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PENNSYLVANIA SENATE JUDICIARY  
COMMITTEE PUBLIC HEARING

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IN RE: )  
)  
CIVIL LEGAL REPRESENTATION )  
OF THE INDIGENT: )  
HAVE WE ACHIEVED EQUAL ACCESS )  
TO JUSTICE? )

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Allegheny County Bar Association  
436 7th Avenue  
9th Floor, Grant Room  
Pittsburgh, PA 15219  
Tuesday, October 29, 2013  
1:00 p.m.

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CHAIRMAN: SENATOR STEWART GREENLEAF

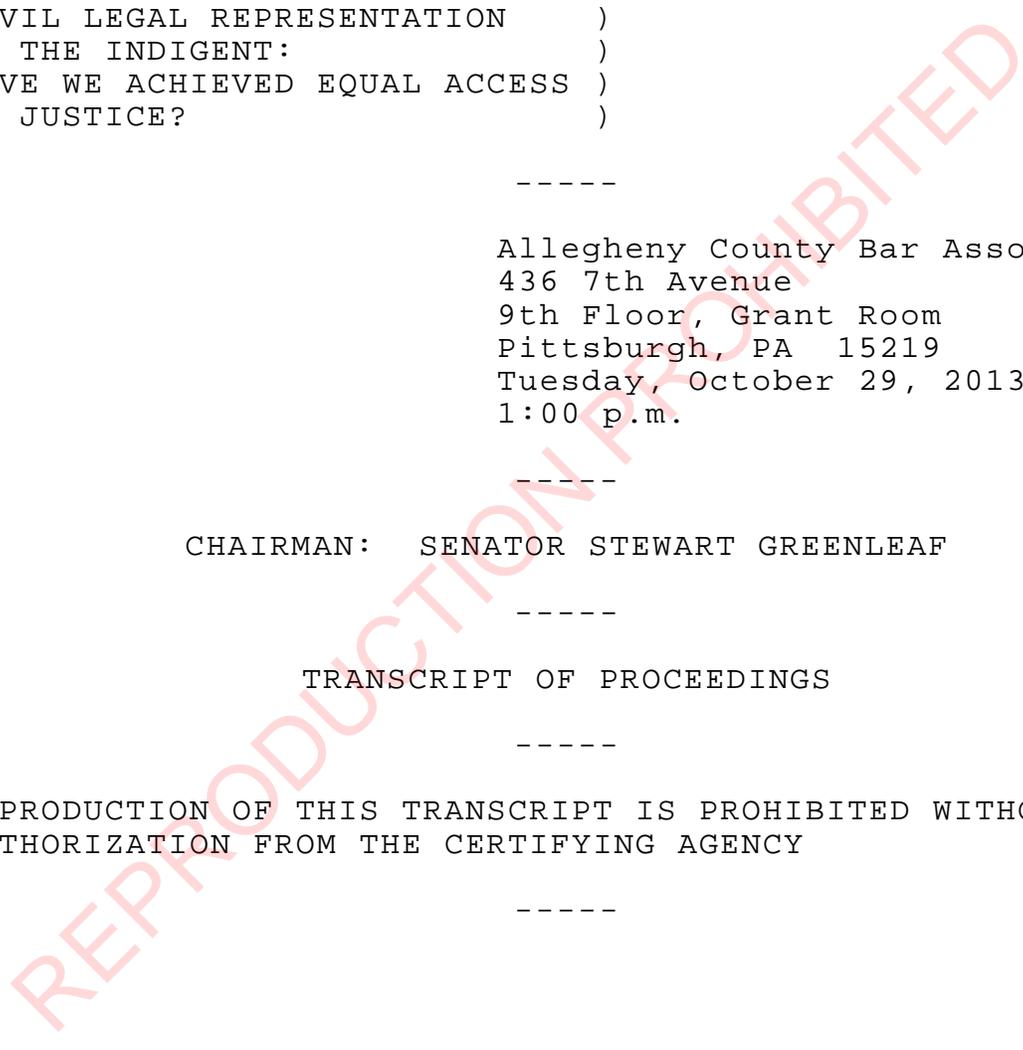
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1 MEMBERS PRESENT:

2 Senator Stewart Greenleaf, Chairman

3 Senator Randy Vulakovich

4 Senator Wayne Fontana

5 Senator Jay Costa

6

7

8 STAFF PRESENT:

8

Gregg Warner, Esq., Counsel

9

Zack Hoover, Esq., Minority Counsel

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Reported by:

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Donna R. Betza, CMRS  
Court Reporter

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## P R O C E E D I N G S

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3 SENATOR GREENLEAF: Okay. We'll open the  
4 Judiciary Committee Public Hearing on Civil Legal  
5 Representation of Indigent. This hearing is trying to  
6 establish or achieve equal access to justice for those  
7 individuals who do not have the financial wherewithal to  
8 obtain counsel.

9 We welcome here today all of the witnesses that  
10 are here and also my fellow members of the Senate,  
11 Senator Fontana, Senator Costa, Senator Vulakovich.  
12 Thank you all for being here today and participating in  
13 this.

14 This is the third hearing of three hearings.  
15 The first had been in Philadelphia, and in Harrisburg,  
16 and then today in Pittsburgh.

17 There are many people who do not -- who cannot  
18 afford legal representation. Many of those issues are  
19 issues that are very important to them and to society  
20 such as child custody, housing, health and safety.  
21 There's nearly 1.9 million people in Pennsylvania who,  
22 um, even though they may be eligible for representation,  
23 legal aid representation, that only one out of two  
24 actually obtains that because of the lack of resources.

25 So we are going to begin our testimony -- unless

1 any Members want to make any statements -- with our  
2 Justice Baer who is here today who has a long, long  
3 history of dealing with issues involving children and the  
4 Courts and, in fact, the day -- I think it was the day  
5 he was elected to be a Supreme Court Justice, he started  
6 a Commission to look into how that we could deal with and  
7 treat the children of our Commonwealth in a better way  
8 through the court process.

9 Justice Baer, thank you so much for being here  
10 today, and we would like to hear your experience. You  
11 had experience both as a Common Pleas Court Judge and now  
12 as a Supreme Court Justice. We would like to have your  
13 comments for us. Thank you.

14 THE HONORABLE JUSTICE MAX BAER: Senator  
15 Greenleaf, Senator Costa, and the entire panel, I am  
16 honored that I was asked to be here; and I was asked to  
17 be succinct. It's my pleasure to do that, as I actually  
18 have a three o'clock airplane to Philadelphia, but this  
19 is too important to not stop here and do this.

20 So let me try to make three succinct questions  
21 and, Senator Greenleaf, make the offer to answer  
22 questions, to appear in Harrisburg, at your pleasure if  
23 there are further inquiries for me from this panel or the  
24 Judiciary Committee or anybody else, at any time. It is  
25 my pleasure to be cooperative with the legislative

1 branch. I think you know that.

2           So, again, three distinct points. The first  
3 being in dependency, which is not domestic relations.  
4 One of the emerging recognitions is that the typical case  
5 of an abused and neglected child is presented with a mom  
6 who is usually young and under-educated, sometimes drug  
7 or alcohol dependent, unable to take care of her child or  
8 children and, therefore, the case is in.

9           And, traditionally, the resources that we've  
10 looked at if we were going to avoid foster care -- which  
11 we did not do often enough in the past -- or group homes  
12 or the like, was the maternal side. And there's a  
13 recognition now that we have -- we should have been  
14 looking at the paternal side. But the paternal side has  
15 never really had counsel; never had resources, et cetera.  
16 And that's not just dad, but that's grandparents who  
17 might be well able to take care of this child, but were  
18 never asked. Maybe three blocks away -- and  
19 extraordinarily competent -- might be paternal aunt and  
20 uncle, cousins, or the like, and so one of the ways that  
21 can be helpful to the extent we provide access to justice  
22 is to open the services that are provided to mom's family  
23 to a greater extent and also to the father's family to a  
24 greater extent. And that's counsel, and that's also the  
25 entrap -- the trappings of counsel; the social workers

1 that work with counsel and the investigators that work  
2 with counsel in a well-functioning unit of a dependency  
3 system.

4           So what goes with a good parental advocacy unit  
5 is people that go out and look, and again, we have the  
6 ability to go out and look as Senator Greenleaf, Senator  
7 Costa and others know, in Family Finding which has now  
8 been enshrined into law -- we thank you for that -- which  
9 is going on in Pennsylvania, and we can look for all of  
10 these relatives. So I wanted to point that out. I think  
11 that's little appreciated. We are working hard at that  
12 at the judicial level. We are working hard at that at  
13 the executive level through Child Welfare Services, and  
14 the legislature should be well-advised to keep an eye on  
15 dads, dad's families, as resources for abused and  
16 neglected kids.

17           And I'll make one last point on that because I  
18 know that the legislature is always looking and always  
19 concerned with the financial aspect; and I have testified  
20 before the best money, wisest money, that can be spent is  
21 in the dependency system because it's the least expensive  
22 system and it diverts from the delinquency system, the  
23 adult criminal system, the mental health system, the  
24 suicide prevention system, the subsidized housing system,  
25 and on and on and on and on. All of those services that

1 are provided to people who grow up dysfunctional. And we  
2 have the opportunity to divert them from a road of  
3 dysfunctionality to a road of functionality. But we need  
4 the mentors. We need the people that will take these  
5 kids into their families, make them permanent members of  
6 their family, and raise them well. And we don't care if  
7 they're from the dad's side, the mom's side. We don't  
8 care if they're extended relatives, not extended  
9 relatives. We frankly don't care if they're from the  
10 church, a former baseball coach, or the like. And, so,  
11 that's what we need to do and to the extent we have  
12 greater legal services for them with the trappings, that  
13 helps.

14 Let me flip, then, to domestic relations for a  
15 second, and I look at it uniquely, as Senator Greenleaf  
16 mentioned, because I did 10 years in Family Court and  
17 about 6 years running the Allegheny County Family Court.  
18 I did 2 more years in Civil Court, and now 10 years on  
19 the Supreme Court, so about 24 years in the judiciary at  
20 the end of this year.

21 Um, and we can talk about it at almost any level  
22 of the judiciary and, again, if we want to talk about  
23 custody, when I got started in 1990, it was largely  
24 counseled. Today, it's largely uncounseled. Even  
25 individuals who can afford counsel -- and not everybody

1 can because counsel is very, very expensive and custody  
2 fights can become extraordinarily protracted as you know,  
3 as you know. I suspect a decent percentage of phone  
4 calls to your office are people that are unhappy in  
5 custody, and you cannot help them. I promise you, you  
6 can't help them. And neither can we judges, and they  
7 call us all the time, too.

8 Um, the only thing that helps them is figuring  
9 out how to talk to each other. They don't have to be  
10 friends, but they have to learn how to be civil with each  
11 other regarding the limited subject of their children.  
12 And that's what we try to teach them, and that's what we  
13 do. But, counsel can be so valuable because counsel can  
14 serve actually as an experienced advisor to these parents  
15 because counsel do this time and time again and can  
16 explain to them that they're not unusual or unique in  
17 their frustration with the other parent, and that the  
18 courts are not aptly suited to decide the length of the  
19 hem on the little girl's skirt or whether the little boy  
20 should wear hard shoes or soft shoes to church or to  
21 school, and yet that's the things that they ask courts to  
22 do.

23 We don't decide which doctor. We just don't,  
24 unless there's a life-threatening illness, and then it  
25 becomes a major decision, and then what we should decide

1 -- if the judge knows what they're doing -- is who should  
2 have legal custody, and then that individual decides the  
3 doctor. We don't decide the doctor. We're not the  
4 parent. We don't love the child or know the child. So  
5 if we have lawyers on both sides, then we can talk to the  
6 lawyers and the lawyers can talk to the parents and  
7 things can be resolved. It's so important.

8           And let me just elaborate for a second because  
9 everybody likes to talk about custody. Talk about  
10 equitable distribution. Generally speaking, you have the  
11 house and you have husband's pension. Without being  
12 gender-biased, because it could be wife's pension, and I  
13 certainly acknowledge that. And they come in and what do  
14 they say to the judge -- and, again, they're pro se. The  
15 only thing they own is the house. Now, does the judge  
16 say to them, "What about the pension?" Is he stepping  
17 into the role as counsel for the dependent spouse  
18 regardless of gender? Or does he say, "Fine. Let's  
19 distribute the house 50/50 or 60/40, and we're done with  
20 the case."

21           Because the pension is a complicated asset. You  
22 have to do a domestic relations order, you have to send  
23 it to get it qualified so you have a QDRO, et cetera.  
24 So, as soon as you say, "What about the pension?", then  
25 they say, "Well, what do we do about that?" And now

1 you're providing legal advice or not.

2           So you have a terrible ethical quandary as the  
3 judge if you have no lawyers. You want to do fundamental  
4 justice, especially in this area of law. They've been  
5 together 20-25 years. The wife stayed home and took care  
6 of five kids. The most -- the biggest or the second  
7 biggest asset they have is the pension, and she doesn't  
8 know it's a marital asset because it's not a stick or  
9 stone. It's not tangible personal property. And I can't  
10 answer that question. I think every judge wrestles with  
11 that question, but, again, legal services would help  
12 immensely.

13           Now, let me make one other point and then I'd  
14 ask questions or I'd yield the floor to somebody else,  
15 and that is that it is unnecessary for counsel to enter  
16 appearance for these people. And what scares large law  
17 firms who are willing to do pro bono work, which is the  
18 way to provide counsel, is the entry of appearance  
19 because it's a check with no numbers on it that somebody  
20 can fill in in terms of the hours.

21           You can provide -- we can provide counsel, and I  
22 don't know that legislation is needed or not needed.  
23 I've not had any opportunity to study this. Certainly  
24 immunity is needed to provide for counsel so counsel is  
25 not subject to malpractice. Lawyers can be provided --

1 and Allegheny County does this every day in PFA's, I  
2 believe, in Protection from Abuse Act cases.

3 I believe they also do this in partial custody  
4 cases -- where a lawyer agrees, pro bono, to come to  
5 court for three hours -- from 9:00 until noon -- on a  
6 given day. And in that day, they'll represent all  
7 parties needing counsel in a partial custody case, in a  
8 full custody case, in a domestic violence case, in an  
9 equitable distribution case; even representing an abused  
10 or neglected child. And they might be able to represent  
11 twenty people in a morning, and these cases are not  
12 unduly difficult. They do not require -- even in the  
13 best of all worlds you would take it -- they do not  
14 require Discovery, complex pleading, or the like.

15 So you sit with the client for a while and you  
16 find out, "Do you have a pension?" "How old are the  
17 kids?" "Do they have medical problems?" "Do they have  
18 dysfunctionality?" "Are they doing all right in  
19 school?", et cetera. "What's the state of domestic  
20 violence or the like?" And, then, you go in and you  
21 explain it to the judge and, again, in the real world  
22 there's usually a conciliation in my experience, and the  
23 judge gives them advice. You go out in the hall, and you  
24 talk to the client. And if there has to be a brief  
25 hearing, you take 15 or 20 minutes where you can

1 summarize on your client's behalf effectively your  
2 client's position. You can make argument on your  
3 client's behalf, and then you can move onto the next  
4 case, and you can have tremendous effect representing  
5 that individual for a brief period of time on that  
6 morning without an appearance entered and then that  
7 person goes on their way.

8           If that person has to come back to court, you're  
9 not their lawyer. You provided counsel at that period of  
10 time. The lawyer provides a great public service to the  
11 judge, to the court system, to the public; because  
12 conveys the needs of the member of the public effectively  
13 at that court appearance on that issue at that time and,  
14 yet, has committed three hours; once a month, once every  
15 two months, in this pro bono activity. I commend that  
16 model to you is a model that I used very successfully  
17 when I was in Allegheny County and that I have  
18 recommended and I find is not used enough in  
19 Pennsylvania, and, frankly, it's a frustration to me.

20           And with that, which is about a ten-week law  
21 school class condensed to about ten minutes, I'd answer  
22 questions or elaborate, or, again, yield the chair to  
23 somebody else and hope that I've at least given you some  
24 food for thought.

25                           SENATOR GREENLEAF: Thank you, very much. I

1 know you have a plane to catch. If there are any  
2 questions for the Justice? No?

3 I think you're gonna be -- I know you're gonna  
4 be late. I don't know how you are going to make that  
5 flight.

6 THE HONORABLE JUSTICE MAX BAER: I'll make  
7 it.

8 SENATOR GREENLEAF: But thank you for  
9 changing your schedule to be here and to talk about this  
10 very important issue. You've been a real credit, and a  
11 real help to us in your service both as a Common Pleas  
12 Court Judge and as a Supreme Court Justice. You've done  
13 a great job, and we thank you for being here today.

14 HONORABLE JUSTICE MAX BAER: And, again, I  
15 say again, I am honored to be here. It is my privilege;  
16 my pleasure. If I can be of service later, please call  
17 me. Thank you.

18 SENATOR GREENLEAF: Okay. The next witness  
19 is Forest Myers, Esquire, President of the Pennsylvania  
20 Bar Association. Mr. Myers, thank you for being here  
21 today and participating and helping us put this hearing  
22 together along with many other people. Your assistance  
23 and you Association has been invaluable in putting  
24 together the witness list and things of that sort. So  
25 with that --

1           MR. MYERS: Thank you, Senators Greenleaf,  
2 Costa, Fontana and Vulakovich and your staff. I really  
3 appreciate the opportunity to be here on behalf of the  
4 Pennsylvania Bar Association and its 27,000 members from  
5 across Pennsylvania, and thank you, again, for the  
6 opportunity to testify at your third and final hearing  
7 regarding civil legal representation of the neediest  
8 individuals across Pennsylvania.

9           Previously, in your original hearing in  
10 Philadelphia, my predecessor, Tom Wilkinson, testified  
11 and laid out the history of PBA's support for access to  
12 justice and civil legal aid by the Pennsylvania Bar  
13 Association and, also, I think he discussed with you at  
14 that time the innovations that have been pursued by the  
15 organized Bar in Pennsylvania for achieving that goal,  
16 and I'm not here to repeat that testimony, but rather to  
17 underscore our organization, the PBA's on-going support  
18 for civil legal aid and access to justice.

19           It's sort of interesting that Tom and I would be  
20 -- he being at the first hearing and me being at the last  
21 because we come from two different backgrounds. Tom  
22 comes from an urban setting with a big law firm and,  
23 frankly, I'm a solo practitioner from Franklin County  
24 which is not quite the most rural part of Pennsylvania,  
25 but it's fairly rural relative to Philadelphia

1 definitely.

2           But, one thing that is consistent for both of us  
3 is that we come from counties where there are significant  
4 legal resources available to the neediest members of our  
5 communities. In Franklin County, we have three different  
6 entities that serve the needs of -- legal aid needs -- of  
7 those who can't afford those services as well as a  
8 significant number of our lawyers and the judges who are  
9 committed to providing legal services to the neediest  
10 among us.

11           Even having said that, even in Franklin County,  
12 many, many people go unserved. I used to be a member of  
13 the MidPenn Legal Services Board, and I can remember  
14 Rhodia Thomas, who was our Executive Director -- and I  
15 believe she testified at one of your hearings perhaps  
16 earlier in Harrisburg -- remarking at almost every  
17 meeting of our Board about how many, roughly 90 percent,  
18 of the people that came to MidPenn Legal Services'  
19 offices and MidPenn Legal Services' offices are from  
20 basically Berks County to the Maryland line, Franklin  
21 County and from York all the way up into State College  
22 area; so it's a vast area. 90 percent of the people that  
23 qualified for service through MidPenn Legal Services were  
24 turned away because of the lack of resources.

25           I happened last week to be at a pro bono

1 luncheon in Reading, and the lady, the young lady is now  
2 the managing -- manages all of the offices basically from  
3 Berks County, Adams County, York, Franklin, Dauphin  
4 Counties, from MidPenn Legal Services, used to be a full-  
5 time staff attorney in the Chambersburg office. And, at  
6 one time, they had as many as three lawyers employed in  
7 that office full time. Now they have one full-time and,  
8 I think, two staff members; paralegals.

9           So the need is acute and the issue, obviously,  
10 is as it is in most of these cases, is how do we afford  
11 it? But that's really more issue for the legislature  
12 than for the lawyers because we are continuing, and we  
13 have a continuing commitment, to provide pro bono legal  
14 services to those who are less fortunate among us.

15           I happened to attend a meeting of the Coalition  
16 in Harrisburg and watched the hearing -- watched the tape  
17 of the hearing -- that you had in Philadelphia. And,  
18 obviously, the stories that were told by the people at  
19 that hearing who used legal services or needed legal  
20 services and were unable to get them were very powerful  
21 stories indeed.

22           And, basically, the folks who were able to get  
23 legal services through MidPenn Legal Services or the  
24 Neighborhood Legal Services or whatever legal service  
25 agency was in their jurisdiction, their lives were

1 changed. The unfortunate part of the story was that the  
2 lives of those who did not get those services because  
3 there just weren't enough resources available, their  
4 lives were also changed; but not necessarily, not  
5 usually, for the better.

6 Even if they had a case -- whether it be a  
7 landlord tenant or a custody case -- even if they had  
8 that kind of a case that they could have succeeded if  
9 they'd have had proper legal representation, they lost  
10 that case because they did not have that opportunity. We  
11 often talk about, in the profession, about doing legal  
12 aid triage. We all know what triage means in the medical  
13 sense, and basically it's trying to, with limited  
14 resources that are available to us, provide the best  
15 services that we can.

16 In the medical issue with triage, help's on the  
17 way. Sooner or later, you get kind of patched up out in  
18 the field, taken to the hospital. You're in a hospital  
19 with a good care. Unfortunately, in the case of the  
20 legal triage, help is not on the way. Without more  
21 resources, without more commitment from the legal  
22 profession pro bono, there's not gonna be anybody there  
23 at the end of the day for those people that need that  
24 kind of care.

25 And as much as we've tried as a profession and

1 as a Bar Association, it oftentimes does not come. I  
2 think what these hearings have highlighted and brought to  
3 the public's attention is the concept of Civil Gideon.  
4 Obviously, most everybody knows what Gideon vs.  
5 Wainwright stands for in the right to a lawyer at no  
6 expense if you can't afford one in the criminal sense.

7 Not many people had ever given much thought, I  
8 don't think, in our profession or even -- and especially  
9 in the public at large -- as to a Civil Gideon and  
10 whether that's a right. And we need to work toward that,  
11 and I think the Bar Association and your Committee  
12 certainly -- and this Coalition that has been put  
13 together to steer these hearings -- are doing a wonderful  
14 job of bringing to the forefront the need for a Civil  
15 Gideon concept and perhaps a right, hopefully a right.

16 We, in the Pennsylvania Bar Association, have  
17 maintained a pro bono office full-time staffed with an  
18 attorney and part-time with an assistant for many, many  
19 years. And that office provides guidance, if you want to  
20 call it that. People call that, as Justice Baer  
21 mentioned, people call that every day and ask for legal  
22 services and through the office and the staff at the  
23 Pennsylvania Bar Association, we help to direct those  
24 people either to approach an individual lawyer who is  
25 willing to provide pro bono services or to PALawHelp.org,

1 which is a Web site where you can go and look up some  
2 basic fundamental issues in the law. There are some  
3 forms on there and so forth, hopefully to help them in a  
4 pro se case if they choose to do that.

5 As I said many times in this testimony, we have  
6 endorsed pro bono service beyond that. Every officer,  
7 including me, and all of the other officers of the  
8 Pennsylvania Bar Association and its Board of Governors,  
9 have committed to provide a -- at least one pro bono case  
10 a year. Many of us have provided more than one case, and  
11 that's 100 percent commitment.

12 We have a House of Delegates that's made up of  
13 about 400 members; 75 percent of those people have  
14 reported to us that they have provided pro bono service  
15 in that prior year. But that's not enough. I mean,  
16 obviously, that's maybe 500 people at the most. That's a  
17 small drop in a big ocean, and the need is great.

18 And the benefits of the legal services -- one of  
19 the benefits the legal aid offices provide is to screen  
20 the clients so that whenever a lawyer gets a case it  
21 comes to them and they truly are a pro bono individual.  
22 And, again, that's a part of their programs that are  
23 being cut back. Obviously, if they have to make a choice  
24 between the screening or representation, they choose  
25 representation.

1           One of the things that's always troubled me is  
2 the fact that the legal profession doesn't get credit for  
3 the good works it does, and pro bono is just another  
4 example of that. Lawyers across the State -- and I would  
5 say virtually every county in this state has lawyers who  
6 are providing pro bono services to the public in a myriad  
7 of cases such as what Justice Baer mentioned: Custody,  
8 child support, landlord tenant issues, housing issues  
9 where they may be in foreclosure.

10           Many of the counties in this state have mortgage  
11 foreclosure diversion programs that were, frankly,  
12 modeled after the original program that was set up in  
13 Philadelphia to provide pro bono legal representation to  
14 individuals whose homes are being foreclosed with the  
15 idea of having someone -- a mediator in most cases,  
16 sometimes the judges themselves -- be involved in trying  
17 to make some kind of a reconciliation between the bank or  
18 lender who, naturally, wants to be paid and the  
19 individual who would like to stay in their home, but  
20 maybe through circumstances -- a layoff, working injury  
21 or what have you -- can't make the payment that they had  
22 contracted for.

23           It makes sense to me -- it always has made sense  
24 to me that you would try to keep people in a home. Why  
25 have a bunch of empty houses across the Commonwealth?

1 Even if they can't pay the full amount, they may be  
2 paying something, and if they're paying the taxes and  
3 keeping it heated and so forth and so on, it's certainly  
4 to the bank's advantage than to have a house sitting  
5 there and having people go in and vandalize it and so  
6 forth.

7           So those kinds of issues are being addressed by  
8 the legal profession and by the courts, but we need to do  
9 more. And we need to do that with the help not only of  
10 the legislature, but of the public at large. And I  
11 applaud your having these hearings because I think this  
12 is what makes this issue come to the top of the heap  
13 so-to-speak, so people begin to realize that there are  
14 these kinds of issues out there. That there is help, but  
15 it's not really -- can't answer all of the questions and  
16 can't address all of the issues, but it is there and it  
17 should be applauded, and we do applaud it in Pennsylvania  
18 in the Bar Association and the many members of our Bar  
19 Association who provide pro bono legal services.

20           In fact, one of the things that Tom Wilkinson  
21 did while he was President was create a column in one of  
22 our publications which comes out every other week, and it  
23 highlights individuals in the legal profession who have  
24 provided pro bono services.

25           So, thank you, again, and if you had any

1 questions, I would be happy to answer them.

2           SENATOR GREENLEAF: Thank you, Mr. Myers.  
3 Would there be any questions of the witness? Thank you  
4 so much for being here today, and thank you for the  
5 Pennsylvania Bar Association and the attorneys who belong  
6 to that association, for your help in reaching out and  
7 providing free legal representation to the most neediest  
8 of our citizens in Pennsylvania. Thank you.

9           MR. MYERS: Thank you, very much.

10           SENATOR GREENLEAF: The next witness is  
11 Kathryn M. Kenyon, Chair of the Pittsburgh Pro Bono  
12 Partnership.

13           MS. KENYON: Good afternoon, and my  
14 apologies. I'm recovering from a bit of a cold.

15           SENATOR GREENLEAF: That's okay.

16           MS. KENYON: On behalf of the Pittsburgh Pro  
17 Bono Partnership, it is certainly my privilege and honor  
18 to be able to sit here this afternoon and offer some  
19 remarks, although I confess it's a little awkward having  
20 my back to the equally distinguished audience behind me.  
21 You have assembled a tremendous caliber of people  
22 interested in this issue.

23           Just to give you some background, the Pittsburgh  
24 Pro Bono Partnership is a very unique and successful  
25 collaboration of law firms and corporate legal

1 departments based here in Allegheny County who work  
2 together through an administrative board to identify  
3 areas of critical need and to launch what we call  
4 signature projects that would pair volunteer attorneys  
5 with those needs.

6 Some of our projects include community-based  
7 clinics; singling out street people, our homeless clinic;  
8 veterans' clinic; custody conciliations; PFA's, along the  
9 lines of what you heard from the Justice earlier; as well  
10 as an expungement project; public housing project, to  
11 help families and individuals start again and overcome  
12 odds.

13 Speaking on behalf of the volunteer attorneys  
14 through the Partnership and myself as a pro bono  
15 volunteer attorney, I think doing pro bono work is a true  
16 gift. It enables me, as an attorney, to derive a sense  
17 of satisfaction that I do not get from my regular paying  
18 day job. It enables us to ensure that every child, every  
19 family, every veteran, every victim of fraud or violence,  
20 and everyone who has earned the right to start over has  
21 an actual voice that can be heard. Without equal access,  
22 the poor really have no protection, essentially gifting  
23 those who would take advantage, a very powerful tool.

24 The Pro Bono Partnership works through its  
25 members to stop that process. However, we can only do so

1 much as attorneys; as volunteer attorneys. Many of our  
2 attorneys are operating outside of their comfort zone in  
3 these different areas of law. We take transactional  
4 attorneys, people who have never seen the inside of a  
5 courtroom, and put them in a family law setting which, as  
6 you heard, can be rather confrontational.

7 We take litigation attorneys who have never  
8 looked at contracts or paper and have them doing those  
9 types of projects to help people.

10 We can only do so much. Our attorneys, our  
11 partnership, our collaboration, is entirely dependent on  
12 legal service agencies such as the Bar Foundation here in  
13 Allegheny County and Neighborhood Legal Services  
14 Association who provide all of our training; all of our  
15 mentoring; all of our guidance. They set up CLE programs  
16 that enable us to market, recruit, and train our  
17 attorneys which, in turn, helps us empower them to know  
18 that they can do it, they can step outside of that  
19 comfort zone, take on that case and help someone and  
20 that, in turn, will inspire them to take the message back  
21 to their firm, back to their corporation, and bring  
22 someone else into the mix.

23 Those agencies, then, are available for those  
24 frantic calls, for those frantic e-mails, "Help. Thanks  
25 for the training. It was great, but now I'm in a real-

1 life situation, and I want to make sure I'm doing right  
2 by this person." Without having those agencies, the  
3 knowledge, the experience, the depth that those agencies  
4 give us, we would not be able to do what we do. Without  
5 the volunteer attorneys, there would be a precipitous  
6 drop in the ability to provide pro bono work, pro bono  
7 representation, to those who are disadvantaged.

8           One of the biggest areas that we face in  
9 training and recruiting volunteers is a general practice,  
10 our general community clinics. These people walking  
11 through the door could have a question anything from a  
12 landlord tenant case, to a public housing question, to a  
13 mortgage foreclosure, to divorce, custody support.

14           To the attorneys who are volunteering their time  
15 in the evenings at churches, at community centers, to  
16 answer those questions really need to have the  
17 wherewithal to be able to help, to have resources they  
18 can call on to answer those questions. It's very similar  
19 to a hotline-type call where anyone could answer. And,  
20 again, we would not be able to train the attorneys to  
21 answer the myriad of questions and issues that arise in a  
22 community clinic setting or in a hotline-type setting  
23 without the support, the training, of Neighborhood Legal  
24 Services, of the Bar Foundation.

25           And those agencies, especially Neighborhood

1 Legal Services, is obviously dependent on funding,  
2 federal and state funding, which has been cut drastically  
3 further compounded by the lower interest rates from  
4 IOLTA. Those funding cuts have impeded the legal service  
5 agencies' ability to help clients.

6 We have tried to step up, but we can only do so  
7 much, and there is still a gap in services that  
8 additional funding would help to eliminate.

9 Since the Partnership might be new to many of  
10 you, I would be happy to answer any questions about the  
11 collaboration, about the projects we use, and how we work  
12 closely with the legal services agencies at any point in  
13 time.

14 SENATOR COSTA: Thank you, Kathryn. Does  
15 anybody have any questions of Kathryn along those lines?

16 I actually do, if you don't mind.

17 MS. KENYON: Sure.

18 SENATOR COSTA: One of the things that  
19 Justice Baer spoke about related to immunity and  
20 potential liability issues in terms of recruiting  
21 volunteers, if I understood his point.

22 You are with a very prestigious, state-wide law  
23 firm. How is it that you are able to get law firms  
24 engaged to get beyond that point? Particularly, as we  
25 start to develop more and more of these specialty courts

1 and getting folks more and more engaged. How is it that  
2 you are able to pull the -- how is your Partnership  
3 pulling firms together along those lines? Isn't that an  
4 issue as well?

5 MS. KENYON: It is not an issue because the  
6 generosity of the Allegheny County Bar Association and  
7 Bar Foundation, whose malpractice coverage covers every  
8 single one of our volunteer attorneys, and that is  
9 certainly a draw in recruiting volunteer attorneys and  
10 marketing to law firms.

11 Using my firm as an example, we do not have a  
12 family law practice, but knowing that there is coverage  
13 would enable our attorneys to be able to volunteer in a  
14 family law setting.

15 SENATOR COSTA: Is that a coverage that's  
16 unique to Allegheny County, or do you know whether or not  
17 other parts of the state do it?

18 MS. KENYON: I am not aware whether other  
19 collaborations exist that would have that umbrella of  
20 coverage. I don't believe that they do exist. That's  
21 what makes the partnership here really so successful and  
22 so unique.

23 SENATOR COSTA: Thank you. Any other  
24 questions?

25 SENATOR VULAKOVICH: I do. I noticed in

1 your testimony, here, about the malpractice policy that  
2 you have. When the judge testified, he was talking about  
3 immunity. Is there anything -- and I am not sure if I  
4 follow exactly because he was covering a multitude of  
5 subject matter, but is there immunity for you? Do you  
6 have to have malpractice because there is no immunity  
7 clause or anything dealing with pro bono work?

8 MS. KENYON: That's correct. There is no  
9 immunity. A pro bono attorney is vulnerable to a  
10 malpractice case just as if it was a regular, fee-paying  
11 client. We have projects that utilize that limited entry  
12 of appearance that the Justice was talking about that  
13 enabled us to have attorneys volunteer for just a finite  
14 period of time, or finite section of a family matter, and  
15 the project we have is a custody conciliation. But  
16 those, attorneys are on the line; their name, their  
17 reputation is on the line for every pro bono case that  
18 they do. They do -- they are protected by the malpractice  
19 coverage afforded through the Bar Association.

20 SENATOR VULAKOVICH: The immunity itself, as  
21 an attorney, thinking that you could be on both sides of  
22 the fence -- as we all can -- the immunity, could  
23 something be written up in such a way that you're granted  
24 immunity because of the graciousness of providing pro  
25 bono, but at the same time if there was a real negligent

1 factor there, when you give some really bad advice, where  
2 you could have an immunity other than in an exception  
3 like that.

4 MS. KENYON: I am sure that all of your  
5 staff would be very capable of crafting language that  
6 would create some type of immunity provision or immunity  
7 clause. I know in other areas of the law there is a  
8 higher standard -- almost deliberate indifference; a  
9 willful disregard -- that would be excepted from some  
10 type of immunity coverage like that.

11 I think that's certainly a possibility and  
12 certainly would not, in any way, assist the lack of  
13 funding to the legal services agencies which really is  
14 the critical need so that we can train and have guidance  
15 for these volunteer attorneys.

16 SENATOR VULAKOVICH: As far as your  
17 malpractice insurance goes, I would imagine you would  
18 probably still have to cover some type of coverage for it  
19 even if we had to put an exemption like in there, some  
20 exemption under the immunity clause, but it would be much  
21 cheaper I would think?

22 MS. KENYON: It might be. I can't imagine  
23 one attorney who, or a firm, who would allow an attorney  
24 to step into a situation where there wasn't some type of  
25 insurance coverage notwithstanding an immunity provision.

1 There's a gap there. There's exposure there, and they  
2 would want that protection.

3 SENATOR VULAKOVICH: Okay. Thank you.

4 MS. KENYON: Certainly. Thank you, again.

5 SENATOR COSTA: Thank you. Our next  
6 testifier is the Honorable Judge Gary Caruso, President  
7 Judge of the great County of Westmoreland. Thank you,  
8 Judge. Welcome.

9 THE HONORABLE GARY CARUSO: Thank you. Good  
10 afternoon, Senators. It is a real privilege to be able  
11 to come here this afternoon to offer my observations  
12 about this very important subject matter. Since you have  
13 been holding hearings across the state, you are obviously  
14 well aware that the Courts of Common Pleas are becoming  
15 inundated with increasing numbers of self-presented  
16 litigants. And there's no question that there is a  
17 critical need for civil legal representation in the areas  
18 of law that dramatically affect the personal well-being  
19 of the citizens of our Commonwealth.

20 Many persons who appear in our courts appear self-  
21 represented in matters that have grave consequences for  
22 them. These areas of the law are complicated, even for  
23 those who are learned in law, let alone those who have no  
24 legal training.

25 I would like to give you an example of some budgetary

1 issues, you know, because I think the lack of adequate  
2 funding for legal aid services is probably one of the  
3 main solutions to this problem -- providing adequate  
4 funding could be a solution to this problem.

5 In Westmoreland County, we're served by an  
6 organization called Laurel Legal Services. They serve  
7 Westmoreland County and five surrounding counties. Now,  
8 in 1980, Laurel Legal Services had three offices and 13  
9 attorneys. In 2013, they now have one office and three  
10 attorneys. The reason for that is that the budget in  
11 2013 for Laurel Legal Services is the same as it was in  
12 1980. It's just amazing.

13 Now, in the event that the State or Federal  
14 Government cuts their budget again, they will, obviously,  
15 lose additional staff which would have an impact on their  
16 ability to serve self-represented litigants. And this  
17 will not bode well for those who have to represent  
18 themselves in civil matters that involve their basic  
19 human rights such as child custody and even basic  
20 necessities, such as shelter.

21 And in handling cases where either one or both  
22 litigants are self-represented, there are great  
23 challenges that are posed for the trial judge. And these  
24 challenges come in the form of trying to protect the  
25 concept of due process for both litigants, whether

1 they're represented or unrepresented. We have to try to  
2 assure that both parties have the right to be heard and  
3 that that right to be heard is protected. We have to try  
4 to avoid a situation where the unwary, self-represented  
5 litigant loses basic human rights or necessities merely  
6 through the unwitting failure to properly use the law,  
7 the rules of evidence, or the rules of procedure.

8 This creates quite a balancing act for the trial  
9 judge. They have to walk an ethical tight rope. On one  
10 hand, they have to protect the litigant's right to be  
11 heard, and on the other, we're required to maintain the  
12 impartiality that's required of the trial judge.

13 Now, one of the areas that I find most disturbing is  
14 in the area of mortgage foreclosures. That's where I see  
15 a great increase in the number of people who are trying  
16 to represent themselves. And it's obvious why; I mean,  
17 they wouldn't be in a foreclosure situation if they had  
18 adequate financial well-being.

19 What happens is, the Complaint is filed and then the  
20 unrepresented litigant files an Answer. Well, this  
21 Answer will be inadequate because it will contain merely  
22 general denials. And, then, what occurs is the Plaintiff  
23 will file what's called a Request for Admissions, and the  
24 unrepresented litigant will not respond to that Request  
25 for Admissions. They'll merely rely upon their Answer

1 which already is inadequate.

2 Then, as a result of their failure to respond to  
3 those Admissions, everything set forth therein is  
4 admitted against them. Then, obviously, the Plaintiff  
5 files a Motion for Summary Judgment. They get their  
6 judgment, they execute on the judgment, and the property  
7 is sold. Thereafter what happens? Well, a Complaint and  
8 Ejectment is filed.

9 And this is when the rubber hits the road so-to-  
10 speak. Because then, the litigant realizes I'm gonna be  
11 moved out of my home. There's an actual Ejectment to  
12 have me removed, so now, when they're faced with this  
13 prospect of being removed, they attempt to avoid this  
14 removal by attacking their original judgment; the  
15 mortgage foreclosure.

16 But, now it's too late because they cannot  
17 collaterally attack the original judgment any longer, and  
18 the judge is constrained to grant the Ejectment, and the  
19 person is removed from their home. And this is despite  
20 the fact that they may have actually had meritorious  
21 defenses to the mortgage foreclosure in the first place.

22 And you can see why, by my explanation, it would be  
23 very difficult for someone who is unlearned in the law to  
24 comprehend the process and to act in a way that would  
25 protect their rights without legal counsel. It's very

1 difficult for an unrepresented litigant to understand the  
2 Pennsylvania Rules of Civil Procedure or the Local Rules  
3 of Civil Procedure in each county without the benefit of  
4 legal training. And the failure to understand these  
5 rules is often the snare to which these unrepresented  
6 litigants fall prey and, thereby, suffer serious adverse  
7 consequences.

8 Often, there are defenses they are not aware of, they  
9 don't raise, once again, to their serious detriment.  
10 They don't understand the impact or effect of procedural  
11 rulings, and many times they are unable to advance even  
12 very strong arguments that would be favorable to them.

13 Another problem arises when a judge and the judge's  
14 staff is faced with a self-represented litigant who is  
15 having a difficult time navigating these waters in civil  
16 litigation.

17 They come in, they plead for help, and your instinct  
18 is to try to assist them, of course. But, again, that  
19 causes us to be placed, and our staff placed, into those  
20 difficult ethical dilemmas that I spoke of earlier. And  
21 having counsel to represent them, obviously, would  
22 obviate those dilemmas and save a lot of time.

23 We all know that cases that involve unrepresented  
24 litigants take a lot more of the judge's time and a lot  
25 more court time, and that, obviously, adds to the cost of

1 presiding over those cases.

2 I would recommend for your review, again, an  
3 excellent statement that was given to you on May 7th by  
4 President Judge, Todd A. Hoover of Dauphin County. I  
5 read that, and it was excellent. He outlined the  
6 problems in a concise and deft manner, and I would only  
7 echo many of the things that he has already said.

8 Now, it is necessary that we recognize that when a  
9 party cannot truly afford legal representation in civil  
10 cases -- and I mean cases that put at risk basic human  
11 rights and necessities. It should be a fundamental right  
12 that they have legal representation.

13 I emphasize the truly indigent. We have to devise a  
14 system that will weed out those that, who can afford  
15 representation but merely choose not to go to a lawyer,  
16 from those who truly need representation because they are  
17 indigent.

18 The failure to fund such projects for legal  
19 representation of the poor is really counterproductive,  
20 and has a counterproductive effect on the integrity of  
21 the courts and in the corresponding confidence that the  
22 public has in our system of justice. If we do nothing,  
23 there will be continuing delays in the administration of  
24 justice and, unfortunately, that will lead to results  
25 that are unfair and unjust.

1           So we shouldn't allow these truly needy persons to be  
2 invisible. We are all here today to shine a light on  
3 these people so that they can be seen, and they are  
4 worthy of our concern. They are merely people who, as a  
5 result of unfortunate circumstances -- generally through  
6 no fault of their own -- can't afford the cost and  
7 expense of counsel to protect themselves or to advance  
8 their interests.

9           So if you have any questions, I would be happy  
10 to answer them.

11                       SENATOR GREENLEAF: Thank you, Judge, for  
12 being here today, and I think it's important for us to  
13 understand the impact it has on the Court and on the  
14 litigants because you see it on a daily basis. You're  
15 there every day, and it's important to know that. I  
16 appreciate your being here and sharing that information.

17           Do you have any questions? Senator Costa.

18                       SENATOR COSTA: Thank you, Senator. Judge,  
19 thank you for being here. The previous testifier spoke  
20 about an arrangement through the Pro Bono Partnership  
21 with the Bar Association and, I think, the Bar  
22 Foundation. Does Laurel Legal Services have something  
23 along those lines that would allow for attorneys in  
24 Westmoreland County and surrounding counties to  
25 participate without fear of having to deal with

1 malpractice issues?

2 THE HONORABLE GARY CARUSO: No, we don't.  
3 And that's something I heard today that I'm going to  
4 pursue as well. We don't have that in Westmoreland  
5 County.

6 Another thing that's been mentioned, and might be in  
7 that regard, is allowing lawyers to enter partial  
8 appearances or specialized appearances for clients where  
9 they're not in for the whole case. They're in for just a  
10 particular part of it to assist that client. That would  
11 be helpful as well.

12 SENATOR COSTA: Would that be something that  
13 would be through the Court Rules?

14 THE HONORABLE GARY CARUSO: Court Rules. I  
15 think the Supreme Court might be able to do that through  
16 a Court Rule.

17 SENATOR COSTA: And when you talk about this  
18 ethical dilemma, how are judges in practice resolving  
19 that when they are faced with clients that they know, for  
20 example, that somebody missed an opportunity in some  
21 pleading or maybe stated something improperly in pleading  
22 --

23 THE HONORABLE GARY CARUSO: It's very  
24 difficult. The most that we are able to do is to just  
25 direct them to the Rule and suggest to them that they go

1 and read the Rule and then give them an opportunity to  
2 correct their error.

3 I mean, we would do that and, frankly, you'd do that  
4 for attorneys who might miss something. Just direct them  
5 to the place where they can find the answer, and then  
6 allow them to amend their pleading or return to court  
7 after they have had the opportunity. But, oftentimes,  
8 Senator Costa, even given that opportunity, they can't do  
9 it. They just can't do it. You give them time to amend  
10 a Complaint over and over again or an Answer, and they  
11 are unable to conform to what's required of them..

12 SENATOR COSTA: Thank you.

13 THE HONORABLE GARY CARUSO: Thank you,  
14 again, very much for this opportunity. Senator?

15 SENATOR FONTANA: Just curious. I don't  
16 know if you can answer this for Westmoreland County or if  
17 others can answer it -- we're talking about more money to  
18 help this.

19 THE HONORABLE GARY CARUSO: Correct.

20 SENATOR FONTANA: We know that, you know,  
21 that's the fairness of it that everyone should have some  
22 representation. Can you put your arms around the cost to  
23 not have it? Representation. Is there -- because we  
24 talk -- we're always talking about budgets and how much  
25 money to put aside for this, that, is there are cost for

1 them not to -- I mean, an overall trickle-down cost.

2 THE HONORABLE GARY CARUSO: Yeah, I haven't  
3 calculated it, but I know that one out of every two  
4 people that go to legal aid are turned away. So that's  
5 50 percent of the people are coming in unrepresented that  
6 go to legal aid. And when they come in, the cases always  
7 take longer. There are continuances, there are delays,  
8 there are allowances for attempts at correction, as I  
9 suggested. So just that additional time is money. And  
10 it involves, you know, the efforts of other lawyers and  
11 staff in the courthouse, but I haven't calculated the  
12 actual cost. That would be something difficult to do  
13 perhaps unless you had someone do a study over a several-  
14 year period.

15 SENATOR FONTANA: It might be interesting to  
16 do, because, you know, it's been shrinking, I'm sure, a  
17 lot of budgets. It seems like the demand is more.

18 THE HONORABLE GARY CARUSO: Yes, definitely.

19 SENATOR FONTANA: In all of these areas that  
20 the Justice spoke about and, you know, if you're gonna  
21 look for mentors and you need to organize that just from  
22 his standpoint in domestic relations and family court and  
23 foreclosures -- I'm not even talking about the criminal  
24 side. I mean, it just seems like the demand is more, but  
25 yet the budget doesn't increase.

1           The question in my mind is, what's the trickle-down  
2 cost to that, of not having representation? So, for us,  
3 it would be nice to be able to have some sort of a  
4 number, but --

5                   THE HONORABLE GARY CARUSO: I'm sorry I  
6 can't provide that for you.

7                   SENATOR FONTANA: No, that's okay. Just a  
8 thought.

9                   SENATOR GREENLEAF: Well, we may have some  
10 witnesses near the end, the last witnesses, will have  
11 figures, I think, for us that might be helpful to answer  
12 your questions.

13                   THE HONORABLE GARY CARUSO: I can just tell  
14 you in terms of time, it takes a great deal more time.

15                   SENATOR GREENLEAF: Thank you so much for  
16 being here.

17                   THE HONORABLE GARY CARUSO: Thank you very  
18 much, again.

19                   SENATOR GREENLEAF: The next witness is Ken  
20 Gormley, Esquire, Dean and Professor of Law for Duquesne  
21 University's School of Law. Dean Gormley.

22                   DEAN GORMLEY: Thank you, Senator Greenleaf;  
23 my good friend, Senator Costa; Senator Fontana, and also  
24 Senator Vulakovich and other members of the Committee.  
25 It's a privilege to testify, and I am especially pleased

1 to see you in Pittsburgh. It's a credit to all of you  
2 that the Committee has come here to the West and take so  
3 seriously this issue to hold hearings here.

4 Duquesne University School of Law, where I serve as  
5 Dean has a motto, "The welfare of the people is the  
6 highest law," and we take that commitment seriously, too.  
7 I think we all owe an immeasurable debt to organizations  
8 like Neighborhood Legal Services, to the Pro Bono Center,  
9 and all of the legal services entities that do provide  
10 assistance to those most in need in the Commonwealth.

11 I think there is no issue more important for all of  
12 us right now, as law school dean and as former President  
13 of the Allegheny County Bar Association, I am wholly  
14 committed to trying to make meaningful representation for  
15 all citizens a reality in Western Pennsylvania.

16 In fact, Duquesne Law School, as Senator Costa knows,  
17 he was present, just dedicated a brand new law clinic  
18 right up the street on Fifth Avenue last month in the  
19 up-town section as a tangible expression of that  
20 commitment. But, even big initiatives like that for us  
21 only put a little dent in the big problem and, as you  
22 noted Senator Greenleaf, we're talking about literally  
23 millions of Americans and many, many people in  
24 Pennsylvania.

25 But here in Pittsburgh, you know, I grew up in a

1 little mill town, Swissvale, right up in the Mon Valley.  
2 And many elderly citizens who made their homes there and  
3 built their families when the mills were booming, when  
4 things were doing well, and people in these working-class  
5 and ethnic communities now are without livelihoods or  
6 without meaningful pensions.

7 And, so, for many of these folks, you know, when we  
8 use the term "poor," we are often talking about  
9 working-class folks and folks among us. And they are the  
10 same people, these are the same mills that protected us  
11 during two great wars or more. These are the same people  
12 who helped to defend us over a long period of time, and  
13 now just getting a basic simple Will or being able to be  
14 able to collect deserved Veterans benefits is a challenge  
15 for these people.

16 So, Neighborhood Legal Services, as you know, has  
17 reached a crisis point. You know, when you have to turn  
18 off the phones at certain times during the week because  
19 you don't have staff, that is not acceptable. We took a  
20 step -- an unprecedented step this year -- and loaned a  
21 senior faculty member, Professor Nick Fisfis, to  
22 Neighborhood Legal Services as part of its Lawyers on  
23 Loan Program to deal with that shortage.

24 So we've tried to ramp up our clinics, and this is  
25 one way the law schools -- and Pitt is doing this too --

1 are trying to help; so to help with Unemployment Comp  
2 issues, housing discrimination, expungement, Veterans  
3 issues. We've launched a program with KidsVoice. We are  
4 now partnering with the Family Division of the Allegheny  
5 County Court of Common Pleas to deal with family law  
6 issues and help folks.

7 But those are stop gap measures, and so as a  
8 Commonwealth that is founded on principles of equality  
9 for all citizens, we have to figure out how to get true  
10 access for justice for all of the underserved, and that's  
11 especially true in these economic times and in places  
12 like right here in Western Pennsylvania where -- that  
13 have been hit hard by the close of steel mills, by the  
14 close of other related manufacturing plants -- and now  
15 these people who we call the indigent but are our friends  
16 and neighbors after all, literally need help to deal with  
17 foreclosures, evictions, child custody and so on.

18 These are basic needs, especially for many of the  
19 elderly who we see who are in need of these services. So  
20 we are facing a crisis. I would be prepared to join with  
21 other deans of law schools in this state to assist in any  
22 way to try to find solutions.

23 On a personal note, though, I want to close by just  
24 saying I know how hard you have worked, Senator  
25 Greenleaf, throughout your distinguished career, and

1 others sitting at this table, to deal with this issue and  
2 we do appreciate those efforts. And it's important to  
3 remember that entities like Neighborhood Legal Services,  
4 like the Pro Bono Center, and others that will testify  
5 today, can do remarkable things with relatively modest  
6 budgets. But, we have to be able to give them enough  
7 resources to do their jobs properly and to make those  
8 remarkable things happen.

9 So I am certain that through your leadership, this  
10 body that does represent the true voice and the soul of  
11 the people of this Commonwealth will exercise its wisdom  
12 to get the job accomplished. So thank you for the  
13 opportunity to be here today and speak.

14 SENATOR GREENLEAF: Thank you. Are there  
15 any questions for the witness?

16 SENATOR COSTA: I, personally, want to thank  
17 Dean Gormley for the great work that Duquesne Law School  
18 has done in developing the clinic. I know it's been  
19 around for a number of years. It's not something that  
20 just came about recently, but your Law School's  
21 involvement along those lines in helping folks in a  
22 variety of areas. It's been wonderful. We look forward  
23 to working with you along those lines.

24 Quick question, though, how is -- in light of the  
25 clinic now being in downtown and in the different areas

1 you have been practicing -- how have the students been  
2 engaging? Have they been engaging to the degree that you  
3 thought they might? Are they excited about participating  
4 at this point, and how valuable is it that they get  
5 exposure to the court system in an earlier part of their  
6 careers? Is that extremely important to them?

7 DEAN GORMLEY: This is -- it is an important  
8 thing because these students are the people who will then  
9 be doing the pro bono work when they become attorneys.  
10 It is one of the most rewarding experiences, Senator  
11 Costa, for almost any student if you ask them in their  
12 whole law school career.

13 So it's a win-win situation. We are able to give our  
14 students hands-on training while serving individuals and  
15 we're hoping to -- you know, we're working in the Hill  
16 District. We're hoping to go into the Mon Valley. So we  
17 can do these things, but we are just a little law school  
18 and we have limits. And so to the extent these  
19 organizations are properly staffed, we can partner with  
20 them, and we can provide supervising attorneys and do  
21 other things with them.

22 So when they're healthy, when they're functioning, we  
23 can almost double our productivity in terms of really  
24 doing work for the underserved.

25 SENATOR COSTA: So I know you do the clinic

1 stuff. Do you have law students who partner with the Pro  
2 Bono Partnership Program at Allegheny County's Foundation  
3 that we have here?

4 DEAN GORMLEY: Yeah.

5 SENATOR COSTA: Someone is shaking their  
6 head in the back, so I guess you do.

7 DEAN GORMLEY: Yes, and we're working on  
8 more of that specifically dealing with Wills. We're  
9 partnering with Neighborhood Legal Services. We're doing  
10 lots of these partnerships so, again, if they're  
11 functioning on only one cylinder, the thing doesn't work.  
12 We can help, and I think all law schools in this  
13 Commonwealth are ready to help, but they need the basic  
14 structures in place.

15 SENATOR COSTA: Thank you very much.

16 SENATOR GREENLEAF: Any other questions? By  
17 the way, Dean, thank you so much. I enjoyed working with  
18 your school in regard to some other issues on best  
19 practices in criminal justice field, and that sort of  
20 thing. So I appreciate your cooperation today and other  
21 subjects that we've worked on.

22 DEAN GORMLEY: We appreciate your work as  
23 well.

24 SENATOR GREENLEAF: The next witness is the  
25 Honorable Kathryn Hens-Greco.

1 THE HONORABLE KATHRYN HENS-GRECO: Good  
2 afternoon.

3 SENATOR GREENLEAF: Judge, thank you very  
4 much for being here today.

5 THE HONORABLE KATHRYN HENS-GRECO: Thank  
6 you. It's my pleasure, Senator. And it was actually  
7 quite a delight to even think this through, so I really  
8 wanted to give you some of my perspective.

9 I have been a judge in Allegheny County Family  
10 Division for over 7-1/2 years. I was the Administrative  
11 Judge for over two years, so I have some unique  
12 perspectives about what happens with pro se litigants.  
13 And I wanted to start by saying that when I first became  
14 a judge, some approached me and so, "Oh, so you're gonna  
15 be a judge. He said, you know, Family Division is a  
16 system that only poor people would put up with because  
17 they don't have another choice." And I was just so set  
18 back by that, and I've always paid very close attention  
19 to that.

20 We have a couple of unfortunate -- they feel sort of  
21 shameful to me -- things that happen in Family Court.  
22 When I walk in every day on a Tuesday or a Thursday, and  
23 if you've been in the Family Court, we have a rotunda --  
24 five floors of windows -- and I look down and I see  
25 upwards of 80 people standing in a line waiting, hoping

1 to get one of 20 coveted spots in what we would call our  
2 "emergency room", which is our place where we utilize the  
3 services of the law schools as well as some pro bono  
4 attorneys to meet with only 20 people. So the other  
5 unlucky 60 are really left to try to navigate the  
6 intricacies of the court system on their own, and that's  
7 really just untenable.

8 And so as I would see this -- especially when I was  
9 Administrative Judge -- we were gonna fix this. We have  
10 to be able to fix this. But as you heard from the other  
11 judges, the Court is limited in what we can do. We are  
12 there to adjudicate. We're not there to litigate for  
13 people or to provide litigation services. So what can we  
14 do?

15 Statistics are there. There's lots and lots of  
16 people. We have people. So what's the fundamental  
17 purpose? What is that we can do for them? From my  
18 perspective, the Court of Common Pleas, in the last two  
19 years, engaged in a strategic plan process to determine  
20 how we could best serve the citizens of Allegheny County.  
21 And it's been powerful for our staff and for the judges  
22 to figure out where are we going to focus? And I would  
23 suggest to you a strategic plan on this issue of Civil  
24 Gideon and the right to counsel for self-represented  
25 litigants for the State is probably what needs to happen.

1           Because this is the thing: Every day I have to  
2 decide against someone. I have to tell someone "no". I  
3 have to tell them that the thing they want the most, they  
4 can't have. And what I've discovered is that I can do  
5 that, and they will be okay with that, if they felt the  
6 process was fair. But the process can't be fair if they  
7 can't figure out how to get to me. How to get to the  
8 courthouse. How to figure out how to navigate this. So  
9 that's important for communities. It's important for the  
10 perception of government. It's important for the  
11 perception of the court.

12           So we manage -- just so you know -- the numbers are  
13 big. We have about 200,000 events that we deal with  
14 every single year in the Family Division of Allegheny  
15 County Courts. Those are, I mean, massive in terms of  
16 what we're dealing with, but they're disputes. They're  
17 little and they're large. They're family disputes, and  
18 they're safety disputes. They're really very important  
19 things.

20           So what do we do? We first have come to the very  
21 strong conclusion we can't litigate all of this. It's  
22 not healthy or safe for them, so we provide lots of  
23 opportunities for people to resolve these matters in a  
24 way that doesn't require them to litigate. We provide  
25 mediation, conciliation, family group decision making,

1 family team conferencing. We support all of these  
2 things.

3 We feel -- I feel -- very strongly that in the Family  
4 Court there are more things that we could do. So I  
5 assembled a committee in 2010 and said, "How can we  
6 manage what happens on Tuesdays and Thursdays better?"  
7 We began researching an e-filing system. Is there a way  
8 that we could stop people from coming through the front  
9 door for every little thing that they need? So we have  
10 e-filing in other parts of the Court, perhaps we could  
11 make mandatory e-filing in Family Division.

12 So we partnered with a number of people to look at  
13 that. We wanted the opportunity so whether you were in a  
14 women's center, or you were at home, or you were at  
15 library, that you would have 24/7 access to a system that  
16 would allow you to file what was necessary so you didn't  
17 have to come through our door to make that happen.

18 That helps not just the Court, it helps County  
19 Prothonotary or Department of Court Records. They're  
20 just desperate for everybody to move to e-filing because  
21 of the limited resources they have as well. So we did a  
22 lot of groundwork. We spent time thinking about the  
23 business systems. What people would file. We did all of  
24 that. But then we said we can't continue until we deal  
25 with our self-represented litigants, and we took a very

1 big detour. Because, otherwise, we were creating two  
2 systems; one for people who had access to an attorney and  
3 could navigate an e-filing system, and one for people who  
4 were indigent who maybe don't speak English or were  
5 unable to figure out how to make that happen.

6 And that's untenable. We can't do that. So what we  
7 decided, as our side route, is that -- it's been about  
8 two years -- we've planned a Universal Intake and Self-  
9 Help Center. And there was a question about dollars and  
10 costs, and I just poked my administrator who was next to  
11 me and said can you ballpark this?

12 We're gonna staff that with -- currently Phase I --  
13 six employees. We are redoing some parts of the  
14 courthouse, training and all of that -- a half a million  
15 dollars. That's Phase I of four phases to figure out how  
16 to better manage people who come to the Court without the  
17 ability to have an attorney who's navigated it for them.

18 But still, what most people need is a competent  
19 attorney who knowledgeable and thoughtfully could decide  
20 first whether this matter is appropriate to bring to the  
21 Court and, second, what's the best process to lead to  
22 resolution for the person?

23 So we've had successful partnerships as the Dean has  
24 described, with Duquesne Law School and Pitt Law School,  
25 Neighborhood Legal Services, the Womens Center and

1 Shelter. We provide the ability for all of this to kind  
2 of keep stumbling along. We provide quality services for  
3 those people who actually get counsel, but there's a  
4 large group of people that just don't. We've had a long  
5 relationship with the Pro Bono Partnership, with Dickie  
6 McCamey, who provided adult -- excuse me -- attorneys for  
7 children in high conflict custody cases.

8 We have excellent first-responders, but public trust  
9 in the rule of law means that people have equal access to  
10 justice. Otherwise, the whole system is threatened.  
11 People won't believe us anymore. I do believe that  
12 there's a place for compassion in the United States of  
13 America. A place for compassion in the court system and  
14 in the legislature.

15 I think that poor people come to court for basic  
16 things. They come because their house is going to be  
17 foreclosed; someone has taken their children, or someone  
18 has hurt them. We have a system. I think that the right  
19 to counsel is important, but is it important for every  
20 individual who has an axe to grind? Absolutely not. Not  
21 for my money or yours, I am sure.

22 But Neighborhood Legal Services has been getting it  
23 right for decades. But what happened was, when  
24 Neighborhood Legal Services decided to start litigating  
25 smarter in the '80s saying, look, we can address the

1 problem for Mrs. Smith who is being foreclosed on or we  
2 could sue what has happened in the government. Then the  
3 rules changed and the funding was cut, and they couldn't  
4 serve a whole class of people, so now they're back to  
5 serving just a few Mrs. Smiths; just a few Mr. Joneses.  
6 And that was wrong. Fund them adequately. Remove the  
7 restrictions. Let them sue the government. We do get it  
8 wrong sometimes. Fund the courts adequately. Our legal  
9 system is really the envy of the world and we should live  
10 up to our reputation.

11 So I thank you very much for the hard work that  
12 you're doing. If you have any questions or ever want to  
13 see what you do, I would welcome you and you could come  
14 and see how this is managed.

15 SENATOR GREENLEAF: Thank you, Kathryn.  
16 It's important to hear your perspective because, again,  
17 you're there every day viewing this, and it's important  
18 for us and also the public to know what's going on in our  
19 courtrooms.

20 Are there any questions for the Judge?

21 SENATOR COSTA: Just a comment. I think  
22 what was interesting -- and thank you, Judge, for being  
23 here. It was interesting that when Justice Baer spoke  
24 about two areas of law that needed to be addressed, they  
25 were both related to family matters --

1 THE HONORABLE KATHRYN HENS-GRECO: That's  
2 right.

3 SENATOR COSTA: -- dependency matters. Very  
4 -- I used to work as a deputy sheriff, I mean, I used to  
5 take kids off of moms and stuff. It was awful. Back in  
6 the day. And domestic relations as it relates to  
7 entering appearances and the like. It's not the -- it  
8 doesn't seem to be the civil matters that we used to talk  
9 about. It doesn't seem to be as much the landlord tenant  
10 matters or -- I would imagine the mortgage foreclosure  
11 issues are up there -- but, a lot of folks don't realize  
12 that the face of legal services is shifting, I think,  
13 more and more to dependency matters and other domestic  
14 relation matters, and that's an interesting dynamic that  
15 I think we are just not aware of.

16 THE HONORABLE KATHRYN HENS-GRECO: And just  
17 to take off on that for a second, our parents in  
18 dependency matters receive representation so long as they  
19 qualify as indigent. But, really, that's because we have  
20 a great relationship with Mark Cherna, who is the head of  
21 the Department of Public Welfare in Allegheny County. He  
22 believes that leveling the playing field means better  
23 decisions for children all the way along the line.  
24 Because all of us should have representation.

25 So funding parents who when we're considering taking

1 the children is a very important part of what we do.  
2 There needs to be a check and balance. The agency has  
3 all of the resources. They have an attorney. They have  
4 people who are investigating, and if the parent doesn't  
5 have an attorney, they're relying basically on their  
6 ability to be able to bring witnesses to court and  
7 express adequately what they need in order to get their  
8 children back. And it may not be successful.

9 So that was -- it was a very important point that the  
10 Justice made, but I would just say for purposes of  
11 budgets what you're looking at is it's the Department of  
12 Human Services that's paying for that, just so you know.  
13 And the reason we have that is because he supports having  
14 a level playing field, which I can attest to.

15 I was doing dependency yesterday, I mean, I have  
16 children -- five, six, seven children in a family. We  
17 have grandmothers. These are grandmothers who are taking  
18 care of these children, and the thought that perhaps if a  
19 grandmother has been taking care of the children for some  
20 time, that she might be entitled to representation is  
21 something we don't do right now and might be very, very  
22 helpful.

23 In custody cases, we -- I'm not certain it would be  
24 necessary to have a statewide rule in order for limited  
25 appearances to be entered in cases. Maybe minds better

1 than mine could think that through. We do that in Family  
2 Court, and we allow people to enter a limited appearance.  
3 "I'm going to be here for this and that's it, because I  
4 can't take on the whole thing." That really works well.

5 But the real thing that works is to have Neighborhood  
6 Legal Services assess these people and then parcel them  
7 out to all of these pro bono attorneys or programs that  
8 are willing to deal with them.

9 They do incredible triage work, but it's like putting  
10 their finger in a dike. There is -- it's -- they don't  
11 have the resources to address as many people as they can,  
12 and it would be two, three, four times the help to poor  
13 people in Allegheny County if Neighborhood Legal could  
14 open their doors and just assess.

15 We have a lot of resources in Allegheny County that  
16 could help them. We just need somebody to kind of do the  
17 front work for us, and then they could leverage all of  
18 this other assistance.

19 SENATOR COSTA: Thank you.

20 SENATOR GREENLEAF: Thank you so much.

21 THE HONORABLE KATHRYN HENS-GRECO: Thank  
22 you. I'm sorry I have to leave, otherwise I would stay.

23 SENATOR GREENLEAF: Thank you for taking the  
24 time to be here.

25 THE HONORABLE KATHRYN HENS-GRECO: Thank

1 you.

2                   SENATOR GREENLEAF: The next witness would  
3 be Sonya Butts Rainey.

4           Thank you so much for being here today to share your  
5 story.

6                   MS. RAINEY: Thank you very much, too,  
7 Senator.

8           I am very grateful and honored to be here today. Um,  
9 first of all, I wanted to say I am really grateful that  
10 we do have the Neighborhood Legal Service. Just to give  
11 it you short and brief, Sir, I had moved from another  
12 city from York, PA. I'm 46 years old. I have a grandson  
13 that's disabled. And, um, I had got ill. I was in the  
14 hospital, and I really didn't understand about the legal  
15 rights of -- especially for tenants.

16           Um, a social worker had came up to see me, which was  
17 an honor, because I'm pretty much educated, but on that  
18 -- understanding about the legal laws, um, with the City  
19 and rent and stuff like that, I wasn't very educated with  
20 that. But, they advised me and gave me, um, an attorney,  
21 and, um, I was very honored, um, Miss Phillips.

22           I think it is grateful that we do have that type of  
23 service that can help us, as you know, for us being low  
24 income, and we can't afford that, to be able to pay for  
25 an attorney. I'm just so excited.

1                   SENATOR GREENLEAF: That's okay. Just take  
2 your time. We want to hear what happened to you. It's  
3 going to be very helpful for us.

4                   MS. RAINEY: Okay. I, um, I took sick, and  
5 the unit that I was living in -- and the landlord kind of  
6 more or less took advantage of it, me not understanding  
7 the legal rights and everything -- so I kind of like,  
8 then, I discharged myself out of the hospital because I  
9 didn't really understand. And the social worker was  
10 like, no, I'm gonna refer you to someone that's  
11 excellent, which I was surprised, and it ended up being  
12 Miss Kimberly Phil (sic).

13                   She immediately asked me to come in, showed me the  
14 right way. Showed me how to read the documents right.  
15 What's to sign. Gave me pamphlets, you know, and  
16 explained everything to me step-by-step.

17                   But, I think it's great that you do have that for us  
18 because a lot of us don't know that, and I'm hoping that  
19 they would keep that organization for us, all that, so  
20 family like me and other people, you know, that's low  
21 income, you know what I'm saying, that you can be able to  
22 give us guidance and keep the legal aid service that can  
23 help us.

24                   I'm pretty much nervous because I never really talked  
25 in front of everybody.

1                   SENATOR GREENLEAF:  You're doing fine.  
2  You're doing fine.

3                   MS. RAINEY:  I just hope that you, you know,  
4  would, um, actually keep this going for us and hoping  
5  that maybe other people like me, as myself, would come up  
6  and stand up and, you know, show the appreciation --  
7  thankful that we do have that because with us not having  
8  the education and not understanding it, you know, people  
9  could have been in the same situation like I was and now  
10 I'm grateful and honored by her showing me the right,  
11 correct way.  I'm getting ready to move into my own  
12 house; getting ready to own my own house, and I'm blessed  
13 and I'm honored for having the legal service for showing  
14 me the correct way.  And that's all I got to say.

15                  SENATOR GREENLEAF:  What do you think would  
16 have happened if legal service had not been available to  
17 you?

18                  MS. RAINEY:  I would have been out in the  
19 street, Sir.  I would have been out in the street, and I  
20 would have lost the custody rights of my disabled  
21 grandson.  I had him ever since he was three months old.

22                  But I came here to your city because it had more to  
23 offer; schooling, better jobs, um, the community support  
24 you.  If it's something that you don't know, you can go  
25 and you can ask someone.  You don't have to feel like

1 you're an outsider trying to look in.

2 MS. CLARKE: And they took your case to  
3 court.

4 MS. RAINEY: Yes, Ma'am. They took my case  
5 to court.

6 SENATOR GREENLEAF: I'm sorry, I couldn't  
7 hear.

8 MS. RAINEY: They took my case to court and,  
9 um, the landlord tried to evict me and went for order for  
10 possession. Kinda like, and I panicked, so I called Miss  
11 Kimberly and she explained to me and somehow somehow by  
12 the grace of God, things turned around and they went in  
13 my favor.

14 I'm still right there residing in the same unit where  
15 I'm at but, I will be moving in my new place soon. But,  
16 like I said, I had to follow proper procedure steps which  
17 she told me to do instead of me trying to take it in my  
18 own hands. So I'm grateful for that.

19 SENATOR GREENLEAF: Thank you.

20 MS. RAINEY: Thank you, too, Sir.

21 SENATOR GREENLEAF: Any questions? Thank  
22 you so much for your bravery to be here, and you did a  
23 great job. Thank you.

24 MS. RAINEY: Thank you, Senator.

25 SENATOR GREENLEAF: Okay. Our next witness

1 is John Lovelace, President of UPMC for You.

2 Mr. Lovelace, thank you very much for being here  
3 today. Please have a seat. We'd like to hear your  
4 testimony.

5 MR. LOVELACE: Thank you, Senator Greenleaf,  
6 and members of the Committee. I am very pleased to be  
7 here this afternoon to talk on behalf of public interest  
8 lawyers and the Neighborhood Legal Services in general.

9 I work for UPMC Health System in the insurance  
10 services division where I am responsible for government  
11 programs. I oversee the Medicare, Medicaid, Children's  
12 Health Insurance work and also work in behavior health  
13 with community care behavioral health.

14 Together we enroll about a million people in Western  
15 Pennsylvania and across the state who are poor, or  
16 elderly, or disabled, or some combination of the three.  
17 The issues these people have in health care largely are  
18 affected by issues related to lives around them;  
19 especially people who are poor, elderly or disabled. So  
20 the ability to access health care services, the ability  
21 to use health care services, are often seriously impeded  
22 by their inability to access other services.

23 Advocates play an invaluable role in helping us to be  
24 sure that people get services to which they are entitled.  
25 They help keep us honest. We make our own set of

1 mistakes, and advocates are helpful in pointing those out  
2 and helping us to correct them.

3 We are very pleased to have the opportunity again  
4 this year to support the Medical-Legal Partnership in  
5 McKeesport that Ms. Rainey was just talking about through  
6 the Neighborhood Assistance Program and DCED tax credits  
7 and contributions from UPMC to make this all work.

8 Our access to services through advocates help people  
9 to access health services directly, to access things such  
10 as rent assistance, utility assistance, legal assistance  
11 and so forth, and really are invaluable in helping people  
12 to be sure they are able to benefit from the health care  
13 services that they use.

14 I have the personal privilege of having two children  
15 who are public interest attorneys. Not -- they don't do  
16 this, but they do -- one's a public defender and one is  
17 in legal services in MidPenn.

18 So we have a little closer relationship than some  
19 people to do to this process. I was very pleased to be  
20 asked by NLS to come and talk to you this afternoon and  
21 to share our support for the work that is done through --  
22 as it benefits our providers, our health system, and  
23 certainly the patients we try to serve; the enrollees in  
24 the health service system. Because we would not be able  
25 to do the work we are able to do, in being the largest

1 Medicaid plan in Western PA, without support of a variety  
2 of human service providers whose access is often  
3 supported by the work of public interest attorneys.

4 I don't have a long conversation. This is really my  
5 main pitch I want to make. We are very supportive of the  
6 work people do. We are happy to be able to support it  
7 ourselves financially. We would like to see this kind of  
8 work spread. It benefits the whole community as well as  
9 the people we are enrolling and trying to serve. So  
10 thank you for the opportunity to talk.

11 SENATOR GREENLEAF: Let me say this: I  
12 think that this hearing has a unique factor to it, and  
13 that is that it shows the types of groups that have come  
14 forward to help in this area; all types of groups. And I  
15 think this is peculiar maybe to the Pittsburgh area, um,  
16 that you have corporate, and medical, and all types of  
17 people who are coming forward and providing assistance  
18 and help. That says a lot for the community, so thank  
19 you so much for being here and for your service.

20 Any questions for the witness? Thank you for being  
21 here today.

22 MR. LOVELACE: Thank you very much.

23 SENATOR GREENLEAF: Our next witness is  
24 Shirl Q. Regan, President/CEO of Women's Center & Shelter  
25 of Pittsburgh.

1 MS. REGAN: Yes, hello. Senator Greenleaf  
2 and other members of the Judiciary Committee, I am very  
3 pleased to be here today to speak to you.

4 I'm from Women's Center & Shelter of Greater  
5 Pittsburgh, which is a program that works with victims of  
6 intimate partner violence.

7 Women's Center & Shelter will celebrate its 40th  
8 anniversary next year, and so we have worked with over  
9 200,000 victims of intimate partner violence in those  
10 years. We know a little bit about the people that need  
11 the legal services from having worked with all of those  
12 clients.

13 We provide, at Women's Center & Shelter, a hotline  
14 and a shelter as you can imagine. We also have a  
15 counseling program for adults and children, but in  
16 addition to that, we have legal advocates who work with  
17 about 4,000 individuals a year going through the court  
18 system coming first for relief. These are not attorneys,  
19 but they are people that can help somebody understand  
20 what's gonna happen in the system.

21 Of those 4,000 victims, we also have three other  
22 domestic violence partners in Allegheny County that serve  
23 another 10,000 victims. So between the 7,000 that  
24 Women's Center serves and the 10,000 that the other three  
25 programs serve, we have 17,000 victims a year that come

1 to us for help.

2 Of those 17,000, around 8,000 of those go to court  
3 looking for relief. Some of them are successful in being  
4 able to file for a PFA. Some of them are not because the  
5 lines are long, the times are long, they're afraid, and  
6 they leave.

7 At the initial PFA, they do it by themselves with the  
8 help of a legal advocate who can show them how to fill  
9 out the paperwork. It is the second PFA where, in  
10 Allegheny County, we are most successful in helping to  
11 fill the gap and the need that's here. Thirty-seven  
12 hundred victims went forward last year. And with the  
13 Partnership, with Neighborhood Legal Services, the pro  
14 bono attorneys that work here in Women's Center &  
15 Shelter, we were able to provide 90 percent of those  
16 people with an attorney at the second hearing for a PFA.  
17 Now, we know that PFA's save lives and reduce violence.

18 What you heard me say was that that partnership could  
19 provide 90 percent attorneys for victims going for their  
20 second PFA, but, again, what I mentioned is we know there  
21 are thousands who never get that far because they stop  
22 from getting the initial protection order that they need  
23 because there's not enough help in the system for them.

24 Now it's great, and we think that it's really  
25 important this partnership that we have with Neighborhood

1 Legal Services and the pro bono attorneys to provide this  
2 kind of assistance to get a final PFA order where you can  
3 write in custody orders and support issues. And so, with  
4 that, you need an attorney to help you understand that.

5 The problem comes when the support hearing is held  
6 the month later, or the defendant comes forward and asks  
7 for a change in the custody order. There are no  
8 attorneys to go forward with that victim while she goes  
9 back into Family Court. And you've heard some of the  
10 judges talk about the domestic violence cases that they  
11 see all the time.

12 I'm here to talk to you about the situation of a  
13 victim who has been under such incredible traumatic  
14 experiences living with this abuser where she can be  
15 slapped. She can be punched. She can be held captive.  
16 She can be terrorized over and over and over again. Her  
17 pets can be abused, and yet we are expecting this  
18 individual to go in and to stand up in a court of law for  
19 custody, support, even divorce, alone.

20 This is uncon -- it's just beyond belief, and years  
21 ago Neighborhood Legal Services was able to do that kind  
22 of representation, but because of the cut-back in their  
23 staff, they can no longer be there, and there's no one  
24 else who can be there standing beside that victim so that  
25 she can get justice for herself and her children.

1           We are at a critical situation here in Allegheny  
2 County and across the state for victims of domestic  
3 violence who are trying to get relief and have to do it  
4 on their own, and they're finding the justice system  
5 isn't there for them. And it's just one more place where  
6 he said, "No one's gonna help you. No one's gonna  
7 believe you." And it's becoming true.

8           If we do not find the means to support these legal  
9 services that are so necessary, you are going to see many  
10 more homicides. But, in addition to that, you are gonna  
11 see many more children scarred from the families going  
12 through these situations. You're gonna see grandparents,  
13 and we need to look at the numbers of people that are  
14 impacted every time there's one victim. It's just not  
15 one victim. It's her children, his children, their  
16 families; the people they work with.

17           We have a serious problem on our hands, and if we  
18 don't do something about this soon, we are going to see  
19 many more people suffer and many more people who are  
20 murdered in our system. Because what we know is the most  
21 dangerous time for a victim of domestic violence is when  
22 she decides to leave the situation; to leave that  
23 relationship. That is when most damage, most injuries  
24 happen, and that is when almost all homicides take place.  
25 And yet we are expecting her to stand by herself -- and I

1 say "her" because most of the victims are, but it could  
2 be a "him" -- we are expecting them to stand by  
3 themselves when they have gone through such traumatic  
4 events because we don't have the resources to help them.

5 I beg you to please consider funding the Neighborhood  
6 Legal Services and all other attorney services for the  
7 poor at the highest extent possible. Thank you.

8 SENATOR GREENLEAF: Thank you. Could you  
9 explain, I mean, I know -- but the people who are  
10 watching this may not know -- what a Protection from  
11 Abuse Order is and how does that protect that individual?  
12 Obviously, they have to stay away, but you must know some  
13 particular details of how it deters the violence that  
14 could have happened without it.

15 MS. REGAN: So an individual can go to  
16 court, and there are two steps to the process. You can  
17 go in and you get the original protection order, and the  
18 other party to this case doesn't have to be present. But  
19 you go in front of a judge, and you plead that you are in  
20 fear for your life or there has been serious injury. And  
21 you can be granted a temporary protection order that the  
22 person must stay away from you and have no contact for a  
23 certain period of time.

24 That temporary order is only good for ten days to two  
25 weeks for when the court can come back, and have a

1 hearing where the other party can be present. That's  
2 where it can become really dangerous because he has now  
3 been -- and I'm gonna say "he" again because that's most  
4 often the case -- he has now been served with this  
5 protection order. He is absolutely furious because what  
6 we deal primarily with is control-based violence, and he  
7 has now lost control. And you've gone public, and he is  
8 furious. And this may be the first time you're gonna see  
9 him in that courtroom since you went after the protection  
10 order.

11 At that point, when you go for that order and even  
12 the first one, you can ask for custody of your children  
13 and you can ask for temporary support. If they find that  
14 there is enough evidence to support your request for  
15 relief from the courts, then a longer term protection  
16 order can be put in place which also might evict him from  
17 the family home so that the partner and the children can  
18 stay in the home.

19 It will also, perhaps, say he can't come this close  
20 to you, to your place of employment. There are a lot of  
21 things that can be added to be able to provide  
22 protection, but it's at that point where, if you're a  
23 victim, you don't know what all can be possible. And  
24 that's where it takes an attorney to understand and then  
25 to be able to negotiate with the other party what's gonna

1 be present.

2 That protection order can last for several years.  
3 There's different periods of time. That piece of paper  
4 allows the police to come and make an arrest should the  
5 party who has the protection order against them violate  
6 it in any way. It is one of the ways that we, as a  
7 society, have come forward and said violence in the home  
8 is not just a family matter. It is a societal concern,  
9 and we do not allow it to happen.

10 And, so, a protection order is one of the first  
11 things a woman or a victim can do to protect herself and  
12 her children.

13 SENATOR GREENLEAF: What types of injuries  
14 and threats have you seen? What do they use? What  
15 tactics do they use?

16 MS. REGAN: So, I have been in the field of  
17 domestic violence for 30 years, and I would say I have  
18 seen just about everything. What I see most often now in  
19 addition to yelling, screaming, hitting, humiliation,  
20 emotional attacks -- there are less broken bones than you  
21 might think.

22 It's a lot of the emotional attacking, and it is the  
23 fear of the violence that could come. So, I might hurt  
24 your pet. If you have a cat that you absolutely adore, I  
25 don't have to hit you, I just have to kick the cat and

1 that gets your attention that I could do this to you. I  
2 could come after your children, but one of the things  
3 that's happening so much now is cell phones.

4 I can reach you 24 hours a day, every minute of the  
5 day with a text message. You can't get away from me  
6 unless you change you number totally, and I can probably  
7 find that number. So this cyber stalking is becoming a  
8 really serious constant emotional fear that somebody  
9 lives with all the time.

10 Most victims of domestic violence suffer from extreme  
11 depression, and what we know about people who are  
12 depressed is that they're not always able to act on their  
13 own behalf. Most victims will take action when they are  
14 trying to protect their children, but they may not have  
15 enough left within them to take action on their own  
16 behalf.

17 That is why the attorneys that are provided and are  
18 there and understand the dynamics of these situations --  
19 remember, these are crimes that take place between  
20 partners; intimate partners. There's materials  
21 possessions that people have together. There's families  
22 that people share, and there are some legal bounds that  
23 sometimes hold people together. That is not easy to walk  
24 away from on your own.

25 SENATOR GREENLEAF: One final question. And

1 that is -- because I think it's important to get into  
2 this a little bit -- the impact on the children who have  
3 to watch this?

4 MS. REGAN: Absolutely, and we don't talk  
5 nearly enough about the children. Women's Center &  
6 Shelter also offers programs to men who are batterers,  
7 and so, one of the things that we learn from both the  
8 adults who are victims and the batterers who are adults  
9 and are victims, is that they were probably raised in  
10 homes where they saw this type of violence take place.  
11 And when they become adults and see that they are acting  
12 out those same roles, if you can help them understand  
13 that, and they see the impact it's having on their  
14 children, sometimes you can get them to stop and pay  
15 attention.

16 But, children in our society are being raised with a  
17 lot of violence, and we all know we talk a lot about the  
18 community violence, but we believe the violence began at  
19 home first, and they saw it and in some cases they were  
20 also the victim of that violence.

21 Many children, particularly adolescent boys, will try  
22 to save their mother and become a perpetrator by trying  
23 to stop that violence. And we could talk about the  
24 children for a whole other session, and I hope that some  
25 day you would take that up.

1                   SENATOR GREENLEAF: Absolutely. Thank you  
2 so much. Do we have any other questions?

3                   SENATOR VULAKOVICH: Yes. What percentage  
4 of women when they get the emergency PFA, then you have  
5 that 10-day period in between in case the courts are  
6 closed, but what percentage of the women who come in for  
7 the 10-day hearing have representation?

8                   MS. REGAN: Zero.

9                   SENATOR VULAKOVICH: Zero?

10                  MS. REGAN: Well, maybe one percent if they  
11 have their own private attorney.

12                  SENATOR VULAKOVICH: And do you know, in  
13 Allegheny County, how many cases of domestic violence  
14 they handle as far as on one-day people in line for  
15 emergency hearing and then those ten days later?

16                  MS. REGAN: What's the difference? The  
17 drop-off rate? Is that what you're looking for?

18                  SENATOR VULAKOVICH: Yes.

19                  MS. REGAN: I don't know that. I could find  
20 that out for you, and I think you have an Assistant  
21 District Attorney who is gonna be here. He may know that  
22 information. I don't think it's in my testimony, but  
23 there is some drop-off.

24                  One, we know that people are afraid to go forward,  
25 and, two, they can't put themselves through it. And in

1 some rare situations, they have reunited.

2           SENATOR VULAKOVICH: You know, what I was  
3 trying to put a place on was the cost of if everybody was  
4 represented -- not so much on the emergency PFA, that's  
5 something that they'll come into our police station and  
6 we either send them down to the magistrate. If it's at  
7 night, they would come down to night court and we would  
8 call Crisis Center North, and they are wonderful they are  
9 --

10           MS. REGAN: They are another one of our  
11 sister programs in the County.

12           SENATOR VULAKOVICH: Yeah. Great  
13 organization. That's who we dealt with the most. But, I  
14 know there's a lot of it. Probably next to accidents,  
15 domestic violence is probably the second or third issue  
16 that we deal most with in the local police departments.

17           And, uh, but I know at the 10-day hearing, I agree  
18 with you that's probably the most crucial time because  
19 that's when someone without -- going through the stress  
20 that they're in -- they waiver a lot. And the next thing  
21 you know, they're coming home and come to us again, and  
22 we say we thought you just had the 10-day, and I decided  
23 to drop it.

24           And you know that was probably a bad decision on most  
25 parts -- not all the time, but on most parts, it was.

1 But, you know, I see counseling as an important part of  
2 that, too.

3 MS. REGAN: And it also, studies have also  
4 shown that, uh, the stricter the judge is, the stricter  
5 the justice system is on these case, the decrease in  
6 violence that happens. So along with counseling, we also  
7 need to have a strong justice system response to these.  
8 Go ahead.

9 SENATOR VULAKOVICH: Do you find the  
10 magistrates are pretty good with this during the day?

11 MS. REGAN: I think not all of them  
12 understand the situation and the dangerousness, and I  
13 think many people get frustrated.

14 SENATOR VULAKOVICH: Overall, do you think  
15 the police departments are doing a pretty good job?

16 MS. REGAN: I think there are many police  
17 departments that are doing a very good job. Are you from  
18 a local police department?

19 SENATOR VULAKOVICH: I was. Shaler  
20 Township.

21 MS. REGAN: Okay, all right. Yes, and we've  
22 worked with you, too, on several cases out there in  
23 Shaler.

24 SENATOR VULAKOVICH: We're pretty good.

25 MS. REGAN: Um-hum, you are pretty good. Or

1 were pretty good. I don't know about right now.

2 Uh, but we find that many of the police departments  
3 are very different than they used to be, in partnering  
4 with the victim service agencies a lot more. My concern,  
5 however, is for all of those women who have to go forward  
6 without representation for a custody hearing and a  
7 support hearing, and none of the free attorneys can  
8 handle a divorce where there is any kind of complication,  
9 so there's a lot going on out there, which sometimes if  
10 you understand that, you understand why a woman will give  
11 up.

12 SENATOR VULAKOVICH: Oh, I do. I get it. I  
13 just, um, I just -- I don't know what the cost would be.  
14 Because you want to help everybody, and there's so many  
15 that it's amazing.

16 MS. REGAN: It's a huge problem.

17 SENATOR VULAKOVICH: Nobody knows. They all  
18 look at their communities and they think everything's  
19 fine, and they don't know.

20 MS. REGAN: I'm really glad to hear you say  
21 that out loud, yeah, how much of it actually goes on.

22 SENATOR VULAKOVICH: Yeah, thank you.

23 MS. REGAN: Um-hum.

24 SENATOR GREENLEAF: So the point is that  
25 without this representation, the consequences are

1 significant violence and --

2 MS. REGAN: Significant and there are going  
3 to be more homicides. What's happening in our country  
4 now is the homicide rates for domestic violence are  
5 starting to come down, but we're on a tipping point where  
6 if anything else erodes, goes away, it's gonna become  
7 worse again. And so I'd be glad to talk to you further  
8 or about the children or about anything, but the services  
9 that the attorneys provide are absolutely crucial to the  
10 safety of our society.

11 SENATOR GREENLEAF: Thank you so much for  
12 being here today.

13 The next witness is Heather Arnet, Chief Executive  
14 Officer, Women and Girls Foundation of Southwest  
15 Pennsylvania.

16 Thank you so much for being here.

17 MS. ARNET: Thank you for having me.

18 Good afternoon. I wanted to start off by thanking  
19 you, Mr. Chairman, first for your past work on some  
20 really important laws particularly in the State, I think  
21 that bring the context to the conversation today when I  
22 think back to Megan's Law, certainly a lot of the divorce  
23 code reform work, and even the No Means No rape law.

24 It reminds me that part of our conversation today is  
25 that there are some great laws on the books, um, laws

1 that many of you helped champion and made sure came into  
2 being.

3 But, as the Judge mentioned earlier, for citizens to  
4 be able to access their rights, access the laws that all  
5 of you have helped produce, they need to know that they  
6 exist, all right? And they need to know how to navigate  
7 that system.

8 Many of these folks don't even know what their rights  
9 are. You might work for years to pass a piece of  
10 legislation to improve peoples' lives in your district,  
11 and then those same citizens don't even know about that  
12 new law, right, that's helping to provide extra  
13 protection to them. And that's really one of the  
14 keystones that something like Neighborhood Legal Aid  
15 provides, right, those resources.

16 We've heard a lot today about sort of defending  
17 peoples' rights or being advocates in the courtroom, but  
18 one piece of the puzzle is just knowing about the rights  
19 to start with.

20 So, let me backtrack a bit and tell you -- I'm the  
21 CEO of the Women and Girls Foundation. We are a  
22 non-profit serving the community. We're based here in  
23 southwest Pennsylvania, but we actually serve the whole  
24 state.

25 Our mission is to achieve equality for women and

1 girls for generations to come. And we do that through  
2 developing the female leaders of tomorrow. So we have a  
3 program called Girl Gov where we bring girls to  
4 Harrisburg to shadow their fantastic legislators. Many  
5 of the members of this Committee have participated. Soon  
6 you will all have an opportunity as we expand the program  
7 statewide.

8 Um, so that's one piece of the puzzle. We want young  
9 people to become part of the legislative process. We  
10 want them to understand how these things impact their  
11 lives. We also know that, right now, gender equality  
12 isn't completely a reality in our world, and I think just  
13 listening to Shirl's testimony is probably the most  
14 fundamental example of that.

15 So why I'm here as the Women and Girls Foundation CEO  
16 is because 78 percent of those who take advantage of  
17 legal aid are women. And that statistic doesn't surprise  
18 me because what I know and what you know is that 75  
19 percent of folks living in poverty in our state are  
20 single moms raising kids on their own. So it makes sense  
21 when we think about who needs access to some pro bono  
22 legal aid, the majority of those folks are going to be  
23 female.

24 Now, a lot of what you do I think of as  
25 transformation, right? I loved you question earlier,

1 Senator Fontana, about what are the costs, right? What  
2 are the costs of decreased support to legal aid? We know  
3 what the benefits are to increase support. And it's so  
4 hard because -- I'd love to partner with all of you  
5 around that cost study -- because when we talk about  
6 especially women as constituents and users of these  
7 services, as Shirl just spoke with you so eloquently and  
8 powerfully about domestic violence, I feel like I don't  
9 need to add too much to that conversation. Um, certainly  
10 she shared that so poignantly with you this afternoon,  
11 but domestic violence is one piece of that puzzle.

12 We also know that women are accessing legal aid  
13 around getting support in defense from discriminatory  
14 landlords. Landlords that won't rent to them because  
15 they have Section 8 vouchers, right? That housing that  
16 they need to make sure that their children are safe.

17 The foreclosure crisis impacted women in astronomical  
18 rates. Currently, women are still -- a third of female  
19 lenders receive a sub prime loan. Their male  
20 counterparts, it's a quarter. But here's a statistic  
21 that just broke my heart: African American women are 256  
22 percent more likely than white men to receive sub prime  
23 loans. And then we know what happens with those loans,  
24 and so then you're in a foreclosure crisis, and now your  
25 attempts to be economically sufficient, right, to pursue

1 that American dream of home ownership, can be absolutely  
2 devastating.

3 One out of five families with a sub prime loan will  
4 lose their home. And in just the last few years, nearly  
5 two million children were directly impacted by a  
6 foreclosure, by losing their home, and we know that  
7 that's how families end up on our streets and homeless.

8 So when we talk about cost benefits, right. Here are  
9 families, here are women, who are trying to be  
10 economically self-sufficient. The work that Neighborhood  
11 Legal Aid does is transformative. It's the work that  
12 you're doing as legislators. It's trying to move folks  
13 from being victims to being survivors, right?

14 From being economically dependent to an abuser or to  
15 a public system to being economically independent, right?  
16 To having a job. To having a home. To being safe, but  
17 these particular moments -- we've talked a lot about sort  
18 of triage moments, right, you're trying to leave an  
19 abuser or you're in a moment where you're experiencing  
20 workplace discrimination or renter's discrimination.

21 Going up against a discriminatory landlord is  
22 intimidating, right? Standing up or leaving an abusive  
23 spouse is intimidating. Entering a courtroom is almost  
24 impossible to conceive. But before you can even get to  
25 that courtroom, you need to know how to navigate that

1 system. And that's the critical support that  
2 Neighborhood Legal Aid Services provide.

3 So as an advocate -- and not just for women and  
4 girls, but for all families, I wanted to take a few  
5 moments to come and just lend my voices to the others you  
6 are hearing today about how critical this is, and I think  
7 it is about preventative care.

8 Um, and so, as I said, I don't have those cost  
9 numbers though I'd love to partner with you or find  
10 someone to do that because I think what you'd find is  
11 that not only are there cost savings, but ultimately the  
12 Commonwealth benefits because if you can help someone  
13 become economically self-sufficient, now they are  
14 providing you an increased tax base, right?

15 If you help me make sure that my home isn't  
16 foreclosed, then I can continue to pay real estate taxes,  
17 right? If you help me not lose my job because of  
18 workplace discrimination, now I can continue to give you  
19 earned revenue through my income tax revenue.

20 And for women who are victims of domestic violence or  
21 who are just in a marriage that they need to get out of  
22 safely, right, economic self-sufficiency is what all of  
23 us want to see from all families, right? We don't want  
24 families to be reliant on a bad situation, a bad  
25 interpersonal relationship, or reliant forever on the

1 government, right? Folks want to be economically self-  
2 sufficient, but sometimes they need help and that's what  
3 Neighborhood Legal Aid does. It's almost a catalyst for  
4 independence; a catalyst for self-sufficiency.

5 And that's why it's such a great return on investment  
6 for government dollars because as we heard today, you're  
7 leveraging investments you're making in so many other  
8 portions of your budget, right? You have social services  
9 and agencies set up and county agencies set up. There's  
10 so much capacity there to help individuals if they can  
11 connect to those services.

12 And this that catalyst. This is that bridge. So I  
13 encourage you please don't decrease their services  
14 anymore. You've heard today that cuts from the last  
15 several years have really devastated our community.  
16 Folks want to be independent, but they need your help.  
17 So, thank you.

18 SENATOR GREENLEAF: Any questions?

19 Thank you so much for being here today.

20 MS. ARNET: Thank you so much.

21 SENATOR GREENLEAF: The next witness is  
22 David Spurgeon, Esquire, Allegheny County Deputy District  
23 Attorney.

24 Thank you for being here today.

25 MR. SPURGEON: Absolutely, Sir. Thank you

1 for the invitation.

2 Good afternoon, Senator Greenleaf and other members  
3 of the Senate Judiciary Committee. My name is David  
4 Spurgeon. I am the Deputy District Attorney here in  
5 Allegheny County, and I appreciate the opportunity you  
6 have allowed me to provide some information on behalf of  
7 the District Attorney of Allegheny County regarding the  
8 importance of civil legal aid and its vital role to our  
9 system.

10 District Attorney Stephen Zappala regrets that he is  
11 not able to be with you today; however, he is with  
12 Justice Debra Todd and 38 other leaders who constitute  
13 the newly-formed Pennsylvania Supreme Court Elder Law  
14 Task Force.

15 While D.A. Zappala regrets being unable to attend  
16 this hearing personally, his participation in the Court's  
17 Elder Law Task Force reflects the importance of your  
18 proceedings here, as access to civil justice is one of  
19 the three priorities that the joint task force is charged  
20 with examining and responding to.

21 Civil legal services provide essential voices to the  
22 Task Force, including Neighborhood Legal Services, and  
23 the SeniorLAW Center, and the District Attorney is proud  
24 to be working closely with them and the leaders of the  
25 judiciary, the Bar, in the pursuit of improved access to

1 the courts and to justice for older Americans.

2 Those of us that work in the criminal justice system  
3 have a significant stake in the issue before you today --  
4 ensuring that the poor have access to the civil legal  
5 services that they require. As prosecutors and  
6 practitioners of criminal law, we are very familiar with  
7 the critical importance of civil legal aid in the lives  
8 of families and individuals in need in our work  
9 protecting victims of crime and violence, and in our  
10 common mission of promoting safe and strong communities.

11 We, in law enforcement, have a stake in the health  
12 and welfare of the members of our communities. By  
13 addressing basic human needs such as housing, child  
14 custody, health care, and in fighting poverty and  
15 homelessness, civil legal aid helps make our families and  
16 our communities safer, more secure, healthier, and more  
17 stable.

18 Healthier and more stable communities inevitably  
19 enhance public safety. Civil legal service providers are  
20 a necessary partner in our collaborative strategy for  
21 reducing crime and enhancing public safety.

22 We applaud and we appreciate that their work and  
23 innovative programs protect crime victims. Whether it be  
24 a young mother who is a victim of domestic violence,  
25 battered by her partner, a young child who has been

1 neglected or abused, a grandmother facing elder abuse,  
2 financial exploitation, or consumer fraud, civil legal  
3 attorneys provide essential advocacy, representation, and  
4 protection and pursue restitution, victims compensation  
5 and connection to the attendant social services to make  
6 Pennsylvania victims -- women, children, and seniors --  
7 whole, secure and safe.

8 Civil legal services for indigent clients is a sound  
9 investment. Their work provides a means to help prevent  
10 homelessness, keeps children in safe, habitable homes,  
11 provides access to economic supports, and health care for  
12 families, children and elders. Research demonstrates  
13 that a \$1 investment in legal services has an \$11  
14 positive economic impact on the Commonwealth.

15 Civil legal services are also essential supports for  
16 those in re-entry, facing civil legal challenges  
17 following incarceration, and, in turn, help reduce  
18 recidivism and have an excellent impact on those of us in  
19 law enforcement.

20 The cost of housing an individual in a Pennsylvania  
21 prison is at least \$35,000 a year. If the civil legal  
22 issues of ex-offenders go unaddressed, they may ravage  
23 the lives that impoverished individuals are trying to  
24 reconstruct.

25 In our office, we are especially proud of our

1 domestic violence prosecution unit, and the District  
2 Attorney is committed to prosecuting domestic violence  
3 crimes vigorously, with the safety of domestic violence  
4 victims as our primary concern. We are honored to  
5 partner with our legal aid colleagues who advocate for  
6 domestic violence victims to obtain protection from abuse  
7 orders, provide counsel, and pursue emergency  
8 interventions.

9 We know that domestic violence is the most under-  
10 reported crime in America, and it takes an extraordinary  
11 toll on victims, their children and our communities. The  
12 estimated total annual medical cost of domestic violence  
13 in Pennsylvania was \$326.6 million. Thirty-nine percent  
14 of all female victims of homicide were victims of  
15 domestic violence. Legal aid works with us to prevent  
16 those cruel deaths and the ruinous impact on Pennsylvania  
17 families.

18 Equal justice for all, regardless of income is the  
19 foundation of both our criminal and legal systems. We  
20 applaud your making civil access to justice a priority,  
21 knowing the profound impact it has on our work, our  
22 community, and all Pennsylvanians.

23 SENATOR GREENLEAF: Thank you so much for  
24 being here. I just have one question. You had touched  
25 on it in your testimony, but maybe you could give a more

1 in-depth response to it is that our democracy is based on  
2 solving issues, mostly civil issues between parties. Uh,  
3 the legislature does that. We fight it out with  
4 language, with debate, and settle and decide issues based  
5 on the majority vote.

6 These are civil issues, and that's what lawyers do.  
7 That's what judges do. That's the way the system is set  
8 up, to solve civil disputes. Unsolved, there are some  
9 times people resort to violence and they resort to other  
10 tactics without -- if we don't settle them in a peaceful  
11 way that way our system is set up.

12 What impact do you see -- and you touched on that,  
13 but can you give us maybe some specific examples -- what  
14 you see when we do not resolve these civil disputes that  
15 occur in our society with regards to the criminal justice  
16 system and it's impact on that system?

17 MR. SPURGEON: Well, I think the impact does  
18 increase violence because then you're leaving these  
19 decisions and these resolutions to be made among the  
20 parties which aren't often on equal footing.

21 Oftentimes, I head the Domestic Violence Unit in the  
22 District Attorneys Office, and as Shirl Regan said, the  
23 most dangerous time for a victim is when they end a  
24 relationship. I have tried many, many homicides, and in  
25 the vast majority of those cases is because the victim

1 has left that abusive situation that the defendant had  
2 acted.

3       So far this year, I believe, in Allegheny County  
4 intimate partner homicides, we have seven. Three of  
5 those were murder/suicides. So people are at their wit's  
6 end. They don't know what to do. The relationship is  
7 ending.

8       By not providing the civil aspect, we are keeping  
9 people in homes that perhaps they don't want to be in.  
10 We're keeping people connected to people they're trying  
11 to end that relationship with, and they're not having the  
12 -- not only the information that they need to have to  
13 make educated decisions, they're also not receiving the  
14 legal information they need to find out that there are  
15 other options out there. There are ways to go about  
16 exchanging custody.

17       You know, that's a very dangerous time for a victim  
18 of domestic violence during a custody exchange, and for  
19 years we had a safe place to do that here in Allegheny  
20 County where one party would go into one door. There  
21 would be a member of law enforcement present. They would  
22 exchange custody there, and then they would leave out of  
23 that door. The other party would come into an opposite  
24 door, pick up the child and leave. So, and I believe  
25 that that's gone away. It's been defunded. But that's

1 something that comes into play, where these are  
2 relationships and domestic violence. This isn't stranger  
3 violence. These people know each other. They have  
4 contact. They have communication with each other and  
5 they're going to, and that's something that we have to be  
6 aware of.

7 This isn't an incident that happened at a gas station  
8 where someone tried to rob you. This is a situation  
9 where you have families together. You have children  
10 together, and you're going to have that interaction for a  
11 very long time. So providing that civil access to the  
12 courts, I think, minimizes and diminishes the amount of  
13 potential criminal activity that we would see.

14 SENATOR GREENLEAF: One final point, I think  
15 that my colleague, Senator Vulakovich, would agree with  
16 this as a former police officer and you as a prosecutor,  
17 that probably the most dangerous incident that a law  
18 enforcement officer can be involved in is not the bank  
19 robbery, not the burglary, but the domestic violence  
20 issue.

21 MR. SPURGEON: Absolutely. Statistically,  
22 that's one of the most dangerous times for a police  
23 officer to report to a home is in a domestic violence  
24 situation, because you are unaware of what the dynamic is  
25 that's going on; how long this incidence has been

1 occurring; whether or not there's weapons in the home;  
2 whether or not there's access to those type of things.

3 We have had some very poignant homicides here in  
4 Allegheny County, and lost police officers responding to  
5 domestic violence situations. Absolutely.

6 We are privileged that, actually, that Senator  
7 Vulakovich's former department of Shaler is beginning to  
8 participate in something called Lethality Assessment  
9 Program which is something that's starting in Allegheny  
10 County as a pilot. Shaler is supposed to be one of those  
11 programs. They're going to do that. So when they  
12 respond to a domestic violence situation, the police  
13 officer will have more tools to be able to ascertain  
14 whether or not it's a violent situation and the defendant  
15 is going to be lethal.

16 SENATOR GREENLEAF: Any other questions?

17 SENATOR VULAKOVICH: Just one real quick  
18 question. You said it was defunded, the safe place  
19 exchange. Why was it funded? Did have to, uh -- I mean,  
20 who where you paying?

21 MR. SPURGEON: I actually, probably -- a  
22 representative from the Women's Center & Shelter would be  
23 better to answer that question.

24 MS. REGAN: The County wasn't paying for it.

25 SENATOR VULAKOVICH: I know we did that at

1 our police station, where when we had certain situations,  
2 they would go into court and if the judge rules it, we  
3 did what the judge says.

4 So if he puts it in the court order that we exchange  
5 at the police station -- and we don't necessarily always  
6 like it, because we gotta run in off the road, and do the  
7 thing -- but if it keeps something safe, because the  
8 bottom line is really at the point is you're talking  
9 about the kids. So, you know, I would still think if the  
10 judges do that and feel the need for it, they'll say it  
11 and we'll do it.

12 MR. SPURGEON: And I believe, Senator, you  
13 were asking for statistics prior to that, and I don't  
14 have the family law statistics, what comes out of Family  
15 Court, but I can tell you that approximately the Domestic  
16 Violence Unit in the D.A.'s office tries 1,000 cases a  
17 year at the trial level, which is a significant number,  
18 1,000 cases a year.

19 And they also represent the Commonwealth at  
20 preliminary hearings within the City of Pittsburgh, there  
21 is a specialized Domestic Violence Court, and there are  
22 approximately twelve hundred hearings there annually as  
23 well.

24 SENATOR VULAKOVICH: So if you have 1,000  
25 cases that you do criminally, I can't even guess what the

1 number would be of people who file for the emergency  
2 relief, for 24 or 48 hours and then have to go downtown  
3 to get the extension.

4 MR. SPURGEON: And it's very confusing for  
5 victims because they're going in parallel situations.  
6 They're dealing with Family Court issues on one end, and  
7 they're dealing with Criminal Court issues on the other  
8 end, so they oftentimes think just going to one is fine  
9 without realizing there is an impact on the other.

10 SENATOR VULAKOVICH: Yeah.

11 SENATOR GREENLEAF: Okay. Thank you so much  
12 for being here today..

13 MR. SPURGEON: Absolutely. Thank you.

14 SENATOR GREENLEAF: Okay. The next witness  
15 is Michelle DeBord, Esquire, Managing Attorney,  
16 Neighborhood Legal Services Association.

17 Also, we also failed to recognize Zack Hoover, who is  
18 minority counsel to Senator Leach who is here  
19 representing Senator Leach. Thank you very much for  
20 being here today.

21 MS. DeBORD: Yes. Good afternoon, Senator.

22 SENATOR GREENLEAF: We look forward to your  
23 testimony.

24 MS. DeBORD: My name is Michelle DeBord. I  
25 am one of the managing attorneys at Neighborhood Legal

1 Services Association. Neighborhood is a non-profit  
2 organization which provides civil legal services to the  
3 poor and disabled, and we've done so for many, many  
4 decades. We currently operate in four counties in  
5 Pennsylvania: Allegheny, Butler, Beaver and Lawrence.

6 I have been asked to respond to the issue of how well  
7 we, as a society, are doing in providing for the civil  
8 legal needs of the poor, and the short answer is, of  
9 course, as we've learned today, "Not well."

10 I have been in legal services for 35 years, and the  
11 percentage of legal needs of the poor which are being met  
12 has pretty much remained the same; we meet about 20  
13 percent of the need. That's been consistent for a long  
14 time. Twenty percent is not a good figure. If a coach  
15 were getting 20 percent win rates in hockey or football  
16 or whatever, they'd certainly be fired. But, we've lost  
17 funding of over a million dollars in the past three  
18 years, or more than 20 percent of our funding.

19 If you translate that into exact service losses,  
20 we've lost about 28 percent in the number of people that  
21 we've helped. If you take it further, and look at the  
22 absolute numbers, we are no longer able to represent  
23 about 7,000 people that we could have represented before.

24 What's happened with us, is the massive decrease in  
25 the availability of legal help for the poor occurring in

1 the last three or four years. The timing could not have  
2 been worse. It came during an economic downturn in which  
3 our low income citizens lost jobs in greater numbers than  
4 ever before, needing more legal services than ever  
5 before. Where formerly middle class people who were  
6 strangers to the public welfare system needed help with  
7 food stamps, with Medicaid, with all kinds of public  
8 benefits.

9 Mortgage foreclosures, which people have talked about  
10 here earlier today, were just pouring in. And many, many  
11 years of bad financial decisions by lending institutions  
12 lead to a real crisis out here in Western Pennsylvania.

13 You've heard a lot about abuse today, physical abuse  
14 and the consequences of that. Families in desperate  
15 economic needs and desperate economic straights are also  
16 families in which abuse may be more likely to occur than  
17 in other families. So you do have the protective orders  
18 that we seek in court.

19 Neighborhood Legal Services does about 3,000 of those  
20 every year, and that's a combination of our staff and the  
21 pro bono volunteers that come and help us out.

22 Right now, we're facing loss, not only of staff  
23 members, we've lost 21 staff members thus far in the last  
24 few years -- that's a third of the staff of Neighborhood  
25 Legal Services -- but right now, we're looking at having

1 to close some offices.

2 Our Butler County office will be closing by the end  
3 of this calendar year, and we're looking at the strong  
4 possibility that we may have to close our Lawrence County  
5 office also at some point in the near future.

6 So those counties will only have access to legal  
7 services through the phone system. There won't be a  
8 local office for people to come into and talk to an  
9 attorney there. So it means that probably the amount of  
10 representation we are going to be able to do is gonna go  
11 down. It's gonna be replaced by advice and brief service  
12 in some situations where we're able to give some extended  
13 service.

14 We only have two helpline attorneys, people that --  
15 attorneys that give advice to clients in Allegheny  
16 County. We used to have three. As a result of that,  
17 they're getting roughly six cases a day each. They don't  
18 have the time to spend with clients the way we would like  
19 to.

20 We don't have the time to chase down a landlord and  
21 try to talk some sense into him or her about how we can  
22 resolve a landlord tenant problem, or we don't have the  
23 time to spend half a day on the phone with the water  
24 company convincing them they need to turn the water back  
25 on when the landlord hasn't paid and the tenant is

1 willing to put up a deposit.

2 So the people that we're able to help that actually  
3 get in the door will probably receive fewer services than  
4 they have in the past as we continue to shrink our staff.

5 Finally, I heard mention earlier today about how we  
6 need to -- legal services has had to cut the hours during  
7 which the office is open and the phone lines are  
8 answered. And that has been a dramatic change in the  
9 last year or so. We have had to cut our hours that we  
10 leave the office open to the public, and we've had to cut  
11 down the hours that we're able to answer the phone.

12 Because of that, we are in a situation -- we're doing  
13 that because we have no choice. The staff that used to  
14 staff our centralized intake unit, we had four folks on  
15 that. We're down to two, so they can only do so much.  
16 We do have a mechanism for folks to leave a call-back  
17 number, and we try to call those folks back as fast as we  
18 can, but it's not unusual for the call-backs -- just for  
19 the Allegheny County clients, not for the other three  
20 counties' clients -- it's not unusual for us to have  
21 fifty call-backs in one day. So, phones go off at 3:00,  
22 and then the two intake workers are calling, calling,  
23 calling, to see if they can get back to people to see if  
24 they can do anything for them.

25 Oftentimes, we have to tell people that call at the

1 last minute for a hearing, that they're gonna to have to  
2 ask for a continuance. We're not able to find an  
3 attorney who is free to go to their hearing. What that  
4 means in a Social Security case, which is an area in  
5 which I practice, is that if you ask for a continuance,  
6 that's another two or three months that you're gonna go  
7 without those benefits that you need because you can't  
8 get a lawyer to go in with you.

9 So, it's astonishing to me that with our  
10 significantly reduced staff, both reductions in attorneys  
11 and support staff, that we've been able to maintain a  
12 high quality of service because we have.

13 How are we doing providing civil legal services to  
14 the poor? Well, we'll continue to do -- Neighborhood  
15 will continue to provide the high-quality of services  
16 that we've always provided in the past but the number of  
17 individuals that we are going to be able to help  
18 continues to go down, and there are gonna be large  
19 numbers of individuals who are simply not able to access  
20 our services at all. Thank you.

21 SENATOR GREENLEAF: Thank you. Any  
22 questions?

23 Thank you so much for your service and hanging in  
24 there. I can't imagine six cases a day. That would be  
25 just unimaginable. So we know you are under a lot of

1 stress, but you're doing a wonderful job and thank you  
2 for what your doing, and thank you for explaining it to  
3 us today.

4 Our next witness is Andrew Scherer, Esquire,  
5 Senior Fellow, Furman Center for Real Estate and Urban  
6 Policy, New York University Law School and Wagner School  
7 of Public Service.

8 MR. SCHERER: Good afternoon, Senator  
9 Greenleaf, Senators and staff.

10 SENATOR GREENLEAF: Good afternoon, and  
11 thank you so much for being here.

12 MR. SCHERER: You're very welcome. I really  
13 appreciate the opportunity to have a conversation with  
14 you about this issue.

15 My work involves consulting, teaching, writing,  
16 mostly around issues of access to justice, poverty law,  
17 housing rights; most relevant today, that's really a  
18 major focus of my professional life. I also was a  
19 founding member of the National Coalition for a Civil  
20 right to Counsel. I chair a Civil Gideon Committee of  
21 the New York State Bar Association, so this has been a  
22 primary focus of my professional life.

23 One year ago today, Hurricane Sandy hit in New York,  
24 right? And, uh, destroyed homes, shattered lives, and in  
25 the course of that year, civil legal services programs --

1 oh, I forgot to mention also that I was the Executive  
2 Director of New York Citywide Civil Legal Services  
3 Program, and worked in it for over three decades. My old  
4 program and the other civil providers over the last year  
5 have been helping people who were victims of Hurricane  
6 Sandy.

7                   SENATOR GREENLEAF: How many people were you  
8 serving?

9                   MR. SCHERER: I think about 10,000 or so  
10 between the both -- there's a large pro bono effort also  
11 mostly spearheaded by both the State Bar and City Bar  
12 working hand-in-hand with the legal services folks, you  
13 know, helping people deal with the maze of insurance  
14 problems, FEMA regulations, unemployment insurance, other  
15 government benefits, a whole host -- public housing  
16 tenants who were stranded in upper floors and to this day  
17 still have problems with -- actually, this coming winter  
18 will, again, have problems with heat because of boilers  
19 that got destroyed in the hurricane.

20                   In 9-11, in 2001, I was the Executive Director of the  
21 legal services program for New York City, and we were,  
22 again, there to respond as legal first responders on the  
23 issues that low-income people faced. And that's what  
24 civil legal services programs do. We're first responders  
25 on legal crises.

1       And as you've heard over the course of the day today,  
2 the crisis in access to justice in legal services has  
3 been really exacerbating in recent years, and that, you  
4 know, justice gap has been growing really significantly  
5 and forcing low-income people to face legal matters that  
6 are critical to their lives, to their health, to their  
7 safety, without counsel without meaningful access to  
8 justice.

9       The Supreme Court said in Gideon in our adversarial  
10 system of justice, any person haled into court, who is  
11 too poor to hire a lawyer, cannot be assured a fair trial  
12 unless counsel is provided for him. This seems to us to  
13 be an obvious truth. And, that obvious truth, which is  
14 true in the criminal context is certainly true as well in  
15 many types of civil matters.

16       That's what got this national coalition started to  
17 try to push for a civil right to counsel; that's what  
18 prompted the ABA to adopt a resolution in 2006 calling  
19 for a civil right to counsel in matters of fundamental  
20 human need. I believe, as do many of my colleagues in  
21 legal services programs, Bar Associations, law schools,  
22 private firms, courts, and elsewhere -- your Pennsylvania  
23 Bar Association President today, New York State's Judge,  
24 Jonathan Lippman, all have expressed the view that there  
25 should be a right to counsel in civil matters affecting

1 fundamental needs.

2 But, we'll get there eventually, but it will have to  
3 be incrementally. And, meanwhile, we have to take all  
4 deliberate steps to address meaningful access to the  
5 judicial system.

6 As you've heard during the course of the day, things  
7 are probably worse than they've ever been in terms of  
8 access to justice between the recessing hitting people --  
9 the low-income people of our communities the hardest and  
10 the -- at the same time, the double whammy of the  
11 reduction in funding at the Federal level, at the State  
12 Level, the reduced interest rates that have reduced the  
13 funding for IOLTA programs, all of that has lead to the  
14 growth of the justice gap.

15 States are responding. It's wonderful that you're  
16 holding these hearings, that Pennsylvania is addressing  
17 this issue. Some -- most states, there's something going  
18 on and this has become a focus of Bar Associations, of  
19 legislatures, and there have been legal need studies,  
20 most of them with very similar results to the legal  
21 services' corporations justice gap study that found that  
22 one in five -- only one in five legal needs, serious  
23 legal needs, is being met by legal services programs.  
24 These have been findings state-by-state as well as  
25 nationally.

1       A recent national study done by the Civil Justice  
2 Infrastructure Mapping Project, and lots of other studies  
3 have found that the states are now doing -- making  
4 innovative changes to better address the crisis,  
5 primarily looking for new ways to fund legal services.  
6 But legal services programs, as you've heard here today,  
7 are adjusting their delivery methods to try to address  
8 more people with less, but you can only go so far.

9       They're using more pro bono resources. State  
10 judicial systems are improving court operations,  
11 simplifying forms and procedures, rethinking the roles of  
12 judges, mediators and clerks to get them more active in  
13 the administration of justice in ways that they haven't  
14 been before.

15       Courts are using technology, developing these kiosk  
16 systems, where computers are used to assist people in  
17 navigating their way through the maze of the legal  
18 system. Many courts have now established self-help  
19 centers either staffed by the courts or, in some cases,  
20 by legal services providers to help people who are  
21 unrepresented.

22       And more than half of the states have created Access  
23 to Justice Commissions, which bring together members of  
24 the judiciary, the Bar, the real leadership of the legal  
25 world -- civil legal services providers, other

1 stakeholders, to work collaboratively on statewide  
2 justice initiatives.

3 As a result of this intensified focus on legal need,  
4 people have been really looking at some of the questions  
5 that you've been asking here today the extent to which  
6 there is an actual economic benefit. It's not just the  
7 human need that is being addressed by legal services, but  
8 there's actually a tangible economic benefit from  
9 delivering legal services.

10 When you help victims of domestic violence, you know,  
11 you save the government money at the other end on medical  
12 care, on the need for special education and counseling  
13 for kids who come from homes that have been troubled by  
14 domestic violence. You reduce the pressures on the  
15 police department, and all of these are costs and,  
16 ultimately are measurable costs, that are saved.

17 When you help families that are dealing with  
18 dependency -- because that's what you call it in  
19 Pennsylvania. We use other terminology in New York, but  
20 these dependency proceedings, the government saves money.

21 You get kids -- families get reunited and you spend  
22 less money on foster care. Or, when families can't be  
23 reunited, kids get put into adoptive homes and the long-  
24 term foster care placements tend to be reduced. The  
25 monitoring and all that is involved in the foster care

1 system expenses get reduced. When you stave off  
2 evictions through representation, You prevent  
3 homelessness and all of the attendant costs that --  
4 evictions and foreclosures.

5 There's the cost of sheltering people. The medical  
6 care that happens when people are living on the street --  
7 that's need when people living on the streets. The long-  
8 term consequences for children for living without a  
9 home. And provisional legal services generates economic  
10 activity to the extent that you stabilize communities,  
11 you keep people in their homes. You help people with  
12 employment issues. You help them secure government  
13 benefits that they are entitled to. You feed money into  
14 poor communities and local economies, which then, in  
15 turn, generates income for businesses, creates jobs, and  
16 states have been studying this as well.

17 A Texas study in 2009 found that for every dollar  
18 they spent on legal services, the Texas economy gained  
19 \$7.42 in total spending.

20 Last year, a Massachusetts study found that for an  
21 investment of \$10.5 million in legal services, the state  
22 realized about \$48 million in economic revenue to the  
23 state.

24 A study here in Pennsylvania found that for every  
25 dollar spent -- and I think somebody said this earlier

1 today -- on legal services, \$11 is quantifiable revenue  
2 and savings that's realized by the state.

3 New York, where I practice and do my work, has, under  
4 the leadership of the Chief Judge, Jonathan Lippman,  
5 taken a pretty aggressive approach to expanding access to  
6 legal services. And it started, this effort, right at  
7 the height of the economic crisis. Judge Lippman created  
8 a task force, it's basically an Access to Justice  
9 Commission, called the Task Force to Expand Access to  
10 Civil Legal Services. And, in its first year, the Task  
11 Force proposed increasing funding under the judiciary's  
12 budget for legal services to the tune of \$100 million  
13 over four years; 25 million a year. What happened is,  
14 the first year the legislature appropriated 12.5. The  
15 second year, another 12.5. The third year, 15. So we're  
16 up to 40 of the 100, and I'm sure that the Commission  
17 this year is going to recommend another 25 million,  
18 although I'm not sure what the legislature will do this  
19 next round. But, we've been incrementally moving up  
20 towards a measure that would significantly increase the  
21 funding and enable New York to address much more of the  
22 need. That Task Force found that there was \$6 savings  
23 for every dollar spent.

24 We're getting somewhat different figures from each  
25 state. I think the reality is that we're still refining

1 the methodology, to really ascertain -- we hadn't really  
2 thought this way, and I think we haven't yet achieved the  
3 level of rigor and social science, you know, that we need  
4 to about this because I think there's actually much more  
5 being realized than we're actually capturing in the data.

6 The New York Task Force has recommended a number of  
7 measures, some of them are really quite bold, to address  
8 the crisis. One of the focuses that they have -- one of  
9 the areas they've focused on is pro bono assistance,  
10 expanding Lawyer for the Day, Volunteer Attorney  
11 Programs, and New York has just initiated a requirement  
12 for admission to the Bar that you perform 50 hours of pro  
13 bono service before then can get admitted.

14 The Task Force is encouraging early intervention,  
15 prevention, alternative conflict resolution and community  
16 legal education all in an attempt to avert litigation. I  
17 think, frankly, one of the other major deterrents to  
18 litigation -- at least frivolous litigation -- is if we  
19 had a right to counsel, if we had more robust  
20 representation of people, people would think twice about  
21 whether they'll go into court and try to resolve a  
22 dispute and will look for alternative resolution outside  
23 of court because they're going to want to avoid costly  
24 litigation. And that's hard to quantify, but I think  
25 that's an important measure that we don't think about

1 enough.

2       And, then, like other states, New York is embarking  
3 on efforts to help people navigate the court system;  
4 self-help centers, standardizing court forms, expanding  
5 outreach programs, those kinds of things. They're also  
6 encouraging the legal services programs to do more in  
7 collaboration in promoting better use of technology, and  
8 New York as a Committee that's an outgrowth of the Task  
9 Force that's looking at licensing of non-lawyers to do  
10 certain tasks that might be more cost-effectively done by  
11 paralegals, with a little bit more of a level of  
12 professional expertise than paralegals now have.

13       I actually started my legal career in 1978 in the  
14 South Bronx, a few blocks from what became known as Fort  
15 Apache, when the Bronx was burning down. I mean  
16 literally burning down. I saw, as a young lawyer, what  
17 an enormous difference it made to our clients to have  
18 attorneys. We were able to keep people in their homes,  
19 keep families together, keep food on the table, and  
20 really improve the conditions of the communities that  
21 they live in.

22       And I recognized then that the biggest problem that  
23 we faced -- and I think that's faced by Neighborhood  
24 Legal Services here and legal services programs all over  
25 the country -- is not what we can do, but what we can't

1 do. The biggest problem is our inability to serve people  
2 who, who, who need our help and there's something  
3 fundamentally unfair about a system of justice that  
4 requires people to pay to be able to play in the system,  
5 and that makes it nearly impossible for them to fend for  
6 themselves given the complexity of the law and especially  
7 given the consequences of the legal proceedings of  
8 retaining a home, family, your physical well-being.

9 And so I recognized then that due process,  
10 fundamental fairness, the rule of law require us to  
11 recognize a right to counsel, but I also recognized, as  
12 does the ABA now, that's a formidable task. That's gonna  
13 take time. It's gonna be incremental, but we need to  
14 move in that direction, and we need to address the  
15 fundamental unfairness that plagues the system of  
16 justice.

17 It's clear that you, in Pennsylvania, are engaged in  
18 a serious, concerted effort to find your own path to  
19 greater access to justice. I'm sure you'll break new  
20 ground, you'll advance fairness and equity in your own  
21 way in the administration of justice, and you'll create  
22 models for others to follow.

23 I wish you well, and I'm ready to help in any way  
24 that I can, and happy to answer questions.

25 SENATOR GREENLEAF: Thank so very much for

1 being here, today. We are running out of time, but I do  
2 have one question for you, and that is that our system is  
3 based on English Law, as you know, Common Law and about  
4 the right of adversarial and conflict, and that belief in  
5 that adversarial process will develop the facts and will  
6 help the adjudicator make an intelligent and informed  
7 decision, and a fair decision.

8 But I often think that it may not be so good to use  
9 that system when it's not necessary. Maybe in a murder  
10 case or a robbery case or a large case involving many  
11 complicated issues. It just seems to me that, and you  
12 touched on it, alternative resolutions may be the  
13 solution here and more greater access to it, and why not  
14 have court-appointed -- I mean, we do have that in  
15 domestic relations, and we have that in support and  
16 equitable distribution issues in Pennsylvania.

17 Why not expand that and use that person whether you  
18 come there with a lawyer or not, it won't make any  
19 difference. Then the judge would not be in a position  
20 now -- we elect judges and there are very strict rules  
21 about how to conduct these trials and all. Why not set  
22 up a system in which it doesn't really matter whether you  
23 have a lawyer or not and because that person isn't  
24 directed to come up with a fair process that may be  
25 cumbersome, but I don't know. What do you think about

1 that?

2 MR. SCHERER: Well, I couldn't agree with  
3 you more, and I think you said a couple of things that  
4 are really critical here. One is, the system now is  
5 unfair -- but I don't want to put words in your mouth,  
6 but this is how I heard what you said -- because it's so  
7 unevenhanded. Because one side knows what they're doing;  
8 the other side doesn't.

9 And then when you talked about addressing that by  
10 changing it, you said, well, let's make a system where  
11 having a lawyer doesn't make a difference. The  
12 fundamental point, though --

13 SENATOR GREENLEAF: I'm a lawyer, so maybe  
14 not a lot of lawyers would like that.

15 MR. SCHERER: I'm a lawyer, too, so -- but,  
16 the fundamental point of all of that is that if you have  
17 a system of justice -- again, you've got three branches  
18 of government. You don't, you know, you don't get the  
19 President that only the wealthy voted for or the  
20 legislature that only the wealthy voted for; it's  
21 everybody's legislature.

22 But in many ways, it ends up being the judicial  
23 system that only the people with the money get to avail  
24 themselves of. So -- and I actually think that some of  
25 my colleagues in the right to counsel movement would

1 disagree with me. I think we're not ever gonna reach a  
2 world in which every single dispute there's gonna be a  
3 right to counsel. It's not realistic. But what is  
4 realistic to achieve is to have counsel on the disputes  
5 that are meaningful where you need counsel to actually  
6 even up the score and that we could work on this system  
7 so you have an even-handed system without necessarily  
8 having to have counsel. And if we worked from both of  
9 those ends, at some point, I think we would actually have  
10 a fair and equitable system.

11 SENATOR GREENLEAF: There will be more than  
12 enough for work for counsel -- for attorneys --

13 MR. SCHERER: Oh, no, we don't have to worry  
14 about that.

15 SENATOR GREENLEAF: -- that won't be able to  
16 be resolved and take advantage of this process. But  
17 there are others, particularly domestic relations, I  
18 think, and that's what is -- it's drifting there. It's  
19 not completely cut off by the judge, but it's drifting  
20 and because they're overwhelmed by it. I've talked to  
21 judges.

22 MR. SCHERER: You mean they're drifting more  
23 towards less lawyer dependent?

24 SENATOR GREENLEAF: Mediation, conciliation;  
25 deciding the issues among the parties. Aren't they

1 better off sometimes having that resolve? They leave  
2 with less scars than they've anticipated in the  
3 resolution of the matter?

4 MR. SCHERER: Right. So having a system  
5 that has the wherewithal to actually achieve just results  
6 is, I think, what we're really after here. And some  
7 piece of it means expanding access to the civil legal  
8 services system.

9 SENATOR GREENLEAF: Absolutely.

10 MR. SCHERER: Thank you.

11 SENATOR GREENLEAF: Thank you so much for  
12 being here.

13 The next witness is Steve Grumm, Esquire, Director of  
14 Resource Center for Access to Justice Initiatives,  
15 American Bar Association. Thank you for being here  
16 today.

17 MR. GRUMM: Good afternoon, Senator. Thank  
18 you very much. Thank you, Senator Vulakovich, to your  
19 other Committee members and staff, and to the  
20 Pennsylvania Civil Legal Justice Coalition for allowing  
21 me to join the conversation today and also for the  
22 leadership that you all have shown and the focus -- as  
23 well as the Chief Justice -- on this very important  
24 issue, which ultimately is about trying to provide  
25 meaningful and equal access to justice for all

1 Pennsylvanians to their court system.

2 As you mentioned, I am with the ABA, and direct our  
3 resource center for ATJ initiatives. One quick change  
4 I've made to the written testimony before you is that I  
5 am, in fact, speaking here for the ABA and not just in my  
6 personal capacity. The confusion on that end was mine,  
7 and I apologize for that. So I am glad to be able to  
8 lend the ABA's voice to this discussion.

9 SENATOR GREENLEAF: Thank you.

10 MR. GRUMM: In July, I had the opportunity  
11 to meet with the Civil Legal Justice Coalition to explore  
12 the idea of creating a Pennsylvania Access to Justice  
13 Commission. And the question that we looked at there was  
14 whether the Commission could be a sort of optimal vehicle  
15 to help continue innovation and leadership in moving  
16 toward equal justice for all Pennsylvanians. And we took  
17 into account, not only the dynamics of what's happening  
18 in Pennsylvania, but we also looked to see if we could  
19 draw lessons from the successes that Commissions have had  
20 in other states. And after that conversation, and with a  
21 little more time to mull things over, it's my opinion  
22 that a Commission will allow Pennsylvania's ATJ  
23 community, robust as it already is, I think, to really  
24 institutionalize that depth and breadth of experience and  
25 expertise it has and that the Commission would be a sort

1 of ideal next step in the evolution toward having this  
2 centralized vehicle to help narrow the civil justice gap.

3 So this afternoon -- and I realize that we are  
4 pressed for time here, but I'll briefly do two things.  
5 The first is, I'll just look at the ATJ Commission  
6 movement from altitude just so we have a sense of what's  
7 been happening in other states and why they have been so  
8 successful in working toward equal justice and, then,  
9 second, we'll zoom back in to Pennsylvania and think  
10 about why a Commission could be the right answer right  
11 now in Pennsylvania.

12 So to begin at the beginning, just to define in  
13 shorthand an ATJ Commission, as I think you probably all  
14 know, a Commission is a state-based leadership body that  
15 brings together mainly, at least at a minimum, the  
16 judiciary, the civil legal aid community, and the  
17 organized Bar, often through the pro bono leaders who  
18 emerge in the Bar.

19 In some cases, law schools play roles and in some  
20 cases other segments of government also play roles, but  
21 the idea is to get high-level decision makers and all of  
22 the people who really are the stakeholders in moving  
23 toward equal access to justice, together so they can act  
24 efficiently and effectively. And that leads me to what  
25 Commissions are not.

1 Commissions are not meant to be, and in no state are  
2 they, sort of superficial solutions, or throwing a  
3 Commission at a problem for the sake of doing just that.  
4 Commissions, in fact, have had extraordinary successes in  
5 tackling, I think very directly, this very vexing problem  
6 of justice for some but not all. Often, depending on the  
7 resources that individual people can bring to getting  
8 representation and other related issues. And the  
9 Commissions have had success in a lot of areas.

10 The few that I would point out, though, is the  
11 increasing funding for our civil legal aid infrastructure  
12 is one where they've taken great focus -- and I don't  
13 think that you need me to tell you about between the  
14 diminutions of Federal and State funding, and IOLTA in  
15 some jurisdictions all but drying up -- why that's been  
16 so critical to have this high-level support to bolster  
17 legal aid funding when the programs are really  
18 struggling.

19 They have also catalyzed new investment and brought  
20 in a lot of new hands and commitment to volunteer pro  
21 bono work, so getting to the private Bar, developing new  
22 innovative programs, and simply recruiting more pro bono  
23 volunteers.

24 They have worked on assisting self-represented  
25 litigants. Judges Caruso and Hens-Greco had mentioned

1 the increasing need for that, particularly in the wake of  
2 the great recession, and then they've also -- and Dean  
3 Gormley alluded to this earlier -- the Commissions have  
4 engaged in law students as, I think the Dean said, as  
5 tomorrow's access to justice leaders. So Commissions  
6 have also tried to bring in and cultivate new leadership.

7 Outside of Pennsylvania, the Commission movement has  
8 been growing very, very quickly. Twenty years ago, there  
9 were zero Commissions. The first was founded in 1994 in  
10 Washington State. In 2000, there were three Commissions,  
11 but in the past 13 years, we have grown that number  
12 ten-fold, and there are now 30 ATJ Commissions.

13 They have formed in Indiana, Virginia and Illinois  
14 just in the past little over a year, and my expectation  
15 is that there will be three more Commissions formed, so  
16 it will be well comfortably over 30 probably by the end  
17 of, say, 2014.

18 In the region, the Commission movement has grown very  
19 strong roots. In New York; in West Virginia; now  
20 Virginia; Maryland; Washington, D.C.; Ohio and Delaware  
21 are both formally exploring Commissions now and, as was  
22 mentioned before, notably the American Bar Association  
23 has gotten behind this movement by passing a resolution  
24 supporting their continued growth as has the Conference  
25 of Chief Justices and its sister organization.

1       So that's sort of where the Commission movement is  
2 broadly speaking, nationally now. And if we could just  
3 focus in on how that could work in Pennsylvania. As I've  
4 been giving this thought, I think that the Commission is  
5 a great vehicle to get from unity of purpose; that is,  
6 trying to achieve access to justice to unity of action.  
7 It's getting -- coordinating all of the key stakeholders:  
8 Courts, Bar, Legal Aid and so on, so they can work  
9 together and act most efficiently.

10       And there are three reasons why I think that would  
11 work in Pennsylvania very well right now. The first one  
12 is that in institutionalizing all of your past work in a  
13 Commission, I think right there you've built a platform  
14 that can work toward efficient innovation moving forward;  
15 new ideas and making ideas that already exist work well.

16       The second one, and this has been key in other  
17 states, is the Commission serves to solidify a  
18 partnership between the ATJ community, particularly the  
19 legal aid and pro bono folks, and then also the courts  
20 and the court systems. And the high courts have often  
21 used Commissions as their way to really squarely attack  
22 the problem of the justice gap head on.

23       And the third one goes to sustaining -- having the  
24 framework that allows you to sustain leadership and  
25 recruit new ATJ leaders as the years go on, and to

1 explore these in turn.

2       The first one, you know, institutionalizing what  
3 you've done and creating a new platform for innovation.  
4 By way of example, I would note that the Tennessee Access  
5 to Justice Commission, which formed in 2009, has been  
6 able to work very creatively on a lot of fronts to make  
7 meaningful progress. They convened their first-ever pro  
8 bono summit. That's really generated a lot more interest  
9 from the State Bar and elsewhere on the private side in  
10 pro bono work.

11       They were able to tackle the idea of creating plain  
12 language forms, which are accepted throughout what is an  
13 un-unified court system now in Tennessee, and they've  
14 also launched what's called the Faith & Justice Alliance,  
15 which is a program that recognizes that a lot of people  
16 -- particularly those on society's margins -- don't know  
17 or may be too intimidated to go into a law office to look  
18 for help; even a neighborhood legal aid office. And they  
19 may go to their faith communities -- to their church, to  
20 their mosques -- and so the thinking behind this Faith &  
21 Justice Alliance is let's reach out. Let's give some  
22 training and education to the leaders of the faith  
23 communities so that they may know so at least do a little  
24 bit of triage diagnosis and identify a legal aid  
25 problem. They've also got members of their congregations

1 who have volunteered in some cases, when appropriate, to  
2 serve as pro bono counsel to their fellow congregants who  
3 have legal problems.

4 So that's an example of a Commission pushing a really  
5 solid innovation.

6 In Maine, the Justice Action Group, which is that  
7 state's ATJ Commission -- it just has a cooler name --  
8 has created the Lawyers in Libraries Program. And,  
9 again, this is a recognition that folks may not find  
10 their way themselves into law offices, but to go out into  
11 the community, into libraries, where people may feel like  
12 they're on sort of safer plane is a great way to go out  
13 and engage them whether it's through sort of an education  
14 seminar for self-represented litigants or it's for a  
15 clinic that might result in pro bono representation going  
16 forward.

17 The Wyoming Commission has been spearheading an  
18 initiative to -- in a state where it's most important --  
19 to use Skype-based phone technology to do rural outreach  
20 clinics as well. Recognizing that they just can't have  
21 brick-and-mortar offices to get to some of the more far  
22 flung and rural locations in Wyoming.

23 And on an important related note there just to close  
24 out this first point, I would just note that the reason  
25 the Commissions get this done is because by dint of their

1 membership, they lend enormous prestige and just the  
2 ability for decision makers to make decisions and  
3 implement them. That's why Commissions have been so  
4 successful.

5 I mentioned, as well, I think as a second argument in  
6 favor of creating Commissions, solidifying the  
7 partnership between the courts and the other segments of  
8 the larger access to justice community.

9 Three quick examples there, in Texas, the court  
10 wanted to more squarely address ATJ issues and it created  
11 a Commission to do so. With the Commission in place, the  
12 just-retired Chief, Wallace Jefferson, and the new Chief,  
13 Nathan Hecht, have become staunch advocates for the legal  
14 aid community, and were instrumental in bolstering state-  
15 level funding at a time -- as you know, as we mentioned  
16 before, post-recession -- when it was threatened. And so  
17 through the Commission, the Court, itself, really took  
18 ownership of some ATJ issues.

19 Tennessee, as I mentioned before, we've seen the same  
20 thing there. The court has a liaison to the -- one of  
21 it's justices is a liaison to the Commission -- and  
22 that's been the tether that's really engaged the court on  
23 this kind of work.

24 In Illinois, the Chief -- well former Chief Justice  
25 Kilbride, who just stepped down at the natural end of his

1 term last week, he was instrumental in what ultimately  
2 became the Access to Justice Act which passed through in  
3 Illinois, which among other things, has created a pilot  
4 program to expand, as we've discussed today, civil legal  
5 representation for folks whose fundamental needs are  
6 threatened.

7 So, that's how the courts have used Commissions as  
8 vehicles. And, finally, I think there's much to be said  
9 for the Commission being this permanent structure which  
10 sustains the kind of long-term viability in ATJ  
11 leadership, and I already mentioned in Texas where at  
12 least two Justices who were somewhat engaged by the ATJ  
13 used the Commission to become the real champions, and  
14 figureheads in the state.

15 I also think that those Commissions sort of looked to  
16 the more junior ranks in the Bar to find people who are  
17 emerging as leaders, have used them, then, to bring them  
18 in and cultivate them as tomorrow's leaders. And at a  
19 time, when, frankly, a lot of baby boomer generation  
20 attorneys and other interested parties are gonna be  
21 moving into retirement, they also provide a way, I think,  
22 for someone who is gonna to retire from their day job,  
23 but who wants to stick around and play a formal role in  
24 ATJ work, to do that as well. So Commissions provide  
25 that kind of sustainability and permanence.

1           And, with that, again, I would thank you for the time  
2 and any questions you have, I'm happy to answer them.

3                   SENATOR GREENLEAF: I do have a couple  
4 questions. I just want to pick your brain a little bit  
5 on this issue about Civil Gideon. I mean, Gideon's  
6 decision dealt with -- based it on the fact that you  
7 could be incarcerated before the right to a trial and  
8 representation.

9           I think they put some limits to it, actually it got  
10 lower in the levels -- maybe it's six months -- but are  
11 there any decisions that would give those rights to civil  
12 rights? And, if not, can we -- is there a right to have  
13 a jury trial in civil matters, and can we set up a system  
14 in which you don't go in front of a judge? You go  
15 through a mediation process. You go through a  
16 conciliation process. You go through an alternative  
17 dispute system where it's fair and just.

18           There's a million point nine people in Pennsylvania  
19 alone, half of which that qualify for services that don't  
20 receive services because we don't have the resources. We  
21 may never have the resources to cover all those people.  
22 And there's certain like, landlord tenant and domestic  
23 issues are things that maybe could be resolved through  
24 alternative dispute resolution, with a fair system.  
25 Could we do that?

1           MR. GRUMM: I think so, and on this latter  
2 point, and then to steer back to Civil Right to Counsel  
3 and precedent, um, on the latter point, it seems to me  
4 that, you know, while still preserving the fundament of a  
5 right to a trial in most circumstances, court systems, as  
6 you know, I think, have already been working at  
7 diversionary programs, um, to try to have the parties  
8 come to a settlement short of taking up all of the  
9 resources that might be necessary for a trial. So I do  
10 think that that focus on ADR, Alternative Dispute  
11 Resolution, is one that's ripe for more exploration.

12           SENATOR GREENLEAF: Is that only because the  
13 parties agree? What if they don't agree?

14           MR. GRUMM: I feel as though some of my  
15 counterparts sitting behind me might be able to answer  
16 this better than me.

17           My sense would be that you'd have to have the parties  
18 on board. That's the way to respect the right to the  
19 trial if it exists, they're still maintaining, so you'd  
20 have to have people saying I recognize that this is the  
21 way you want to proceed; quite the same way that folks go  
22 into arbitration.

23           And then on precedent and, again, this I can't claim  
24 expertise here about, the state of litigation nationally  
25 on Civil Right to Counsel, but as has been discussed

1 earlier, in some Family Law-related matters and some  
2 custody-related matters, courts have carved out  
3 situations in the larger civil context in which a party  
4 would be entitled to a lawyer, and in terms of  
5 legislative solutions, as I mentioned, Illinois,  
6 California and Maryland all have pilot programs in place  
7 that look at providing a limited right to counsel in  
8 cases that implicate fundamental needs; housing,  
9 protection from domestic abuse, and so forth.

10           SENATOR GREENLEAF: I guess you could set up  
11 a -- I'm sorry to pursue this, but I'm doing this just to  
12 see how viable this is -- I guess you could pursue a  
13 process in which it may not be an elected judge, but it  
14 may be an appointed individual who conducts an informal,  
15 quasy alternative dispute resolution, but would have the  
16 final authority to decide the case.

17           MR. GRUMM: I wish I could be more helpful  
18 on the spot, here, but what I can do is head back on home  
19 and report back to the Committee with a little more of a  
20 robust answer.

21           SENATOR GREENLEAF: How far can you go with  
22 that and divert these cases -- but you have to have due  
23 process, obviously, and those type -- but how far -- did  
24 any of the Commissions ever talk about that, discuss  
25 that?

1 MR. GRUMM: I think so, and the larger  
2 conversation about how to make sure that folks' interests  
3 are protected but also recognizing some of the  
4 inefficiencies this might create for strained justice  
5 systems. This is a place that a Commission could focus  
6 on.

7 SENATOR GREENLEAF: I have a lot more  
8 questions, but we're running out of time. Senators, do  
9 you have some questions? Yes?

10 SENATOR VULAKOVICH: Um, we've been hearing  
11 all day -- and the Senator brought it up -- about Gideon  
12 versus Wainwright, but that didn't create law, right?  
13 That made, like, an observation?

14 MR. GRUMM: Well, Gideon, just in the  
15 criminal context, did create law inasmuch as it did  
16 establish a guarantee to counsel in almost all criminal  
17 proceedings. So the Civil Gideon, is obviously a little  
18 bit of a metaphor; it's the idea of saying if we look at  
19 this recognition of the fact that someone facing a  
20 deprivation of liberty should have a lawyer. Elsewise,  
21 there will be an imbalance in the system.

22 In the civil context, does that circumstance also  
23 exist? And, in my view, the answer is resoundingly yes,  
24 because those people whose economic security is  
25 threatened, um, and may not otherwise have access to a

1 lawyer, should have some guarantee to be able to have  
2 their voice heard in court in a meaningful way.

3 SENATOR VULAKOVICH: So, a state would have  
4 to accept that what they refer to as an obvious truth as  
5 law in a state? Right? I mean, the only way you would  
6 have the idea of this civil representation as a right,  
7 you would have to pass a piece of legislation that would  
8 be basically based on Gideon vs. Wainwright?

9 MR. GRUMM: You could do that. As has  
10 happened in other jurisdictions right now -- and this is  
11 still in the pretty early stages, so this is a good time  
12 to be having this conversation -- they've taken a little  
13 bit more of a piecemeal approach. So, for example, in  
14 California, they have identified certain kinds of cases.  
15 Someone threatened with either eviction or foreclosure,  
16 who could lose their home and not have a roof over their  
17 head. And they said, this implicates a fundamental need  
18 that they have.

19 And in that circumstance, this person is done a  
20 disservice by our justice system if they can't have a  
21 lawyer to help guide them through, so they've taken a  
22 more piecemeal approach to it rather than the more idea  
23 of the sweeping declaration that would say in all civil  
24 matters one would be entitled to counsel.

25 SENATOR VULAKOVICH: And just an observation

1 from me, I would think one of the problems would be how  
2 do you determine who is poor, low income?

3 MR. GRUMM: Um-hum. Um-hum.

4 SENATOR VULAKOVICH: They could be poor at  
5 one stage of their life, but prior to, they weren't  
6 poor. And low income comes and goes, and there's never  
7 going to be enough money to solve everybody's litigation  
8 problems, so it seems to me it would be a difficult thing  
9 to do, and maybe the way you are saying is you pick up a  
10 certain category and say, well, in these circumstances  
11 you do have a civil right to that. Because I could just  
12 see this, like, exploding.

13 MR. GRUMM: Um-hum, and then the question of  
14 a means testing is an important one. The civil legal aid  
15 context, for example, the legal services corporation in  
16 D.C., the Federal funding conduit, they have established  
17 some criteria that look at income and asset measurement  
18 to figure out if someone -- and the marker in most  
19 circumstances we use -- at 125 or less of the Federal  
20 poverty guidelines. So they actually do have the  
21 infrastructure in place to do it, and I don't know this  
22 for a fact, but my strong suspicion is that in the cases  
23 of these pilot right to counsel programs, they're using  
24 if not that test, a very similar means test.

25 SENATOR VULAKOVICH: Thank you.

1                   SENATOR GREENLEAF: Thank you so much for  
2 being here today.

3                   MR. GRUMM: My pleasure. Thank you.

4                   SENATOR GREENLEAF: Okay. We have this room  
5 until 4:00, so we have about 14 minutes for the last  
6 witnesses.

7                   The Findings and Recommendations of the Civil Legal  
8 Justice Coalition. Jennifer R. Clarke, Esquire,  
9 Executive Director, Public Interest Law Center of  
10 Philadelphia; James W. Creenan, Esquire, President-Elect  
11 of the Allegheny County Bar Association; and Samuel W.  
12 Milkes, Esquire, Executive Director, Pennsylvania Legal  
13 Aid Network. We thank you very much for being here  
14 today.

15                   MR. CREENAN: Thank you, Senator. Thank you  
16 for having us.

17                   SENATOR GREENLEAF: We can't wait to hear  
18 from you. I'm sorry -- we after three hearings and a lot  
19 of testimony and a lot of good witnesses, now you're  
20 gonna solve all of this, right?

21                   MR. CREENAN: In, uh, twelve minutes.

22                   SENATOR GREENLEAF: Exactly. But we want to  
23 hear what your recommendations are because they are very  
24 important, so please proceed.

25                   MR. CREENAN: Thank you, Senator. Just for

1 a moment I would to thank all of the witnesses who have  
2 appeared today as well as the members of your Committee,  
3 and the staff members who have taken the time to  
4 understand and better plan for the issues that our legal  
5 communities are facing, not just here in Allegheny  
6 County, but throughout Pennsylvania.

7 The Civil Justice Coalition is made up of members  
8 from around the State of Pennsylvania. The three people  
9 at this table represent the Philadelphia, Harrisburg, and  
10 Pittsburgh area, but, frankly, what we've heard from  
11 witnesses throughout the Commonwealth is the same stories  
12 can be told whether they're from Lackawanna County or  
13 Erie County as well.

14 Our work today has lead to -- over the last several  
15 years, actually -- has lead to testimony today where  
16 we've heard about the problems the lack of funding has  
17 resulted and caused for the justice system. The economic  
18 benefits has been discussed, but Judge Caruso brought up  
19 a very good point in how the legal system is impacted not  
20 just from a time sense, but also from being placed in  
21 dilemmas about how to handle unrepresented litigants that  
22 not only places the aspect to due process in the  
23 cross hairs, but also focuses light potentially on people  
24 walking away from the courthouse having a negative  
25 outcome, and not just having a negative outcome, but that

1 being underscored by a fear that the system itself was  
2 not fair to them as testified by Judge Hens-Greco  
3 earlier.

4 I know we are short on time. I'd like to recap all  
5 of the testimony, but one comment from Judge -- I'm sorry  
6 -- Dean Gormley. Dean Gormley mentioned one of their big  
7 initiatives really can only make -- what he said was -- a  
8 small dent.

9 Our Allegheny County Bar Association and our sixty-  
10 four hundred members is supplying, on a daily basis, pro  
11 bono services and I understand, from what we've heard  
12 today, all the good work we're doing just is not enough  
13 because of the funding issue. With that, I will turn the  
14 testimony over to Tri-Chairs, Sam Milkes.

15 MR. MILKES: I want to echo the thanks,  
16 especially to you, Attorney Greenleaf, for deciding to  
17 convene these hearings and for having endured through  
18 them, but certainly to all of the members of the  
19 Committee.

20 A couple of population statistics. and then I want to  
21 address the recommendation regarding funding of legal  
22 services.

23 Pennsylvania has a population of about 12.8 million  
24 people, of whom 1.8 of live at the poverty level. That's  
25 up from 1.6 million just a couple of years ago. Of that

1 125 percent level of eligibility for legal services, is  
2 actually about 2 million people in Pennsylvania. Two  
3 million people eligible for services. We have great  
4 rates of poverty in certain areas. Reading was actually  
5 the highest poverty level in the nation for a period of  
6 time, I think it's now second. Fayette County is 19.2  
7 percent poverty, and Philadelphia is 25 percent.

8 And my point is to say there are high levels of  
9 poverty, but it is just not an urban issue either. It is  
10 certainly rural also. Two-thirds of the clients  
11 represented by the Pennsylvania Legal Aid Network are  
12 female. Pennsylvania has the fourth highest population  
13 of elderly residents, and here's an interesting statistic  
14 that really goes to the heart of, I think, the purpose of  
15 these hearings.

16 In general, there is in Pennsylvania, one lawyer for  
17 every 177 people above the poverty level. For poor  
18 people, for people eligible for legal services, there is  
19 one lawyer for every 4,198 people. 4,198 versus 177, and  
20 that's where the crunch is. That's why the  
21 representation is not always available.

22 We are making a recommendation about funding legal  
23 services, but that certainly has not been the sole focus  
24 of these hearings. We do have other recommendations. We  
25 do have other systems that we suggest for continuing to

1 study and make further recommendations. And we are not  
2 trying to fund a Civil Gideon. We are not proposing a  
3 funding level that would get us to that point, although  
4 the Pennsylvania Bar Association and many Bars have  
5 formally gone on record supporting civil right to counsel  
6 regarding cases of basic human needs.

7 We have looked at the fact that in Pennsylvania for  
8 every person represented by a legal services program,  
9 there is another person eligible for services, asking for  
10 help, who is being turned away. That studies show that,  
11 in fact, we are meeting only about 20 percent of the need  
12 and, actually, you heard it from Rhodia Thomas, Executive  
13 Director of MidPenn Legal Services, at an earlier hearing  
14 that they are only meeting about 5 to 10 percent of the  
15 need.

16 And judges say 80 to 90 percent of the family cases  
17 before them involve unrepresented litigants. So we  
18 looked at what it would take to significantly reduce the  
19 number being turned away. We focused on that factor. At  
20 least people who are eligible and coming for help, we  
21 should not be turning away. New York and Maryland found  
22 in similar kinds of studies, their recommendation was  
23 \$100 million of needed funds for legal services. We  
24 looked at the existing level of funding for legal aid  
25 programs -- and that's just not Pennsylvania Legal Aid

1 Network Programs -- but all of the IOLTA funded programs.  
2 The various -- many of them specialized kinds of sort of  
3 niche as well as the larger programs and together  
4 including all funded sources; United Ways, attorneys, Bar  
5 Associations, Federal government, local government and so  
6 forth, it comes to about \$78 million.

7 We realize we're not capturing every single place, so  
8 we estimate about \$85 million of current funding. If we  
9 were to be able to get to that point of not turning away  
10 that other half of people who come to us for help, we  
11 know there will be some economies of scale and  
12 efficiencies, and so the suggestion we make, the  
13 recommendation we make, to the Committee, to the  
14 Legislature, is \$50 million. But that's the number that  
15 is needed in Pennsylvania to get us to a point of having  
16 reasonable access to the courts in Pennsylvania and, like  
17 New York, that's not for next year's budget. We're not  
18 suggesting that as immediately achievable, but over a  
19 period of years that that could and should be phased in.

20 And so that is our funding recommendation. We will  
21 be submitting a report to the Committee that discusses  
22 this in more detail. I want to now defer now to Jenny  
23 Clarke to talk about some other recommendations.

24 MS. CLARKE: So, I'd like also to thank  
25 Senator Greenleaf and the Committee for holding these

1 hearings. Over the course of the hearings, we've heard a  
2 lot of other great ideas, too, and so the last two  
3 clusters of recommendation have to do with those other  
4 great ideas.

5 The first great idea has to do with the Access to  
6 Justice Commission. And before I talk about that  
7 subject, I want to give a few caveats. These  
8 recommendations, and particularly the ones that I'm gonna  
9 be giving, are recommendations of the Civil Legal Justice  
10 Coalition and the people in it, but not necessarily all  
11 of the Bar Associations which have to go through formal  
12 processes to approve recommendations. So with that  
13 caveat, the Civil Legal Justice Coalition this group of  
14 people who have gotten together from all over the  
15 Commonwealth, are making this recommendation right now.

16 So the first recommendation is that the Court  
17 establish an Access to Justice Commission with two  
18 conditions, which I'll talk about in a moment. And the  
19 reasons -- we've heard from Mr. Grumm many of the great  
20 reasons from outsiders, but from the perspective from  
21 those of us who have worked on this for the past couple  
22 of years, there's two main reasons. One is we've heard  
23 great ideas. We've heard great ideas today about what's  
24 happening in Pittsburgh, but it's not a statewide  
25 program. We've heard great ideas in Philadelphia, the

1 mortgage foreclosure -- mortgage diversion program, but  
2 those aren't statewide.

3 An Access to Justice Commission would give us a way,  
4 a mechanism, to share those ideas and to find the ones  
5 that work on a statewide basis.

6 The other reason that we are recommending an Access  
7 to Justice Commission is sustainability. All of us who  
8 have worked on this, have day jobs. We are volunteers.  
9 We are happy volunteers, but we're very concerned that  
10 this work continue and it continue with a more  
11 formalized, a more organized, a more official platform.

12 We have come up with -- and that will be second piece  
13 of the recommendations today -- eight ideas that we think  
14 should be pursued. But they're all ideas that require  
15 study. They're ideas that require finding best practices  
16 from other states; finding out, getting buy-in from the  
17 Bar Associations and all of the stakeholders. So for  
18 that reason, we are -- with the two caveats I'll talk  
19 about in a minute -- recommending that Pennsylvania  
20 establish an Access to Justice Commission and join the 30  
21 or so other states in the country that are doing that.

22 The two caveats are, one, of course, there's  
23 Commissions and there's Commissions, and it's very  
24 important that an Access to Justice Commission represent  
25 a broad cross section of interests of governmental

1 interests, of all of the stakeholders, and so the  
2 structure and the composition of the Access to Justice  
3 Commission are to us as important as having one.

4 And in the report and recommendations that I expect  
5 that we will be submitting in the report, we will flesh  
6 out our ideas about what we think an Access to Justice  
7 Commission should look like; who the stakeholders should  
8 be; how it should be organized.

9 The other caveat for an Access to Justice Commission  
10 is it will require some modest funding. We have no  
11 interest in taking away money that could be actually used  
12 to deliver legal services, but there would have to be  
13 some modest support for travel and/or for some  
14 organized -- some support staff to do organization. So  
15 that's the second of our three recommendations.

16 And the first, or the third, relates very closely to  
17 the second, and that is, we've heard a lot of great  
18 ideas. And there are eight of them that we recommend be  
19 first on the list for further study, and they're not --  
20 each idea is really a cluster of ideas, and I'm gonna  
21 just go through them very quickly.

22 We have provided, in our packet, a written submission  
23 that documents all of these recommendations, but the  
24 eight ideas we think merit further study through an  
25 Access to Justice Commission hopefully or maybe not, and

1 these great ideas aren't just actions by the Legislature,  
2 but they're actions by the Court, by the Bar  
3 Associations, by the Law Schools.

4 So the first has to do with pro bono service. So  
5 we've heard a lot about pro bono service, and those of us  
6 who run public interest organizations value and love that  
7 pro bono service, but let's study adopting, for example,  
8 Model Rule 1.6 sets an aspiration of 50 hours of pro bono  
9 service. Let's look at New York's model of having a  
10 requirement of pro bono service before people become  
11 lawyers. These are things that need to be studied. We  
12 need to hear what the Pennsylvania Bar Association thinks  
13 about that. We need to hear what the law schools think  
14 about that. So that's the first of the eight great  
15 ideas.

16 The second has to do with whether -- there are  
17 certain minimum requirements that courts should have for  
18 access to justice. Should every court have a help desk?  
19 Should every court have electronic filing? Let's look at  
20 that. Let's talk to the courts, and let's find some best  
21 practices and define some best practices.

22 The third great idea we think we should study is  
23 let's look at some of these court programs that we've  
24 heard about. The mortgage diversion program in  
25 Philadelphia, and let's study whether those should be

1 extended statewide -- or maybe it doesn't make sense to  
2 extend those in every state.

3       The fourth idea that we think merits further study  
4 is, um, whether the Commonwealth Administrative Agencies  
5 that have hearings, administrative hearings, have some  
6 sort of uniform form and transparency so that people that  
7 practice in administrative agencies have easier and  
8 closer access.

9       The fifth recommendation, or the fifth idea that we  
10 think merits further study, is let's look at the law  
11 schools and let's see how they can reduce the gap. We've  
12 heard about Duquesne today, but what else can the law  
13 schools do? Is there some sort of access to justice  
14 curriculum? Maybe the law schools could all get together  
15 and themselves explore ways that they can improve access  
16 to justice. That's an area that we think is, again, an  
17 ideal area for an Access to Justice Commission, but for  
18 further study.

19       Sixth, is this idea of Civil Gideon. Let's look at  
20 -- let's really look seriously at whether Pennsylvania  
21 wants to adopt in some piece of the area of civil  
22 litigation, particularly those areas that are most  
23 pressing human needs; protection from abuse orders, or  
24 landlord tenant. Let's take a look at that. Let's look  
25 at the law. Let's look at some of the questions that the

1 Senator was asking earlier about whether there are pieces  
2 that we could carve out to say, yes, in these situations  
3 you have a right to counsel.

4 Number seven is, let's look at the legal services  
5 programs. We said if we're gonna ask everybody else to  
6 do something, we should do something, too. Let's see if  
7 there are ways that we can deliver our services more  
8 efficiently. We all -- we know that the quality is very  
9 high, but let's see if there are ways that we can do this  
10 more efficiently.

11 And the final great idea that we think we should look  
12 at is, let's see what we can do -- let's study what  
13 public awareness would do on this subject. How would we  
14 get public support, and what would it mean to have public  
15 support? How did that work in New York?

16 So, with those recommendations, the funding an Access  
17 to Justice Commission with those caveats, and then that  
18 we study these very -- these great ideas very seriously  
19 and see what organizations around the State think. We  
20 submit our recommendations.

21 Senator, we would ask that with your permission we be  
22 able to submit a report with more detail about these  
23 recommendations and what we've heard after this hearing.

24 SENATOR GREENLEAF: Yeah, I'll look forward  
25 to that you certainly can. In fact, that leads me to the

1 people who have written testimony here. Are we finished  
2 with the presentation?

3 MS. CLARKE: There is just one other thing.  
4 To the extent that the Senator has asked questions or we  
5 think there are additional questions that might be  
6 answered, we would request permission to submit  
7 additional testimony to respond to some of the questions.

8 SENATOR GREENLEAF: Absolutely, you can do  
9 that. And I want to thank you all for your work on this.  
10 I know, again, that this is volunteer work that you're  
11 doing and you've -- first of all, the witnesses have been  
12 superb in all of the venues that we've had these  
13 hearings. They've been outstanding and very informative,  
14 and certainly today is no exception. So we thank you for  
15 your efforts and your advocacy for this, and we look  
16 forward to working with you.

17 MS. CLARKE: Thank you.

18 SENATOR GREENLEAF: Just for the record, we  
19 have written testimony submitted here of the Committee  
20 which will be incorporated into the record. The  
21 Honorable Dick Thornburgh, Former Governor, Commonwealth  
22 of Pennsylvania and Former U.S. Attorney; William R.  
23 Carter, Jr., Esquire, Dean and Professor of Law,  
24 University of Pittsburgh School of Law; Max W. Laun,  
25 Esquire, Vice President and General Counsel, Alcoa; James

1 D. Schultz, Esquire, General Counsel, Office of the  
2 Governor; Rochelle Jackson of Just Harvest; Barbara  
3 Penner, Associate Director of Member Services, Standing  
4 firm; Natalia Rudiak, Pittsburgh City Council; Dr. John  
5 Pletcher, Clinical Director, Division of Adolescent  
6 Medicine, Children's Hospital of Pittsburgh; Ellen  
7 Kramer, Esquire, Legal Director, Pennsylvania Coalition  
8 Against Domestic Violence; William Higgins, Esquire,  
9 District Attorney of Bedford County; Jane Charlton,  
10 Esquire, Pro Bono Attorney; William Ingold, Client of  
11 Neighborhood Legal Services Association; Judith Muscante,  
12 Client of Neighborhood Legal Services Association,  
13 Medical Legal Collaborative for Patients; Kathleen Jasek,  
14 UPMC McKeesport Hospital; and Ibrahim Isaac Ghobrial, MD,  
15 Program Director, at McKeesport Hospital.

16 We will incorporate their testimony as well. One  
17 more final thing. Were there any questions for the  
18 ladies and gentlemen? If not, this will conclude our  
19 hearings, and now we have to go to work.

20 The Committee is adjourned.

21 (Whereupon, the above-entitled matter was  
22 concluded at 4:13 p.m., this date.)

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C E R T I F I C A T E

I hereby certify that the proceedings and  
evidence are contained fully and  
accurately in the stenographic notes taken  
by me on the hearing of the within cause  
and that this is a correct transcript of  
the same.

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Donna R. Betza, CMRS, Court Reporter

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## attorneys

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audience

broadly

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<b>i'm</b> (15:16)(15:23)	<b>increase</b> (33:15)(40:25)	(139:6)	(13:19)(15:19)(15:25)
(23:14)(25:25)(26:1)	(81:3)(89:18)(107:20)	<b>interested</b> (23:22)	(16:22)(18:13)(22:3)
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## negotiate

## outsider

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## timing

## victim

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