directly for the municipal court for its operation, so that in essence, what you're taking in helps to pay for your operation and keep up the personnel in accordance with the level that you need for meeting the caseload that you have. I think one of the bills does that, I believe, in the package --

JUDGE CONTE: That's correct.

ASSEMBLYMAN SCHUBER: --which we don't have at the present time.

JUDGE CONTE: Yes. The last few years -- not this past year, I don't recall, but the last few years, we had to submit a budget to the county, to our assignment judge.

ASSEMBLYMAN SCHUBER: Right.

JUDGE CONTE: We were required to do it. And we submitted the budget, and we were put in for public defender-- I think there's two towns in Bergen County -- my two towns -- two out of my three towns, and I'm embarrassed over that. And every year I go to the mayor and council, and every year I put it in. There's a case that says you have to have public defenders for indigents, right? So I have to ask an attorney who's in the courtroom this week, or I say to my clerk, "Who's coming in three weeks from tonight? Get me a list of attorneys." I say, "Call them up, and ask him if he would do us a favor and serve." I shouldn't have to do that. Because you see, we're asking for a favor for someone.

But what I'm saying is, there should be money somehow earmarked, but that we don't have to go begging for.

ASSEMBLYMAN SCHUBER: Yeah, I appreciate that.

JUDGE CONTE: You see -- that the money is there, not

that we could use for anything we want to use it for -- I mean, it would have to be approved, even if it was approved by the presiding judge--

ASSEMBLYMAN SCHUBER: Right.

JUDGE CONTE: --or the AOC. But when we had to make copies, we were not allowed to use the copy machine in our building. My clerks had to walk about 200 or 300 feet up to another building every time they wanted to make a copy. Is that asinine? Absolutely asinine, and we had to do that. So they'd have to wait until a certain time during the day, and try to go up and make the copies, and then come back down. It's ridiculous. Now, we have a copying machine -- not in our -- it's in our building, so they walk out of the offices, which is not the best but it certainly is better than what we had before.

ASSEMBLYMAN KERN: Any other questions from any members of the Committee?

ASSEMBLYMAN GIRGENTI: No, I'll reserve.

ASSEMBLYMAN KERN: Thank you very much.

JUDGE CONTE: Thank you very much.

ASSEMBLYMAN KERN: What I'd like to do is call upon the Mayor of Saddle Brook, the Honorable Peter Lodico, who is not the mayor that was uncooperative, as has been testified to earlier (laughter).

M A Y O R P E T E R L O D I C O: Thank you. Good morning to all of you.

That's a tough act to follow. But basically, our problem is -- as Judge Conte has said, is correct. I'm working with the budget. The court has generated \$40,000 more in 1985 than it did in 1984. We're very appreciative of the bill that was passed that gives us that money; however, that money goes into surplus, and when mayors and councils look at tax dollars, tax points, that money gets applied to the surplus to reduce your tax increase to the people.

What we don't have, and what we need, is to provide the courts with what is necessary to operate. Saddle Brook is a small town; however, as far as the court is concerned, we get the State Police tickets, we get the Garden State Parkway -- anybody who violates the -- not putting the quarters in the tollbooth, Saddle Brook gets the court cases. Route 80-- Any violations on Route 80, State Police write the tickets, Saddle Brook is the hearing town for the court cases. Which is fine; however, with the increase in traffic, and the tickets that are being issued, we have a problem with the courts. I find it very unusual that the court is being kept up the way it is, but that's thanks in part to the judge, the prosecutor, the people and the staff that we have.

However, I put in the budget for a new person for the court, but with the five percent cap, it's very difficult to tell the council -- or to the people -- that yes, we need the additional person in the court, because they're not seeing that volume, they're not seeing that traffic of tickets that are coming through.

Another problem that we have -- and every town, I'm sure, has it -- is with the drunk driving. The Assembly and the Senate -- very rightly so -- passed stiff drunk driving laws. However, when the cop issues that ticket, no one wants to lose their license for six months, or a year or two years. They're going to fight it in court -- they'll take their chances. That's a long process. You're talking a couple of hours. Many times they'll bring witnesses, or they'll bring experts to come in and testify on their behalf. That's their right as a defendant. Our court is taking the burden of all this, and it becomes very problemsome.

I cannot give the judge or the prosecutor additional hours to maybe hold court twice a week. We just don't have the funds. With the Garcia case now, a problem comes up with either "comp" time for the people or whether they should be

paid for the Monday night court sessions. As the judge said, that runs from six to maybe 12 midnight. That money had to be put into the budget. That's required. I don't know if the Congress will change it, but right now, I had to anticipate that. That was additional funds that we had to put in.

We are getting the money for the courts; however, I, as the Mayor, or the Council, cannot spend it because of the cap law. The court is within the cap.

ASSEMBLYMAN KERN: Then you would be in favor of an exemption, as two of the bills have?

MAYOR LODICO: Yes. What I would like to see is similar to, possibly, the way the Fire Prevention Bureau was set up by the State. I have no control over that; the moneys that they raise go in for fire prevention. We set that up; the Fire Department elected one of their members who qualifies to be Fire Prevention Chief for the Township. The funds that are collected -- 80% remains with the Township, 20% goes to the State. I cannot tell them, the Council cannot tell them, how to spend this money. He provides the budget. As long as his revenues equal his expenditures, he's set. No one can really question too much what he's putting into his budget. And, it's out of the politics of mayors and councils. He's free now to do his job, as he's been charged to do with the State, and possibly, the courts can be set up in that respect also. Maybe 45% of the fines that come in can be used for the court, for the operation of the court. Then, it's out of our hands; we can provide the staffing that's needed and the recommendations that are made by the judge. Right now, we don't have that power to do that.

ASSEMBLYMAN SCHUBER: Just a-- I commend Mayor Lodico for coming down. Very few mayors would come down to a legislative committee to make a pitch for the municipal court. And there's no question that it's very, very important that we take some action on the reform. I commend the Mayor for doing

so.

I would also recommend, maybe a raise for the prosecutor might be in order. (laughter)

MAYOR LODICO: If it was outside the cap, we could discuss it. (laughter) While we're on the subject of pay, just as an aside, I think our judge, our prosecutor, and our court staff are underpaid. Our court clerk, I believe, is somewhere in the vicinity of \$12-13,000, and she's been there three or four years. The same is true with the other people. We cannot pay them for the work and the hours that are being put in, again, because of the cap law. That becomes a problem. I'm sure it's a problem in most towns.

We had a problem a few years ago, where we could not buy police cars because of the cap. We had to go out and bond police cars, to more or less circumvent the cap law. I remember the judge coming up to us with cartons of tickets -- I was on the Council at the time -- and he dropped them right on the table. And there was a backlog, and we couldn't help him, because we had no funds in the budget to provide for that. We were having trouble meeting our day-to-day costs. We're not in that position today; we're in very good shape budget-wise, but that five percent cap, again, does become a problem when you're dealing with the courts. And they are generating their money. It wouldn't cost the taxpayers any additional funds.

ASSEMBLYMAN KERN: Any other questions?

ASSEMBLYMAN GIRGENTI: Walter, I just want to say that one bill is on there as a result of what he's saying, and one of the reasons I know is, Assemblyman Rooney also proposed it. But being the sponsor of the one bill, with the fines -- I realize the problem with it, and that's why I put the cap exemption in there for that, too, and the other piece of legislation. So I understand where you're coming from, and I agree with you in that area. We should do all we can to try to give them a little more leeway.

The caps have been, as you know-- I think they're there for a very good reason, but as time has gone on, they've really cut into certain areas. The end result has been a reduction in essential services in many cases, which is unfortunate.

MAYOR LODICO: Yes, I agree. The intent was good, with the caps, to curb spending by municipal governments. However, Saddle Brook was budget-poor when the cap went in, and through the years, when contracts with employees were being awarded in arbitration awards for nine and a half percent, we still had a five percent cap. We were at a point where we were down seven or eight patrolmen -- they just weren't being replaced. Now, we're up to full force on the police department, and again, they're out there writing tickets, and that's generating more work with the courts. And the solution to one problem turns up another problem, and that's where we're at today.

ASSEMBLYMAN KERN: Any other questions? (negative response) Thank you very much.

MAYOR LODICO: I'd like to thank the members of the Committee for listening.

ASSEMBLYMAN KERN: It's good to hear your insight on the subject matter, and I commend you for coming forward, because as Assemblyman Schuber said, a lot of mayors would be reticent to outline what the problems really are.

MAYOR LODICO: Well, it's very convenient since I work across the street at Paramus Catholic. (laughter) Thank you.

ASSEMBLYMAN KERN: If I could now call upon Judge Vincent Marino?

I would like to acknowledge, at this point, a class from -- a government class from Bergen Community College that will be observing the hearing for the next hour, I guess it is. We're glad that you could come in, and I hope that the

testimony is informative.

Judge, if you could -- as I have asked all the other witnesses -- give some background and experience about yourself?

J U D G E V I N C E N T M A R I N O: Good morning, members of the Committee. My name is Vincent Marino. I'm judge in Franklin Lakes, and also Ramsey. I've been in Franklin Lakes for about 14 years, and in Ramsey for about 12. I was a municipal prosecutor in Franklin Lakes for about three years prior to my appointment judicially.

I'd like to just-- So far as the comments made on the cap, I'm definitely in favor of the exemption under the cap law so far as the municipal court funding is concerned. And the other bill that I'm very happy to see in the works is the bill which would mandate that a percentage of the funds which are actually received by the municipal court are earmarked -- are utilized for municipal court expenditures.

I think, personally, that the 50% is not enough. I know that -- I think Assemblyman Kern's bill has 25%, and the other bill indicates at least an expenditure of 50%. I'd like to see that percentage even increased. I think that there are a tremendous amount of expenditures, and they're being increased daily. For instance, in Ramsey, at the present time, we have five people working every day, of which three are full time. That's just in the office, besides the prosecutor, the public defender, the judge, and the two clerks appearing every court night -- one to collect fines, etcetera. So, we're growing and growing and growing, and the money is really about the same as it was some years ago. So, we do need the funding, and I think this-- Obviously, Assemblyman Girgenti's bill initially was what we needed as a beginning point, so far as mandating that half the funds after the initial 1980 threshold is received -- or all of the funds, I should say, after the 1980, and then half after. If it's received again, the threshold is met the second time. But at least 50%, and no less than that.

And I'd like to see that money go into a special municipal court account. We realize that it should be administered by the municipality, because there are auditing problems and bookkeeping problems, but I think it should not go into general treasury. I think it ought to go into a special account so that it is easily manageable, so that if these funds are necessary, upon the approval of the appropriate parties -- whether it be the presiding judge, if in fact that comes to pass, or the assignment judge or criminal case manager in Bergen County -- those funds should be available with certain regulations, on a rather immediate basis. So, I definitely favor the exemption under the cap law, and I think that's pretty much what other people have said before me, and also, the fact that no less than 50% of the funding be made available on a very regular basis, and with a very special account maintained by the municipality.

I think those were the two principle bills that I had some interest in. So far as the presiding judge concept is concerned, it seems as though the concept is a good concept. I just worry about the reporting. We're at a point now where we're filing reports with several agencies -- State agencies, County agencies, in some case, obviously, the Division of Motor Vehicles; we have domestic violence, and we have a number of reports which our people cannot keep up with. They just cannot -- they're just overwhelmed with report keeping and report sending. And I have a feeling that if we put another person in the process -- that is, this presiding judge -- we're just going to have another series of reports that we have to file.

If, indeed, there is a presiding judge, I would like to see either the person be a Superior Court judge, which I think would eliminate one step in the process; or if it is a municipal court person who becomes the presiding judge, that our reporting then will be confined to reporting to him, and not to him and the Bergen County Administrative Office of the

Courts, and the Bergen County assignment judge, and then to the State people. I think, if this person is going to be given the appointment and the authority, then our record keeping and our reporting, then, should be confined to his case manager and to the State agencies which are looking for these reports. And we should not have to duplicate this report making. That's a major concern, because although maybe sitting here, it seems rather abstract, you must go to a municipal court office on a particular day and they are just buried in paper. These people cannot keep up, and generally they are very underpaid. And they are frustrated, as Mr. John Conte has said. There's no question that the girls -- for the most part, these are women who are working in these offices and they do have pressures at home, and other things they have to do, and this becomes a real pressure job. It should not be. For \$12,000 or \$13,000 a year, there's no way people should have to have that kind of pressure. The job just doesn't pay enough, and in fact, these people are almost volunteers, under the circumstances.

Now, if there are any questions, I'd be happy to try and answer those questions. But those are basically the generalizations that I had.

ASSEMBLYMAN KERN: Assemblyman Girgenti?

ASSEMBLYMAN GIRGENTI: Judge, I just want to say to you that I also felt, at the time, that we should have taken all that money. But of course, as we know, politics -- we had to reason with the county people to try to get some accord, and it wound up that formula there that you mentioned, once we reached that level, that we can all split it equally.

I happened to feel at the time, that the original bill was that all that money, if it was within the municipality, should have went to the municipality. The one thing that you're bringing out that's interesting -- the judge who spoke before Judge Conte said the same thing -- I think our problem here is not so much a management problem, but a staffing

problem, if I'm hearing it correctly. You know, you were talking about, a presiding judge would make somewhere in the vicinity of \$70,000, and that's like one-sixth the salary of somebody that's on his staff. So, maybe the situation is that we need additional staffing, and as you said, my problem is that we're going to have another layer of bureaucracy there. I see the merits in it, and I'm going to have to weigh it, obviously, before I vote on it.

But I see the merits there, but I also see that that is not really the problem. The problem seems to be in the staffing area, not so much in the management. Would you comment on that?

JUDGE MARINO: Well, I would agree with you in the sense that putting another person in the process, I do see problems with that. I agree with you, and that's what I tried to comment on before. The-- Apart from staffing, the other problem municipal courts have is that there is a lack of communication, not in Bergen County -- and we're here, we're Bergen County judges; we're not trying to butter anybody up. I'm being honest about this. We happen to have a very excellent system in Bergen County. What I find, in speaking with other people from other counties, is they do not have good communication in between the assignment judge and the municipal court. They function in different worlds, and as a result, if there's a problem in the municipal court, it is not easy to resolve it. The county people generally are not familiar with what we do. They do not get involved in some basic things, like first appearance hearings. They do not get involved with the initial process on domestic violence. They do not get involved with the common problems involving the traffic violations -- the DWI, or careless driving, or reckless driving -- so that when you go to these people for help, it's like, "Well, what do you think?" And the answer is, "Well, if I did what I thought, I wouldn't have to call you." So that, I

think, is a big problem which possibly could be resolved with the so-called presiding judge.

And also, if there is going to be a presiding judge, I would like to see that person comes from the ranks of existing municipal court judges, because if we're going to take somebody that knows nothing about the municipal court and make him the presiding judge, we're no better off. So, I would like to see that person come from the ranks of existing municipal court judges, and there are many qualified people, if we are going to go with that. But I have a lot of the reservations that you do, except that, in the area of the communication -- and it can be a very serious problem. We look for guidance very often. I think, probably, in the course of a month, either myself or my girls might call Belle Weisz in Bergen County maybe seven, eight times on problems we really don't have the answers for, or if we think we have the answer, it's an area that you have to go very carefully with. It might be a sensitive area, and it's good to have that other opinion come in and give you that advice, which you can work with.

So, that would be the area where I think a presiding judge would help.

ASSEMBLYMAN KERN: Assemblyman Schuber?

ASSEMBLYMAN SCHUBER: Judge, I would agree with some of your analysis. As I was telling -- I think it was Mayor Lodico or Judge Conte before -- you know, as a former mayor myself in Bogota, I think there's no question that many of our municipal court systems are plagued with the unfortunate problem of not having enough money and inadequate staffing, and not only the long hours that they have to spend and the report-keeping that has accelerated over the last several years as the Legislature has added to the duties of municipal court judges, but just the abuse that the clerks take, on the phone -- I've seen so often, in my own particular court -- is something that you probably even could put compensation on.

So, I think that the process of either Assemblyman Rooney's bill or Assemblyman Girgenti's, or both together, of providing for more money as a responsibility of this Legislature, which we have and I think we're going to need-- But let me ask you something which I was asking the people from the AOC about, and that's the training of municipal court judges, if I might. At the present time, I understand, there's a judicial conference once a year. Have you found that to be worthwhile?

JUDGE MARINO: Yes. I have found that to be very helpful in recent years. We have a rather specific program that we go through. The morning is the plenary session, where generalizations are made with regard to matters of importance. But the afternoon, or basically, the late morning or the afternoon, are taken up by the actual workshops and things that are of interest to us.

For instance, the rules of evidence are very important. That's been very helpful. DWI discussions, which obviously is a very important topic at the present time; the ethics of the municipal court, and the relationship between the municipal court and the public in general -- I have found those to be very helpful. However, it's my opinion that we should be required to take a course of study. I believe in continuing education, and I think there ought to be some program implemented whereby, either once a year or twice a year, so many hours of study ought to be given to the municipal court judges. I think it's important, because, you know, we read the law journal, and we read the advance sheets, and we try cases, but sometimes we may miss something, and it has to be brought to our attention. So, I do believe that continuing legal education should be a requirement, whether it be an hour a year -- I'm sorry, one session a year, consisting of maybe eight hours, or whatever.

I don't particularly care for the idea of the

prequalification in the bill now. I think it's kind of unfair, because I don't think that's required of Superior Court judges. It seems to me, if I read the bill correctly, that it's almost taking an examination. So you receive the appointment, and then you take the exam, and if you don't pass the exam, your appointment is invalidated. I think that the person, assuming he's qualified and he's appointed in the regular process -- I think once he's appointed, he should then be required to take whatever it is this course is going to provide, and that's still in the implementing stage, from what I understand. And I think that it should be a requirement that he go through this course, and that he be subjected to the education that's a part of it. I don't think he should be examined in the sense that he either passes the course or he fails the course, and if he fails, he should be disqualified. So, I'm against the prequalification, but I'm in favor of the notion of education initially and continuing throughout the career of the judge. I think it's very important.

ASSEMBLYMAN SCHUBER: I think the municipal court judges in Bergen County have their own association, which I think Judge Conte, at this time, heads.

JUDGE MARINO: Yes.

ASSEMBLYMAN SCHUBER: And you meet periodically, I know.

JUDGE MARINO: Yes. Well, we-- Usually, we meet in conjunction with the assignment judges' mandatory conference requirements.

ASSEMBLYMAN SCHUBER: How often is that?

JUDGE MARINO: And-- Once a month -- once a month, maybe once every two months, but we meet on a regular basis, and it's usually at that time, because we're all members of the Association, where we would discuss matters of interest. But frankly speaking, we-- It's not an educational type of process. It's more of an association of people getting

together and exchanging ideas more than it is a formal educational process. We do, in the conferences with our assignment judge, go through a specific agenda of matters, some of which can be classified as educational, some of which might be informative, and just some other general concepts that are thrown out. And that's very helpful. But it is not, you know, a regular educational process so far as an association is concerned.

ASSEMBLYMAN SCHUBER: Well, I agree with you. I think that continuing legal education in the profession of the law, I think, is a must. I think it's something where -- that the profession is moving to, more and more. Some states have already moved to it, and municipal court judges, especially, that deal with the public, probably on a straight level more than most other members of the Judiciary. I think it's important that they be updated periodically, and I would hope that we would incorporate some reference to that within our legislative proposal.

Thank you, Mr. Chairman.

ASSEMBLYMAN KERN: Thank you. Any other questions of the judge? Thank you very much for coming and helping us.

JUDGE MARINO: I thank you for the opportunity.

ASSEMBLYMAN KERN: Appreciate it very much. We are going to break exactly at 12 o'clock, because there are certain restraints with respect to the utilization of the facilities here. If there's anyone who can offer any testimony, and wants to testify within the next five to ten minutes, we'd appreciate it. All right. And, we will continue after lunch. (gentleman approaches witness stand to testify)

J E R R Y B I N N E Y: Thank you, Mr. Chairman. My name's Jerry Binney, and I'm Assemblyman John Rooney's legislative aide. And just very briefly, I just wanted to make a statement on A-678, which is a bill I think enough has been said already on the need for the exemption to the spending cap on the

municipal court costs. And I know Assemblyman Girgenti has a similar bill in on this matter.

I just wanted to say that Assemblyman Rooney is amenable to an amendment or a Committee substitute that would change his bill from exempting only increased costs from municipal court operations to all costs across the board.

ASSEMBLYMAN KERN: I believe that Assemblyman Rooney is also a Mayor, and I suspect his experience as a municipal official generated the bill, because I know it was in last year.

MR. BINNEY: Exactly.

ASSEMBLYMAN SCHUBER: And I understand that Assemblyman Rooney has no problem with these types of amendments to bring the bill in to bring some more money into the municipal court system. Is that correct?

MR. BINNEY: No, I don't believe so.

ASSEMBLYMAN GIRGENTI: Mr. Chairman, I think that's what my bill does already. (laughter) So we would like to-- We'd be glad to have Mr. Rooney join me in that.

ASSEMBLYMAN KERN: Any questions? Thank you very much.

MR. BINNEY: Thank you.

ASSEMBLYMAN KERN: Well, we'll break five minutes here.

ASSEMBLYMAN GIRGENTI: Walter?

ASSEMBLYMAN KERN: What?

ASSEMBLYMAN GIRGENTI: One question?

ASSEMBLYMAN KERN: Okay.

ASSEMBLYMAN GIRGENTI: Just-- I don't know if all the judges are going to be here after lunch. One question I wanted to ask-- The point that was brought up before-- is there a suggestion for legislation about the situation where it's only the adjacent municipality?

ASSEMBLYMAN KERN: In the bill, with respect to the presiding judge, yes.

ASSEMBLYMAN GIRGENTI: All right, and that's included in that?

ASSEMBLYMAN KERN: There's a jurisdictional area in the bill.

ASSEMBLYMAN GIRGENTI: All right. Okay, so that it would widen it -- expand--

ASSEMBLYMAN KERN: It does, considerably.

ASSEMBLYMAN GIRGENTI: --the scope of it, beyond the adjacent-- Because, I think that law's in 57.

ASSEMBLYMAN KERN: Right.

ASSEMBLYMAN GIRGENTI: Okay.

ASSEMBLYMAN KERN: All right, we'll break now then. And, hopefully, you'll all be back after lunch.

(RECESS)

AFTER RECESS

ASSEMBLYMAN KERN: I'd like to call the meeting back to order. I would like at this time, because of people's scheduling problems, deal with the Committee portion of the agenda, and take the bills that we're going to release that are not part of the municipal court package. (At this time, Chairman convenes Committee meeting)

ASSEMBLYMAN KERN: (Reconvenes public hearing) Perhaps Judge Serata could continue with his testimony. I believe there was some question as to what you are presently doing, and how much time it takes, and such.

JUDGE SERATA: Yes. At the present time, there are budgetary restrictions on my time, from the standpoint that the understanding is, I'm paid, basically, for three days a week, and those are eight-hour days, and if you extend more beyond

the eight hours, so be it. In actuality, I have a very small private practice that's left, and it seems to be diminishing with regularity. I have two other courts that are part-time: Sea Isle City will occupy one day of my time, and the other small municipality is a twice a month on Monday evenings. So, basically, I devote the great part of my time to being a presiding municipal court judge.

I go to my place of work, which is at the Atlantic County Civil Court House, virtually every day of the week. Some days I sit there, and I hear Atlantic City conflict cases, and I will tell you I get compensated by that City, and if I go hear conflict cases in another municipality I'm also paid by the session for that. But, essentially, I spend most of my time, and the dominant part of my time, performing the job of a presiding municipal court judge.

Contrary to what the-- And I would just indicate, the task force made recommendations that were done without any experience at all. I really believe that in the vicinage where I work, there is ample full-time employment for a presiding municipal court judge. And I'm not trying to create a job, and I would just indicate that to you.

There-- The amount of duties that you do are limited only by what the assignment judge designates to you. The assignment judge that I have calls upon me with virtually every municipal court problem that arises in the vicinage. So, if there is a problem involving a clerk who may or may not have done something proper, or if there is a problem with a judge who has behaved improperly or questionably, or in any way at all, those things are referred to me, and then I confer with him in that regard. He still is the assignment judge, and is responsible for the municipal courts, but I am his, sort of, advisor, and I act like a presiding judge of the municipal courts the same way as a presiding judge of the criminal part, or of the family part, or of equity, for example -- although

down there's only one equity judge -- would confer.

I also deal with the other presiding judges on an equal basis. For example, there are areas in the municipal courts, especially in domestic violence, where there is a concurrence of problems, like with the family part, in that particular instance, or in speedy trial problems with the criminal part. And, you work with the criminal case manager or the family part case manager.

Which-- At this point, I would just like to indicate, there was a question raised by Assemblyman Girgenti concerning the staff problem. He's concerned about a bureaucracy. I believe that if you examine the vicinages -- the judicial districts -- in the State, you'll find that in the trial court administrator's office -- in almost every one there is at least one assistant trial court administrator whose principal function is to deal with the municipal courts of the vicinage. The concept of the Task Force in that regard, and what is actually happening in Vicinage 1, is that that assistant trial court administrator, who also happens to be the jury manager for the vicinage, and is a busy fellow -- but he basically is the case manager. He fulfills that function. I think that in-- I know that in Vicinage 1 -- I can't speak for all over -- the case managers, basically, came from or derived their existence from the trial court administrators office, so that they are -- most of them were -- assistant trial court administrators who then got shifted over as case managers for presiding judges. The concept in the Superior Court, from what I've read, and from the rules, is that there-- The concept is that there be a management team, basically, made up of a judicial side and an administrative side, so that they would run these divisions, which is a concept that is somewhat new in the judiciary. In the municipal courts, that also is the kind of thing -- I think the fancy term for it is called an executive component. And that's made up of a judicial side,

and the administrative side.

Heretofore, the court system has dealt mostly as judges as being chiefs, and looked upon as the chiefs and the administrative, particularly in the trial sections of the Superior Court, sort of following after. And the idea was to more or less blend them and make them into a management team.

In the municipal courts, that is -- it's a problem situation, at least in my observation of it. You -- if you listen to judges and you listen to court clerks, you find out that the real stable management base of a municipal court is the court clerk. Judges come and go. Prosecutors and defense council are really lawyers who appear in the court, and are not really part of the municipal court, although municipal officials regard them as municipal court personnel, frequently. But, they're really lawyers who represent interest in a court.

So that when we look at it, the municipal court clerk is the stable factor. Usually, he or she stays there long after the judge comes or goes, because that's -- she is their stable who operates the court, and is responsible, and feels responsible for the operation of the court.

What has to be done if you're going to manage the courts and start dealing with the calendar problems of the courts, is to sort of bring in the judges into the management of the courts. There are many instances where judges have to become more a part of the court management than they are at the present time, particularly -- in my observation -- at the municipal court level.

So, I can see that one of the functions of the presiding municipal court judge is to help to bring that management kind of thought into being, and that is what we are trying to do. It's difficult because the judges are part-time, as I indicated before. The pressures and priorities upon them sometimes do not give first preference to the court problem, and, really -- perhaps I have a limited view on it -- I think

the court function should be primary, because that court is there. It deals with defendants. It's the court of first impact as far as most people are concerned. And, as Dennis Bliss indicated to you, the volume of people and cases that are handled by municipal courts is immense.

I believe, really -- and I'm going to philosophize with you for a few minutes-- If you are going to do something about helping people or preventing crime, you have to catch them in the first instance. The first blush of misbehavior, or variant behavior is in the municipal courts, and that's where it first surfaces, so that the quality of the court is very important if you're going to really do something about the wrongs that society does against itself, or members of society do, philosophically. I don't think you can lose sight of that kind of thing.

So, what we're trying to do-- And I think if you look at the Task Force report, there were limitations upon the Task Force not to change the system, but to work within the framework of the system and correct it, you know, and make it work better. And I think that that's-- You know, I mean that's the goal. I don't want to go historically. I think there have been movements in the past to try and regionalize, and they failed.

ASSEMBLYMAN KERN: That's true. I want to pursue that, though, with you because there are some people that think that's the panacea for whatever is wrong. And I want to pursue that with you because maybe you've had enough years experience to be able to comment on that.

There are some people who think what the real solution is to junk the municipal courts, create some districts, and have the judges -- the Superior Court judges, or some other kind, a lesser kind -- have separate judges and divide the State up into a whole bunch of little districts to handle it. Say this County may have seven districts, or something like

that. What do you think of that as a proposal, if you can comment? If you don't want to, that's fine.

JUDGE SERATA: I really-- I don't-- I've been known to comment where I shouldn't probably, and this one area where I really feel I shouldn't, and I respectfully say that to you. I have been-- I'm a presiding municipal court judge. I am a member of the judiciary. I am told and instructed that I am not to discuss policy, and I think that's something that lies-- As the law says, it's based upon the inherent knowledge and wisdom of the Legislature, which is infallible.

ASSEMBLYMAN KERN: As we know. (laughter)

ASSEMBLYMAN THOMPSON: I haven't heard that before.

ASSEMBLYMAN KERN: It's good to hear. What we will do -- and I'm just going to put this on the record-- We are going to append to the transcript an article that dealt with that particular subject matter and analyzed it thoroughly, and make that part of the transcript. It's an article that appeared some years ago, but I think it will be very helpful as part of the record.

With respect to the time, I know that Assemblyman Girgenti looked at a report and voiced concern about whether or not we could have a full-time judge per vicinage, whether the need is there for that individual.

JUDGE SERATA: I think that there is the need, as I've indicated. If you're going to look for what we might term quality justice in the municipal courts, then I think that you need some kind of supervision, or a municipal head, of the municipal courts in the vicinages, and I say that to you for the simple reason that there are exceptions around the State. Bergen County may very well be one of those exceptions. It depends partly upon the quality, I suppose, of the assistant trial court administrator who deals with municipal courts. Generally, those people are not lawyers; they are administrators. And, as a result, when judges have questions,

or there are judge problems that are involved, there is no one that is really available at the vicinage level to deal with those specialized problems. That is one of the things.

And I indicate that because I want to comment on one other thing, too. It's true, there is an assignment judge. There is a Superior Court judge. And if you decide you are going to implement this thing and you think in terms of making it a Superior Court judgeship, the only thing that I would say to you is that the qualifications for a Superior Court judgeship do not include experience in the municipal courts. I really think that there's sort of a (indiscernible) generous-- You know, there is something that's separate and apart from the normal judiciary. There are volume courts that deal in short spaces of time, normally, with people who come before them. The problems, because of volume, are different than occur in the Superior Court, and it requires -- the expertise that's required, and the qualifications that you would look for in judges for that purpose are different from those in the Superior Court in many regards. We don't have the luxury of time, you know. We don't have the luxury at the time of sentencing, for example to do in-depth pre-sentencing reports. Sometimes they're done. They're available in special situations. But if you want to spend the kind of time that's done in background investigation for sentencing in municipal courts that can be done in the Superior Court, you'd never get rid of the cases. I mean, that's the practical part about it.

So you are dealing with these things, and there are special kinds of training that I believe are necessary, and it requires some kind of special understanding in order to deal with those problems.

ASSEMBLYMAN KERN: Assemblyman Stuhltrager?

ASSEMBLYMAN STUHLTRAGER: Judge, I just-- When you talk about the special training, I, as a practicing attorney, see who the judges are in my County and, knowing some of them

personally, know what their background is. I really wonder how specialized the training really has to be. I look at the bench that sits in Gloucester County, for instance. Two of the judges had rather extensive municipal court judicial experience. Most of the judges were either prosecutors, or did extensive municipal court work as, you know, an attorney representing defendants. And so, I guess I really wonder how specialized the training has to be. I think even within the bench in most counties now, you would find at least one, if not more, individuals that have very detailed knowledge of the municipal court system from personal experience. And if they were assigned to a municipal court jurisdiction, so to speak, they would be well thought of. Maybe they would need a little brushing up if they hadn't been there in a few years, but they do have the underlying knowledge, in my opinion.

JUDGE SERATA: Well, I thought that what I was addressing was not the normal municipal court judge. I'm talking about a presiding judge who has to have experience in the municipal court area, particularly of being a judge in the municipal court, if he's going to deal with other municipal court judges to assist in their problems.

ASSEMBLYMAN STUHLTRAGER: Well, I guess my point is, how different-- When you're looking, when you're picking a superior court judge or a vacancy that's there, or you're picking a municipal court presiding judge, I don't really see that you'd be looking at qualities that would be that different. If you knew you were picking a municipal court presiding judge, you might directly look for municipal court bench experience. But in many judges you are looking for that type of experience anyway -- trials, you know, their general practice and experience.

I think the training seems to me to be pretty much the same. I don't know whether you'd be looking for anything that much different. That's just-- At first blush, that's all I--

You know.

JUDGE SERATA: Yeah. The only response I can make to you is that if you're going to have someone who is going to deal with municipal court judges, and deal with their particular kinds of problems, I think you should have someone who has had some experience in the area, and is knowledgeable in the area if that's where he's going to be put. You're talking about, as I understand it, legislation specifically to provide presiding municipal court judges, and to look at their qualifications, because that's the position that you're talking about creating.

If you're going to have a Superior Court judge, I assume that then the Chief Justice would have the power to assign a Superior Court judge to be a presiding municipal court judge from among the Superior Court judges. But if he doesn't have that pool from which to make assignments with people with the experience, I think it may be a problem. And I don't know the answer to that.

ASSEMBLYMAN STUHLTRAGER: Thank you.

JUDGE SERATA: I'm just trying to explain that.

ASSEMBLYMAN STUHLTRAGER: Thank you.

ASSEMBLYMAN KERN: Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: I'm sorry I wasn't here earlier this morning to take part in this discussion. Let me say this: I'm from Newark. We have a population of 350,000, and we have full-time municipal judges, and we also have assignment judges. We have a assignment municipal judge who is picked by the Mayor of the City of Newark and not by the presiding judge in the Superior Court or the assignment judge, and I think it makes sense.

We look for a judge to know something about life and have common sense. The type of cases that come before Newark on a Monday morning take into consideration people being arrested or attacked over the weekend. Taking into

consideration that you have a population like that, they run the gamut, and we look for the person who sits who thinks and understands something about life, and uses common sense. I don't think that-- I think the legal qualifications, that's already there. You don't look from the point of view of a person being a lawyer-type of a practice.

We have an assignment judge now that -- I don't believe this fellow's ever practiced law and he's doing a good job. He came out of the police department. He had been a policeman on the street and went to law school at night, and he was appointed a judge.

Perhaps you have a need in Atlantic County and other places for, perhaps, the county or the State to have some technical input in reference to a person being chosen, but in our situation, we believe it is quite different, and I think that we have more of a diversification as far as-- It's probably a learning tree for any type of person to sit on the bench in Newark for a period of two years, with the type of cases which come through those courts, which I don't think is -- would be unparalleled in other parts of the State, except maybe Jersey City or some of the counties closer to New York.

JUDGE SERATA: Mr. Bliss, I think, wants to respond.

MR. BLISS: Yes.

JUDGE SERATA: But before we do that, I'd just want to indicate to you that what we're talking about-- Newark has a presiding judge over its-- One of the full time judges presides over the other judges, and administrates the court. Newark is also among the six or seven very, very large courts in the State.

When you-- In terms of the problems that you have, for example, the inner city problems that Newark has would be reflected in Atlantic City, for example -- in Atlantic-Cape May vicinage. There are very similar problems. A city like Vineland had that kind of problem before. But, the problem is

that to administrate that court, or to be a judge in that court, you're not looking for the qualities of administrating a group of courts. For example in the Atlantic-Cape May vicinage, there are 36, or 37, courts. In Bergen County there are 78 different courts which have their varying complexities, and their varying-- They are all different, these municipal courts.

ASSEMBLYMAN KERN: Mr. Bliss?

MR. BLISS: I can just echo some of what Judge Serata said, but also to add that we recognize that the high volume and large urban courts have particular problems that have to be addressed. They are not covered in the Task Force Report. It does not address the urban courts. But we are piloting, in Mercer County, the concept of having a presiding vicinage municipal court judge who is also the presiding judge of the Trenton Municipal Court, and Trenton, I believe, has three judges. Now, two full-time and the presiding judge in Mercer County -- or in Trenton, rather -- in effect is fulfilling both functions. So, that's another reason for having the four pilot projects. We're going to be able to see what the special needs of the Newarks and the Jersey Citys and the Camdens are. As a matter of fact, the presiding municipal court judge for the Camden vicinage will also be looking at the problems of the Camden Municipal Court as well. So, I hope we'll be able to address your concerns in that regard through the pilot projects.

ASSEMBLYMAN THOMPSON: Yes. I'd just like to follow up on one--

ASSEMBLYMAN KERN: Gene, we're also going to have a witness from one of the urban courts. We have the court administrator from Trenton who is going to testify today.

MR. BLISS: Yeah, that's correct.

ASSEMBLYMAN THOMPSON: While it's on my mind, there's something we didn't take care of the last time we dealt with the change from the juvenile and domestic relations court

judges -- courts, rather -- into family courts. It deals with bastardy cases and support cases, and if I remember correct, the municipal courts have concurrent jurisdiction on matters-- At least it's--

JUDGE SERATA: No longer.

ASSEMBLYMAN THOMPSON: No longer? Okay.

MR. BLISS: No more.

ASSEMBLYMAN THOMPSON: I hope they changed that. Okay.

JUDGE SERATA: When they created the family part, they took all the jurisdiction away from the municipal courts.

ASSEMBLYMAN THOMPSON: I put it in, but I didn't know whether--

ASSEMBLYMAN KERN: Yeah. No more bastardy trials in municipal court.

Are there any other questions? John?

ASSEMBLYMAN GIRGENTI: Going back to what you said before, do you feel that one of the prerequisites -- or would you like to see something in the bill that says that this individual should be a municipal court judge?

JUDGE SERATA: Yes.

ASSEMBLYMAN GIRGENTI: Because right now the bill doesn't speak to that.

JUDGE SERATA: I'll indicate to you, I think that person should be at least a sitting municipal court judge at the time of his appointment. I don't think that you can continue to sit, which is one of the problems, because I have difficulties supervising myself.

MR. BLISS: I would point out that that--

ASSEMBLYMAN GIRGENTI: It should be drawn from that pool?

MR. BLISS: I point out that is the position that the Task Force took, but, of course, it's not the only position.

ASSEMBLYMAN KERN: Are there any other questions? (no questions) I thank you very much, Judge.

JUDGE SERATA: Thank you.

MR. BLISS: Thank you.

ASSEMBLYMAN KERN: It's been very illuminating.

ASSEMBLYMAN GIRGENTI: Just one more question.

ASSEMBLYMAN KERN: Okay.

ASSEMBLYMAN GIRGENTI: Just on what Gene was saying. Where you'd have the full-time judges at the present -- Newark, Paterson -- in terms of a presiding judge of a full-time court-- I guess you said Camden, Trenton -- the major cities?

MR. BLISS: Camden is one. There are 10 altogether throughout the State.

JUDGE SERATA: Ten full-time judges, or courts with full-time judges?

MR. BLISS: Ten of the large urban courts, yes.

ASSEMBLYMAN GIRGENTI: Yeah, I know. Paterson has three. They have a presiding judge and two others. So, what I'm saying is, in this legislation could somebody be pulled in, actually, over this full-time court? I think that's what Gene was trying to get at. You know you have a--

MR. BLISS: All right. The concept would be that the presiding municipal court judge in each vicinage would be the senior municipal court judge, regardless of the makeup of the individual municipal court. So that if there is a presiding municipal court judge within a give municipality, supervising other judges, that judge's administrative superior would be the presiding judge for the vicinage who, in turn, would report to the assignment judge, just as with the Superior Court.

ASSEMBLYMAN GIRGENTI: Well, would this individual hear cases, or would he just be a manager?

MR. BLISS: He would be either a manager, or he could hear the conflicts kinds of cases where, for the examples that were given this morning, it might be appropriate. He would want to have someone outside of the municipality to be available.

ASSEMBLYMAN KERN: The legislation provides for conflicts, remands, and preliminary hearings.

ASSEMBLYMAN GIRGENTI: Would that take up the balance of his time, to say that he'd be only three days a week? Would that be the other two days, hearing cases? Or, what--

MR. BLISS: Not necessarily. It would depend on the vicinage and the way the workload is allocated. Because if you have the cross-assignment orders in place and the statutory mechanism to deal with that, he would be in a position as the manager, so to speak, to refer those conflicts cases and use the judicial manpower that's available throughout the vicinage.

ASSEMBLYMAN GIRGENTI: All right. Because in the Task Force Report now -- and looking at the appendix position papers -- it says, "Because of the requirement that each presiding judge be an active municipal court judge, the position will be part-time by definition. Time requirements certainly vary among vicinages, not only as a factor of the geography of each county." It goes on, "The Committee estimated that at least initially a minimum of one day per week would be required of each presiding judge, with a maximum of three days in the busier, or more complex vicinages."

Down to the funding it says, "Each presiding judge's salary should be prorated on the basis of the number of days served, and based on the equivalent annual salary of \$66,500. A judge serving as a presiding judge an average of one day each week would earn \$13,000 a year as a presiding judge. It is estimated that approximately \$750,000 in State funding would be required in the first year to compensate the 15 presiding municipal court judges."

MR. BLISS: That document represents part of the deliberations of the Task Force and that is, in effect, support material. You have to look at the final recommendation of the Task Force. But, more importantly, that was the best estimate of the collective wisdom of the Task Force without having the

ability to test it. And that's why we have the four pilots now to see whether the recommendations-- The Supreme Court, in effect, wants to know: "Okay, we've been presented with this."

ASSEMBLYMAN GIRGENTI: Yeah, now I understand. Now you've got the pilot program to give you the practical application to see how the--

MR. BLISS: And see how that matches.

ASSEMBLYMAN GIRGENTI: But now the Judge here has said it really takes three days a week, from what he's saying. Is that right?

JUDGE SERATA: I think it would take more than that. I give it three days a week, because that's the budgetary limitation on--

MR. BLISS: That's what we're paying them.

JUDGE SERATA: That's what I'm paid for.

There's another thing that I'd like to respond to -- earlier. I have practical experience in being a presiding municipal court judge with a large urban court, with a full-time judge.

ASSEMBLYMAN GIRGENTI: Vineland?

JUDGE SERATA: No, Atlantic City. And there's a problem that's unique in the State, Atlantic City Municipal Court. They have a year-round population of 30,000, with 90,000 visitors a day coming in. So, it's special. And they have administrative problems. That's a 24-hour court, that particular one there is shift, so the deputy clerks who work on criminal intake, they run into case management problems. They have big ones. They call upon me and an assistant trial court administrator, and we go there and we assist them in resolving their problems, administratively. And there is a court administrator within the court, and they have-- And, they're competent people. I'm not knocking their competency. The problems are large ones, and you draw-- The larger the pool of experience you have in many of these things, the better it is.

And the small courts -- there are some very, very small courts in vicinage one as well. I don't think that there's a smaller court in the State, maybe, than Cape May Point, which is just tiny. I mean, I think it had a total, in the year ending June of -- July 1 of 1985 -- maybe 200 cases, which included like about 205 parking cases. I mean, it's just a little one, and they have problems because they have problems in getting the proper kind of support of the municipality. It doesn't pay the municipality to keep the court open, and they don't want to go into an inter-municipal court, which is allowed by law now, as a form of regionalization, if you're looking at it. And, I mean there are-- You have the full gamut of problems. It requires someone, at some level, to have the expertise to deal with all these problems, and where you don't get it, I guess you develop it, which is-- But you have to have something to base it on.

ASSEMBLYMAN GIRGENTI: Well, your point before, what you just said -- and I guess it's a sad commentary on the process, that the hub of the system, or the people that you're depending so much on, are the clerks, and they're only making \$12,000 or something--

JUDGE SERATA: In some municipalities. In some municipalities, they make a little more.

ASSEMBLYMAN GIRGENTI: But I mean--

ASSEMBLYMAN KERN: They make less, some places.

JUDGE SERATA: Yeah.

MR. BLISS: Worse than that, in many municipalities -- and bear in mind that probably a large volume of the court is handled -- the system is handled by a hundred or so courts. But, by and large, you have many, many municipal clerks who are paid for 26 hours a week, and if it takes them 30 hours or 40 hours to do the job -- they're very dedicated public servants -- they don't get paid. And the towns don't have the wherewithal, the budget -- especially in the small

municipalities -- to pay the kind of a salary that would pay them for the work that they actually perform.

ASSEMBLYMAN GIRGENTI: Well, do you-- You know, I haven't read the whole report, but do you see a role for the State in terms of--

MR. BLISS: One of the recommendations in the task force deals with providing funding of four court employees or court personnel, and to improve facilities. All of that is very key, I think, to your deliberations. We have to address court employees, we have to address training, we have to address the presiding judge, we have to address the facilities -- adequacy of the facilities, automation. There's a laundry list of key items that -- some of which can be addressed administratively, but a large number of them, I think, Chairman Kern and the rest of you -- and those who sponsored the legislation who are on the Committee -- have zeroed in on the key areas that require legislative support, and we're very appreciative of the insight that you've demonstrated in going after those court areas.

ASSEMBLYMAN KERN: Anything else? (negative response) Okay. Thank you very much, Judge.

JUDGE SERATA: Thank you.

ASSEMBLYMAN KERN: Perhaps we ought to hear--

ASSEMBLYMAN STUHLTRAGER: Can I ask just one question?

ASSEMBLYMAN KERN: Sure.

ASSEMBLYMAN STUHLTRAGER: You know how the assignment judge or the prosecutor -- maybe even the probation department -- has the ability to take the freeholders and the counties to court--

MR. BLISS: Yes.

ASSEMBLYMAN STUHLTRAGER: --to compel them to -- with the personnel facilities, or whatever it might be-- I forget the name of the case that they call it.

ASSEMBLYMAN KERN: It's a something hearing.

ASSEMBLYMAN STUHLTRAGER: Something-- Bigley hearing.

MR. BLISS: That has not been--

ASSEMBLYMAN STUHLTRAGER: Does the assignment judge have the authority, as--

MR. BLISS: That has not been tested in the municipal court. It's a judicially established procedure in the Superior Court, where the judge can order the county--

ASSEMBLYMAN STUHLTRAGER: Right.

MR. BLISS: --to provide needed services. That does not exist at the municipal level.

ASSEMBLYMAN STUHLTRAGER: But the assignment judge, basically, is-- That is-- He's over -- charged with the courts--

MR. BLISS: It's part of his authority, yes.

ASSEMBLYMAN STUHLTRAGER: It's part of his authority. I mean, has that been attempted? Municipalities have an obligation, and for those municipalities that are living up to their obligation, I am reluctant to force them to turn over -- whether it be 50% on the one bill or 25% on the other bill, for the operation of the courts. I think it needs some definition as to exactly how that-- What's your base on that? Are you starting from ground zero, on the money, or are you starting from everything you get back over the 1980 figures? I don't think that's clear on the legislation.

MR. BLISS: That's a very difficult area, because we always have a clear picture of the separation between the Executive Branch, the Legislative Branch, and the Judicial Branch at the State level, and a pretty clear picture at the county level. But when you get down to the municipal level, as a practical matter -- especially in the smaller towns -- it's all lumped into one pot, especially the separation of the judicial branch, and the judicial responsibilities from those of the municipality, in this executive function, is lost. And part of the difficulty, and I think part of the challenge

facing the Committee, perhaps, is a way to establish the administrative responsibility of the municipal court judge, and of the judicial system itself, to administer the court system, including providing it with the resource it needs to do it. Maybe a system of incentives, for municipalities that provide appointment of various court personnel or court service personnel. There are a myriad of ways to address the issue, and hopefully, as you go through the hearing process and consider the needs of the court system, perhaps legislation that can help solve that problem can be crafted. We would certainly be anxious for that to happen.

ASSEMBLYMAN KERN: It's part of our objectives.

ASSEMBLYMAN THOMPSON: Plus, Bigley gave the judge legislative power to appropriate the money. That's the whole essence behind that decision.

MR. BLISS: Well, I'm sure it's legislative power per se, but it certainly put the -- as far as the Superior Courts are concerned, and the needs of the county justice system, at that level, it certainly has placed the court in its proper role of being able to not only have the responsibility for managing the judiciary, but to then get the resources to do it. It seems it's really stopped at the county level; it doesn't go to the municipal level.

ASSEMBLYMAN THOMPSON: Excuse me. Those cases where the prosecutor went to the court--

MR. BLISS: That's correct.

ASSEMBLYMAN THOMPSON: --because the freeholder board refused to appropriate money--

MR. BLISS: That's correct.

ASSEMBLYMAN THOMPSON: --so he can investigate, and--

MR. BLISS: That ties into the court because the grand juries in the counties are not part of the prosecutor's office or the Executive Branch. Grand juries are arms of the court, and they're impaneled by a Superior Court judge. And so it

meshes, and I think you have to -- we have to try to deal with that kind of an issue at the municipal court level too, as part of the reform package.

ASSEMBLYMAN STUHLTRAGER: I don't know whether it was you, Mr. Bliss, or Judge Serata that talked about the facilities, and certainly there is a disparity -- I know Walter commented on it-- There's a disparity in facilities, and yet at the same time, I think, frequently, the facilities that are available kind of reflect the community that they're in, and I think it is a people's court, and I don't know that -- certainly not-- Ostentatious isn't the right word, but the fact that some of them are very humble facilities, that doesn't necessarily bother me. You need the tools to do your job, but it is a people's court, and the fact that the municipal building itself probably might be a rather old structure, and maybe just reflects the community as a whole. And I don't necessarily see that as bad.

MR. BLISS: No, I would agree with you. I think our concern is, to every-- We lose sight because we deal with numbers. To every person that goes before the municipal court, to that person, that's probably the most significant event that's occurring in his or her life, and he's standing before the judge. And all-- I think they're-- Everyone is entitled -- I would want it myself -- is that my matter be attended to with personality, as opposed to impersonality; that there be some empathy in the system. And part of the way the State expresses empathy is by having dignified surroundings, consideration for my time going through the system, my witnesses or everyone who's connected with the system; and if someone has to pull a firetruck out of the municipal building and have me stand before the judge with sawdust over the grease spot, that's undignified. And I think, in that kind of a circumstance, you would want to say to that municipality, "If you're going to have a municipal court, at least have it meet a

certain minimum threshold of dignity," and that's really what we're looking for to upgrade the system. It goes back to the stereotype and the concepts. Someone walks into the municipal court, that's the way they view the whole judicial system, from the bottom up.

ASSEMBLYMAN KERN: Gene?

ASSEMBLYMAN THOMPSON: Yeah. I'd like to agree. Weintraub -- the best thing he did, he put the recordings in there because when I first came out of law school over 20 years ago, certain lawyers would go up to the bench and whisper, and you come back, you never heard anything -- the case was over, depending on who you had. (laughter)

Another thing, you know, most of the courts in the municipalities in New Jersey were built during the Depression, with WPA money. And they look like tombs. I know the first time I met Senator Graves, he took me into this building. Immediately, I knew there was a municipal court in there and a police headquarters. And you could smell it. (laughter) The place was horrible. And I agree with you. You have to-- This is the impression the judicial system has left on people, when they look at this.

ASSEMBLYMAN KERN: The old City of Passaic court, the cells were right out the door.

MR. BLISS: Go directly to jail, do not collect \$200.

ASSEMBLYMAN KERN: Right.

MR. BLISS: That's what we're trying to address as part of the overall reform package. And there are some towns that have very modest means, but they take pride in the appearance of their municipal buildings. It doesn't have to be a new building, but it's clean, and it's painted, and it maybe has carpeting that they can roll out over the floor of the firehouse -- those types of things are what we're trying to do in improving the system.

I would point out that there are -- roughly 25

municipal courts handle 50% of the municipal court volume in the State, and that's something I think you have to look at in terms of the way the fine's structured, and the way the court costs' structure is distributed throughout the State. When you deal with court costs, and levies on court costs, that's something that across the board will benefit every municipal court. When you deal with the fine structure, that's something that will channel the money to large, high-volume courts, to the exclusion of other courts. So, I think you have to look very carefully at any means of generating revenue to support the court system, and this is a task force recommendation, that a system is devised to provide for an equal distribution of the funds. And that's, I think, a very important consideration, so that the courts that don't have the volume, but need the money to improve their courts, have a means of getting those revenues. And that's a very tough problem, a very complicated issue, and I would just simply point it out as an area that we would hope you would look into.

ASSEMBLYMAN KERN: We will.

ASSEMBLYMAN GIRGENTI: Mr. Chairman?

ASSEMBLYMAN KERN: Yes?

ASSEMBLYMAN GIRGENTI: Are there any final copies of this task force report that the Committee members can--

MR. BLISS: We can make those available--

ASSEMBLYMAN KERN: They've just been made up.

MR. BLISS: They've just been printed. We will be happy to make them available to you. In this document, what it contains is the front part of the green book, which is the judicial conference. It has some minor editorial language changes. And then it contains, in the back, the minutes of the judicial conference -- considered the green book. It refers to the appendixes that are in the green book, but they have not been reproduced with these, so if all of you have the green book, there won't be any changes in the appendixes. Do you have enough copies? We'll make sure we--

ASSEMBLYMAN GIRGENTI: We don't even have the green book.

MR. BLISS: We'll be happy to make a copy of the final report and of all of the appendixes available to each member of the Committee. I think that's something that hopefully will be of interest to you.

ASSEMBLYMAN KERN: Good. Thank you.

ASSEMBLYMAN GIRGENTI: Oh, that's just-- A friend of ours had a copy, so-- Just happened to be reading it last night.

ASSEMBLYMAN KERN: Any other questions in this area? If not, I'd like to -- since we've been talking about the high volume of urban courts, I'd like to call on Gus Licari, who is the Administrator from the Trenton Municipal Court.

MR. BLISS: While I think of it, do we have a couple of copies of that with us? (speaks to aide) Did anybody bring that? We can give you a couple of copies of this, so if you have the green one, you can match -- at least take that with you today, but we'll be certain, if anyone else would like to, we'll have a copy for every member of the Committee.

G U S L I C A R I: Mr. Chairman, members of the Committee. I'm Gus Licari. I've been associated with the Trenton Municipal Courts since 1967. I am probably the senior municipal court administrator in the State of New Jersey -- I don't know, I don't take any real pride in that; however, I make that statement only to point out the fact that I have seen many cycles, in terms of legislation being proposed and passed that were supposed to relieve the problems of the municipal courts, when in fact, they did nothing to increase the burdens of the municipal courts.

I'm pleased to see the legislation that is being considered here now. Several of the bills I endorse wholeheartedly from the position of administrator. When you consider the structure of the municipal courts and the services

they are intended to provide to the people of the community, you'll find that they're extremely overworked, generally, and for the most part, have a tremendous jurisdiction of responsibility in terms of caseload and case area. They are in need of help that can come from any area.

We've heard some comments and some support on the legislation that's here today. I would like to attempt to point out to you that there is a tremendous administrative gap between the municipal courts and the assignment judges that have the responsibility for administering those municipal courts. And I urge that you consider very seriously the bill providing for the position of the presiding municipal court judge for the vicinage.

From my experience, I would also urge that you take to heart the statements that have been made to you today, to consider that that person be someone with the municipal court experience -- someone who's come from the municipal court bench, because the municipal court bench is unique to no other bench you'll find anywhere. The judges on the municipal courts are under tremendous workload; they have a tremendous strain that they must handle each day. The processing of complaints forces them to get involved with the administrative area, and I don't feel that you'll find that you'll receive that kind of administrative expertise and support from a Superior Court judge who is appointed to that position.

If I might, I'd like to make a couple of statements about several of the bills.

ASSEMBLYMAN KERN: I'd appreciate it if you will.

MR. LICARI: One is the exemption. The municipal court budgets must be exempt from the cap law. My particular position, however, in Trenton is unique. Trenton is not bothered with the cap law. We just don't have the money. The City of Trenton does not have the money. We're facing a layoff-- Presently, we're facing a layoff of about 60 police

officers and 40 firefighters, and I think about 40 or 45 other miscellaneous clerical positions. Fortunately, in municipal court, we're able to avoid that kind of involvement, but we're not getting any more money. We're not getting the revenues that we need, though we generate much more than the budget that they provide for.

For the other municipalities that have that problem, I would urge that the municipal court budget be exempt. For several reasons also, the workload in the municipal courts is placed on their shoulders by legislation that you gentlemen passed. The State court administrator's office is giving the municipal courts direction on what to do, when to do it, how to do it, and no one is telling them where to get the money to do it. They have to get the local fathers for funding, and the local fathers simply say, "Well, we can't help you. We can't afford it. Work out something else." You either do it haphazardly or you don't do it at all.

The bill proposing a 50% turnback on the revenues that would normally go to the county, and that the -- I believe that's Bill 1975. I would urge that 50% be the level at which it is finally proposed, and some language may be incorporated in the bill -- or must be incorporated in the bill so that that 50% is not starting at ground zero. When the original bill was passed, I had the experience of going for a budget hearing and telling the City Business Administrator, "Well, we've got an extra \$214,000 from County revenues that are supposed to come back from the courts to fund some programs, and this is what we're going to fund with it." He said, "No. The bill says we can provide it for you, so let's start. The first \$214,000 of your budget is that money." Now, where do you go? It has to be stipulated that these are additional funds to upgrade the services of the courts, otherwise, there's not going to be any upgrading, and there's not going to be any real funds available.

In the area of court costs, A-1974-- The increase in

court costs has been long overdue. It's just unrealistic to expect that a \$15 court cost came anywhere near paying for the cost of that case in court. True, the courts do generate revenues, but there must have been a reason for court costs to be placed when the fines were already in place. If it's the intent to have the offender pay for the expense of the courts, then they should truly pay for the expense of the courts.

I'm happy with the intent of \$25, but I have real serious reservations about some particular types of cases that are heard. In our court, a cost study indicates that it cost the municipality anywhere from \$700 to \$900 to try one drinking-driving case. And the municipality might wind up with \$15 or \$30. The fine moneys go to the county. Of course, if we're in that period, we get half of that back. That's kind of an unrealistic cost to have, especially when you consider that the courts have been -- over the years have been turned into being collection agencies for everybody but themselves. We collect money for as many as seven different State agencies. We collect revenues for domestic violence -- no--

ASSEMBLYMAN KERN: Sales tax?

MR. LICARI: Sales tax--

ASSEMBLYMAN KERN: Unemployment, disability--

MR. LICARI: Surcharges, everywhere. We're a collection agency. We've been turned into a collection agency, so I think it's about time that we consider that we start collecting some revenues to truly support the courts. And I would offer for your consideration, in the case of a drinking and driving trial, that possibly, the courts be permitted to charge a court cost of up to \$100. The rest of that bill is absolutely acceptable.

Realistically, the \$100 court costs still would not cover the actual costs in terms of the prosecutor, public defender -- which is mostly what the municipal court in Trenton has to provide -- overtime for police officers, in many cases.

We sit in our courts five days a week, three nights a week, and on Saturdays. And, we're just-- We are paying for ourselves, no question about it, but in a truly business sense of the word, which -- I apologize for that term, but it just is not coming out evenly.

In the case of Bill A-1976, I think this will go a long way to level out one of the problems with the municipal courts. Municipal courts handle a myriad of types of cases, and each case has a variation in processing, and right now, the municipal courts can suspend a license for failure to appear or failure to pay on motor vehicle violations and with the adjudication of the act, we can file -- we can suspend on one unpaid parking ticket. However, in volume of non-traffic matters, we seem to hit a dead end. If we can have the strength and the teeth of suspending a driver's license for failure to appear on those cases, or failure to pay on those cases, that would give the courts more power -- would enable them to encourage the offender to pay more readily.

I think that's the extent of the statements on the bills. I'd like to take the liberty, at this moment. Judge Giananni (phonetic spelling) -- I believe he's gone -- he expressed some concern about reports, and I may have misunderstood him, but I kind of got the impression that he felt that if the presiding municipal court judge of a vicinage were a Superior Court judge, that might incur fewer reports from the municipal courts. I don't believe that's the case. Whatever reports are going to be required, are going to be required whether they're of municipal court judge origin or Superior Court judge origin, at that level. That's an administrative problem.

I believe that's it.

ASSEMBLYMAN KERN: All right. Any questions from members of the Committee?

I don't know whether you have the answer, but I have a question, and I think maybe I ought to direct it to Mr. Bliss.

What is the amount outstanding statewide on uncollected fines and costs?

MR. BLISS: You know, I don't know the answer to that, but I think that's a good question.

ASSEMBLYMAN KERN: I suspect it's--

MR. BLISS: (addresses Mr. Sheff in audience) Do we have statistics that can-- I'll give you one--

MR. SHEFF: (speaks from audience) A rough figure of what's actually accrued would be upwards of \$15 million.

ASSEMBLYMAN KERN: That's what I figured.

MR. SHEFF: (from audience) We have defendants who haven't even appeared, and the fines haven't been assessed (indiscernible).

ASSEMBLYMAN KERN: In the good old days, what the justice of the peace did, or the magistrate -- you either paid or you went to jail, and then there was a great incentive to pay -- they found the money. Now, I understand, we can't do that anymore, which is one of the reasons why I think this driver's license suspension was proposed.

You had some information with respect to Trenton, I gather.

MR. LICARI: Yes. Our court alone has assessed in unpaid fines owing to it one and three-quarter million dollars.

Now, I can recall when the deferred fines payments were first directed, and the assignment judge ordered that we release any prisoners in the workhouse -- the County workhouse who were there because they were unable to pay the fines. We only had to release seven prisoners.

ASSEMBLYMAN KERN: It was usually the threat that did it.

MR. LICARI: Yes. Seems like no one comes to court today with money, and you don't dare accept a credit card because it may not even be theirs. (laughter)

MR. BLISS: You know, that's part of the incentive of

municipal court reform, is that people who violate the law, and because of staffing shortages and lack of having the whole system operate as unified whole, people slip through the cracks, and for every one of those that slips through the cracks, there is revenue that's lost to the State. But more importantly, there's another -- or maybe equally as important, there's another perception, and that is, "Gee, if I get a summons in such and such a town, all I have to do is plead innocent and it may never be reached for trial. That creates a stereotype, and an image of the whole court system -- and an inefficient one, and that's one of the reasons we need municipal court reform so desperately.

ASSEMBLYMAN KERN: Well, I should put on the record-- In Ramsey, I'm trying three year-old cases, because of the backlog. Witnesses die, move away -- it's a real burden for anyone who has cases like that, on either side.

MR. BLISS: Sure

ASSEMBLYMAN KERN: Thank you very much, Gus. Appreciate it.

MR. LICARI: Thank you.

ASSEMBLYMAN KERN: I'd like now to call on Belle Weisz, Assistant Director in charge of municipal courts in Bergen County.

MR. BLISS: Assemblyman, it also brings the thought, we forget the victim.

ASSEMBLYMAN KERN: That's right.

MR. BLISS: What must the victim's thoughts be when something languishes for three years, and then when something comes up, witnesses are gone and they never, in effect, have their day in court. And there's a frustration there, then, in the administration of justice. It's a very difficult problem.

B E L L E W E I S Z: Mr. Chairman?

ASSEMBLYMAN KERN: Yes.

MS. WEISZ: Members of the Committee, I really welcome

this opportunity. A lot has been said that's been very complimentary, and I do appreciate that, but perhaps, in a sense, I am unique -- I'd like to tell you just a little bit about my background. I am a lawyer, I am admitted to practice in New York and in New Jersey, and I came to the system after many years of law practice in New York. Perhaps that's why, in dealing with the judges, I have a different perspective than maybe some other people do who are administrators.

I realize the problems of private practice, and the economies of private practice, and how you move cases in your practice, and what it means to you economically to move them or not to move them. And therefore, I think that I have an appreciation of what the judges are up against, and I try in every way possible to give them special consideration, and to provide them with whatever help they need to move their cases, and to understand their problems and to provide them with some kind of team help, if that's what they need. And, I've been able to reach out.

I've also been very fortunate to be in Bergen County, I think. I've worked for three assignment judges -- Judge Trautwein, Judge Simpson and now Judge Ciolino -- and I've always had the cooperation of those assignment judges, and those judges-- And when I say to other people, "Oh, in Bergen we don't have a problem because the assignment judge understands that, and is willing to go all out," I get kind of this disbelief kind of thing, so perhaps it's very unique.

And Bergen in itself is probably very unique. As you've been told, we have 72 municipal courts, plus the special civil part. Of the 72 courts, there are approximately six that would represent -- maybe not what Mr. Thompson is talking about, but what I consider urban courts. And then, I think I'd have to differ with the judge when he said he has the smallest court, because I have Rockleigh, and Rockleigh has never met, except on change of venue cases, which we have deliberately

sent to their court. So, I think I'll have to claim that honor.

When I speak in terms of what we have done, you have to understand that my experience is in Bergen; and I only speak for Bergen and I don't know what goes on in the rest of the State, and I have never worked for the State. So, whatever I say is relative to Bergen.

In terms of what would parallel in Bergen to the presiding judge-- What we have always had as the assignment judge -- and I have always worked for the assignment judge, but, when speedy trial came along, what we did is, we divided Bergen County up into what we called packed regions. Those were courts that were close to each other. We used the mental health center regions -- I guess you're aware of the fact that the County is divided up into several mental health regions, and we use those for expediency purposes. And we assigned the criminal judges -- the judges who were sitting on criminal -- and the criminal assignment judges to head up each one of those regions, so to speak. And we gave-- And the assignment judge said to those judges, "If there are problems in that region that you feel you want to deal with or that you've been asked to address, you should meet with those judges, and do that." And in many instances, the judges did, depending on the Superior Court -- This was a Superior Court judge, of course, who met with those judges, and then depending on the complexity and the makeup of the particular courts that he was overseeing, he met more often or less often.

The assignment judge in Bergen has always met with the judges on a regular basis, and has always dealt with -- whatever, even before the State issued programs for us, we have always had programs and agendas, and have addressed any issue that came down the line. Certainly, Judge Simpson was an outstanding spokesman for meeting with judges and handling problems and giving directions to judges, and was always there. The assignment judge now, incidentally, was previously

a municipal court judge, so he certainly -- in Clifton -- so he certainly has experience to draw from, in terms of how he feels about municipal courts. So, that's why I say, probably I'm unique.

We also have a special civil part, and we have a judge -- a presiding judge there. That presiding judge, incidentally, was a municipal court judge, so again, we have the expertise of someone who has come from the municipal courts. He, of course, only has two other judges that he oversees, and does not have the problems faced by the -- that would be faced by a presiding municipal court judge, so I see it as quite different, and let me explain what I mean by that.

I've been in the unique position of not only dealing with the judges and dealing with the court clerks, but also being asked to deal with the mayors and council. And I've gone into more than one municipality, and then on the so-called firing line, of the councils. And you get a completely different perspective, let me tell you, when that happens to you, because the concerns of the mayor and council may not necessarily be the concerns of the courts, and also, the philosophy of the mayor and council are not the concerns of the court -- or shouldn't be. We come from two separate kinds of thinking, and it's very hard to meld those two factions, besides which the -- whoever would be a presiding judge would also have to deal with the police department, and the unique problems of melding what the police department needs are and the budgetary constraints, and what your own municipal court-- And I have also been in that position where the assignment judge has ordered me to go in where the police department wouldn't cooperate, and talk to the police chief and his people and try to get-- I've been fortunate that I've been able to do this kind of thing.

But that's what you're faced with. You're not just faced with the court. You're faced with the backup of the

mayor and council, and you're faced with the police who are the people who issue the summonses or the complaints or whatever we're talking about. So that, in terms of a judge who would deal with this, that's what he would have to deal with.

Of course, on the other hand, I've heard Judge Serata talk in terms of being an administrator. My idea of a judge is someone who sits on a bench and lets somebody else administrate, but you have to understand, that's the perspective that I'm geared in. And I would think of any administrator who couldn't do that wasn't worth very much, because to me, a judge is being a judge. And that's his or her function -- should hear cases. And I don't-- And if you don't free up that judge, you're wasting his/her talents, because that's what you've appointed that person for. But that's a philosophical approach.

As far as training is concerned, we have in Bergen -- again, uniquely -- have the assignment judge called "The judge is in," and they -- we have always asked them, "Is there anything special on your mind that you want to put on the agenda? Is there anything you want to discuss?" And there has always been give-and-take in terms of questioning the assignment judge and saying to the assignment judge, "Now this is what we see as a problem -- what's the direction, or isn't there any, or how do you feel about it?" And I think there's good rapport that way.

It's also important, I think, because -- especially, we've got, at any one time, at any one given time, between 50 and 60 judges. This is not just 12 people sitting around; this is 60 people, and the give-and-take, I think, and the experience is good.

I also run classes for the-- The administrative office of the courts does run the classes for the court clerks, but I also run sessions in Bergen at least four times a year, which is every three months, in which I take from the court

clerks any particular problems that they're having, and we go over, "How do you do this, and why do you do this?" And I think that's terribly important, because very often, you don't get cooperation from people because they sit back and say, "You're just asking me to do one more thing," because you don't explain to them, "This is what we're trying to do, and this is the aim, and this is the thrust." And I think education, of course, is the bottom line.

And even with the mayors and council, very often they don't -- even though they have a court there, and even though they're asked to fund it, they don't really understand what the court is all about and what it's doing. That may come as a terrible shock to you, but it's been my experience that they really do not, because I met very recently with a mayor and council, and we were talking about something that the court had not done, which was in the very normal realm of business for them to do. And the bottom line to the mayor and council was, "Is this cost effective?" Not, "Is it justice, and are we accomplishing something in the justice system?" But, "How much is it going to cost us to do this, and why should we do it? And if the State wants this collected, why doesn't the State pay for it?" That's the kind of comments you get. That really isn't-- I think that we have to do something about educating people, if we're getting those kinds of comments, and those are the kinds of comments we get.

There are several things that address staff facilities, and -- none that address facilities in this, but staff and case management and so on. I would only point out that anything that you deal with should be broad-based, because the courts are very different. I do have many courts, for instance, that have no trouble at all in getting supplies or anything of that sort, but ask for a person, and you can't even get half a person, let alone a whole person. Or, very often, you can get two halves but not one, and that's because they

don't want to pay for benefits, and they don't want to pay for sick leave, and they don't want to pay for vacation time. Those are bottom-- You have to understand, I come from grassroots. The other people can talk about philosophy, but I listen to the complaints from the grassroots about what do -- what's this going to cost us? So, I think that anything that you are proposing has to take into account all kinds of courts -- the littlest ones, where there may be different kinds of problems.

I also agree in terms of your saying such a percentage goes back, and I think you have to be very clear that that is after the budget. Otherwise, you are going to get -- invariably, you are going to get mayors and councils that say, "Okay, this was your budget last year. Now, I see this amount of money is exactly what you had, plus another whatever it is, and well, that's plenty. That's what you operated on last year. How much more do you want?" -- and things like that, because that really is the kind of commentary that you get. So, I think you have to be very careful that you don't do that.

On the increase of court costs, I can only tell you that my experience, which was with Judge Simpson when we did -- Judge Simpson-- The municipal courts, before they collect money, have to -- if they're going to be on borough ordinances, have to have an order signed by the assignment judge which allows the clerk to collect the moneys in the violations bureau. Now, when Judge Simpson was the assignment judge, he felt-- We had many courts, just to give you an example, that were collecting one and two dollars. We felt, "Well, this is not at all, in today's world, realistic." And so we laid a base, which is what the State at that time was collecting on their parking ticket, which was \$10 -- excuse me, five and five. We had a terrible time, an awful time. The municipalities did not want that kind of thing. They didn't

want court costs to go up. So, my experience has been on the other side, where we've been bucked every step of the way, and if you don't have a very strong administrator and a very strong arm behind that administrator, you're going to have to fight for every single thing that you want to get. That's been my experience in that kind of thing.

In terms of-- Oh, making the courts a collection agency-- Oh, in terms of the license. The only problem I have with taking someone's license away -- if you're expecting that person to pay a monetary sum, because that's that person's sentence, and then you take away their ability to earn a living or to do a job, then how are they going to come up with the moneys that you've had? I think you have to face the reality of A, that lots of these people do not-- My experience has been that lot of these people will not have licenses; that's to start out with. Secondly, if you take their license, they're going to drive without a license. And third, that you take away their earning power. So, if you say-- And I've heard defendants even come into court, time and time again, and the judge will say, "Why didn't you come here?" And the defendant more often than not will say, "Because I knew I'd get a fine and I didn't have the money to pay it, so I just didn't show up, because I have no money." Now you're going to say, "Well, we're not going to let you drive." And then he's going to say, "Well, then I have no money at all."

And just to underline that, I had an experience in a court where the judge said -- it was 4 o'clock, or something, and the judge said to the defendant, "I expect you back here by 9 o'clock with the fine," and the defendant came in with two policemen, and he said, "What are you doing back here now with that?" And he said, "Well, you told me I had to have the fine. The only way I could get it was to rob the gas station, and so I did." That's a true story.

But that-- You have to realize, that's the kind of

people that you will be dealing with, and you have to adjust what you're doing to that.

ASSEMBLYMAN THOMPSON: He might have robbed it anyway, though. Excuse me. (laughter)

MS. WEISZ: That's true, but he did come back within the time frame allowed. (laughter) And he did say that. That's very true; he might have, yes. But he still wouldn't have been able to pay for it without getting money from somewhere else.

ASSEMBLYMAN KERN: He probably has the experience and training.

MS. WEISZ: On the-- Oh, I would only say also, in education-- One of the things that we found very helpful in doing is, as you well know, when a municipal court decides something, there is the -- and the defendant is not satisfied with what has been decided, there is the appeal procedure. The municipal court judges, in Bergen, at least, constantly said to me, "We're getting reversed but we don't know why. This is a real problem. If we only knew what the judge was thinking or why he wants it this way, we could do a better job of what we're doing, if they're finding fault with us." And so we required all of our judges, and I think it was a good education, to tell the judge -- make a statement, every time that they changed a sentence, why they did it. And I think that added to-- It may not be strictly an education function, but it certainly serves that purpose.

Oh, on the-- The only other point I want to make is, a lot has been said about the presiding judge sitting on disqualification cases. In Bergen County, those cases come through my office, and they are assigned out through my office. And we use the acting judges, who are also cross-assigned to sit in them. And what we do is, we pick them really at random, because we don't want a defendant to feel if he's in front of Judge A, and he goes to Judge B, that Judge A

and Judge B are friends anyhow, and so he's not getting more of a fair trial than he's getting in Court A. So, what we do is -- we don't even know who this person is, and we go right down the line and assign them out. It's just luck. However the case happens to come across the desk, whatever the next judge up is, that's the judge that gets it, so that we're very careful that there -- that no defendant -- and that we can very easily point out just how we've gone down the line. No defendant can come in and say, "Well, you picked that judge, and you were deliberately changing that." And we've never done that.

The only time that any judge has ever deliberately picked is where -- was in two cases, where a defendant came in and said, "I'm a handicapped defendant; there are no facilities, and I need a court in which I can come to court." And we had picked a court which had handicapped facilities. And to speak to that issue, because I believe one of your members raised that issue, on facilities. I don't think that what's being said in terms of the facility is necessarily to make them beautiful, because I have courts that I've gone in which are very old buildings, and they're even historic buildings. It's just to plan so the facilities are more available, that they're better utilized, that what you can do with them meets standards. And also, I think, you have to look to the court clerk's office not only to-- You may come into a very nice courtroom, which is good and well, but you can't expect people to work where they don't even have four feet around them, just because you have a beautiful courtroom.

I think that about -- unless-- I'd be glad to answer questions.

ASSEMBLYMAN KERN: All right, good. Gene?

ASSEMBLYMAN THOMPSON: A couple of comments. First of all, I'd just like to comment on what at least I thought we meant when we talked about the facilities -- not necessarily

being new, but if any lawyer who's practiced for a number of years had a practice in Port 5 of the municipal court which is abandoned now in Newark, it was a fire hazard. It was on the top floor, no ventilation, the cell block was right next to the court. Fortunately, they were able to break the cell open one day -- the key broke in there, and if a fire broke out in there, the people would have perished. And I think that some of these bills-- They don't even look-- They don't come up to the Uniform Construction Code or fire standards. I think that's a problem

Another thing. You said here, 72 municipal courts in--
MS. WEISZ: That's correct.

ASSEMBLYMAN THOMPSON: --Bergen County?

MS. WEISZ: That's correct.

ASSEMBLYMAN THOMPSON: All right. I understand that the -- Bergen is a rather rich County, and perhaps you may have a turf problem. I'm very serious about that, but nobody wants to give up their jurisdiction. It would seem to me that the whole concept of this legislation that we're talking about-- One of the things in Bergen County, it would seem to me, this packed region thing that you talked about, which you have in place in Bergen, is that the -- you should have a regional concept you could (indiscernible). It just doesn't seem to make sense to have 72 different municipal courts in one County.

ASSEMBLYMAN KERN: It's a badge of sovereignty, Gene.

ASSEMBLYMAN THOMPSON: Yeah, I know. I understand that. Turf.

MS. WEISZ: I don't think I want to comment on that.
(laughter)

ASSEMBLYMAN THOMPSON: I just think that, you know, you have a region -- you set up a packed regional concept, I think that you looked at the cost factor, with this judge you bring in -- Superior Court judge that has jurisdiction over these main five or six municipalities, seems like they could

work their -- they could save money under that type of concept, it seems to me.

ASSEMBLYMAN KERN: What-- In Bergen, how many courts would you categorize as large volume?

MS. WEISZ: Well, I'd have to count them out. Fort Lee, for one, which incidentally is made up of two -- I don't know if you know Fort Lee, but they have their own police department, and then they have the Port Authority police, so that they service two police departments, and that gives to their department. Englewood, East Rutherford, because it has the Meadowlands complex, which gives rise, as you might imagine, to an awful lot of complaints; Fair Lawn, Paramus, which has the unique position of king of the shoplifting; Teaneck, which has a kind of a blend, I would say -- very strongly, a blend of many complexities; and -- I don't know, maybe I missed somebody. It's difficult, off the top of my head, just to remember.

ASSEMBLYMAN GIRGENTI: Hackensack?

ASSEMBLYMAN THOMPSON: Hackensack?

MS. WEISZ: Hackensack. Yeah, the Hackensack Municipal Court would be the other one, correct.

ASSEMBLYMAN GIRGENTI: How about Ridgewood?

MS. WEISZ: No, I don't think so.

ASSEMBLYMAN KERN: No, I think Saddle Brook has a greater volume than Ridgewood.

MS. WEISZ: I don't think-- Though Ridgewood-- See, a lot of the courts in Bergen, too, have put up -- actually put up and renovated new facilities. We, fortunately, have been doing very well in that direction. I can only comment that some of the worst facilities have been actually changed. They've put up new buildings, and floated bonding issues and so on. And I think, maybe, if you'd gotten more publicity in terms of the good -- you know, what you should do, you could persuade other places to do that.

As a matter of fact, Saddle Brook did -- Saddle Brook, even has a new facility, but unfortunately, the court clerks are not part of that. That's a place I'm -- that we could very easily talk about, as you well know, Mr. Kern. Not to pick on Saddle Brook, but since it is something that's close to your heart, what they did was, they put up a beautiful building, marvelous looking courtroom, with two rooms -- one -- two rooms off the courtroom, which -- I came in and looked at and said, "Isn't this wonderful?" We were in great shape, and I was delighted. And then they gave those court offices to other people who had bigger clout than the court, and put the court people down in a little shack, which is what they were talking about -- where there's no room, and there's -- they're on top of each other, they don't have a -- they have to go up to another building to Xerox things, and, I mean, on and on and on. And again, I don't-- Like the judge, I don't want to tell war stories, but that's what happened. It was horrible -- after we had it all beautiful. So, that can happen.

ASSEMBLYMAN KERN: I want to thank you very much for coming and testifying today.

I do have-- Before we turn to other aspects on the municipal courts, I do have a letter from another judge, who is out of State, that wanted to appear, and I just wanted to read it into the record. This is from Kenneth Petrie, who is the municipal court judge in Pompton Lakes, Passaic County.

"Dear Mr. Kern: Pursuant to your most recent request, I would like to offer some information to you, based on my four and a half years of experience as the municipal court judge of the Borough of Pompton Lakes, and the information I obtained while sitting on the Advisory Committee for Passaic County Municipal Courts, which led to the preparation of position papers by the Administrative Office of the Courts on municipal court improvement.

"I believe that the issue of judicial immunity and

immunity of municipal court personnel must be promptly considered by the legislative body of New Jersey.

"Assuming arguendo that the legislative body of New Jersey is interested in forming a fair, impartial and uniformly administered municipal court system, it should afford to the personnel administering that system defenses from actions filed against them on any grounds affecting their scope of duties by the Attorney General's office of the State of New Jersey.

"It has come to my attention that the Attorney General of New Jersey gave an opinion on July 16, 1984, that municipal court judges and their employees are basically employees of local municipalities and, therefore, will not be provided with a defense by his office.

"Considering the present turmoil the municipalities are suffering through on liability insurance coverage, the Municipal Court Judge sits with a meager salary and faces the prospect of hiring an attorney to defend him at his or her own expenses, even if the suit is totally unfounded.

"Certainly, a judge may become tenuous in his decisions and may even allow guilty people free or be light on sentencing of guilty parties to avoid a defense in the U.S. Federal District Court on even unwarranted actions. I certainly do not condone immunity to court personnel on bad faith or ultra vires acts of the nature that warrant relief by the aggrieved party. However, some action must be taken to provide some security in the minds of the court personnel, so they can administer justice evenly without the fear of being blackmailed by the threat of defending a meritless action.

"Another and separate issue to be addressed is the collection of unpaid fines, costs, and restitution. In the past, the judge of the municipal court could be very effective in collecting fines by incarcerating non-payers for contempt of court.

"Presently, jails are overcrowded and people are

educated to realize that the court cannot incarcerate them if they represent to the court that they are indigent. People are not now afraid of being incarcerated or misrepresenting to the court that they are indigent, because they gamble on the fact that municipal courts do not have the staff or time to make independent examination of their true economic situation.

"I believe that municipal court staff should have the same ability as special civil part staff on their judgment; i.e., to conduct supplementary discovery proceedings; to file judgment to be docketed in the Superior Court of New Jersey; and to have the same force and effect as a Superior Court judgment, including the assessment of post-judgment interest, costs, attorney and/or sheriff's fees.

"This procedure may not have an immediate impact on the collection of outstanding debts, but would have the effect of keeping track of a young defendant, who was a one-time indigent and 10 years down the road went to buy a home, or apply for a car loan or credit card. The municipal court judgment would have to be satisfied before he or she could continue with his or her new-found wealth.

"Due process standards would have to be adhered to before the judgment could enter. However, I do not see that as a hindrance to instituting these procedures.

"The last item that I would like to address at this particular time is minimum standards for municipal court facilities and personnel." Ah, once again.

"It is true that home rule and local politics play an important role in who are selected for local municipal court positions. Just as important is the great leeway the town is affording in setting the municipal court budget. For example, the lowering of salaries for municipal court judges and clerks makes it almost impossible for a judge to act impartially. In some cases, the judge would be conducting testimonial examination as both a prosecutor and a defense lawyer on the

very same witness, and then be asked to make an impartial decision as to guilt or innocence.

"It is suggested that standards be established. These standards can be tied to the existing population and budgets; however, that defeats the purpose. Should a complainant be denied a prosecutor, should a defendant be denied a public defender, should anyone be denied competent court personnel because they live in a small town? I believe the Constitution of the United States mandates a fair trial. Salaries and budgets should not be tied to the size of the town. Budgets and salaries should be based solely on the hours of operation, thus making for the uniformity and fundamental fairness that our Constitution requires.

"I am sorry that I could not attend and give testimony to your Committee. However, I would make myself available in the future if you should find need for my time and/or suggestions.

Very truly yours, Kenneth Petrie."

I believe there are some people here that want to address some specific aspects of some of the legislation. Is Jane Baldwin-LeClair present?

J A N E B A L D W I N - L E C L A I R: Mr. Chairman, members of the Committee, my name is Jane Baldwin-LeClair, and I'm an Assistant Director of Jersey Battered Women's Services in Morris County. And, I am a member of the Board of The New Jersey Coalition for Battered Women.

I'm here today to testify on behalf of Sandy Clark, from the coalition, in regards to A-1785 and A-1968, sponsored by Assemblyman McEnroe and Assemblywoman Donovan, respectively. It is clear that the intent of both bills is to improve the legal response to domestic violence, in part by making -- establishing standard procedures for the enforcement of the law under the Prevention of Domestic Violence Act. The New Jersey Coalition for Battered Women wholeheartedly agrees

with the need to address these enforcement issues, but does not think that the amendments of the law prescribed by these bills would constitute sufficient improvement over the enforcement situation which currently exists.

Now, Sandy wrote this testimony and gave it to me Monday. Since then, I understand that there have been some recommendation by the Attorney General's office, and I believe that Assemblyman McEnroe has accepted some of those changes and that I'm not sure of Assemblywoman Donovan's stand on those.

ASSEMBLYMAN KERN: The two bills, in my review, are lacking a certain consideration for the victim, and some realization of the practical aspects of coming forward and being the hit man for the State. I think that we can take care of that, and I understand the Attorney General is cognizant of what those problems are. The legislation, I think, is needed. I think it fills a gap, a very serious gap; but the fact that you require the victim very often to sign -- the legislation required the victim to sign a complaint and be the front person, in some situations, is not a good idea. And I suspect that's what your concern was.

MS. BALDWIN-LeCLAIR: Right.

ASSEMBLYMAN KERN: And I suspect that's what your concern was.

MS. BALDWIN-LeCLAIR: Right. That was one of the concerns that the coalition had, and I believe that that has been addressed by the recommendations of the Attorney General's office. We did have some concerns in other areas, which would--

ASSEMBLYMAN KERN: Why don't you go through that? The reason we're having the public hearing is to solicit from the community -- from interested groups -- their ideas. This legislation is not engraved in stone. These bills are working models. They all, obviously, need a lot of fine-tuning and improvement, and that's why we have such a hearing as this.

MS. BALDWIN-LeCLAIR: That's why I'm here today.

In A-1785, they would require that a police officer take the defendant or the alleged offender before a judicial officer, in cases of violations of restraining orders or acts of domestic violence. During regular court hours, the judicial officer would then determine whether the offender be detained or released.

The Coalition does not believe that this is workable, practical, or desirable. First of all, most acts of domestic violence occur during the evening hours, and when the courts are closed. Since the enactment of the law in 1982, one of the most serious implementation problems has been affording victims access to immediate court relief during off-hours.

Secondly, it's burdensome to judges and to other court personnel to have to be available if this were to be changed to be around the clock -- if they would change it from just during regular court hours -- to spend the time necessary to hold the impromptu hearings. To help alleviate this problem, a new court rule, R(5):74, became effective in January of 1986. That allows emergency domestic violence orders to be processed by telephone.

Now, this is included in A-1968, and the judge is contacted by telephone and sets bail. The judge does not, in this case, decide whether or not the person is detained or released, except in terms of setting bail.

ASSEMBLYMAN THOMPSON: Excuse me. How can he set bail over a phone-- That's something-- The process has to be followed here--

ASSEMBLYMAN KERN: They do it all the time. They do it all the time. Superior Court judges do it.

ASSEMBLYMAN THOMPSON: I know, but--

ASSEMBLYMAN KERN: It's probably the most common practice.

MS. BALDWIN-LeCLAIR: And I think this is one of the areas of the bill that needs to be worked on.

The Supreme Court Family Division Practice Committee, the Subcommittee on Domestic Violence, continues to study this problem in order to recommend further improvements. But to require the presence of a judicial officer for every act of domestic violence and every violation of a restraining order will only aggravate the situation, and inconvenience and frustrate those responsible for implementing the law.

Furthermore, the coalition believes that this procedure does not address what we consider to be the crucial issue with law enforcement: response to domestic violence. We believe there should be a consistent operating procedure for police officers and that this procedure needs to make a strong statement regarding the unacceptability of domestic violence. Some of the recommendations of the Attorney General's office do address this. That is why we support the mandatory arrest policy for acts of domestic violence, and for violations of restraining orders. Assemblyman Doyle's bill, A-1389, reflects such a policy, and we urge this Committee to review it favorably.

A great deal of the inconsistencies in this State's legal response to domestic violence is because arrest of these defenses has remained discretionary, and this is specifically what will be arrested by the recommendations. Without the recommended changes, under both A-1785 and A-1968, arrests for acts of domestic violence would remain discretionary. This would neither establish consistency, nor, we believe, achieve the kind of response necessary to prevent further acts of domestic violence. So, we support the changes that are being made, that have been recommended.

Another serious concern without the recommended changes, with both A-1785 and A-1968, is that both require the victims to sign a second complaint, and that's specifically the changes that are being made. In A-1785, the officer is to take the defendant into custody, transport the victim -- the

defendant and the victim, if the victim signs the complaint with the change, to the appropriate court, have the victim sign a new domestic violence complaint, and take the parties before a judge.

A-1968 appears to include a mandatory arrest policy for violations. However, it further requires the victim to be transported to the court at the time of the incident to sign a complaint concerning the incident. A-1968 isn't entirely clear concerning what procedure is to be followed if the victim does not choose to sign a complaint. These would be addressed by some of those changes.

The Coalition does not think that the victim should carry the responsibility of effecting an arrest for contempt of court. The victim has already petitioned and received from the court protection from the abuser. The court order should be self-enforcing.

The victim is placed in a position of having to sign a complaint which could result in incarceration and/or a police record for the abuser. The Prevention of Domestic Violence Act intentionally created civil means of legal relief because of the victim's reluctance to put the offender into a position where he might get into legal trouble, be incarcerated, or have a police record, whether it's due to love or to fear. So, we don't want to put the victim back in that same position.

We've been working towards placing the responsibility for enforcement on the legal system, rather than the victim. This-- The provisions, if not revised as recommended, would continue to place it back on the victim.

Burlington County has developed and implemented a mandatory arrest policy for violations of restraining orders. Information on this procedure has been sent to each Committee member. Under this procedure, an officer signs a complaint, initiates an arrest when he or she believes a violation has occurred. Communication with the judge can be handled by

telephone. The defendant may be incarcerated. This all occurs without the participation of the victim.

Later, the victim is requested to sign a certification verifying whether the violation occurred, or stating why the case should not be presented.

ASSEMBLYMAN THOMPSON: Say, if the (indiscernible)--

MS. BALDWIN-LeCLAIR: Pardon?

ASSEMBLYMAN THOMPSON: --due process in there. You're saying -- you're reminding me of Alice in Wonderland, where the Queen said, "I sentence you to death," and the people said, "No, your Majesty, we have not had a trial." She said, "That doesn't matter. We'll get to that later."

MS. BALDWIN-LeCLAIR: I believe that, in the Burlington County procedure, if the police officer has probable cause to believe that an act of domestic violence or a violation of the restraining order has occurred. And so, under that -- in that situation, if the victim chooses not to file a complaint him or herself, the police officer shall make the arrest, then, at that point. So, there has been some--

ASSEMBLYMAN THOMPSON: What happens if the victim doesn't sign the complaint, or make a complaint afterwards? Which happens many times -- women change their minds.

MS. BALDWIN-LeCLAIR: And that does happen, and we recognize that that does happen. But we believe that the responsibility of taking the burden of the enforcement of the restraining order off the victim is critical, and that is the intention of having the police be able to arrest, based upon probable cause, without the need for the victim signing the complaint.

At another point, the victim would certify whether the violation did occur, or whether or not the case should be presented--

ASSEMBLYMAN KERN: Does Committee staff have a copy of this procedure?

MS. BALDWIN-LeCLAIR: I believe that all Committee members have been sent--

ASSEMBLYMAN KERN: No, I meant staff.

MS. BALDWIN-LeCLAIR: This procedure establishes a no-nonsense approach to violations of restraining orders, and to -- and relieves the victims of initiating the arrest. And the coalition has asked the sponsors of these two bills to incorporate these procedures in their bills.

One final comment regarding A-1785 is, the required use of juvenile and family crisis intervention units for advice and counseling of victims upon filing a domestic violence complaint. Currently, several new domestic violence assistance programs are being implemented within the family court to provide options, support, assistance, and counseling, and court accompaniment to victims. Lack of funds is the only obstacle to several other similar kinds of programs; hence, need for victim assistance during regular court hours is at an advanced stage of development.

It's true that such victim assistance is lacking when domestic violence complaints are filed during off-hours. However, it's our understanding that lack of response have precluded most crises units from addressing domestic -- a lack of resources -- I'm sorry -- have precluded most crisis units from responding to domestic violence, along with the juvenile family crisis problems. Domestic violence isn't even included in the family court definition of juvenile or family crisis, therefore, an appropriation would be necessary for this provision of A-1785 to be implemented.

Further, we would suggest that current juvenile family crisis workers may not be specially trained in dealing with domestic violence. And special--

ASSEMBLYMAN KERN: Don't you have, in some counties, special units set up by the county apart from crisis intervention?

MS. BALDWIN-LeCLAIR: There are domestic violence programs in almost every county in this State. Some of them have shelters attached to them; some of them are larger than others. Within some of the domestic violence programs there are community education programs, there are counseling components, or there's protective shelter. In almost every county, I believe that there is a 24-hour hotline. So, there's always access to assistance regarding domestic violence needs, and that's one of the recommendations that we have, is to access those resources that are already in the county, that can be used to support the work of the police and the other court officials.

ASSEMBLYMAN THOMPSON: I want to say this. To make this legislation work, have you had any input from police departments? And the reason I asked this question, of all the problems that confront police, this is the worst. They don't like to respond to no domestic violence, because what happens is, you come in and you grab the gentleman, the wife may jump on you, or the kids, and you get into a -- (indiscernible) finish beating up. And that's just life, you know.

MS. BALDWIN-LeCLAIR: We recognize that it is a very difficult situation for police, that they're put in a difficult situation. One of the things that we'd like to see happen is, enabling the police to have a clear standard operating procedure so they don't have to leave it up to their discretion as much, so they have a procedure to follow. County-- We have-- Our agency in Morris County has been involved in training police officers, and their concerns have been issues like that. And that's why we're having -- we're working with them on training police officers, new recruits, and training the officers who were in the field about the Prevention of Domestic Violence Act, and ways of implementing the law. So, we're-- The agencies that do domestic violence programs are trying to offer support to the police as well.

ASSEMBLYMAN THOMPSON: So, you have a uniform system, you're saying.

MS. BALDWIN-LeCLAIR: Not-- Every county has an independent domestic violence program. The Coalition supports all of the counties' domestic violence programs. So, within each county, the programs may differ in terms of their capacity to provide training, to provide support to the police, to provide other services in the county.

ASSEMBLYMAN THOMPSON: Excuse me, but what I was asking-- Excuse me, Mr. Chairman.

ASSEMBLYMAN KERN: Yes, it's all right -- go ahead.

ASSEMBLYMAN THOMPSON: I thought, what you're trying to do-- In reference to police, I think this is the key to make it work, that you have some type of uniform system so that the man knows the difference in responding to just an argument rather than just an act of violence.

MS. BALDWIN-LeCLAIR: Right. Assemblyman Doyle's bill refers to the six acts of domestic violence. The first six acts in the prevention of domestic violence act as -- when they're committed, there's a mandatory arrest, so there is some recognition. And harassment, for example, is not included in those first six definitions of domestic violence. So, there's a recognition that there may be some difference in the acts committed.

ASSEMBLYMAN THOMPSON: I think it's important because, other than things dealing with promiscuous acts, basically, families argue about money, and mostly, the lack of it. I just think that--

MS. BALDWIN-LeCLAIR: I think that that may be a factor, but the violence -- on the fact that the violence occurs is what we're addressing, and the need to protect victims from that violence.

As I was referring to earlier, an alternate strategy for addressing the off-hour need for victim assistance is to utilize the county domestic violence programs. Although staff

aren't usually able to travel to the victim, they usually have a 24-hour hotline, and often have staff available at a shelter for face-to-face assistance and counseling.

An appropriation for this purpose would result in more extensive off-hour services by programs, and without the need for special training. The coalition suggests this is a more suitable option for domestic violence victim assistance.

I want to thank you for this opportunity to present our concerns about these critical issues. I understand that there have been some recommendations for revisions, and we support these revisions. And we respectfully request that the bills not be approved or released from the Committee at this time, until the changes have been reviewed more extensively and the concerns that we've addressed have also been addressed.

We further request that A-1389 be considered in conjunction with the two bills, and the coalition would certainly be available at any point for any discussion on these issues.

ASSEMBLYMAN KERN: Thank you very much. I want to pursue that. The agenda here were bills directly relating to municipal court and jurisdiction, and that's why A-1389 was not on the list, because it doesn't fall exactly within the subject matter. But I want to pursue something with you. How many states do you know have enacted this mandatory arrest concept?

MS. BALDWIN-LeCLAIR: I don't know. I'm representing Sandy Clark, so I don't have that specific information.

ASSEMBLYMAN KERN: Well, I would like to know that, all right?

MS. BALDWIN-LeCLAIR: Okay.

ASSEMBLYMAN KERN: I'm curious to know that, and also, whether the constitutionality of that process has been upheld. Not to say that we wouldn't want to test the waters ourselves, but I'd like to know if anyone else has gone down the road, and what the outcome has been. And we probably will take a look at

your suggestion and include that bill in our further deliberations.

MS. BALDWIN-LeCLAIR: Okay. I believe that there are other states, or areas--

ASSEMBLYMAN KERN: Oh, I know there are other states that have it, but I want to know what -- whether there have been any constitutional interpretations of that, because, you know, it's a pretty scary situation. And, as Assemblyman Thompson has pointed out -- some people, they really fluctuate. They take a position one day, and an hour later, they take an exactly opposite position when it involves their own life, and there are many, many considerations.

Also, the potentiality for suit against the police for intervening in situations like that is also a problem that I think we have to look at, because sometimes, they kiss and make up, and the bad guy then (laughter) is the policeman that has helped the poor victim, and then the community and he are sued, you see.

MS. BALDWIN-LeCLAIR: And that's why the certification process would be helpful, and the victim, at that point, would certify why the complaint should not be continued -- and so that would address that concern.

ASSEMBLYMAN KERN: I've seen it happen -- a situation, was an assault-- Oh, it was a gun held to somebody's head, and she ran off to the battered women's shelter, and was hot to get the guy. Police filed charges, and she decided later on -- well, we got the gun, anyway.

ASSEMBLYMAN GIRGENTI: Walter?

ASSEMBLYMAN KERN: Yes?

ASSEMBLYMAN GIRGENTI: Mr. Chairman, just-- Maybe you can have OLS, perhaps, give us an advisory opinion on this in two sections -- potential constitutionality issues, due process, etcetera -- and also, a possible money damage action by defendant on wrongful arrest or false imprisonment.

ASSEMBLYMAN KERN: Right.

ASSEMBLYMAN GIRGENTI: Just to get some feedback on it-- I understand where the group is coming from. I've been active in a lot of the victim causes in the past, and I do agree with them; I just think that we should have that information available to us--

ASSEMBLYMAN KERN: Absolutely.

ASSEMBLYMAN GIRGENTI: --And also, the only thing-- The witnesses-- What would happen-- What is your feelings in terms of, if there's an innocent individual who's been wrongly accused, and this process takes place? What's your feelings on that?

MS. BALDWIN-LeCLAIR: We recognize that there are going to be times when there are going to be allegations of violence. And I think that that's why there needs to be a follow-up hearing to determine whether, indeed, there hasn't been an act committed. We believe that the need to protect the victim from further violence, potential death, or serious injury is more compelling than the initial concerns about the innocence of the defendant, although we recognize that that can be a problem, at times.

ASSEMBLYMAN KERN: I'll tell you a story later about a case I once had, in the days when you had to have fault for divorce.

ASSEMBLYMAN GIRGENTI: Walter, one other thing--

ASSEMBLYMAN KERN: A woman made a career of finding fault. She'd marry a guy for his wealth, divorce him, go and find somebody else, marry him, divorce him-- Yes?

ASSEMBLYMAN GIRGENTI: Is there a possibility, when we have this on the agenda, the Doyle bill will be--

ASSEMBLYMAN KERN: I think we ought to take a look at it, but I think you're right -- we have to research this very thoroughly.

ASSEMBLYMAN GIRGENTI: Because I think--

ASSEMBLYMAN KERN: I don't want to send something out that has a lot of good to it, and not have it thoroughly investigated and then have people come back and say, you know, "What have you wrought?"

ASSEMBLYMAN GIRGENTI: Well, from the testimony, you seem to favor the Doyle bill -- from what I'm reading here.

MS. BALDWIN-LeCLAIR: We do support the bill.

ASSEMBLYMAN KERN: They do, yes. But there are some implications -- there's the mandatory arrest--

ASSEMBLYMAN GIRGENTI: No, I understand. We have to get the background on it, and research it.

ASSEMBLYMAN KERN: Yes. There's no question that this is a very serious problem. It's all too prevalent. I don't know whether we're going to be able to educate enough people in time, but we have to protect people's lives, and so many people's lives are placed in jeopardy every day.

MS. BALDWIN-LeCLAIR: Thank you very much.

ASSEMBLYMAN KERN: You're welcome.

Jim Lewis, Public Defender's office?

J A M E S L E W I S: Thank you, Mr. Chairman, members of the Committee.

I'm James Lewis from the Office of the Public Defender. And, while I don't often present testimony to this Committee on issues relating to things that deal with adults, I was asked to review these bills--

ASSEMBLYMAN KERN: No, we usually leave that for Mutt, and the Mutt and Jeff team.

MR. LEWIS: Yes. I was asked to review these bills because part of my responsibility, in terms of the areas of juvenile concerns and the Public Defender's office, relates directly to the representation of victims. And, it is certainly true that the Office of the Public Defender, as part of its clearly mandated jurisdiction -- the representation of victims, at least in certain kinds of child abuse and neglect

cases, which are, if you will, a very real form of domestic violence.

So, I would like to make a couple of comments regarding the bills on the agenda relating to domestic violence, and one of the points that I did want to make -- and that I simply will state to reaffirm something that has been discussed so far -- is that while it may be sensible to talk about these two bills in the context of municipal court matters, it is also very sensible for the Committee to address the whole question of domestic violence as a separate issue, whether it relates to municipal court, or family court, or no court at all. Indeed, there are other bills, and it would be very wise to talk about them as a group.

We haven't seen the amendments proposed by the Office of the Attorney General, so we obviously would have to reserve judgment on them. Every once in a while, we like to not take a stand on something we know nothing about, and--

ASSEMBLYMAN KERN: For a change.

MR. LEWIS: Well, it's a new month.

There are a couple of points that I think need to be made, however, about the two bills that are on the agenda, and about any bills that would be attempting to do what these bills are attempting. Obviously -- and many of these points have already been made, so I'm going to be very brief-- Obviously, there are real grave concerns regarding constitutional issues in any scheme that involves mandatory arrest, and I would urge the Committee to consider that the question of mandatory arrest. The question of arrest without the requirement of the victim signing a complaint breaks down into two different aspects. It's one issue when it relates to acts of violence or, as the two bills specifically speak, "when the officer has probable cause to believe that an act of domestic violence has been committed." This concept may well be able to be expanded to include situations when there is probable cause to believe

that some form of violence has been committed, or that the act of violence -- that the violent act is imminent. On the one hand, those issues -- that type of situation is one that may have one result regarding the constitutionality or indeed, the wisdom of mandatory arrest.

On the question of probable cause relating to a violation of the terms of an order, the only point we would urge the Committee to consider -- and to consider with a great deal of caution -- is that the violation of the order may involve violations that are themselves dangerous to the victim, or they may involve violations that are not. It may be -- and certainly language could be drafted that would distinguish that those violations that relate to the defendant having to stay away -- in a situation in which the defendant, possibly without having any notice of the order -- and that's an issue I want to address -- comes back to the house to pick up his bowling ball and consequently, is subject to mandatory arrest, is an issue that needs some consideration and clarification.

ASSEMBLYMAN KERN: Suppose he was going to put the bowling ball inside the cranium of the person residing there.

MR. LEWIS: Obviously, that's an issue. And I think that what we are saying is that there is a need, especially in light of the somewhat unclear language in the two bills, for further consideration on this point. And I would not argue that it is an open-and-shut case, that there should not be arrests in those situations. I'm simply stating that these are questions that have come to our minds, and I think, have some legitimacy.

ASSEMBLYMAN THOMPSON: Yes, because-- I'd like to say this, that usually, they used to call it -- a peace bench warrant, or whatever they called it years ago--

ASSEMBLYMAN KERN: A peace bond.

ASSEMBLYMAN THOMPSON: A person puts it out, they don't enter a partnership and go down to municipal court and

say, "This bond is out." Usually, the defendant knows nothing about it until he's confronted with the plaintiff. At that time, we hope that he's able to read and we don't have a physical confrontation -- that type of thing.

MR. LEWIS: That is a--

ASSEMBLYMAN KERN: I think we'd better take a look at the peace bond -- the status of it, too. We're going to explore this area.

MR. LEWIS: I think that's very advisable, because I think that, at the same time that we have the whole domestic violence statute and the scheme that that creates, there are other statutory provisions and provisions of law that can, or might, apply in these cases, and sometimes to cross-purposes.

On the issue of the defendant's knowledge -- and my last point -- is that it goes to the question of service of the order, which is a requirement, at least, that there be probable cause to believe that the order has been served. It's a requirement of the current law; it's retained in both proposed changes.

We serve on the Committee on Family Practice of the Supreme Court, and that Committee, in its recent considerations to prepare its report to the Supreme Court, obviously did consider the question of domestic violence. As has been stated, there was a Subcommittee on Domestic Violence. And that Subcommittee reported and indeed, the entire Family Practice Committee discussed a very real concern on the part of the judges. The Family Court judges who hear these cases of the number of situations in which the defendant has no notice, has no knowledge of the pendency of the order or that the order has been entered against him. And this raises a very real concern for any scheme that is going to lead toward mandatory arrest, or that even addresses the question of arrest, obviously, it is a whole different matter to subject to mandatory arrest someone who is taking an action that he didn't

know he was ordered not to do. And I think that the Committee, in looking at this larger issue of domestic violence, may well have to address whether there are any statutory mechanisms that can be developed that deal with the very real question that a lot of these orders are essentially going into the sewer, or are not being made known to the defendant -- an issue not unrelated to the whole question of service of the complaint, which is something that the Supreme Court Committee did address in terms of the need for rule changes: that the complaint not be presented to the plaintiff, and that constitutes sufficient service of notice on the defendant, simply because they're in the same household.

I simply want to state these for the record, because I think-- And we are certainly willing and able to cooperate and participate with the Committee in any endeavors on this matter. It is important, and it's important that the domestic violence law and the scheme it creates be brought up to date. Obviously, there are a lot of statutory schemes that need to be updated from time to time. This may well be one of them, but we would urge you to do it in a way that can protect the integrity of the law, and the rights of the parties involved.

ASSEMBLYMAN GIRGENTI: Walter?

ASSEMBLYMAN KERN: Yes.

ASSEMBLYMAN GIRGENTI: Just one thought. You said that you're involved with child situations -- children. What about a situation where, if there's a restraining order issued on a parent and that child calls and said, "My father slapped me" -- does this call for a mandatory arrest?

MR. LEWIS: Well, it would depend upon the terms of the specific order entered against the person -- and, if that order is relating directly to -- between the two spouses. It might not, as a mandatory arrest in terms of the domestic violence statute. The person would be subject to arrest under the child abuse laws. More likely, the child would be subject

to removal from the home under the child abuse law, because--

ASSEMBLYMAN GIRGENTI: Well, let's say that--

MR. LEWIS: --that's the way that those cases generally proceed.

ASSEMBLYMAN GIRGENTI: Well, the point was, if the father didn't slap the kid and he just called and said, "He slapped me," according to the bill, does that say that person is mandatorily arrested?

MR. LEWIS: If staying away from the children is part of the order, it certainly would.

ASSEMBLYMAN KERN: Yeah.

ASSEMBLYMAN THOMPSON: Yeah, but I think Mr. Girgenti raises a further question that we may not be able to resolve on this Committee, or on this particular legislation. I hear time and time again that the interference, to a certain degree, in reference to the disciplinary actions of children are being destroyed by the interference of DYFS. I'm very serious about that. I have a personal opinion about that. I was smacked and beaten when I was a kid, and it didn't make a worse fellow out of me.

ASSEMBLYMAN KERN: Are you sure?

ASSEMBLYMAN THOMPSON: You've got a situation now with DYFS workers who are constantly in the house, and telling the kids their rights -- and this goes back, initially, to his question; it's deeper than that. It's destroying some families. And the kids are growing up without any discipline, because they know their parents can't even raise their voice or say anything to them. I just think it's something that we're going to have to look at in the State of New Jersey, with this whole corporal punishment and the whole thing-- I'm not saying you're supposed to kill somebody; kids are kids. But this is not Soviet Union or a country like some of those totalitarian governments.

ASSEMBLYMAN KERN: A lioness always belts her cubs

when they get out of line.

ASSEMBLYMAN THOMPSON: Right.

ASSEMBLYMAN KERN: Anything else? (negative response) Jim, thank you very much.

MR. LEWIS: Thank you.

ASSEMBLYMAN KERN: I think we have Ann McKeon from the State Bar Association?

Leah, did you want to testify?

L E A H H E A L E Y: (speaks from audience) No. We're just in support of the amendments that I saw from (inaudible).

ASSEMBLYMAN KERN: All right.

A N N M c K E O N: Good afternoon, members of the Assembly Judiciary Committee. My name is Ann McKeon and I'm appearing on behalf of the State Bar Association.

Our testimony today relates to the three bills that are on the agenda that deal with municipal court tenure. The State Bar Association is opposed to those bills for a variety of reasons. I'll try to keep my testimony short and to the point.

Initially, the Association believes that the intended result of these bills, which is the concept of insulating municipal court judges from politics, is beneficial. However, we do believe that rather than insulating municipal court judges from politics, these bills actually institutionalize politics in a municipal court system. This is because the bills do not alter the current method of selecting municipal court judges, a process throughout which, many times, is very well influenced by political concerns.

The State Bar Association maintains that the concept of insulating municipal court judges from politics cannot be divorced from the judicial selection process itself. In addition, the Bar Association opposes these bills because they would provide municipal court judges with tenure by following far less stringent standards than are currently required of

Superior Court and Supreme Court judges and justices.

Under existing law, a Superior Court judge, as well as the Supreme Court justices, can only obtain tenure upon reappointment after serving full-time for a seven-year period. Under A-333 and A-1970, tenure can be earned after a municipal court judge has served, on a part-time basis, for six years. Indeed, under both of those bills -- since the only requirement is the completion of six years -- one reappointment, after three years of serving part-time, would ultimately lead to tenure. Even A-1786, which would provide tenure upon a third consecutive appointment for prime-time or full-time judges, does not meet the stringent requirements that Superior Court judges and Supreme Court justices must satisfy in order to earn tenure.

Moreover, the Association notes that these bills do not require municipal court judges to undergo rigorous selection procedures, such as the four-way check by law enforcement authorities, or any type of review or evaluation process. Further, municipal court judges would be eligible for tenure without ever having been required to undergo an independent evaluation of any type. Selection and one reappointment, perhaps by a politically-motivated mayor and city council, would be sufficient to insure tenure to a municipal court judge.

The Association recognizes that high-quality jurisprudence in a municipal court system is important to guarantee the public's confidence in our judicial system. In this regard, the State Bar Association notes that criteria such as that in A-1786, which requires at least five years of practice as an attorney before one is eligible for an appointment, goes further to insure the quality of our municipal courts. However, even in this respect, the State Bar points out that Superior Court judges are required to be practicing attorneys prior to their appointment. The

Association does not believe that providing municipal court judges with tenure, simply upon their appointment and one reappointment after serving on a part-time basis, is sufficient to insure high-quality jurisprudence in our municipal court system.

For these reasons, the Association has taken a position in opposition to the bills, and we would be happy to answer any questions.

ASSEMBLYMAN KERN: I think that the Bar Association has lost a little bit of the practicality of the thing. Anybody that is appointed to a municipal court position automatically loses his involvement in the political process, and is of no use to the political organization thereafter, that appointed him. If you think that, perhaps holding out the prospect of denial of reappointment in the future gives the people some leverage, administrations change rapidly over a period of time. And that person, whether it be judge or clerk, is lost to the process -- is lost to the political organization. And to be an effective organization, you don't want people outside of your club. And so, that the idea that you're going to help the process by taking out the idea of tenure, I think you're going to do just the opposite, because you're going to reinstitute, maybe, the threat of non-appointment, and then there will be some leverage, which is the problem.

MS. McKEON: I would like to point out, Assemblyman Kern, that the State Bar is not -- we're not saying today that we can never support the concept of tenure, but we think that there are additional criteria, perhaps more stringent criteria, that should be considered in the application and the tenure process.

ASSEMBLYMAN KERN: I think that your suggestions with respect to selections are worthwhile, and we'll look at that, and also some of your evaluation ideas. But I think,

personally, tenure is crucial if we're going to have people outside the political process.

And one of the reasons, by the way, that you don't get the money for the courts is, the personnel is outside the political process. They don't have any leverage to get the money to do the job. Now, obviously we don't want to create political courts, but they'd have the money if they were part of the political process, I'm sure.

Any questions?

ASSEMBLYMAN GIRGENTI: I just want to ask -- I think you told me the answer before, but just for the record, you have not taken a position on the presiding judge?

MS. McKEON: No, we do not. We don't have a position.

ASSEMBLYMAN GIRGENTI: All right. I understand a lot of what you're saying in here, and obviously, we're going to -- are we going to talk further on this in particular? Because there are problems, in my opinion, on the tenure bill. A lot of the points they have brought out do have merit, and I'd like to-- I guess I'll reserve it for a later date, because--

ASSEMBLYMAN KERN: Yeah. We're going to-- These things are going to be refined. That's why we solicit comments, because we want people's input because it makes for a better piece of legislation. I think we can accommodate everyone on a lot of these aspects.

Thank you very much, Ann. Good to see you again.

MS. McKEON: Thank you. You saw me all day today.

ASSEMBLYMAN KERN: Yes, it's a long day. I want to thank everybody for coming out and participating, and I think it was very informative. I think we picked up some additional ideas. I think it's going to eventually make for a better package, and I think that we've come a long way, also, towards setting forth the problem and hopefully, we can legislate the correction. The hearing is adjourned.

(HEARING CONCLUDED)

APPENDIX

Kenneth Petrie

Counsellor at Law

519 RIVER DRIVE. ELMWOOD PARK. NEW JERSEY 07407 (201) 794.8444

April 28, 1986

Walter M. D. Kern, Jr., Esq.
LAMB & KERN, ESQS.
112 Prospect Street
Ridgewood, NJ 07450

Re: Reform of Municipal Court

Dear Mr. Kern:

Pursuant to your most recent request, I would like to offer some information to you, based on my 4½ years experience as the Municipal Court Judge of the Borough of Pompton Lakes and the information I obtained while sitting on the Advisory Committee for Passaic County Municipal Courts which led to the preparation of Position Papers by the Administrative Office of the Courts on Municipal Court Improvement.

I believe that the issue of judicial immunity and immunity of municipal court personnel must be promptly considered by the legislative body of New Jersey.

Assuming arguendo that the legislative body of New Jersey is interested in forming a fair, impartial and uniformly administered municipal court system, it should afford to the personnel administering that system, defenses from actions filed against them on any grounds affecting their scope of duties by the Attorney General's Office of the State of New Jersey.

It has come to my attention that the Attorney General of New Jersey gave an opinion on July 16, 1984, that Municipal Court Judges and their employees are basically employees of local municipalities and, therefore, will not be provided with a defense by his office.

Considering the present turmoil the municipalities are suffering through on liability insurance coverage, the Municipal Court Judge sits with a meager salary, and faces the prospect of hiring an attorney to defend him at his or her own expense, even if the suit is totally unfounded.

/x

Walter M. D. Kern, Jr., Esq.

April 28, 1986

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Certainly, a judge may become tenuous in his decisions and may even allow guilty people free or be light on sentencing of guilty parties to avoid a defense in U. S. Federal District Court on even unwarranted actions. I certainly do not condone immunity to court personnel on bad faith or ultra vires acts of the nature that warrant relief by the aggrieved party. However, some action must be taken to provide some security in the minds of court personnel so they can administer justice evenly without the fear of being blackmailed by the threat of defending a meritless action.

Another and separate issue to be addressed is the collection of unpaid fines, costs and restitution. In the past, the Judge of the Municipal Court could be very effective in collecting fines by incarcerating non-payers for contempt of court.

Presently, jails are overcrowded and people are educated to realize that the court cannot incarcerate them if they represent to the court that they are indigent. People are not now afraid of being incarcerated or misrepresenting to the court that they are indigent, because they gamble on the fact that the municipal courts do not have the staff or time to make independent examination of their true economic situation.

I believe that municipal court staff should have the same ability as Special Civil Part staff on their judgment; i.e., to conduct supplementary discovery procedures; to file judgment to be docketed in the Superior Court of New Jersey; and to have the same force and effect as a Superior Court judgment, including the assessment of post judgment interest, costs, attorney and sheriff's fees.

This procedure may not have an immediate impact on the collection of outstanding debts; but would have the effect of keeping track of a young defendant, who was a one time indigent, and ten (10) years down the line want to buy a home, or apply for an auto loan or credit card. The Municipal Court judgment would have to be satisfied before he or she could continue with his or her new-found wealth.

Walter M. D. Kern, Jr., Esq.
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Due process standards would have to be adhered to before the judgment could enter. However, I do not see that as a hindrance to instituting these procedures.

The last item that I would like to address at this particular time is minimum standards for municipal court facilities and personnel.

It is true that home rule and local politics play an important role in who are selected for local municipal court positions. Just as important is the great leeway the town is affording in setting the municipal court budget. For example, lowering the salaries for municipal court judges and clerks makes it almost impossible to get qualified personnel to fill vacancies. Refusing to fund prosecutors and public defenders makes it almost impossible for a judge to act impartially. In some cases, the judge would be conducting testimonial examination as both a prosecutor and defense lawyer on the very same witness and then be asked to make an impartial decision as to guilt or innocence.

It is suggested that standards be established. These standards can be tied to the existing population and budgets; however, that defeats the purpose. Should a complainant be denied a prosecutor, should a defendant be denied a public defender, should anyone be denied competent court personnel because they live in a small town. I believe the Constitution of the United States mandates a fair trial. Salaries and budgets should not be tied to the size of the town. Budgets and salaries should be based solely on the hours of operation thus making for the uniformity and fundamental fairness that our Constitution requires.

I am sorry that I could not attend and give testimony to your committee. However, I would make myself available in the future if you find need for my time and/or suggestions.

Very truly yours,


Kenneth Petrie

KP/dlw

3x

Municipal Court

The 'People's Court' in New Jersey

by Harry F. Schmoll, Jr.*



A typical day in Trenton's municipal traffic court.

BRIEFLY, the municipal court system was formed following the adoption of the 1947 State Constitution. It was designed to replace the old "system" of justices of the peace and police courts and to streamline local justice. The local courts were professionalized by requiring a newly-appointed judge to be a member of the Bar (effective January 1st, 1952).

It is commonly accepted that these courts have performed well. In fact, the municipal court often is referred to as the most important court in the state. Indeed it is the busiest; during the period from September 1, 1980 to

August 31, 1981 about three and one-half million complaints were disposed of. These included: parking, traffic, navigation, fish and game, local ordinance and disorderly persons complaints. This represents a huge workload. This workload is processed by judges, court clerks and staff members in 529 municipal courts, including 15 joint courts (courts serving two or more municipalities). Generally, judges serve on a part-time basis.

It should be noted that, except for joint courts, municipal judges and court personnel are appointed by local governing bodies. General supervision and guidance are provided by the State Administrative Office of the Courts and the Assignment Judge.

The municipal court can be considered a "people's court" in the sense that it is a local court and is the one with which citizens are most likely to come in contact. It has become an arena where people come to iron out domestic problems and neighborhood disputes. Also local merchants rely upon this court system

in matters relating to shoplifting and bad checks. Others seek restitution. The court really serves the people.

The Winds Of Change

The fact that the municipal court is a branch of the local government brings it within the realm of "home rule." There are those that favor terminating this status and replacing it with so-called regional courts — a municipal court created to serve several towns instead of one. This move was recommended in 1971 by a study commissioned through the State Administrative Office of the Courts. Under this plan, the judge would serve full-time and would be appointed by the Governor. In all probability, fines and court costs would be collected by the state. So much for home rule!

Senate Bill No. 1042 was introduced on February 21, 1980. It is entitled "An Act Creating a Commission to Study the Present Municipal Court System and Making an Appropriation for the Expenses of the Commission." It provided for the creation of an 11 member commission, including only two municipal judges, to study the procedures and practices of the municipal courts. This panel would have a staff and be able to hold hearings. By the end of the last legislative session, this bill had been reported out of committee but no vote was taken. Therefore, it died. However, Assembly Bill No. 1031, with similar provisions, was introduced on March 1, 1982. The fate of this legislation is uncertain. If the proposed commission ever becomes a reality it would certainly entertain the question of regionalization of the municipal courts.

Ask The Judges

From personal conversations with many people, including students, it is my impression that the great majority of citizens and law enforcement officers would favor the retention of the municipal courts in their home communities. It is a matter of convenience and economy. The local court is closer to home than a regional court. Travel time for police officers and witnesses is less. Whereas, a regional court probably would be a day court, presently many local courts have evening hours. People do not have to leave their jobs to attend. These factors strengthen the "people's court" concept.

(Continued on page 44)

*This article was written as a result of a survey conducted by the author in conjunction with his duties as an Associate Professor of Criminal Justice at Burlington County College. The results of the survey were compiled prior to his appointment as Municipal Court Judge of Stafford Township in March, 1982.

THE 'PEOPLE'S COURT' IN NEW JERSEY

(Continued from page 16)

How do our approximately 370 municipal judges feel about their court system? In order to find out I forwarded a survey form to 100 courts. They were sent to courts in each county. Cities, suburbs and rural areas throughout the state were targeted. However, judges were not requested to disclose their identity or municipality. Thirty four replies were received and would, in my opinion, constitute a representative sampling for the purposes of this article. Of the several questions posed by the survey, I will highlight those areas I feel to be of most significance. You may draw your own conclusions from the material presented.

In regard to the idea of scrapping the local court, I posed the following:

Are you in favor of retaining the present municipal court system?

Yes	No	Undecided
24	10	0

Are you in favor of replacing the municipal courts with regional courts?

Yes	No	Undecided
8	25	1

Would a regional court provide a more efficient system of justice than local courts?

Yes	No	Undecided
9	25	0

Twenty three of the 34 judges replied that practicing attorneys should continue to be permitted to serve as part-time judges. In response to whether part-time judges should be replaced with full-time judges who could serve more than one community, 12 said "yes," 15 replied "no" and seven were "undecided." These questions were asked because there has been criticism of a system that allows an individual to function as both a judge and a practicing attorney. Also, the proposed regional court system would require full-time judges. It is evident that the majority of those surveyed favor the present system.

At various times there have been intimations that municipal court operations are influenced by politics due to the appointment power of the governing body, i.e. local politicians. To address this charge, I asked the following questions:

Are municipal court operations influenced by local politics?

Yes	No	Undecided
13	21	0

Should municipal court judges continue to be appointed by the local governing body?

Yes	No	Undecided
22	10	2

Should local judges be elected in a non-partisan election?

Yes	No	Undecided
4	28	2

Should the Governor appoint local judges?

Yes	No	Undecided
5	28	1

Should local judges be chosen by a commission or similar body?

Yes	No	Undecided
5	26	3

From the replies received there seems to be little support for switching from the present method of selection of judges. Even though 13 of 34 judges acknowledged the existence of political influence, one would be too many. The questionnaire did not provide for a description or explanation of how the influence was exerted. This may cloud the validity of the answers. If there is a problem, it could be remedied by providing for longer terms and tenure. This was suggested by several participants in the survey.

Several additional questions addressed the municipal courts potential for expansion. There was some support for expanding the court's jurisdiction in the areas of family law services and small claims. It should be noted the recent passage of the Prevention of Domestic Violence Act empowers the municipal court judge to issue a Temporary Restraining Order in cases involving domestic violence. Also, the Governor recently signed A-527 allowing a consumer to sue in municipal court for a refund and damages not exceeding \$200.00 if a retailer fails to post a notice of its refund policy and refuses a request for a refund within 20 days of purchase (109 N.J.L.J. 458). On January 12, 1982 the Governor signed Senate Bill No. 3466 and Assembly Bill No. 2293 which, among many provisions, transfers jurisdiction of breathalyzer refusal adjudications from the Division of Motor Vehicles to the municipal courts.

It would appear, then, that a trend toward expanding the local court's jurisdiction is developing at a time when some are in favor of abolishing the court as we know it. It seems there is a recognition on the part of legislators and the Governor of the court's unique ability to deal with local problems. In

response to the question: "Is a local court more responsive to the needs of a community than a county-based Court?", 29 judges replied "yes," three "no" and two "undecided."

Attention has been given to the funds allocated to the local treasury through the collection of fines and court costs. Of course, a great deal of the fines collected by the courts are paid to the state and county. However, the municipalities' share would go to the state under the regional court plan. The present court system is not supposed to be a profit-making venture although some courts "gross" more than needed to meet expenses. In answer to the question: "Should the efficiency of a municipal court be determined by the amount of fines collected?", one judge said "yes," 32 replied no" and one was "undecided."

Finally, two questions were asked in order to determine how the judges felt in regard to the performance of the municipal court.

In your opinion, does the community feel your court is doing a good job?

Yes	No	Undecided
26	0	8

Do you feel that the municipal court system is fulfilling its mission in New Jersey?

Yes	No	Undecided
28	2	4

Judges' Comments

The judges were asked to make additional comments if they so desired. Some of these are as follows:

"It appears that despite the advantage of the local court to have empathy for local problems, the bureaucracy feels that state and regional control is better, but change for change-sake is not necessarily progress or improvement."

"The present system enables a disposition of cases without local police having to leave their respective municipalities."

"Municipal courts should be incorporated into the upper court system. Judges should be full-time. Present judges should be given the option of becoming full-time. That would take municipal court judges out of the practice of law for income purposes, lessen outside pressures on them, remove them from political pressures and criticism, and enable them to develop greater expertise."

"At some time, municipal judges should receive tenure."

"Making municipal judges full-time with the necessary staff would serve to 'bureaucratize' the system and make it

inefficient."

"My experience leads me to the conclusion that the local municipal court is a people's court, and that the handling of neighborhood disputes and peculiarly local problems are its most significant contribution to the criminal justice system. It is not possible to regionalize the system without taking away from citizens an opportunity to be heard in a forum familiar with neighborhood matters."

"The system as it presently exists, given the tremendous volume of our municipal courts, is one of which we may all be proud, although it is not perfect."

The Future

I predict that our municipal court system is here to stay. If the study commission is approved and it eventually recommends regionalization, such a change in the local court structure would be resisted vigorously in my opinion. I believe that the present system enjoys very strong "grass-roots" support from our citizens as well as support from law enforcement personnel, local elected officials and municipal judges themselves. This support cannot easily be ignored.

A further thought must be expressed. In traveling from court to court to observe the proceedings, I have been left with one outstanding impression. The

people of our state hold respect for our municipal courts. Almost always, absolute silence prevails; almost always, the decision of the judge is accepted; and almost always, the "client" of the system leaves the court-room feeling the decision was just. A system of justice cannot survive without the respect of those it serves. This great achievement of our municipal courts must not be abandoned injudiciously. •

THE CASE FOR LOCAL SOLAR LAND USE ORDINANCES

(Continued from page 8)

of the municipal planning enabling legislation.¹⁴

2. Solar comprehensive plans — Comprehensive plans have been traditionally used to guide community growth and to integrate various department goals.¹⁵ Local planning boards are now mandated to include an energy conservation element in their master plans.¹⁶

The very adoption of a comprehensive energy conservation element in a master plan can increase public awareness of solar energy and lead to public support for legal alternatives insuring solar access.

Solar energy components which can be included in a comprehensive plan include energy conservation; orientation of

streets to take maximum advantage of the direct rays of the sun; prevention of structures and vegetation from blocking sunlight to approved solar collectors; encouraging road construction which maximizes use of the sun for snow melt; encouraging various kinds of insulation; and mapping our areas of the municipality for special planned unit solar development policies. The master plan could include endorsement of "solar considerations...in zoning ordinances, subdivision of regulations, building permits and other ordinances, each of which must be coordinated [in the master plan] to assure that they are properly integrated."¹⁷

3. Subdivision regulations — Two effective and simple types of land use regulations for solar access protection are subdivision and site plan review ordinances. Indeed, it is recommended that New Jersey municipalities just entering the solar access field consider these approaches as a regulatory starting point.

Raw land provides a "blank slate" for development layout and allows solar access to be conveniently protected in the site planning process.¹⁸ Indeed, several western communities have already adopted regulations for solar orientation and solar access in their subdivision and

(Continued on page 46)



The New Jersey Outdoor Advertising Association aids New Jersey civic and charitable organizations.