

PUBLIC HEARING

IN RE: NEW JERSEY STATE BAR * JUNE 6, 2016
ASSOCIATION SUBCOMMITTEE ON *
JUDICIAL INDEPENDENCE IN THE *
MUNICIPAL COURTS *
- - - - - *

SCHULMAN, WIEGMANN & ASSOCIATES

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T R A N S C R I P T of the stenographic notes of the proceedings in the above-entitled matter as taken by and before LATITISA RUSSELL, CCR #30XI00234100, RPR and Notary Public of the State of New Jersey, held at Seton Hall Law, First Floor Mock Trial Room, 111 Raymond Boulevard, Newark, New Jersey, June 6, 2016 commencing at 4:00 p.m.

1 **SUBCOMMITTEE MEMBERS:**

2

3 **Barbara Ungar, Esquire**

4 **Honorable Richard Nunes (Retired)**

5 **Honorable Frank Zinna (Retired)**

6 **Patricia Quelch, Esquire**

7 **Jon Henry Barr, Esquire**

8

9

10 **PUBLIC SPEAKERS:**

PAGE

11 **Thomas Prol**

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12 **Matthew Reisig, Esquire**

15

13 **Dennis Epperly**

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14 **April Cabbell**

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15 **Thomas McDonough, Esquire**

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E X H I B I T S

NO.	DESCRIPTION	PAGE
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MS. UNGAR: My name is Barbara Ungar.

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I'm the Chair of the subcommittee on judicial

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independence in the municipal courts and the past

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Chair of the municipal court practice session. We

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have 12 members of our panel of subcommittee

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members. Some of them, because of conflicts in

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schedules, will not be here today. So we do have

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Judge Richard Nunes, who is a judge in municipal

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court here in Newark. Judge Frank Zinna used to

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be our presiding Judge in Essex County. Patricia

12

Quelch and we do expect one or two other members

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to join us. All of the other individuals on the

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subcommittee get a copy of the transcript of these

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proceedings. So this is our fourth and final

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hearing. Our first one was on April 4th in the

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law center.

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Our second one was May 2nd in

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Glassboro, New Jersey at Rowan University in New

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Jersey. Our third one was May 19th in Atlantic

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City at the annual meeting of the New Jersey State

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Bar Association and this is our fourth and final

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hearing. All the committee members will receive

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transcripts of every hearing and all the testimony

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that has been presented before the hearing and we

1 will considering that as part of the subcommittee,
2 which will be reconvening and making
3 recommendations to the Bar Association for their
4 determination ultimately meet and make
5 recommendations and prepare a report that goes to
6 the session to ultimately to the Bar Association.

7 We have very privileged and honored
8 today to have Tom Prol, our newly-installed
9 president of the Bar Association to join us in
10 this gathering here of our fourth and final public
11 hearing and we really appreciate the Bar's
12 Association officers and trustees in allowing us
13 to conduct these public hearings. They are quite
14 significant and important in our role in
15 determining judicial independence of the municipal
16 courts and I'll like Tom to provide some remarks.

17 MR. PROL: Good afternoon. I wanted
18 to come here today because it's so important to me
19 and I wanted to say thank you for the opportunity
20 to come and testify today. I felt it important to
21 come and speak at this final hearing because this
22 is the first hearing where I get to speak as the
23 State Bar President and I came here today to
24 reinforce how absolutely important and critical I
25 consider the work this committee is doing to the

1 State Bar.

2 I came here to speak directly and
3 publicly on how important and valuable I feel your
4 work is and to tell you how the NJSBA Executive
5 Committee and the Board of Trustees applaud the
6 work in the municipal court section in doing this
7 work and is undertaking our request to examine the
8 threats to a fair and impartial municipal court
9 system. The task to gather the data from the
10 lawyers, judges and members of the public is an
11 important service to our judicial system and our
12 community.

13 And I thank you for the hours and days
14 you each have put into this and I recognize how
15 much time and how much effort that is and from me
16 personally I say thank you and I want to say that
17 I appreciate what all you're doing and that our
18 ears will be open when you finally speak in
19 issuing your report.

20 In short, let us hear the concerns,
21 the problems, the good and the bad of the
22 municipal court system and we eagerly anticipate
23 what you have to say and will receive it and give
24 it its due consideration and where appropriate
25 take action. You have my personal commitment on

1 that, as well.

2 You are no doubt well aware of the
3 fact that most people become involved in the
4 justice system do so through the municipal court
5 system and the numbers are staggering and they
6 should sober us in our work here understanding the
7 impact that your report can and will have.

8 At its heart, the judicial system is
9 here to protect the rights of each and every
10 citizen in our state and country and there is no
11 issue more important to the legal community and
12 general society than being able to trust in the
13 courts, to resolve disputes in accordance with the
14 facts and the law of the land in ways not
15 motivated by personal or political concerns or
16 budget issues.

17 So with that, I would encourage you to
18 route out these insidious political influences
19 that have absolutely no place in our judicial
20 system and encourage you to take every measure and
21 every recommendation you can and don't hold back.

22 The association is now and always will
23 be committed to serving as the protectors of our
24 judiciary. As such, the NJSBA has an important
25 role to play as the law firm for the judiciary.

1 We are each instruments of that noble effort. We
2 are going to continue to stand up and speak out on
3 this important issue of judicial independence.
4 That is our prime directive as an association. I
5 consider it our most important measure and we're
6 here as advocates of the courts in the system of
7 public when independence and impartiality of the
8 courts are impacted.

9 Again, I thank you for the incredible
10 amount of work you're doing. I recognize how much
11 work this takes and I appreciate that. As I said,
12 I'm all ears. I'm eagerly anticipating your
13 report. So thank you.

14 MS. UNGAR: Thank you so much, Tom.

15 JUDGE NUNES: Thank you.

16 JUDGE ZINNA: Thank you.

17 MS. UNGAR: Thank you so much. We
18 really appreciate your heartfelt remarks and we
19 really appreciate the Bar Association's officers
20 for the trustees and the whole state bar being so
21 interested in the work.

22 By way of background, the subcommittee
23 was formed following the subcommittee on judicial
24 independence in the municipal courts was
25 formulated back in 2013. The state bar created a

1 task force to study judicial independence and it
2 comprised of about 14 members. Four public
3 hearings were conducted throughout the State of
4 New Jersey by the task force on judicial
5 independence to consider threats to judicial
6 independence in the State of New Jersey. The task
7 force prepared an in-depth report that detailed
8 recommendations for the protection of future
9 continued judicial independence of the courts.
10 Many of the recommendations contained in that
11 report were ultimately adopted by the State Bar
12 Association previously.

13 In the report of the task force on
14 judicial independence issued in May of 2015, the
15 task force recognizes that municipal courts are
16 charged with the responsibility to judge traffic
17 offenses, disorderly persons offenses, petty
18 disorderly persons offenses and violations of
19 municipal ordinances. They also handle instances
20 of alleged domestic violence and certain housing
21 matters. All of these matters may lead to the
22 imposition of fines along with other associated
23 penalties. The manner in which issues are
24 disposed of can and often have significant impact
25 upon a municipality's budget and financial

1 strength.

2 The task force also acknowledged that
3 a comprehensive study of the inter-relationship
4 that may exist between a municipal court's
5 financial performance and the length of a
6 municipal court judge's service requires extensive
7 time and resources and should be conducted.

8 As a result, the task force
9 recommended that the New Jersey State Bar
10 Association create a separate subcommittee charged
11 with the singular focus to address judicial
12 independence in the municipal courts. The task
13 force further recognized that the municipal court
14 is the court with which most citizens come into
15 contact. Its integrity, both actual and
16 perceived, is critical to the public's acceptance
17 of its determinations, which must be made without
18 regard to whether findings of guilt and the
19 imposition of fines, could serve to assure
20 continuation of a judge's position.

21 In the fall of 2015, the New Jersey
22 State Bar Association through its officers and
23 trustees and its municipal court practice section
24 created a subcommittee addressing judicial
25 independence in the municipal courts. The

1 subcommittee on judicial independence in the
2 municipal courts determined that it was necessary
3 to gather and compile anecdotal information in
4 further examining these issues.

5 The New Jersey State Bar Association
6 through its officers and trustees and its
7 municipal court practice section approved of the
8 scheduling of these four public hearings. Today
9 being the final public hearing at the Seton Hall
10 Law School here in Newark. During the public
11 hearings it has been anticipated that the New
12 Jersey State Bar Association subcommittee on
13 judicial independence in the municipal courts will
14 consider the impact by fiscal constraints may have
15 on the municipal courts as well as the
16 inter-relationship that may exist and the lack of
17 uniformity throughout the state in the appointment
18 and the reappointment of municipal court judges.
19 The hearings will also address the impact of
20 judicial independence in the lack of uniformity
21 throughout the state upon the judicial salaries
22 and the lack of tenure of the judges in the
23 municipal courts.

24 The goal here of the public hearings
25 is to obtain anecdotal information from members of

1 the Bar, the judiciary and members of the public
2 in an effort to enhance the operation of the
3 municipal courts and thereby ensuring the
4 independence of the municipal courts in this
5 state. It's our ultimate goal that throughout the
6 process of conducting these four public hearings
7 throughout the state and recommendations being
8 made by the subcommittee on judicial independence
9 in the municipal courts to the State Bar
10 Association, which officers and trustees through
11 its municipal court practice section that it will
12 lead to the enhancement of continued further
13 independence of the municipal court judiciary as
14 it ultimately benefits the public.

15 I'm going to provide some introductory
16 remarks on the procedure of these public hearings
17 and then we'll begin. I just wanted to welcome
18 all of you to these public hearings. We want to
19 thank you for taking time and effort to share your
20 thoughts and recommendations on this very
21 important subject.

22 As I indicated, the goal of the public
23 hearings is to collect information from lawyers,
24 retired judges and members of the community to
25 evaluate the current status of judicial

1 independence in the municipal courts and number
2 two, to study and evaluate what steps can be taken
3 to ensure future independence of the municipal
4 courts and finally, provide recommendations to the
5 State Bar Association and judiciary.

6 Some of the rules that we are going to
7 follow for this hearing, some of you have signed
8 up in advance. I will go down a list of speakers
9 and we're going to first call any speakers that
10 are here that had contacted the Bar Association.
11 If anybody does come a little later, they will be
12 called second. Each speaker, when you get up to
13 the podium, I would ask you to introduce your
14 name, speak into the microphone your occupation
15 and the town where you live. Each speaker will be
16 given, approximately, seven minutes for their
17 presentation. We ask that anybody in the audience
18 do not talk during the presentation. From time to
19 time members of the committee may wish to ask
20 questions of the speaker in order to clarify an
21 issue or a follow-up question. So that will take
22 longer sometimes than the seven-minute timeframe
23 and questions from the subcommittee members are
24 designed to gather information in order to improve
25 the quality of our recommendations as a

1 subcommittee. If you don't understand the
2 question, please let us know. I will ask the
3 person asking the question to provide a
4 clarification. We ask that any members of the
5 audience not comment when the speaker is
6 presenting testimony before the committee.

7 This testimony is being transcribed.
8 A transcription of the testimony and the
9 statements here before the subcommittee will be
10 provided to all members of the committee and there
11 are 12 of us all together. Anyone present today
12 or anyone who would like to submit written
13 comments beyond today or materials to the
14 subcommittee for future consideration, that can be
15 done through Kate Coscarelli, who's present.

16 As I indicated, proceedings today are
17 recorded and the transcript will be prepared and
18 provided to all subcommittee members within the
19 next few weeks. At this time I would as
20 Mr. Matthew Reisig to come to the podium.

21 MR. REISIG: Judge, Ms. Ungar, Ms.
22 Quelch, many other people who are present for this
23 task force, my name is Matthew Reisig. My last
24 name is spelled R-E-I-S-I-G. I'm an attorney at
25 law in this state, been admitted since 1995. I've

1 owned my own law firm since 1998. That law firm
2 is Reisig Criminal Defense and DWI Law, LLC. It's
3 a limited practice. I only defend indictable
4 matters, all municipal court matters. I defend
5 defendants in final restraining order hearings,
6 which are not criminal or quasi-criminal as
7 defined by Supreme Court and the prevention of
8 Domestic Violence Act 2C:25-17 through 34
9 inclusive. I'm also an appellate attorney. If my
10 clients should lose a case, I have been known to
11 take appeals. I'm also retained by other
12 defendants or encouraged to do so by their
13 attorneys to take over matters in the appellate
14 courts and I write my own briefs in all cases.

15 I have two trial certifications. I
16 have been in front of the Supreme Court five
17 times, five published cases and got the sixth case
18 published because I had a matter currently pending
19 in front of the New Jersey Supreme Court.

20 The keywords that I want to address
21 with this task force are integrity and perception.
22 In any order we want, perception and integrity.
23 So as Ms. Ungar pointed out this task force came
24 about because of the judicial independence task
25 force and that report was issued in May of 2015.

1 The bottom of page 31 of that report and I'm
2 quoting it states, municipal court is the court
3 with which most citizens come in contact. Its
4 integrity, both actual and perceived is critical
5 to the public's acceptance of its determinations,
6 dot, dot, dot, end quote and that's what I'm going
7 to focus on, perception and integrity because a
8 person's perception becomes reality unless there
9 is any reason for that person to reevaluate said
10 perception. So in many cases and certainly what's
11 before this task force perception is an
12 individual's reality.

13 Now how are municipal court judges
14 appointed and/or reappointed because as the prior
15 task force report noted municipal court judges are
16 in the judicial branch. Not like workmen's comp.
17 judges. So for all intents and purposes you have
18 superior court judges. You have Supreme Court
19 justices and you have municipal court judges.
20 They are all part of the judicial branch, but the
21 appointment of superior court judges and
22 obviously, Supreme Court justices is far
23 different. In fact, it's radically different than
24 how municipal court judges are appointed.
25 Municipal court judges are appointed by a town, by

1 the town father, town council, whether it's a
2 mayor form of government or otherwise. It's a
3 political appointment. As we know, it's a
4 three-year subject to two statutes, but it's a
5 three-year term and a municipal court judge serves
6 until such time as he or she is reappointed or
7 not.

8 Now we know that the appointment,
9 itself and of course, the reappointment is
10 entirely politicized. That's just the way it is.
11 If it's a republican town council, they will
12 appoint a republican judge and if that should
13 change in the intervening three years when that
14 judge comes up for reappointment if it's now a
15 democratic town, they'll appoint a democratic
16 judge.

17 There are exceptions to that, but not
18 many. So I would direct anyone who's on this task
19 force to read an article in the New Jersey Law
20 Journal. It was issued on January 10, 2014. It's
21 entitled, Pressure On Municipal Judge As Revenue
22 Source Is In Spotlight. That article is about a
23 municipal court judge in the Monmouth vicinage,
24 who was not reappointed to a given court in the
25 Monmouth vicinage. Because if we believe the

1 article and nobody has disputed the article, a
2 member of the town council of that particular
3 municipality didn't think that judge was
4 generating enough revenue.

5 The judge's comment as reported in
6 this article to the town council member, when this
7 was brought to my attention, I thought my job was
8 to provide due process of law to those people who
9 are coming before this court. I didn't think it
10 was to generate revenue, per se, for the town.

11 What's interesting in that
12 circumstance and there's hundreds of
13 circumstances, this is just the one that was the
14 focal point of this article is that the successor
15 of that judge, the judge who got that court, who
16 had many courts, was removed from the bench by
17 order of the assignment judge at the Monmouth
18 vicinage. Let's be real, instruction from Trenton
19 because the manner in which that judge assessed
20 fines and how he categorized fines in the various
21 that municipal courts he presided in, that judge
22 was removed from the bench. He remains off the
23 bench and he is currently under criminal
24 investigation by the Monmouth County Prosecutor's
25 Office. That, you can't make up.

1 So clearly there is a relationship
2 between judges being appointed and being
3 reappointed based on a revenue generated by a
4 particular municipality or municipal court. Well,
5 how does revenue generated through a municipal
6 court? People plead guilty or found guilty. If
7 you go to trial, I'm going to trial. I defend
8 somebody and they are acquitted of DWI, let's say
9 they are acquitted of the other underlying
10 charges, as well, they are not generating any
11 revenue to the municipal court because they are
12 being found not guilty. So obviously, there is an
13 incentive for judges to find people guilty because
14 that generates more revenue for the municipality.
15 Doesn't matter how much integrity a judge has or
16 not, that is an inherent conflict. It's inherent
17 to the process.

18 These judges, these municipal court
19 judges, who know that there is an appointment up
20 for grabs, actually, if they get an interview for
21 given municipal court judgeships, show up with
22 graphs. They show up with statistics, sometimes
23 PowerPoint demonstrations and it's all about how
24 much revenue they generate in their other courts.
25 That happens. It's a fact. It's wrong.

1 You follow the money in municipal
2 court. Municipal court, as Ms. Ungar mentioned,
3 relates to motor vehicle matters. Motor vehicle
4 matters vary, but the general rule of thumb is the
5 fine is split between the municipality and the
6 state by in large. There are court costs of a
7 motor vehicle matter that goes to the state. Most
8 cases \$39. Now a DWI in a motor vehicle matter
9 and there are exceptions for a DWI, for instance,
10 there's one surcharge assessed \$225, that goes to
11 the state. There is a safe neighborhood, there's
12 the VCCB, safe neighborhood VCCB, Violent Crime
13 Compensation Board assessment. They go to the
14 state. Now municipal court is also a lesser
15 criminal offense which is defined as disorderly
16 persons or PDP, petty disorderly persons offense.
17 100 percent of that fine stays in the town. None
18 of it goes to the state. The state gets the VCCB
19 and safe neighborhood assessment. The state gets
20 the court cost. Now if the person should end up
21 with a municipal ordinance, which is in most cases
22 what they want, there is no VCCB. There is no
23 safe neighborhood. The fine stays within the
24 town. The court cost goes to the state. So
25 that's where the money goes. In drug cases

1 there's the other assessment, which are penalties
2 and associated lab fees that goes directly to the
3 state.

4 Remedies: It's great to point out all
5 the problems and the inherent conflict with
6 judicial independence in the municipal, but I have
7 remedies. You have a temporary fix and then you
8 could have a permanent remedy. A temporary fix
9 would be as follows: You appoint judges in
10 municipal court the way the superior court judges
11 are appointed. They have to be made a member of
12 the judiciary in that sense. At that point a
13 judge isn't going to care if a person is found
14 guilty or not because he can care less how much
15 money is generated. It just wouldn't matter to
16 that judge.

17 Integrity and perception, there is
18 another perception here. When people go to
19 municipal court because some police officer gave
20 them a ticket or complaint, should they go to
21 municipal court and as the prior task force
22 judicial independence report pointed out, it's the
23 court that more people have more familiarity with
24 because more people go to municipal court or have
25 been party in a municipal court more than any

1 other form of court system by far. They go to
2 court and all they see are police officers. The
3 presence of police officers in every municipal
4 court is pervasive. So what you have to do at a
5 minimum, as a temporary fix, is to either remove
6 or reduce the presence of police in the municipal
7 court. For instance, they can't be security
8 officers because that sends the wrong message.

9 What happens in municipal court is
10 police officers routinely walk in and out of the
11 offices. They don't knock. They just walk in
12 full view of the public. So let's say you're John
13 Q citizen. You get a speeding ticket. You don't
14 hire an attorney. You go to municipal court and
15 all you see are police. That person's perception
16 is that it's not a level playing field.

17 Now there is a circumstance and this
18 panel should be aware of it, that it happens in
19 various municipal court in Camden County, in
20 particular and in various other municipalities
21 throughout the state. Now let's go back. There's
22 about 490 municipal courts left. We have a lot of
23 courts and in these select courts, the first
24 individual that a person who's been charged with
25 something meets with in the municipal court,

1 they're contesting their charge. They pled not
2 guilty. They go to municipal court. They are
3 meeting with a police officer. That is the
4 practice in the Cherry Hill Municipal Court, which
5 is a huge municipality in Camden County. It is
6 the practice in a place called Stratford Borough,
7 which is also in Camden County and in other places
8 throughout the state and that pro se defendant may
9 not ever meet with a prosecutor. They are going
10 to meet with a member of the police department in
11 uniform and that member of the police department
12 is going to plea bargain that pro se defendant's
13 whatever, motor vehicle case, lesser criminal
14 offense, DP or PDP.

15 The problem with that process, other
16 than it's the unauthorized practice of law because
17 the police officer is not a prosecutor is that you
18 can't get the benefit of the plea bargain. The
19 very reason you're there is because some police
20 officer gave you a ticket. The police officer
21 who's reviewing that, who's plea bargaining for
22 the State of New Jersey is never going to believe
23 the pro se defendant's version as to whether that
24 ticket should have been issued or whether there
25 was probable cause for the issuance of that

1 ticket. That person is going to get a plea
2 bargain offer, but they are never going to get a
3 member of the police department to determine or
4 find that that ticket shouldn't have been issued
5 in the first place. It's a self-defeating
6 process. It's a plea bargain that cannot end with
7 the ultimate dismissal for the pro se defendant.
8 It's a terrible practice. It reinforces the
9 problem with municipal court, which is that it's
10 really known as a police court, but there is a
11 solution and again, this is a temporary fix.

12 A former presiding municipal court
13 judge in Mercer County, Judge Cantenese,
14 C-A-N-T-E-N-E-S-E, he is no longer a judge
15 anywhere. He came up with the rules, procedures
16 for his municipal courts in his vicinage and they
17 were written. There are written rules. I have
18 never seen them. I had asked him for them. He
19 wouldn't give them to me. I'm just a member of
20 the defense bar. I knew these rules existed when
21 he was the presiding judge. He did a site
22 inspection of every municipal court. He cordoned
23 off areas where police officers could not go or
24 pass. For instance, the police could not be
25 anywhere near the municipal court office. The

1 prosecutor could not go in certain areas without
2 the presence of a defense attorney and neither
3 could ever go in the court offices unless invited
4 to by the court. So in essence, what Cantenese
5 was trying to do was to create the appearance of a
6 level playing field, reduce the presence of
7 police. So that the person, the defendant, who's
8 coming to court doesn't see the very reason why
9 they're there and that the police can't interact
10 with the municipal court. It's a fact that the
11 police department has no formal role in municipal
12 court.

13 If you look at Title 2B, Chapter 12,
14 the Formation of Municipal Court, you look at any
15 statute, even if you looked at the municipal
16 prosecutor's statute, which is Title 2B Chapter
17 25, there's very little role in the municipal
18 court for the police department. The only role
19 that they actually still have is they can actually
20 issue an initial bail if the municipal court judge
21 is not available.

22 Other than that, which never happens
23 anymore, the police have no formal role in
24 municipal court. They are merely the entity that
25 issued the complaint or summons in most cases. Of

1 course, we still have citizens complaints. That's
2 something else entirely. That's all they have.
3 They have no other formal role. There is no
4 formal role in the police department and yet, if
5 you went to any municipal court, I don't care
6 which one it is, all you're going to see are
7 police officers. Although I would say certainly
8 an exception would be the Newark Municipal Court.
9 You don't see a presence of police officers in the
10 Newark Municipal Court. The problem in that court
11 is they never show up. But in most municipal
12 courts that's all you see.

13 Cantenese's rules were repealed in the
14 vicinage. That's no longer the case in the Mercer
15 vicinage. I would urge this task force to speak
16 with Cantenese, look at the rules that he put in
17 place and urge that they be put in place
18 throughout the State of New Jersey forthwith
19 because what you'd have overnight is a change in
20 perception by those individuals who are charged
21 tickets, summonses and complaints and the
22 perception would be, this may be a level playing
23 field because I don't see this over presence of
24 police when I come to court and the prosecutor
25 isn't speaking to the judge about cases without

1 the defense attorneys. There is, folks, an
2 undeniable, institutionalized, ex parte
3 communication system in municipal court. It
4 happens in most courts most everyday.

5 - - -

6 (At which time Mr. Barr entered the
7 hearing.)

8 - - -

9 MR. REISIG: Now the other fix and
10 this will be the permanent fix. This is what I
11 would recommend and I think you'd actually solve a
12 lot of problems. It would actually solve the
13 problem. We should regionalize the municipal
14 courts. We shouldn't have 490. We should have
15 about 50 of them. We should have about 100
16 judges. They, of course, should be superior court
17 judges. You get the best and brightest that way.
18 You get the best and the brightest to be in these
19 courts.

20 You'd have prosecutor's from the
21 county prosecutor's office. So you have to have
22 hire more prosecutor's. You would set it up like
23 criminal part court. Albeit, with the greater
24 volume. These courts should be in session
25 everyday. You'd have arraignment day. You'd have

1 motion day. You'd have trial day. Some of these
2 regionalized courts would have more than one
3 judge, which is why you'll have about 50 courts
4 and that's just a number I'm coming up with.
5 That's why you'll have about 100 judges because
6 some of these regional courts would have more than
7 one judge.

8 Again, the appointment as a Superior
9 Court judge takes away any incentive with respect
10 to finding anybody guilty.

11 Here's what the end result would be.
12 You'd have greater revenue to the courts. Not
13 less. You'd have greater efficiency of the court.
14 It would work better. You would have a reduced
15 backlog of contested matters, including DWIs
16 because you'd actually be able to dedicate trial
17 time. Instead of starting a DWI on a particular
18 day and coming back three weeks later when the
19 court necessarily has lost the flavor of the
20 matter, say the a defense attorney hasn't ordered
21 a transcript of the prior proceeding, that doesn't
22 create justice and due process in municipal court,
23 but once you start at trial, you stay with it
24 until it's over, if it took one day, two days,
25 three days. Again, you'd actually have justice

1 because you'd have a system that would work like
2 the criminal part court. Those are my
3 suggestions.

4 JUDGE ZINNA: Certainly, I think
5 regionalization is something that we've heard a
6 lot about. I just want to correct you on one
7 point. Judge Cantenese was a colleague of mine as
8 a presiding judge and a terrific presiding judge.
9 What he was doing was training his courts the same
10 way all presiding judges were training every court
11 in their vicinage. Unfortunately, as you've
12 observed, things get lax where we don't make that
13 in-court visit.

14 MR. REISIG: Say I'm in front of the
15 Appellate Division, I'm loathed to ask them
16 questions. So obviously, you're entitled to that
17 same courtesy. His policy was written, though,
18 was it not?

19 JUDGE ZINNA: I don't know if he wrote
20 his policies and circulated to his municipal
21 judges, but we all had trainings in our particular
22 vicinages and everything that you speak about were
23 the things that we trained, the police presence
24 should be minimized. They shouldn't be able to
25 walk in and out of the backroom, so that the

1 public sees them. The prosecutor's should never
2 be without the public defender in with the judges.
3 Although it's trained, doesn't mean every judge is
4 doing that.

5 And you well know from being in
6 municipal courts that the perception is otherwise
7 and I don't disagree with you. That's why this
8 panel is having these hearings.

9 MR. REISIG: The best example is a
10 current court and it's in the vicinage where my
11 office is located, which is Monmouth. The
12 municipal court judge who presides in this court
13 has been the judge in that court ever since I
14 started practicing law, which is over 20 years.
15 He's actually the presiding municipal court of the
16 vicinage. The way that courtroom is setup, you
17 have, just like your Honor, Ms. Quelch and Ms.
18 Ungar, it's like a panel and the court sits in the
19 middle of this bench. The public is where I would
20 be with rows of seats. It's a big courtroom. Not
21 a particularly big municipality. Not a
22 municipality with a lot of volume. In fact, court
23 doesn't meet every week. I believe it's twice a
24 month. So here's what happens because court in
25 that particular municipality does not start on

1 time. Meaning, the defendants are required to be
2 there at five p.m. Court is not starting at five
3 p.m. The way it works there is, the prosecutor
4 will get there at five p.m. and he'll meet with
5 the attorneys first and he won't even start
6 meeting with the pro se people, which is a lot of
7 that court or those defendants, until maybe 5:45.
8 The court doesn't come out until 6:30. In fact,
9 the judge is never there at 5 o'clock because it's
10 no reason to be.

11 Here's what happens when people are in
12 their seats waiting for court. Other than playing
13 with their phones, which is what everybody does
14 now, they see police officer after police officer
15 after police officer walk into a door located
16 directly behind the bench. They don't knock.
17 They just open the door and walk in. At some
18 point thereafter, they walk out. Another police
19 officer will walk in. At some point they'll walk
20 out. The public is not going to think anything of
21 this other than, there must be a lot of police
22 officers in this small municipality until the
23 judge comes out. When the judge comes out of that
24 door and the public then, anybody with any modicum
25 of common sense, who has been staying awake for

1 the preceding 45 minutes immediately has to come
2 up with this conclusion. Most of the police
3 department has been walking into a door where the
4 judge came out of. What exactly are they
5 discussing? It looks terrible.

6 JUDGE ZINNA: There's no doubt about
7 it and that goes on, but really some of the issues
8 you focused on are training issues, which are in
9 fact, training municipal court judges are trained
10 not to let that happen. It happens everywhere. I
11 know it does. I want to point to what I thought
12 was very good presentation and that is the fix and
13 I think the fix is very complicated, but that's
14 okay. We need to work at it. I think we have to
15 break apart the two. I think we have to break
16 apart the training issues because those are some
17 municipal court judges, who are just not taking
18 control of their court and we have to take a look
19 at the appointment process, which I think really
20 needs to be the focus of this committee because if
21 the appointment process works, regionalization
22 works, I think all the other things will probably
23 fall into place.

24 MR. REISIG: You couldn't be more
25 correct. I have limited time. I wanted to impart

1 what I think is most important with respect to
2 perception, which is these police officers walking
3 in and out of court offices. That has very little
4 to do with judicial appointment, although it does
5 to an extent.

6 I was in a municipal court judge's
7 chambers two weeks ago with the prosecutor,
8 prominent judge and I was there for a very
9 important issue in my client's case, which the
10 court couldn't have been less interested in. The
11 court was focused on one thing, about the fact
12 that he was holdover in that court and wasn't
13 going to be reappointed and he couldn't get over
14 this and he kept saying to the prosecutor and
15 myself all they have to do, all the town council
16 has to do is speak to the police department. They
17 would absolutely be in support of my appointment
18 and if that doesn't epitomize the issues that this
19 task force is asked to deliberate on, you've got
20 to separate the money from the judge's decision.

21 One other point with your permission.

22 JUDGE NUNES: You have superior court
23 judges that have to be reappointed.

24 MR. REISIG: Seven years.

25 JUDGE NUNES: So in six-and-a-half

1 years, there are certain issues that are happening
2 now with those judges and some of them not getting
3 reappointed or afraid of being reappointed and
4 being assigned to other places, how will your
5 solution resolve the issue of that statement that
6 was made by that judge? Will it just put it out
7 further into the future.

8 MR. REISIG: No, because this is --
9 I'm also certified in indictable matters, so 40
10 percent of my practice. My advertising is too
11 successful. So my DWI practice is now over 50
12 percent. It's just the internet works. 40
13 percent of my practice is still indictable. There
14 isn't anyone who is convicted either pleads guilty
15 or is found guilty in criminal part, who's exactly
16 fined. All of them can get fined because there's
17 fines for crimes, first degree, second degree,
18 third degree, fourth degree. The court, a
19 criminal part judge, never actually fines
20 somebody, such that money is going to the state.
21 It never happens. There is no financial
22 incentive.

23 When a criminal court presides over,
24 say a motion to suppress, which by definition is a
25 bench proceeding, that law division judge could

1 care less who wins that case, that motion. It's
2 no self interest. It's called straight. It's
3 called level. It's some municipal court judges
4 who are beyond reproach. You want a name? The
5 best municipal court judge in the state, not a
6 friend of mine, I've only been in front of him a
7 handful of times, one trial, I don't speak to him
8 on the phone. Haven't spoken to him for probably
9 a year and a half, the best municipal court judge
10 in the state is a guy named Andrew Wubbenhorst.

11 JUDGE ZINNA: He followed me in Morris
12 and Sussex. He's my predecessor.

13 MR. REISIG: Judge Wubbenhorst has an
14 absolute command of case law for DWI and other
15 motor vehicle matters and criminal matters. He
16 actually understands the rules of evidence as they
17 pertain to quasi-criminal practice. He's actually
18 read the court rules. He knows what the court
19 rules say. Judge Wubbenhorst calls everything
20 fair. I don't think Judge Wubbenhorst has ever
21 for a moment in his life thought about whether
22 somebody is going to be found guilty or not as to
23 what it's going to mean in with respect to
24 revenue. We've got to appoint judges in a
25 different way. You have to separate the inherent

1 conflict. The inherent conflict is, if I find
2 this person guilty, the town gets more money.

3 Just read the article about George
4 Cieri. He's the judge in that January 2014
5 article. It was in the Monmouth vicinage. He's
6 the judge. He's still a municipal court judge,
7 just not there and he was replaced. He didn't
8 raise as much revenue as his predecessor and he
9 didn't raise as much money as his successor, who
10 by the way, was removed from the bench because of
11 the way he assessed fines that's assessed in the
12 various courts.

13 We want the public to trust the
14 process since it has to be the most important
15 court because it's the court that most people have
16 the most familiarity with because that's how they
17 are going to judge the rest of the courts. They
18 have to because that's their reality. There's
19 their perception and we can make these fixes.

20 We've got to stop this
21 institutionalized ex parte communication between
22 prosecutor's and judges. When I go to a court and
23 I know they are discussing my client's case,
24 they've probably discussed it for an hour before I
25 got there. It's got to end. It doesn't happen in

1 criminal part. It doesn't happen. Believe me, it
2 never happens and it always happens in municipal
3 court.

4 JUDGE NUNES: If we take your solution
5 of --

6 MR. REISIG: I gave you two solutions.
7 I gave you a temporary fix and a permanent fix.

8 JUDGE NUNES: Let's start with the
9 temporary.

10 MR. REISIG: Temporary is to put in
11 place in all municipal courts what Cantenese tried
12 to do in Mercer, which is to cordon off the areas
13 where prosecutors -- where officers can't go at
14 all and prosecutors can't go without defense
15 attorneys.

16 JUDGE ZINNA: Again, that is a
17 perception and you're right about that. That
18 creates a bad perception for people coming into
19 municipal court. That is not going to get us to
20 the end product here. That is a training issue.
21 Every presiding judge in the State of New Jersey
22 trains their municipal court judges. Every
23 division manager in the State of New Jersey trains
24 their administrators that what you see and what
25 happens and there are an awful lot of courts, is

1 not the way to do it and Judge Cantenese as I
2 said, is a friend and probably one of the better
3 presiding judges we've ever had really was doing
4 in his vicinage what we all did in our vicinages,
5 Judge Wubbenhorst is doing in Morris, Sussex right
6 now as my predecessor, but I don't see that as a
7 fix.

8 MR. REISIG: I agree with you.

9 JUDGE ZINNA: The fix is the
10 appointment process. How do we take it out of the
11 hands of local government?

12 MR. REISIG: Here's the simple answer.

13 MS. QUELCH: Matt, you've been up
14 there 25 minutes.

15 MR. REISIG: Oh, I was waiting for the
16 judge to tell me to sit down.

17 MS. UNGAR: Let me say this, I want
18 you to be able to answer his question. We have
19 other people, if you would stay.

20 MR. REISIG: I have people in my
21 office who's dying to retain me today, so I have
22 to go back. I say that in jest.

23 MS. UNGAR: We appreciate you coming
24 down. We have two other people here. If you
25 wouldn't mind staying a little longer, so I'll ask

1 you my questions and I'll give you an opportunity
2 to answer the judge and then we'll move on. I
3 have four questions for you. The instances we've
4 heard before this subcommittee testimony about
5 what they call police liaisons in Camden, which
6 you referenced in the beginning of your testimony
7 we've heard it in two counties. Have you seen it
8 in other than Camden and another county and if so,
9 how many people have you seen it?

10 MR. REISIG: I've probably seen it in
11 my -- let's say in the last five years in my
12 practice, I probably seen it in 15 different
13 courts. By the way, police liaison officers,
14 there's nothing in Title 2B or any other statute,
15 the administrative code, the court rule that
16 speaks to a police liaison officer. Most
17 municipal courts, not all, most have websites and
18 on a website you can find out information about
19 the courts.

20 There is also a PDF file which is
21 updated every Monday morning by the AOC, which
22 lists every municipal court in New Jersey by
23 alphabetical order. They also list the title of
24 the court, the address of the court, the judge or
25 judges, not prosecutor and the court administrator

1 and we have the lawyers guide. We still use that.
2 Some of us actually still use that as our
3 calendar. So you never know if there was a police
4 liaison officer if it's not mentioned anywhere,
5 it's certainly not on anybody's website. The
6 prosecutor in every case and this gentleman who's
7 to my right certainly knows is the president of
8 the association --

9 MR. BARR: Former. I'm now just the
10 secretary.

11 MR. REISIG: A prosecutor, any
12 municipal prosecutor -- defense attorney gets
13 retained. Since his discovery questions has
14 nothing to do with court. The prosecutor gets
15 that and then usually there is a form letter
16 generated with respect to if you don't get this,
17 don't get that, please contact me, et cetera, I'll
18 be relying on this rule, blah, blah, blah, blah,
19 blah. The discovery rules in municipal court are
20 7:7-7A through K, ten subsections and they are
21 always being amended. Again, nothing to do with
22 the court, but there is no mention of a police
23 liaison officer. In the case I had, he wasn't
24 called the police liaison officer. He was called
25 the court liaison officer.

1 MS. UNGAR: These individuals that we
2 see in the 15 different municipalities, do they
3 meet with pro ses?

4 MR. REISIG: I'll give you an example.
5 There's two different answers to that. In Cherry
6 Hill, which is very prominent and very big
7 municipal in Camden County, I actually grew up
8 there, the prosecutor or prosecutors, sometimes
9 they have two and the officers are behind a table
10 in the same room. So it will be a line for that
11 police officer that would be pro se defendants of
12 certain things. Not all things and then the
13 defense attorneys are in another -- were all in
14 the same room are waiting to get into the room and
15 we are going to meet with a prosecutor or
16 prosecutors depending on what our case is. That's
17 where everybody is all in the same room.

18 So the way it works is, if the pro se
19 defendant doesn't like the benefit of the plea
20 bargaining offered by the police officer, they
21 will get in the line for the prosecutors. But in
22 Stratford Borough, for instance, which is a town
23 that has a high volume of DWIs and everything
24 within the municipality is school zone, the police
25 officer meets with the pro se defendants in a

1 different area all together from where the
2 prosecutor is.

3 Should the person who goes and meets
4 with that officer in uniform and accepts the
5 benefit of the plea bargain, not only will not
6 interact with the prosecutor, won't even see the
7 prosecutor. That's crazy.

8 MS. UNGAR: So we've heard about those
9 instances. Have you also witnessed instances
10 where the police is in the back of the courtroom
11 alongside the prosecutor?

12 MR. REISIG: One more time.

13 MS. UNGAR: Have you witnessed
14 instances where the police officers sit in the
15 back of the courtroom next to the prosecutor when
16 they are negotiating cases?

17 MR. REISIG: I see that all the time
18 and frankly, I'm not offended by that. Certainly
19 as a defense attorney I'm not offended. I'd be
20 offended if the court requested a conflict and the
21 police officer felt he should come because he's
22 just a fact witness prospectively in any case. So
23 I won't allow that. But if the prosecutor wants
24 to have a police officer sitting next to him and
25 this police officer had issued my client a DWI,

1 I'm okay with that. It's not like my client is
2 meeting with them. It's me. I'm not going to be
3 intimidated by the police officer being next to
4 the prosecutor.

5 It's different from what his Honor has
6 focused on. Many municipal courts in New Jersey,
7 still don't have witness stands. They don't have
8 standalone witness stands. Think about it. 2016
9 they don't have a witness stand.

10 The circumstance there, the police
11 officer in a contested trial actually gets seated
12 next to the prosecutor. Of course, the problem
13 with that is communicated throughout the trial.
14 They touch each other. They pass notes. The
15 prosecutor gives advice to the police officer
16 actually during the cross-examination. Can't make
17 it up. So the most important thing that can ever
18 happen in any municipal or criminal court is
19 trial.

20 Now those are the rare events, but the
21 whole system is designed to ensure due process in
22 the event of trial. So the most important thing
23 that could ever happen in any municipal court is
24 trial. Not a guilty plea. So many municipal
25 courts, I would give you chapter and verse, don't

1 even have witness stands in 2016. Many municipal
2 courts do not have the equipment to play mobile
3 video recorders or DIVRs, which is the evidence in
4 most motor vehicle cases. The ability to play
5 this evidence in the courtroom, so everybody can
6 see, including the defendant, you know the person
7 who's accused, that's incredible.

8 I actually made and caused to be made
9 a witness stand in a very prominent municipal
10 court, the Bloomfield Municipal Court, which is a
11 notorious court for DWI, they actually created a
12 witness stand. It will be three weeks ago today
13 for my client's trial. The first time they had a
14 witness stand in how many years since the court
15 was enacted? 1947? I don't know. '48? I don't
16 know. It's a start.

17 MS. UNGAR: I know you spoke a little
18 bit about regionalization of the courts. That's
19 something that the subcommittee heard a bit about.
20 It's a complicated process with the funding. Now
21 the funding comes from municipal court to appoint
22 the judges. There's been some suggestions before
23 the subcommittee to move the appointment process
24 to be administered and overseen by input from the
25 county bar and the state bar and with the input

1 from the assignment judge and my question to you
2 is, if you had any comments as to the funding
3 issue with the municipal court.

4 MR. REISIG: Funding is a nonissue
5 because you're still generating the money, whether
6 half is going to the town and half of it is going
7 down to Trenton, the same number of people are
8 committing motor vehicle offenses or alleged to
9 have. So the money is the same. I don't
10 understand that problem at all. The money would
11 be going to a different place.

12 The entity that would be hurt by that
13 is the town because the towns don't have this
14 discretionary income now in their general fund
15 based on their revenue. But in terms of judges
16 superior court, which includes the appellate
17 division law division, Supreme Court judicial
18 branch, municipal court is a judicial branch. So
19 you can't have part of the judicial branch
20 appointed the way they are.

21 Nomination of the governor with the
22 consent of the senate and have this political
23 system of appointing municipal court judges and
24 then reappointing them every three years. So this
25 hybrid suggestion, this middle ground, I guess,

1 where we're going to get the county bar involved.

2 MS. UNGAR: I guess the testimony
3 before the subcommittee has recommended that the
4 appointment process goes through the assignment
5 judge.

6 MR. REISIG: How about we actually
7 appoint municipal court judges by getting the best
8 and the brightest and the most capable, the ones
9 who actually understand criminal law and
10 quasi-criminal law and we actually appoint them to
11 the Superior Court bench and assign them to a
12 municipal court because until you do that, you're
13 not going to get the best and the brightest to
14 serve in those positions. Good grief. I admire
15 anybody who is a municipal court judge, but why
16 would anybody really want to become a municipal
17 court judge? I don't understand why you'd even
18 want the appointment. It's only for three years.
19 There is no tenure. You can't practice criminal
20 defense. You can't practice quasi-criminal
21 defense. You can't do certain appellate matters.
22 You can't do final restraining hearings. Unless
23 you get three or four or five or six of them or
24 unless you're in a large municipality, you can't
25 make enough money. So we need the best to be

1 municipal court judges, theoretically, the way you
2 have in the Superior Court. That's the way we do
3 it.

4 MS. UNGAR: Thank you so much for your
5 comments. I guess at this point we have to move
6 on to some other individuals that have signed up.
7 If there is anything additional that you want us
8 to consider because you gave us a lot of material,
9 you can always submitted to Ms. Coscarelli.

10 MR. REISIG: I think this article
11 speaks to everything that this task force is
12 designed to deliberate on and reach conclusions
13 thereto and I appreciate your courtesy.

14 MR. EPPERLY: Dennis Epperly. I'm
15 from Passaic County in North Haledon, New Jersey.
16 I'm taking this in a different issue. I had a
17 relationship with a law office in North Haledon
18 and they were working on a political action --
19 political when Governor Christie was running for
20 office, I was on his line. The law office was
21 working on the opponents with Steve Lonegan.
22 While I was in there I saw them working with --
23 there was a court case going on between the both
24 of them. So I saw one of the judges working on
25 the brief with the attorney that was representing

1 the other law firm -- the other opponent, which is
2 Steve Lonagan.

3 After that, I ended up putting my name
4 on the ballot, candidate Christie's ballot. When
5 I did because the mayor was involved with that
6 other group, I was called by the judge and told
7 that it was in my best interest to take my name
8 off the ballot and from there another judge that
9 was in there, he was asked to talk to me and he
10 refused because they were both personal friends of
11 mine. So the issue is how do the mayor have such
12 influence on that office. I had a working
13 relationship after that happened and I put my name
14 on the ballot and I refused to take my name off.
15 My working relationship put an end -- since then
16 I've been involved with the advisory committee of
17 judicial conduct. I spoke with them and met with
18 them. I still give them information on certain
19 other things and I was also contacted by the
20 Attorney General's office after a lawsuit was
21 brought against me for slander.

22 When I reported it in Passaic County
23 to the division manager through another friend of
24 mine who worked in the court, after I got done he
25 says, this isn't going to turn out good. When it

1 went up to Judge Corradino, who was the division
2 manager of the municipal judges, they sent me to
3 the ombudsman and next thing you know, they
4 actually tipped them off. The judges -- one of
5 the judges told a friend of mine reporting them
6 and they are not going to do anything about it
7 because they know this judge. So that's where
8 they testified. Well, I gave statements to the
9 judiciary committee. I never actually appeared
10 because there was another person that brought an
11 issue about that. The judge has since been barred
12 forever, as a judge. I think it's only five
13 judges that were barred forever as a judge. But
14 my issue is that these guys were given -- I was
15 bringing donations from a senator's office from a
16 judge. He would put them in his mother's name or
17 the other judge was making donations to a
18 congressman. It was going in this wife's name,
19 but at the same address.

20 My point is, if somebody is giving
21 donations, you're not allowed to give it to a
22 judge. So what's the difference if the same
23 person is living at the same address, but that's
24 pretty much what I'm still involved with the
25 Attorney General's office right at this point.

1 MS. UNGAR: Thank you for your
2 comments. Are there any questions?

3 JUDGE ZINNA: No, but that's the
4 reason why we have the subcommittee.

5 JUDGE NUNES: Do you have any
6 suggestions?

7 MR. EPPERLY: My suggestion is, if the
8 Mayor had his daughter working in that office, his
9 daughter was partners with the judge's daughter in
10 another business. So the influence -- like I
11 said, I was sued for the things that I actually
12 brought to the division manager about what
13 happened. You know, I was telling about things
14 that I saw going on in here, which I discussed
15 with the Attorney General's office to this day,
16 which I'm not going to reveal that, but it's just
17 the fact the mayor has influence over this judge
18 that I was actually personally friends with and
19 eventually, like I said, the information that I
20 put out there ended up turning around and suing me
21 for slander. That's why I have that hashtag that
22 says an inconvenient truth is not slander, which
23 was dismissed. He sued the newspaper. He sued
24 the publisher. Everybody. Everybody got
25 dismissed, but me and I'm thinking then when I

1 finally got to court, the judge finds out, he says
2 he's suing me for \$7 million, whatever it was and
3 meanwhile, he had \$27 million in lawsuits of 42
4 lawsuits and it went through the court system in
5 Passaic County and nobody ever did anything about
6 it. How did go it beyond the court to not know
7 that this guy was being in court and he never
8 reported none of these things. So that was things
9 that I brought out to them and I couldn't -- I
10 couldn't understand how that could get to that
11 point where nobody is -- I'm telling them what I
12 seen going on there and nobody did anything about
13 it. So politics? I mean, what else could it be?
14 I wrote to a congressman and told him about it,
15 Congressman Pascrell and I started looking into it
16 and noticed the judge's wife was giving him money.
17 The people involved in this election, even though
18 they were on the republican side, they were also
19 giving him money. So he never responded to me
20 until this year he asked me if I wanted to join
21 his newsletter. That was six years later. But I
22 felt that once I got to the courthouse, the judge
23 all of a sudden says that we don't see -- you know
24 what, you're going to this point to this guy. How
25 did this guy cost you \$6 million. You showed no

1 financials. Well, why didn't you dismiss the case
2 because I knew something with the prosecutor
3 involved with this judge? I mean, I felt it was a
4 matter of intimidation, the whole thing, just to
5 keep me quiet and that's pretty much my story.

6 There is a lot more involved, other
7 issues, but that's why I came here so that people
8 could, basically, stand up and you know, if
9 somebody calls you to tell you to take your name
10 off the ballot and nobody did anything about it
11 until finally the judiciary after four years of
12 investigation, I became a source of information
13 for them and they finally -- he was discussed
14 totally. But what happened in Passaic County for
15 them not to know that these other judges the --
16 these cases against them and nobody did anything
17 about it.

18 That's pretty much my whole thing. My
19 issue would be if people are able to donate money
20 to a judge, you guys can't donate money or
21 couldn't donate money. Like I said, what's the
22 difference? Like I said, that person from that
23 family, just because it's the wife, it's still the
24 same address. You can donate money in somebody
25 else's name and I was dropping the checks off to

1 the senator's office and this senator was on the
2 judiciary committee in the state and oh, if the
3 judge needs anymore tickets, just come on in and
4 let us know. I said wait a minute. This guy is
5 on the judiciary committee in New Jersey and
6 openly is taking money from this judge.

7 So pretty much that's it. I mean,
8 he's disbarred totally as a judge. Another issue,
9 too, which I'm wondering, if I'm giving
10 information that this judge took money out of a
11 trust account to lend to somebody.

12 MS. UNGAR: That's not within our
13 purview.

14 MR. EPPERLY: But it's a judiciary
15 thing. As far as donations and the municipal
16 judge, the mayor is the one that pretty much hires
17 him. So if he didn't do what the mayor wanted by
18 calling me, he doesn't get appointed if he doesn't
19 go along with the whole practice.

20 MS. UNGAR: We appreciate your
21 testimony. We have a limited schedule.

22 MR. EPPERLY: I understand that's
23 fine.

24 MS. CABELL: April Cabbell. My main
25 concerns are similar to what the lawyer was

1 speaking about. I went into court with somebody
2 else and they gave me charges here in the City of
3 Newark and every time we went into this court, the
4 courtroom was filled with sheriff's officers and
5 every time you would come up, they would all run
6 up behind you and so when they arrested me, it was
7 the same scenario. Every time when I went in
8 front of the judge, they all came behind me and
9 the judge actually told me if I didn't sign these
10 documents that I was going to be put back in jail.
11 Judge Sybil Elias was her name, I went in front of
12 Judge Camille. He discussed the case and sent me
13 back to this Judge Frasca. I've been dealing with
14 this judge over a year now and what he did when I
15 went in, they banned me out of the courtroom.
16 They told me I couldn't come back in the
17 courtroom. Then me sent me to Judge
18 Arthur Batista. I went in front of six judges and
19 I didn't commit a crime.

20 This is my issue today. I didn't
21 commit a crime. They said I didn't commit a
22 crime. They threatened me. Sheriff's officers
23 calling me coons and everything. But this Judge
24 Batista, he was the sixth judge I went in front of
25 and he finally threw me in jail for 60 days with

1 no evidence and like the lawyer said, I mean,
2 officers sitting in there going in and out of the
3 -- so when I am going to court I'm seeing this
4 from the public, yeah, these police officers are
5 running the court. This is my perception. I
6 mean, because that's what's going on here and it's
7 like, nobody is stopping this. Nobody is stepping
8 up and when I asked the court clerk for the court
9 rules, she lost it. She start yelling at me.
10 Like I said, every time I go into court, the
11 courts are filled with police officers or
12 sheriff's officers. This is my issue.

13 My due process is just out the window
14 and it's like, these people that -- I'm trying to
15 figure out who is the judge here. Like, really.
16 No due process. The judge threw me in jail and he
17 says, under rule number seven. I look up rule
18 number seven. It states expert. I don't know and
19 I ask him I said, is this the People's Court
20 because I'm trying to figure out what he had me
21 under. So he told me I was going to jail for
22 resisting arrest, failure to appear in court and I
23 never had to appear in court. I was there with
24 somebody else and they arrested me.

25 This madness needs to stop. It's

1 going and on and on and on. These judges, to me,
2 my perception it is that these cases are revenue
3 generated. I didn't sign documents, but I'm in
4 jail for 60 days. Who paid for me to sit in jail
5 for 60 days? And the last name was taken -- on my
6 last name my letter was taken off and I was in
7 there under a fake social security number and a
8 bogus name. Yes, this is what's going on here in
9 the City of Newark and these judges need to be
10 stopped. It's sad what they are doing and these
11 officers, what they are doing. It's a travesty
12 here.

13 I went in front of one judge where
14 they took my SUV. I had my two children. One of
15 my children is autistic. They left her stranded
16 on the sidewalk, me drenched in urine because they
17 didn't allow me to use the bathroom. They took my
18 SUV and come to find out the judge I went in front
19 of, the IRS had a lawsuit against him. He was
20 arrested, had to attend AA meetings and he's still
21 on the bench.

22 MS. UNGAR: Thank you for your
23 comments. Any questions?

24 MS. QUELCH: Would you please put your
25 name and address on the record, please, ma'am?

1 MS. CABELL: April Cabbell, 103
2 Princeton Road, Piscataway, New Jersey.

3 MR. McDONOUGH: My name is Thomas
4 McDonough. I'm an attorney. I practice in
5 Montclair. I'm with the law firm of Ashenfelter,
6 Slous, McDonough & Trevenen, 363 Bloomfield
7 Avenue, Montclair. I've come because I've just
8 been retributed as has occasionally happened to me
9 in my over 30 years before municipal courts that
10 there is occasionally and I have been in most all
11 the municipal court in Essex County and estimate
12 in my time of my practice for 30 years probably 75
13 to 100 municipal courts in the State of New
14 Jersey.

15 I find that there is too often too
16 cozy a relationship between prosecutors and/or
17 police or judges. I've had occasion when prior to
18 a trial, I remember one specifically in Essex
19 County, a DWI trial and the judge called me and
20 demanded from me my defense to the trial because
21 with the prosecutor there and I said, simply, I
22 won't do it. I'm going to put the state to its
23 proofs and make them prove that and I had a very
24 uncomfortable and unsuccessful attempt to resist,
25 putting my defense on the table because I didn't

1 want to show more of my hand than I had to at the
2 time.

3 Much more recently, I had one of our
4 local municipal courts I found on two different
5 occasions handling the same matter paperwork
6 getting into the judge's file that I learned that
7 it came directly from the prosecutor ex parte. I
8 wasn't even aware the judge had it and pulled it
9 out and began questioning me about it and I had a
10 client who was particularly disadvantaged by this
11 because he had been removed from the marital home
12 on a domestic violence restraining order and at
13 the same time an assault charge or a terroristic
14 threat was filed against him and so we had
15 appeared in the criminal matter while the domestic
16 matter was pending and the criminal judge here in
17 Essex County issued a standard no contact order,
18 which was acceptable. It was already a DV order
19 in effect, no contact.

20 The domestic violence trial took three
21 days of full testimony and after that the
22 complaint was dismissed. The judge found that the
23 wife in that case had used the domestic violence
24 law as the sword rather than the shield and I took
25 this transcript and I went back to the municipal

1 court judge who injected himself back into the
2 divorce case by saying, well, now you have a
3 divorce case pending. I'm going to let the judge
4 decide, not the DV judge who had already issued
5 the decision, I'm going to wait until it goes
6 through the divorce case.

7 We couldn't get to a divorce judge,
8 the man had a separate divorce attorney for over a
9 month. So the man who had been wrongfully removed
10 from his home in the beginning was further kept
11 from his home and throughout this, there are
12 papers the municipal court judge has that the
13 prosecutor's giving him being provided apparently
14 by the wife's attorney and I just felt the
15 injustice of it and point blank told the judge
16 that he was issuing an order that I think he did
17 not have the authority to issue respectfully and I
18 had to come back again. He said, well, the powers
19 that be told me I can't do that. So I'm going to
20 undismis your case. That was his term, undismis
21 your case, and make you go back to the divorce
22 court.

23 So I find that there is too often and
24 it's regular and erratic, but there's too often a
25 direct line of communication, an ex parte line of

1 communication between prosecution and/or police
2 and the bench.

3 Another point that I have to briefly
4 address the tail end of the prior attorney who had
5 spoke, which is the appointment of judges. My own
6 observation and experience, the number of years in
7 my town that too often municipal court judgeships
8 are patronage assignments and practitioners of
9 varying degrees of skill and competence are
10 appointed to the bench and routinely are replaced
11 when new administration comes in. It's well
12 known, I think among the bar and it's unfortunate
13 and frankly, I can't say that I know there are
14 statewide standards or requirements. I don't know
15 the training of the municipal court judges, but
16 there is, again in my observation and experience,
17 a dramatic and unfortunate spectrum of experience
18 and lack of experience and skill and lack of skill
19 and temperament and lack of temperament in the
20 municipal court bench, much more so in my
21 observation and experience than on the Superior
22 Court and we're all used to, any practicing
23 attorney knows you don't know what the temperature
24 is going to be in a given courtroom when you walk
25 into it, but there is too often a very and it goes

1 back to -- my attitude goes back to when I was
2 admitted. We had the skills and practice course.
3 I don't know if they still have that, but I can
4 remember the first book I read saying that for
5 most people municipal court is going to be first
6 and/or only experience in a courtroom and to
7 observe some of the experiences that pro se folks
8 have I think it's very unfortunate.

9 So sorry if that's just scattered
10 comments, but that has been my experience.

11 JUDGE NUNES: Do you have any
12 suggestions as to solutions anything that you'd
13 like to see happen?

14 MR. McDONOUGH: I don't know what
15 extent there is a communication or reinforcement
16 or standard communication to personnel being
17 judges and prosecutors about rules on ex parte
18 communications, but I think if there is not, it
19 should be. If there is one, it should be
20 restrengthened or renewal of it and to the extent,
21 I've heard the tail end of the conversation about
22 taking the appointment process or the requirements
23 that have to be demonstrated, but I think
24 strengthening of the approval process or the
25 appointment process to ensure that there is a

1 minimal degree of competence and experience, which
2 is not always the case, again, I just observed
3 walking in the courtrooms.

4 JUDGE NUNES: At this time do you have
5 a preference between a municipal court judge being
6 a superior court judge or one that's as Ms.
7 Ungar's prior question, one that's still a
8 municipal court judge, but appointed by a panel
9 of, let's say the county, the municipality and
10 maybe, the state. Do you like either one of those
11 thoughts?

12 MR. McDONOUGH: I like the latter.
13 Although I expect in our home rule mentality that
14 exists in New Jersey, I think there is a lot of
15 territorial preference that's going to be
16 exercised by the municipality and municipal
17 government in wanting to appoint their judges.
18 That's just going to lead to politics on a
19 different level when something like that happens.

20 To the extent that I observed we in
21 New Jersey where we don't elect our trial level
22 judge, like superior court judges, I'm very proud
23 of that. As I observed things going around the
24 country and talked to lawyers in other areas and
25 the elections of judges to me is horrific and I

1 think when all is said and done that certainly
2 with our superior court we do well. We've had few
3 scrapes over the past few years, but frankly I'm
4 proud and I think New Jersey has a very
5 well-deserved reputation of being among the best
6 in the quality of the bench.

7 JUDGE ZINNA: We've heard different
8 viewpoints about regionalization and yet keeping
9 the local flavor. Would you be in favor of
10 regionalized court where the appointment process
11 was vetted a bit better when politicians are
12 picking the municipal court judge?

13 MR. McDONOUGH: Absolutely. I would
14 be very much in favor of that and I think that
15 could also lead to economies certainly from a
16 financial viewpoint with various municipalities.
17 Regionalization, I've been reading and
18 experiencing to a degree for years has been
19 supposedly to the way to go in terms of holding
20 down local property taxes. Yes, I think
21 regionalization would improve professionalism and
22 allow for other economies. So yes, I would be
23 very much in favor of that.

24 MS. UNGAR: Do you have any
25 recommendations for the appointment process and

1 vetting of judges if we go to that regionalization
2 process?

3 MR. McDONOUGH: I would be willing to
4 give that further thought and do that. But
5 otherwise open it up to an application process or
6 a standardization of respected qualifications or
7 experience for municipal court practitioners. I
8 don't want to bad mouth anyone, but one judge,
9 Judge Straight started as a public defender and
10 then as a prosecutor did very well coming up
11 through our ranks, but yes, to the extent there
12 are some uniform requirements, minimal
13 requirements, I think that would be a very good
14 idea.

15 Thank you for your time and all the
16 pro bono work that you do. I really appreciate
17 it.

18 MS. UNGAR: I know that Kate
19 Coscarelli you had indicated to us that Judge
20 Stern has submitted to remarks.

21 MS. COSCARELLI: Planning to submit to
22 written remarks.

23 MS. UNGAR: I just wanted the
24 subcommittee to be aware that we did receive
25 notations from Edward Stern. He was supposed to

1 testify and he will be submitting written remarks
2 to the subcommittee.

3 One additional speaker had indicated
4 that they were coming. I guess, we'll take a
5 five-minute break and if he doesn't come, I'll go
6 back to close my remarks, unless there is any
7 other discussion by the subcommittee.

8 - - -

9 (At which time a short recess was
10 taken.)

11 - - -

12 MS. UNGAR: We are finished our
13 five-minute break. We're back here with the
14 finalizing of the last hearing. We've heard from
15 the witnesses. At this point there are no other
16 witnesses. There was one witness that indicated
17 that he did want to come in. At this point anyone
18 who wants to submit any written submissions may do
19 so. It will be posted on the website. We'll
20 accept written submissions until July 1st to the
21 judicial independence of municipal courts and
22 thereafter, the subcommittee will be meeting and
23 convening discussions the recommendations of the
24 subcommittee. Ultimately, the reports will be
25 issued.

1 So I really want to take an
2 opportunity to thank the Bar Association at this
3 point for allowing us to do these four public
4 hearings. It was important to obtain anecdotal
5 information for our work. We appreciate the
6 officers of the Bar Association, the trustees and
7 the municipal court practices sections support of
8 this and we appreciate Sharon Balsamo and Kate
9 Coscarelli for their hard work with us as a
10 subcommittee and we appreciate all our
11 subcommittee work members. I thank everybody and
12 close the hearing at this point.

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(At which time the hearing concluded
15 at 5:45 p.m.)

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C E R T I F I C A T E

I, LATITISA RUSSELL, a Certified Court Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the stenographic notes of the deposition of said witness who was first duly sworn by me, on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel in this case, nor am I financially interested in this case.

LATITISA RUSSELL, C.C.R.
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