

IN THE COURT OF COMMON PLEAS  
DAUPHIN COUNTY, PENNSYLVANIA

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DAUPHIN COUNTY

IN RE: : SUPREME COURT OF PENNSYLVANIA  
: 6 M.D. MISC. DKT. 2008  
THE TWENTY-EIGHTH STATEWIDE :  
: DAUPHIN COUNTY COMMON PLEAS  
INVESTIGATING GRAND JURY : NO. 10 M.D. 2008  
:  
: NOTICE NO. 4

FINAL ORDER OF COURT AUTHORIZING THE RELEASE  
AND PUBLIC DISEMINATION OF GRAND JURY REPORT NUMBER 1  
INVOLVING RECOMMENDATIONS TO THE GENERAL ASSEMBLY WITH  
FOOTNOTE EXPLANATION

AND now this 24<sup>th</sup> day of May, 2010, pursuant to 42 Pa.C.S.A. § 4552<sup>1</sup> and having

<sup>1</sup> § 4552. Investigating grand jury reports

- (a) **General rule.**- Any investigating grand jury, by an affirmative majority vote of the full investigating grand jury, may, at any time during its term submit to the supervising judge an investigating grand jury report.
- (b) **Examination by court.**- The judge to whom such report is submitted shall examine it and the record of the investigating grand jury and, except as otherwise provided in this section, shall issue an order accepting and filing such report as a public record with the court of common pleas established for or embracing the county or counties which are the subject of such report only if the report is based upon facts received in the course of an investigation authorized by this subchapter and is supported by the preponderance of the evidence.
- (c) **Sealed report.**- Upon the submission of a report pursuant to subsection (a), if the supervising judge finds that the filing of such report as a public record may prejudice fair consideration of a pending criminal matter, he shall order such report sealed and such report shall not be subject to subpoena or public inspection during the pendency of such criminal matter except upon order of court.
- (d) **Appeal from refusal to file.**- Failure of the supervising judge to accept and file as a public record a report submitted under this section may be appealed by the attorney for the Commonwealth to the Supreme Court in the manner prescribed by general rules.
- (e) **Authorization of response by nonindicted subject.**- If the supervising judge finds that the report is critical of an individual not indicted for a criminal offense the supervising judge may in his sole discretion allow the named individual to submit a response to the allegations contained in the report. The supervising judge may then in his discretion allow the response to be attached to the report as part of the report before the report is made part of the public record pursuant to subsection (b).

examined Report No. 1 of the Twenty-Eighth Statewide Investigating Grand Jury which has made multiple recommendations which it believes will improve the structure and operation of the Pennsylvania General Assembly; the Court finds that the release of the report at this time will not prejudice the fair consideration of any pending criminal matters. The Court also finds that the report is based upon facts received in the course of an investigation authorized by the Investigating Grand Jury Act and is supported by a preponderance of the evidence. The Court further finds that pursuant to its interim order dated April 23, 2010, (which Order is attached hereto) the one individual that the report was critical of chose to file a response; and such was received on May 19, 2010. A copy of the response will, as requested by Ms. Runk, be attached to this report and made part of the public record.<sup>2</sup>

In consideration of the foregoing, the Court finds the contents of this extraordinary report, prepared at the direction of a unique body of citizens, should not lay fallow beyond the time which the Court deemed appropriate; and that its immediate release is clearly in the public interest.

**It is hereby ORDERED and DIRECTED that:**

1. Both of the Orders of Court dated April 23, 2010 and May 20, 2010, along with the 34 page Report Number 1 of the 28<sup>th</sup> Statewide Investigating Grand Jury, attachments and response should be docketed in the Dauphin County Clerk of Courts Office. The Clerk of Court is authorized to provide copies of all of the aforesaid documents to anyone who

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<sup>2</sup> With the exception of the aforementioned individual, this report does not criticize, expressly reference or impliedly inculcate any individual who was presented (indicted) by this or any prior Grand Jury. However out of an overabundance of caution, this Court decided to not release the report until after the conclusion of the trial pending before Honorable Richard Lewis. Similarly, this Court chose to not release the report until after the one specific person criticized had the opportunity to respond, and the Court intentionally set the date for release subsequent to the primary election. A careful reading of the report reveals that its content and specific recommendations are “systemic” and not critical of or favoring any political party. Rather its recommendations are directed to the structure and operation of the entire General Assembly.

requests such, after payment of any lawful fee for copying.

2. A copy of this report shall be expeditiously forwarded to the Honorable Ronald Castille, Chief Justice, who approved the empanelment of the Grand Jury. It is further ORDERED AND DIRECTED, in accordance with the implied request of the Grand Jurors who made their recommendations for legislative, executive or administrative actions; that the aforesaid Orders and Report shall also be provided to:

- a. The Honorable Edward G. Rendell, Governor of Pennsylvania;
- b. The leadership of the Pennsylvania Senate and House of Representatives. Specifically in the Senate, Joseph B. Scarnatti, Dominic Pileggi, Robert J. Mellow and in the House Keith R. McCall, Todd A. Eachus and Samuel H. Smith. The Court respectfully requests the aforesaid leadership to facilitate the provision of a copy of the Grand Jury report to all of the elected members of the Senate and House.
- c. Gretchen A. Mundorff, Esquire, President of the Pennsylvania Bar Association and the Honorable James Gardner Collins, Chairman of the Pennsylvania Bar Associations Internal State Constitutional Review Commission.<sup>3</sup>

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<sup>3</sup> In my order I characterize the contents of grand jury report number 1 as extraordinary. Actually, one of my first thoughts when I read the report was the line uttered by the broadcaster in the satirical movie Network – “I’m mad as hell and I’m not going to take this anymore.” However, I found this jury to be an astute and reflective group of men and women and saw this report “if not its substantive content,” coming early on. I believe the circumstances surrounding the issuance of this report should be developed to enhance its credibility and weight.

On the day of their empanelment, March 24, 2008, the jury of 23 plus 10 alternates hopefully having overcome their shock at having to serve a minimum of one week a month for eighteen months, were sworn as the 28<sup>th</sup> Statewide Investigative Grand Jury. At that time, I charged the jury on the law that was to guide them in their deliberations. After explaining the importance of secrecy, I told them their primary role is to listen to evidence and determine if there is probable cause (sufficient evidence) to charge (issue a presentment) or not charge someone with a crime. I explained that it is not their duty to decide whether someone is guilty, or not guilty, and noted that the much higher burden as to guilt (beyond a reasonable doubt) is to be decided by a Petit Jury. In addition, at the conclusion of my charge, I added

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that the grand jury at any time, by a majority vote, may submit to me a report concerning part or all of the matters under inquiry.

I have been a grand jury judge approximately seven years and it is my observation that generally such reports are the rare exception. Yet, this is the third report I have authorized for release. The first recommended that the method of selection of grand jurors be modified. Prior thereto, six of our 67 counties were selected at random to sit in Harrisburg or Pittsburgh. Such random selection resulted in the need to house and transport jurors across the state. Besides costing the taxpayers a large sum of money, jurors were reluctant to be away from their homes for a full week at a time. I sent the report (which was endorsed by Attorney General Corbett) recommending regional selection with the grand jury sitting at three different locations (Harrisburg, Pittsburgh and Norristown) to Chief Justice Cappy. He appointed, now Chief Justice Castille, to chair a committee to review the recommendation. To my amazement and pleasure, within a few months we had a new rule. Such has not only made the responsibility of a grand jury judge in selecting a fair and representative cross section of the community easier, (most jurors now can go home each night) but it saves our taxpayers approximately \$500,000 a year in lodging, transportation, and meal expenses.

The second report recommended that grand jurors (if they so choose) can opt out of future jury service. Presently, the current law only allows current jurors to be excused for three years if they have served three or more days on any jury (petit or grand). 42 Pa.C.S. § 4503(a)(2). Needless to say, most jurors when they are summoned, are shocked when they learn they must serve a minimum of one week for eighteen months and possibly up to 24 months. This time, Chief Justice Castille sent the report to Senator Greenleaf and Representative Caltagirone (chairs of the Senate and House Judiciary Committee). Again, to my pleasant surprise, within a short time a bill allowing discretionary exemption was introduced by Representative Will Gabig. I am told the likelihood of passage is good.

It would be easy to be glib and suggest my belief that Chief Justice Castille will not be able to so easily facilitate the recommendations in this report. In fact, I suspect he and his peers on the Supreme Court (who may have to rule on any potential constitutional changes) will do little beyond reading the report. However, I write further in the hope of persuading the Legislature that this grand jury's recommendations are theirs alone, are both sincere and serious, and have an early and solid foundation in fact.

I am bound by 42 Pa.C.S. § 4552 as to the release of this report, and am satisfied the statutory criteria have been met. However, I am so impressed with the work of these men and women, that within the confines of secrecy (which I decide but of course am answerable to a higher body) I am going to be specific in explaining the genesis of this report:

1. This jury was extraordinary in its inception by nature of the fact that (unlike other grand juries hearing testimony from witnesses on what usually entails 60-70 different cases involving organized crime or public corruption), their focus was primarily limited to one notice. In effect they only heard from witnesses about what has been characterized as "BonusGate," and other relevant issues that arose out of such, that arguably implicated both malfeasance and misfeasance in the Pennsylvania General Assembly.
2. Grand Jurors, unlike petit jurors, have the right to ask questions. While most of the questions were related to the particular person or caucus being investigated, many seemed focused on about what was going on in the legislature, especially as it impacted their pocketbooks.
3. Such, I submit, was the genesis of this report.

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4. Also, many subpoenaed witnesses, both immunized and not, had a lot to say in response to jurors' inquiries about the internal operation of the legislature.
  5. I received notes from the grand jury foreman requesting information that was collateral but relevant to the criminal investigation extant. For example, I was asked to explain or asked to have someone explain:
    - a. The constitutional convention process
    - b. The difference between a voter referendum and constitutional convention
    - c. A breakdown of the state budget – total dollars, mandated versus discretionary, WAM, and salaries. Clearly, the use/misuse of public monies was a recurring theme.
    - d. Explain the grant request process
  6. Based on the foregoing, and similar inquiries, the Office of Attorney General arranged for the testimony of Professor Allan Rosenthal. Professor Rosenthal at his testimony on July 23, 2009, in response to the question by Deputy Attorney General James Reeder "Professor tell these folks who you are" indicated the following. "I'm a political scientist by training. I teach at Rutgers University, the State University of New Jersey. My career has been as a student of state legislatures. I've studied legislatures for 40 years, written about them, taught about them and consulted with legislatures around the country. As a disclaimer, I kind of like legislatures and the legislatures I've met I kind of have had great respect for. This doesn't mean that I have met every legislator, or I like every legislator, but I think these institutions around the country have done a pretty good job in representative democracy. It's not easy. I think for the most part legislators take the job seriously and try to do it right as they see right. That's not to comment on the situation you're looking into in Pennsylvania, but it's just to give you an idea of where I'm coming from. Currently, I'm serving as the chairman of the Joint Legislative Committee on Ethical Standards. I have written a lot of books on state legislators. I have received awards for my work and I received an award from the National Conference of State Legislators."
  7. Towards the end of our session, the grand jury requested time, separate from the ongoing criminal investigation, to discuss "their report." Their request was granted.
  8. Near the expiration of their 18 month term, the grand jury was asked to extend six more months. Such required the acquiesce of a majority of the 23 permanent grand jurors. Such requests are often denied by Grand Juries weary from their extended service. Grand jury votes are secret. However, in my discretion (and given the limited nature of the revelation, and the rationale for revealing such) I note the vote was 23-0 to extend. In my experience, that was both extraordinary and unprecedented. From the foregoing, I infer these fine citizens wanted to be heard, and also wanted to be involved in a matter they deemed important to the public good.

In consideration of the foregoing, I would respectfully submit that this grand jury is a serious minded group of citizens. In my view the grand jury will not be satisfied with non substantive window dressing and/or sound byte utterances; regarding the concerns set forth in their report.

Finally, while I arguably may have gone on much longer than necessary to justify the release of this report, there is one area where I am going to tender my own recommendations. While such may be presumptuous, however, akin to the grand jury report and recommendations, I am hopeful they may facilitate the public interest and welfare as well as the ongoing investigation.

The very first grand jury recommendation on page 31 of the report is "that tax payer funded political caucuses be eliminated." I concur with that recommendation. For what it's worth (admittedly

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little) I, like professor Rosenthal, do not agree with some of the recommendations, including the recommendation for term limits.

However, the political caucus recommendation directly impacts one of my roles as a grand jury judge and has been a significant legal issue in this case. I previously authored and published a redacted opinion involving the inapplicability of what was characterized as legislative privilege. That privilege was not asserted by any individual legislator, but rather by a political caucus in opposition to my authorizing the seizure of boxes of evidence which were reportedly being destroyed in anticipation of the newly initiated "BonusGate" investigation. I found that assertion of privilege to be without merit. One of the primary responsibilities of the Supervising Judge of the Grand Jury is to decide all legal questions arising out of the grand jury inquiry. I note, the legislation creating the grand jury is relatively new and there is little case law interpreting the act or decisions of the grand jury judges. The individual grand jury judge is often charting new ground. I have authored several opinions in this and other cases in support of, and in opposition to, the interest of both the Office of Attorney General and the respective person being investigated. However, I could find no case law on how to deal with a caucus corporate entity. That entity, and the nuances of such, came in conflict with another important responsibility of the grand jury judge. That responsibility is to ensure that the work of the grand jury not be improperly impeded or delayed by dilatory tactics. Finally, it is always the responsibility of the Judge to ensure orders of court, which include subpoenas, are complied with. Such implicates the question of contempt as well as collaterally the expenditure of taxpayer monies when there is unjustified noncompliance or delay regarding such orders. Admittedly, the depth and breadth of the subpoenas and documents sought, reviewed by opposing counsel, and ultimately, if in some cases belatedly, was overwhelming to both Office of Attorney General and counsel for the caucus, as well as other counsel for various parties.

In my view, this investigation has been delayed by the ill defined and arguably unaccountable caucus system. It is my observation that the caucus system has been used as both a sword and shield by both parties.

Both the Democratic and Republican caucus are aware of my views on this. Such has been often stated on and off the record. As I have bluntly stated, "who the hell is the caucus." If requests for documents pursuant to a subpoena *duces tecum* (i.e. emails, letters, invoices, etc) are not forthcoming, and there is no valid reason for such, the court is stymied by who should be held in contempt and/or what sanctions should be utilized.

By way of illustration, the most dramatic moment of my 23 years as a judge, arose out of an alleged subpoena non-compliance proceeding. Frank Fina, the Chief Deputy Attorney General in charge of the Public Corruption/"BonusGate" investigation, did an extensive *in camera* (as authorized by law) proffer in support of the contempt proceeding. Thereafter, in open court, in the presence of opposing counsel, Mr. Fina summarized such with his request I enter a contempt citation against leaders of the caucus. The proceeding became so loud and adversarial that I had to recess because the court reporter could not keep up with the rapid fire exchanges.

While that matter was ultimately resolved, I make the following specific recommendations to the General Assembly:

1. If the caucus system is not amended, then it should be statutorily explicit that if it is determined the caucus is the holder of documents that are improperly being withheld, the court has the authority to impose any fine it deems appropriate on any member(s) of the leadership of the caucus. Such would not be paid out of taxpayer subsidized caucus monies, but out of the individual funds of the caucus, House or Senate member(s), or employee(s) who the court found responsible for non compliance. Otherwise, in effect, the taxpayers would be subsidizing non compliance and thereby frustrate the grand jury investigation and search for the truth. Because of separation of powers concerns, the Grand Jury Judge's order

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should be stayed pending expedited review (as is already the case with the review) by the Pennsylvania Supreme Court. Such does not mean to suggest the Court does not have the inherent authority to impose an appropriate contempt sanction including incarceration on an individual leader of the caucus. In fact, as to the matter referenced above, if the dispute had not been “amicably” resolved, the court was considering the imposition of a substantial fine on the caucus until there was full compliance. Where I was “stymied” was on how such could be paid without the cost in effect being borne by the taxpayers.

2. The obstruction of justice statute should be amended to provide a separate section or statute that focuses on interference with a grand jury inquiry. Also, such should be classified as a more serious felony. The current obstruction of justice statute, 18 Pa.C.S. § 5102, is only a misdemeanor of the second degree with a maximum penalty of two years. A review of our, and many other state obstruction of justice statutes and case law, seems to suggest such are more focused on interfering with the trial portion of the justice system. However, even in those cases, in many states, the penalty is much higher than in Pennsylvania.
3. During my review of other state statutes, I also noted several had a separate official misconduct and/or obstructing governmental operations statute. By way of example, both Illinois and Indiana have official misconduct statutes that are felonies. As a courtesy, I have enclosed a copy of an overview of those state statutes.
4. Finally, despite the aforementioned comments/recommendations, I acknowledge the need for deference and sensitivity to the separation of powers doctrine. Additionally, unlike many, I do not consider the appellation politician a pejorative term. In my view it is akin to the misuse of the quote by Shakespeare in Henry the VI (“let’s kill all the lawyers”). Like Professor Rosenthal, I concur most politicians (and lawyers) are honorable hard working public servants. I share the sentiments of Professor Rosenthal who at the very beginning of his testimony (here again I exercise my discretion as to concerns about revealing testimony before a grand jury) in noting his non prejudicial comments as a preface to his testimony. Professor Rosenthal stated:
  - a. I’ve been an advocate of legislatures as institutions and I’ve worked with them for such a long career. I am one of the few people in the United States that is not a legislator, on the legislative staff, or maybe a lobbyist who actually likes legislatures. I understand and I recognize that most people are fairly cynical about them and critical of them. I disagree with that position but I understand that most people take it and I understand why they take it.

At the beginning of this explanation for the release of a report, I noted my first reaction was the citizen grand jury was “mad as hell and not going to take it anymore.” Having reread the report and recommendations numerous times, I have come to the conclusion a different aphorism may be more reflective of the recommendations tendered in the report. Whether biblical or based on the admonition to physicians, the grand jury’s admonition to the legislature may be “Heal Thy Self.” While aspirational, and perhaps not likely to occur, I believe the effort (perhaps armed with a copy of the report and the book Profiles in Courage) is a worthy endeavor. Failing such, I trust the matters of concern outlined by the grand jury in report number 1 will be addressed by the special bar association committee, the next Governor and/or ultimately, as it should, by the fellow citizens of the Commonwealth of Pennsylvania.

With the exception of the foreman (who signed the report) I conclude by only identifying the additional grand jurors by their occupation which reflects their diverse and broad-based background. I would note several of the grand jurors wondered whether, when, and under what circumstances, I would authorize the release of this report. Such has now occurred and I am proud to have served with these fine group of citizens. They are:

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<u>Juror Number</u>	<u>Job Description</u>
1	Office Clerk
3	Used Car Salesperson
4	Information Technology Technician
5	Jerry W. Sterner-Retired Plant Mgr/Senior Mgt Consultant
6	Group Coordinator
7	Research Technician
8	Retired Supervisor
9	Chemical Engineer
10	Teacher
11	Retired
12	Tax Collector
13	IT Logistics Analyst
14	Retired
15	Sheet Metal Mechanic
16	Machine Operator
17	School District Paraprofessional
18	Retired
20	Highway Department
21	Grand Jury Secretary-Business Analyst
23	Data Management
Alt 1	Food Service Worker
Alt 2	Wastewater Operator
Alt 3	Clerk
Alt 4	Production Worker
Alt 6	Coach Driver
Alt 7	Shipping Supervisor
Alt 8	Department Manager
Alt 9	Material Clerk
Alt 10	Retired Auditor



BY THE COURT:

Barry J. Feudak S.J.  
Presiding Judge of the 28<sup>th</sup> Statewide  
Investigating Grand Jury

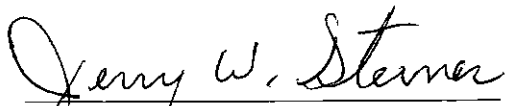
IN THE COURT OF COMMON PLEAS  
DAUPHIN COUNTY, PENNSYLVANIA

IN RE: : SUPREME COURT OF PENNSYLVANIA  
: 6 M.D. MISC. DKT. 2008  
THE TWENTY-EIGHTH STATEWIDE :  
: DAUPHIN COUNTY COMMON PLEAS  
INVESTIGATING GRAND JURY : NO. 10 M.D. 2008  
:  
: NOTICE NO. 04

TO THE HONORABLE BARRY F. FEUDALE,  
GRAND JURY SUPERVISING JUDGE:

**REPORT NO. 1**

We, the Twenty-Eighth Statewide Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court who have testified before us. We make the following findings of fact upon proof by a preponderance of the evidence and issue these recommendations for legislative, executive or administrative action in the public interest. By an affirmative majority vote of the full investigating Grand Jury, so finding with not fewer than twelve concurring, we do hereby make this Report to the Court.

  
Foreperson, Twenty-Eighth Statewide  
Investigating Grand Jury  
DATED: February 24, 2010

**28<sup>TH</sup> STATEWIDE INVESTIGATING GRAND JURY**  
**REPORT NUMBER 1**

**I. INTRODUCTION**

We, the members of the Twenty-Eighth Statewide Investigating Grand Jury, having received evidence pertaining to matters of the Commonwealth of Pennsylvania, pursuant to Notice of Submission Number 4, do hereby make the following findings of fact and recommendations.

This Grand Jury investigation initially was commenced before the 25<sup>th</sup> Statewide Investigating Grand Jury in August of 2007 as the result of public allegations of potential public corruption and criminal misconduct within the Pennsylvania General Assembly. Upon the expiration of that Grand Jury, this investigation was transferred to the 28<sup>th</sup> Statewide Investigating Grand Jury in March of 2008. As part of that corruption investigation, this Grand Jury has issued Presentments against 24 individuals employed by or associated with either the House Democratic Caucus or House Republican Caucus, including five current or former state representatives.<sup>1</sup> This Grand Jury also has investigated the Senate caucuses; that aspect of the investigation, as well as certain aspects of the investigation involving the two House caucuses, remains ongoing and will continue even after the expiration of this Grand Jury.

Both in this investigation and in the preparation of this Report, the Grand Jury has continued to be guided by the words of the Pennsylvania Superior Court when it stated that an elected representative is “not allowed to direct state-paid employees under his authority to conduct campaign/or fundraising work, during state paid time, for his

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<sup>1</sup> The 25<sup>th</sup> Statewide Investigating Grand Jury issued a Presentment against an additional state representative, Sean Ramaley. The Presentment issued by the 26<sup>th</sup> Statewide Investigating Grand Jury included individuals who were also the subjects of a Presentment issued by this Grand Jury.

personal benefit.” Such actions secure “a private monetary advantage” for an elected representative because, “by having state employees work for him on his campaign and/or fundraising tasks while they were being paid by the state, he obtained the benefit of free campaign work funded by the taxpayers.”

Commonwealth v. Habay, 943 A.2d 732, 738 (Pa. Super. 2007).

While mindful of the ongoing investigation into the corruption of the Pennsylvania General Assembly, this Grand Jury has prepared the following Report, which demonstrates the systemic problems that permeate the Pennsylvania House of Representatives. The Grand Jury stresses that this Report is not based solely on the activities of those charged in this investigation, but rather on an overall view of the General Assembly.

## II. HISTORICAL AND NATIONAL CONTEXT

In the words of Professor Alan Rosenthal,<sup>2</sup>

Pennsylvania, the Legislature, exists in a time warp. Whereas in the other 49 states, time seems to have changed and things have changed. Pennsylvania is still living back then. It’s still doing what all the states did in the 1950s and 1960s.

I don’t understand why. It’s not that you don’t have any communication systems here. You do hear about the outside world. There is television. It is pretty inexcusable, I think, if Legislators who are responsible for their institution, if they don’t understand – they passed the laws that prohibit this [use of public funds for campaign work]. I didn’t. You didn’t. They passed the law[. F]or them to be expected to obey the laws[] is not expecting a lot of your Legislature.

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<sup>2</sup> Alan Rosenthal is a Political Science professor at Rutgers University. He has studied state legislatures for the past 40 years. As part of that process, Professor Rosenthal has taught about state legislatures, has consulted directly with state legislatures around the country, and has had numerous books published on topics related to state legislatures. His work has earned him accolades from, among other sources, the National Conference of State Legislatures. His testimony before this Grand Jury was highly instructive.

Pennsylvania's General Assembly, which predates even the First Continental Congress, is tasked by Article III of the Pennsylvania Constitution to consider and pass legislation, including "paying out public moneys." The unfortunate tendency of the legislative branch of government to expand itself beyond those core functions was understood by every state, including Pennsylvania, but that tendency was limited by the part-time nature of the state legislatures. For more than 150 years of our country's history, all of the state legislatures in this nation were part-time bodies, consisting of citizens who would gather for approximately two or three months every two years. The legislators would meet, take care of their core functions of making necessary laws and agreeing on budgetary issues, and return to their private pursuits. For their limited public service, they received limited compensation, or in few instances, no compensation.

Beginning in the 1960's, however, there was a general push toward more "professional" legislatures. State legislators in many states began to meet for longer periods of time, to hire more and more staff, and to increase the salaries of both the state legislators and the staff. Today, in many states, including California, Massachusetts, Illinois, Ohio, and Pennsylvania, the legislatures have become officially or practically full-time, with corresponding increases in the cost of maintaining the legislatures and staff.<sup>3</sup>

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<sup>3</sup> California sports the highest paid legislators in the nation at an approximate average salary of \$130,000 per year. No other state comes close to that. However, at \$78,314.66 per year (excluding perks and other benefits), Pennsylvania's rank-and-file legislators enjoy one of the highest salaries in the country. Various members of the legislative leadership make ever more money, up to \$122,254.19 per year for the Speaker of the House (excluding perks and other benefits). By contrast, state legislators in New Hampshire are paid \$100 per year. State legislators in New Mexico receive no annual salary; rather, they receive "per diem" distributions for the days they are in session, and nothing more. The state legislators in both New Hampshire and New Mexico are part-time.

Many witnesses who testified before us, and indeed many of those against whom the Grand Jury issued Presentments in this investigation, claim in essence that “no one’s guilty because everybody does it.” In terms of the practice of using state time and resources to do campaign work, the Grand Jury concedes that this is far from a new phenomenon. In the 1950’s and 1960’s, campaigning on state time was not abnormal according to Grand Jury testimony. At that time there also were few, if any, rules or regulations to prevent, discourage, or outlaw such behavior. However, as of the 1970’s and beyond, using state resources to do campaign work has been and is illegal in nearly all states, including Pennsylvania. The failure of the General Assembly to follow laws, which were in fact passed by the General Assembly, and which have been in place for nearly 40 years, demonstrates once again the truth of Professor Rosenthal’s observation of the “time warp” surrounding the Pennsylvania General Assembly.

To be sure, Pennsylvania’s has not been the only “time warp” state legislature in the country. In the 1980’s, the New York state legislature became mired in controversy for putting people on its payroll who did nothing but campaign work. Once revealed, there was public outcry and the practice was severely condemned. In connection with that scheme, the District Attorney of Manhattan charged the New York Senate minority leader with 564 counts of conspiracy, grand larceny, and other related charges. Shortly thereafter, in New Jersey there was a scandal that came to be referred to as “computer-gate,” under which Democrats in the state legislature were using their state computers for campaign activity. There, although the practice was severely condemned through a Grand Jury investigation, New Jersey law was too ambiguous to proceed with criminal charges at the time the conduct occurred. Not long after “computer-gate”, members of

the legislative staff in Washington state were caught doing campaign work on state time; there were no criminal charges but various individuals and entities were fined \$300,000. In each of those instances, after the use of state resources to perform campaign work was revealed, the respective legislatures took reactive steps to clean up their acts and eradicate such behavior. Despite those public condemnations in several states, similar activity was uncovered in Wisconsin in the early 2000's. In this instance, criminal indictments and convictions of legislators followed.

Professor Rosenthal described to the Grand Jury his reaction to the Wisconsin convictions:

My reaction there, quite honestly, was, what's wrong with these [legislators]? Don't they pay attention? This can't be done anymore. Yes, it was done in the 1950s and the 1960s. It was okay. But our standards have changed. The laws have changed. What [the public] demand[s] has changed, whether [the legislators] like it or not.

Accordingly, for anyone paying attention to the legislative landscape in the United States (or, according to Professor Rosenthal, anyone who has a television), it has been clear for decades that the use of public resources for political campaigns is wholly inappropriate, and in most cases, illegal. The Grand Jury is unaware of any "time warp" defense to criminal charges involving the use of state resources for campaign work; in any event, ignorance of the law is no excuse.

Simply put, under the Pennsylvania Constitution the Pennsylvania General Assembly exists to debate and enact laws. Both elected legislators and all of those individuals who work in the General Assembly are tasked with carrying out that basic task by representing the interests of their constituents.

Since the founding of our Commonwealth, however, these basic principles have been obscured, then ignored, and finally cast aside or buried by the overwhelming majority of the elected members and staff of the Pennsylvania House Democratic Caucus and House Republican Caucus. “Serving the constituents” metastasized into “serving myself may ultimately serve the constituents.” For some, including each and every one of those individuals charged in Presentments issued as part of this investigation, the mantra was perverted further into simply “serving myself.” This perversion of the basic principle of any legislature manifested itself in a variety of ways during this investigation. Some, but by no means all, of those perversions are listed later in this Report.

### **III. TAXPAYER-FUNDED POLITICAL CAUCUSES MUST END**

One “time warp” issue raised by Professor Rosenthal is the creation, use, and maintenance of taxpayer funded partisan political caucuses in Pennsylvania. As currently constituted, each political party has a caucus in each chamber of the Pennsylvania General Assembly (House Democratic Caucus (HDC), House Republican Caucus (HRC), Senate Democratic Caucus (SDC), and Senate Republican Caucus (SRC)). These entities exist in the shadows of the law<sup>4</sup>, as the years go by eating up more and more taxpayer resources with little to no tangible benefit to the taxpayers of Pennsylvania. The taxpayers of Pennsylvania elect individual members to public office, not an amorphous creature called a “caucus” that consumes resources, is answerable to a select few, and delivers no tangible benefits to the taxpayers.

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<sup>4</sup> Even assuming for purposes of argument that Pennsylvania law allows the funding of partisan political caucuses, the Grand Jury recommends that such an antiquated system be abolished immediately. Other states, including but not limited to Virginia, function perfectly well without taxpayer funded political caucuses.



**A. Number of Legislative Employees**

Evidence presented to the Grand Jury established that there are currently 2805 staff people employed by the Pennsylvania General Assembly.<sup>5</sup> The Grand Jury received conflicting information as to whether or not this number included contract employees. With 253 elected members (50 senators and 203 representatives), that equates to, on average, more than 9 support staff individuals for each state representative and 17 staff for each state senator. Despite the best efforts of numerous witnesses before the Grand Jury, nobody was able to justify such a large number of employees for this body. On the contrary, there was a virtual consensus among those who have worked inside the Legislature for many years that the number of employees could be significantly cut with no measurable decrease in the ability of each Member to perform his legislative duties and to serve his constituents.

For example, one former high-ranking member of the HDC told the Grand Jury that out of 911 staffers employed by his caucus,<sup>6</sup> only about 350 of those employees were truly necessary for the daily operations of the Caucus. In other words, more than half of the HDC employees currently paid by the taxpayers are superfluous. The Director of Staffing and Administration for the HDC from 2001 through 2007 went even further, testifying that “You could probably operate, assuming it is a full-time Legislature, having hearings, you could probably operate on one-quarter to one-third of the staff if properly organized....” Another witness, who was employed by the HDC from 2001 through 2008, concurred with these assessments, testifying that “there is way too much staff, way

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<sup>5</sup> This number would include both Harrisburg and the hundreds of district offices. The House of Representative employs, excluding interns, 1918 staffers (HDC 911 staffers, the HRC 797 staffers, and 210 bipartisan staffers). The Senate employs, excluding interns, 887 staffers (SDC 317 staffers, SRC 403 staffers, and 167 bipartisan staffers).

<sup>6</sup> This figure would include the district offices, as well as Harrisburg.

too many legislative assistants, way too many people that do duplicative work in all caucuses.”

These unnecessary employees, supported on the backs of Pennsylvania taxpayers, have resulted, at least in part, from a total lack of accountability in the process of adding staff in the Pennsylvania House of Representatives. For example, as accepted practice, if an elected member of the HDC wishes to increase the staffing level of his district office, he simply goes to the Leader and requests more staff, without having to provide any justification. In some instances, the reason for requesting additional staff members has been to compensate for the incompetence of existing staffers. Instead of firing those incompetent workers, “you would just add more people.” The Grand Jury is appalled by this practice.

This disturbing overstaffing does not exist solely within the HDC. The head of District Operations for the HRC estimated, when he testified before the Grand Jury, that anywhere from 20 to 25 percent of the legislative staff could be cut without significantly disrupting the core functions of the Legislature. Moreover, former House Republican Caucus staffer William Tomaselli, conducted a salary study. Mr. Tomaselli told the Grand Jury that of the 475 staffers employed by the HRC at the time of the salary study, approximately 289 would actually be needed to conduct legitimate legislative work.<sup>7</sup> In other words, 186 HRC employees could be eliminated without adversely affecting the legislative process. According to Mr. Tomaselli, those excess 186 employees cost the taxpayers approximately \$11.2 million per year in salary and benefits.

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<sup>7</sup> These numbers refer only to the HRC employees in Harrisburg. The HRC also employs over one hundred additional staffers in its district offices throughout the Commonwealth.

The Grand Jury finds that the vast overstaffing problem is linked to the patronage system within the Legislature, which in turn is a symptom of the “time warp” in which the Pennsylvania General Assembly operates. Many staff members are hired at the request of a specific elected member, regardless of the prospective staff member’s qualifications (or utter lack of qualifications). Predictably, many of those individuals are not capable of performing the tasks for which they were hired. However, due to the nature of how they came into the job (i.e., through a politically powerful patron), the staff member’s position is secure, in fact often more secure than the positions of staff members who are more adept at their jobs but are less adept at navigating the shifting allegiances of a “time warp” patronage system. As a result, if the necessary work functions are to be accomplished, competent staff members must be hired in addition to the patronage hires. That process, over time, has contributed to the existence of hundreds of legislative employees who, although paid by the taxpayers to do legislative work, do campaign work on state time or with state resources, or other non-legislative work, instead of legitimate legislative work.

According to Mr. Tomaselli, one of the main problems is that much of the work done by legislative employees is either not legislative work or is duplicative of work done by another state agency or other employees of the Legislature. This theme was echoed by numerous witnesses before the Grand Jury. Some examples, by no means an exhaustive list, will help to illustrate the problem.

## 1. **Print Shops**

As set forth in more detail elsewhere in this Report, within each house of the General Assembly, there are two “caucuses,” one for each of the two major political parties. Each of the four caucuses operates as an independent entity, which maintains its own staff and, to a large extent, purchases its own equipment. While it is understandable that certain partisan issues are best addressed within a single caucus, many other issues are inherently nonpartisan, and therefore do not need to be held separate among the different caucuses.

For example, the Grand Jury received substantial evidence outlining the fact that since approximately 1980 the HRC and the HDC each maintain separate print shops.<sup>8</sup> Each print shop, in turn, has its own staff and its own set of equipment. The equipment that each caucus has purchased for its individual print shop has cost millions of taxpayer dollars. The equipment required for each of the print shops is, in all meaningful respects, identical. By way of example, the HRC print shop contains four Shinohara presses, two of which were purchased at a cost of approximately \$550,000 - \$800,000 each; the other two are leased for a substantial monthly rate. Recently, the HRC also purchased a digital press, which cost approximately \$1 million. The HDC print shop contains 2 Shinohara presses, 2 newer Ryobi presses, and 4 digital Xerox machines.<sup>9</sup> Whether motivated by a perceived need or simply a desire to not be outdone, when one of the House print shops acquires a particular piece of equipment, the other obtains the same item shortly thereafter. This has resulted in each House print shop containing essentially

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<sup>8</sup> Before that time, the House was served by a bipartisan print shop.

<sup>9</sup> The equipment referred to here is limited to the most prominent machines for each print shop.

the same equipment, highlighting the fact that each print shop is fulfilling the same basic function as the other.

In terms of cost to the taxpayers, the Grand Jury learned that the combined salaries and benefits for employees of the HRC print shop in 2009 totaled \$1,807,584.40. The cost of supplies and other miscellaneous expenditures during 2009 totaled \$1,460,746, for a total operating budget of \$3,268,330.40. Although the Grand Jury has yet to obtain the exact amount of money expended in connection with the HDC print shop<sup>10</sup>, all of the evidence presented to the grand jury suggests that the number of employees, nature of the work, and type and quantity of equipment are basically the same for the HRC and HDC print shops.

While other legitimate purposes could surely be offered, the basic purpose of the legislative print shop is to print brochures, letterhead, stationary, and mass mailings to constituents for the members of the General Assembly.<sup>11</sup> There is nothing partisan about this work that would require more than one print shop to serve the entire House of Representatives.<sup>12</sup> To maintain separate print shops for the different caucuses is a gross misuse of public resources. The same work could be effectively accomplished with fewer staff and less equipment if the current HDC and HRC print shops were

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<sup>10</sup> That aspect of the investigation, as well as the investigation into the Senate print shop, remains ongoing.

<sup>11</sup> The Grand Jury was surprised to learn that the print shops discussed in this Report are not involved in printing or copying any legislation; that work is done in the State Capitol Building.

<sup>12</sup> It is difficult for the Grand Jury to imagine a scenario where a print job would contain material that was not appropriate for any member of the General Assembly, or its staff, to view. Any mailings or print jobs that took on a partisan slant would cross the line from legitimate legislative work to political activity, and would therefore not be appropriate for the publicly funded print shop in any event. The only reason put forth to the Grand Jury for maintaining separate shops was that the elected members typically want their print jobs finished immediately. Presumably, a print shop dedicated solely to one caucus will be more responsive to the requests of the members of that caucus. However, such feelings of individual entitlement among the members of the General Assembly must give way to the public interest. If that means a member must wait an extra 24 to 48 hours for a print job to be completed, so be it.

consolidated into a single entity, accessible to all members of the House. Should the legitimate workload exceed the resources available with a single shift of employees, the Grand Jury recommends a second shift of employees to use the same equipment, not duplicative print shops at the cost to the taxpayers of millions of dollars.

In contrast to the House, the Grand Jury learned that the Senate has one print shop that serves all of its members. That print shop contains, with few exceptions, the same type of equipment as the HDC and HRC print shops discussed earlier in this Report. The Senate print shop operates with a staff of approximately 11 workers. When new employees are hired for the Senate print shop, the hiring process is entirely non-partisan and overseen by the Secretary of the Senate.<sup>13</sup>

## **2. Information Technology**

Similar to the situation with the print shops, the Grand Jury learned that each of the four caucuses maintains its own separate information technology (IT) department. In today's society, the use of computers and associated equipment is commonplace. Not a single person who testified before the Grand Jury gave a credible explanation as to why each caucus needed its own IT budget or IT staff. To the contrary, the Grand Jury finds that in fact the IT budget for the Pennsylvania House Democratic and Republican Caucuses was an ideal place to hide "questionable" (i.e. campaign) expenditures from the prying eyes of the taxpayers.

## **3. PennDOT**

Going beyond the ill-advised parsing of non-partisan activities, as just described, the Grand Jury was also made aware of the use of legislative resources for a patently non-

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<sup>13</sup> The Grand Jury received absolutely no information that the operation of the Senate print shop suffers because it serves both Senate caucuses.

legislative function. To the great surprise of the Grand Jury, members of the Legislature have for years taken on the task of serving as an intermediary for constituents with regard to the Pennsylvania Department of Transportation (PennDOT). For constituents who have delayed in updating their vehicle registration, are dealing with a vehicle issue that requires unfamiliar paperwork to be filed, or who simply do not want to wait in line at PennDOT, a trip to their state representative often will serve as a substitute. Members of the legislative staff routinely will complete paperwork for constituents, place phone calls to PennDOT, and often even physically go to PennDOT to expedite the processing of the constituents' paperwork. This "service" is so ingrained that many representatives have one or more staffers in their district office who are designated as the "go to" people for PennDOT issues. Even worse, there are dozens of employees in the Capitol Building in Harrisburg whose sole function is to deal with PennDOT inquiries from constituents.

The House Republican Caucus (HRC) maintains a staff of approximately 20 employees in Harrisburg who deal specifically with PennDOT issues. Based on a study of the numbers from calendar year 2008, it is estimated that the PennDOT-related employees of the HRC process approximately 123,500 pieces of PennDOT work each year on behalf of constituents. The annual cost in salary and benefits for those employees is approximately \$895,500. Although the Grand Jury did not receive the annual cost for the HDC PennDOT operation, the HDC employs 14 full-time staffers whose sole function is to handle PennDOT work received, directly or indirectly, from constituents.<sup>14</sup> The HDC PennDOT unit alone handles approximately 100,000 pieces of PennDOT work

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<sup>14</sup> Specifically, there are one (1) "PennDOT Supervisor," three (3) "Assistant PennDOT Supervisors," and ten (10) "PennDOT Specialists."

on an annual basis. A significant portion of that work, the Grand Jury was particularly disturbed to learn, comes from businesses, as opposed to individual constituents.<sup>15</sup>

In addition to the HDC and HRC staff dedicated to PennDOT issues, the Grand Jury also has learned that, in order to accommodate the large number of items received from the Legislature, PennDOT has created a separate 35 employee unit dedicated to handling nothing other than the paperwork received from the elected members of the General Assembly. The nature of the work received is, for the most part, routine license and registration renewals, and title work. The supervisor of this specialized unit confirmed that the items they receive from the General Assembly include paperwork from businesses as well as individual citizens. Not surprisingly, nothing about the work performed by this unit within PennDOT suggests that there is any need for state legislators to serve as intermediaries between their constituents and PennDOT.<sup>16</sup> The above figures pertain only to the legislative workers in Harrisburg who are specifically tasked with handling PennDOT-related work; they do not include the employees of the hundreds of district offices who perform PennDOT-related work on behalf of

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<sup>15</sup> Businesses, including but not limited to car dealers, paving companies, and bakeries have taken advantage of these legislative resources in order to process their PennDOT paperwork. This reality contrasts with the image of an elderly constituent in a rural part of the state who is unable to complete his or her PennDOT paperwork without taxpayer provided assistance that some witnesses before the grand jury attempted to conjure in order to justify the PennDOT work.

<sup>16</sup> The unit supervisor at PennDOT stated to Office of Attorney General agents that no preference is given to the processing of items received from members of the General Assembly. Furthermore, it was his opinion that using a state representative as an intermediary can sometimes delay the process, as compared to a citizen using an online renewal procedure or mailing their paperwork directly to PennDOT. This point of view conflicts with other testimony heard by the Grand Jury, which sought to justify the existence of PennDOT workers within the General Assembly by suggesting that they were able to expedite the processing of constituent paperwork. The Grand Jury does not need to resolve this conflict, as our overall conclusion is the same under either scenario: the processing of PennDOT items is not a proper legislative function.



constituents. None of this work, of course, has any legitimate connection to legislative duties.<sup>17</sup> Yet, it is performed by legislative staff, at taxpayer expense.

PennDOT is a publicly created and funded entity that has the exclusive responsibility of processing all required paperwork pertaining to driver licensing, vehicle registration, and other issues pertaining to vehicles registered in Pennsylvania. Through the advent and development of advanced technology, it has become increasingly easier and faster for Pennsylvania drivers and vehicle owners to perform routine functions such as renewing a license or vehicle registration. For those items of paperwork that are more complicated to the average person, PennDOT has employees who are paid to answer questions and assist with the completion of required forms. If a citizen is in any way dissatisfied with PennDOT's resources, there are also private entities, such as AAA or other "tag services," that offer assistance with virtually every facet of the car ownership experience to their members.<sup>18</sup> All of the foregoing leads to the inescapable conclusion that the Legislature has no legitimate justification for using its taxpayer-funded resources to assist constituents with their PennDOT issues.<sup>19</sup> This practice must end immediately.

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<sup>17</sup> Indeed, the only "justification" offered by those witnesses who testified before the Grand Jury was that this service was designed to engender good will between the elected member and his constituents, thereby increasing the chance that said constituents would vote for that elected member in the future. This is precisely the type of politically-motivated activity that the public should not be forced to fund. Even if this work had purely altruistic motivations, it is not an appropriate use of legislative resources. The taxpayers already fund PennDOT, and should not be on the hook for such a duplication of services through the General Assembly.

<sup>18</sup> These organizations are in at least as good of a position as a legislative staff member to assist a person with issues related to PennDOT. The critical difference is that they are paid by their individual members, who choose to spend their money for that purpose.

<sup>19</sup> Of course, any elected official who feels strongly about continuing this service to his constituents would be free to fund such activity out of his campaign coffers, or his private funds.

**B. Human Resources - Partisan vs. Non-partisan Staff**

In another return to Professor Rosenthal's "time warp," currently most legislative staff members in Pennsylvania would best be characterized as "partisan." In other words, they are hired by one particular caucus in order to do the work of that caucus, and that caucus only. In the vast majority of cases, that means that the staff members have the same political leanings as the members of the caucus for which they work. Moreover, the hiring of "partisan" staff by each individual caucus means more opportunities for "ghost employees," i.e. employees paid by the state to perform campaign work or in fact to perform no work at all in exchange for political contributions or other campaign favors.<sup>20</sup> This partisan hiring of staff also occurs because of a severe imbalance between the power of an individual member and the power of leadership members of a particular caucus.

An excellent example of the peril to the taxpayers posed by partisan staffing is the former HRC Director of Human Resources, Bernadette Runk. Ms. Runk, who at the time of her grand jury testimony had 29 years of experience in the HRC Human Resources Department, told the Grand Jury, in part, that "[t]here are no organizational charts within the House Republican Caucus."<sup>21</sup> In later testimony, when asked about whether she had any information from any source about the Republican IT Department awarding "comp time" for working on election days, Ms. Runk invoked her Fifth Amendment right against self-incrimination and refused to answer the question. Despite her paucity of

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<sup>20</sup> One witness told the Grand Jury of an incident in 2007 when he was called into Republican House Minority Leader "office complex." According to this witness, shortly after taking office the Leader gave the witness a list of 8-10 names and demanded to know, "Who are they?" The Grand Jury recommends that, to the extent possible, all hiring for the General Assembly be performed by a bipartisan Human Resources Department.

<sup>21</sup> The Grand Jury notes that multiple other witnesses who testified after Ms. Runk were able to produce any number of organization charts related to the HRC.

knowledge of basic Human Resources issues in the HRC, at the time of her retirement from the HRC Ms. Runk was paid \$112,840 annually by the caucus.<sup>22</sup>

The Grand Jury finds that there is no legitimate legislative need for the overwhelming majority of staff employed by the Pennsylvania General Assembly to be hired on a partisan basis. If the majority of staff was bipartisan (as occurs in many states), there would be no need to have duplicative Human Resources staffs for both the HDC and HRC.

The Grand Jury also finds that other, currently partisan departments should or could be combined without any detriment to the taxpayers. For example, what purpose does a partisan Information Technology staff serve except to burden the taxpayers with more state employees than necessary? While there may be a limited need for partisan staff in each caucus,<sup>23</sup> the Grand Jury finds that one way to stop the “time warp” culture of the General Assembly is to remove the ability to hire staff from the select few individuals who compromise the leadership of the HDC and HRC.

#### **IV. FULL-TIME vs. PART-TIME LEGISLATURE**

As previously noted, state legislators in Pennsylvania are among the highest paid in the country. Their base annual salaries of \$78,314.66 (excluding perks and other benefits) would clearly correspond to a full-time position. Yet, the evidence presented to

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<sup>22</sup> Following her retirement on June 30, 2009, Ms. Runk was immediately re-hired by the HRC as a consultant at her previous rate of pay (\$4,340 bi-weekly) but only required to work 3 days per week instead of 5 days per week. Ms. Runk also was allowed to collect her pension annuity during this period of time. In justifying this consultancy, the HRC leader “declares this situation [Runk’s retirement] an emergency since RUNK’s departure will increase the workload of the remaining members of the Human Resources Department, such that it will severely impair service to the public.” The Grand Jury notes that having no plan of succession should not qualify as an “emergency.”

<sup>23</sup> Other departments to be considered for consolidation under bipartisan staffing would include Public Relations and Research, which employ approximately 179 people in both the HDC and HRC. Specifically, the HDC employs 31 people in the Legislative Communications Office and 22 people in the Legislative Research Office, while the HRC employs 57 people in the Public Relations Office and 69 people in the Research Office. The Grand Jury heard conflicting testimony about whether these departments should be partisan or non-partisan.

this Grand Jury has failed to convince us that the amount of legislative work performed in this Commonwealth demands a full-time legislature.<sup>24</sup>

Among other evidence, this Grand Jury reviewed statistics, which were retrieved directly from the General Assembly's own website, reflecting the number of days per year that the Legislature is in session. For calendar years 2006 through 2009, the House spent the following total number of days in session: 2006 – 72; 2007 – 115; 2008 – 72; 2009 – 147.<sup>25</sup> In 2006, 2007, and 2008, the House had no session days in the month of August. In 2006 and 2008, the House also had no session days in the month of December. During the 5-month period of January through May of 2010, the House calendar lists 30 active session days. While we recognize that some legitimate legislative work occurs on days that the House is not officially in session, it is certainly not enough to bring the total number of days worked into the full-time arena. These numbers simply do not appear to justify full-time status.

Moreover, the nature of the activities undertaken on some of the session days would belie any contention that full-time status is appropriate. One of the more egregious examples presented to the Grand Jury involved the House “pretending” to do legitimate work by having floor debate on bills that had already passed the House. In other words, full floor debate occurred on certain bills during the preceding year. Those bills were put to a vote and passed the House, meaning that they were ready to move to the Senate for consideration. However, at the beginning of the next year's session,

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<sup>24</sup> Certainly, if hours dedicated to political campaigns were factored in, our state legislators would not only be worthy of full-time status, many would also be entitled to overtime pay. However, as reflected in the Presentments issued by this body, campaign work is not to be counted as legitimate legislative work.

<sup>25</sup> These figures include both regular and “special” session days. The typical full-time employee works approximately 248 days per year (calculated at 5 days per week, 52 weeks per year, minus 12 holidays).

instead of forwarding those bills to the Senate, they were placed back onto the floor of the House for additional debate after the vote. This procedure was clearly designed to give the appearance of working, when in reality no legitimate work was being done.<sup>26</sup>

On top of the foregoing, this Grand Jury notes that the Legislature, despite the efforts of many hard-working staffers and rank-and-file legislators, has essentially been operating as a part-time entity for years. In the eyes of this Grand Jury, it is beyond dispute that numerous legislative employees have for years spent an enormous amount of time working on political campaigns when they were supposed to be performing their legislative duties. Moreover, many state legislators also hold other full-time or part-time jobs, including members in various law firms throughout the Commonwealth or as directors of corporations. The Grand Jury finds that it necessarily follows that these legislators' dedication to legislative duties has not been, under any reasonable definition of the term, a full-time affair. This unfortunate reality leads to the inescapable conclusion that legislative duties do not require the full-time attention of the people tasked with accomplishing them. All campaign work on legislative time must be eliminated and this will result in a surplus of legislative work hours unless rapid, meaningful change occurs. The Grand Jury believes that moving to a part-time legislature would eliminate that

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<sup>26</sup> The Grand Jury also received information about a HRC scheme for elected members to acquire additional *per diem* payments by periodically adding extra "token" days to the schedule of House session days. During the relatively few weeks when the House is in session each year, the members typically meet in Harrisburg on Monday, Tuesday, and Wednesday (sometimes only Tuesday and Wednesday) to vote on pending legislation, engage in floor debates, and conduct other legitimate functions of the legislature. The Thursdays of those session weeks are included on the schedule as "NV," or "non-voting" session days. As the name would imply, no voting occurs on those days. On those Thursday mornings, the tables in the large House Republican Caucus room at the Capitol are filled with donuts, eggs, and/or fruit plates, and a sign-in sheet is made available. Any member who appears in the caucus room and does nothing more than sign the sheet will receive full *per diem* payment for that Thursday.

surplus, as well as save the taxpayers of this Commonwealth an enormous amount of money in salaries and expenses for lawmakers and legislative staffers.

The concept of a part-time state legislature is not revolutionary. As described above, prior to the 1960's, the state legislatures were all part-time. Most were citizen legislatures that met for approximately 60 days every two years. It has only been in the past 50 years that state legislatures have begun to expand their numbers and, correspondingly, their salaries and other costs to the taxpayers. Even today, the states that have full-time, nearly year-round legislatures are in the small minority; only about 8 to 10 state legislatures would fit that definition. For the vast majority of states, their legislatures are limited, either constitutionally or otherwise, to approximately 2 to 3 months per year in session. Eliminating California, which has the highest paid state legislators, the average annual salaries for state lawmakers are in the range of \$35,000 to \$45,000. Were Pennsylvania to shift back to a part-time legislature with commensurate part-time salaries, it would stand to save in excess of \$10 million per year in salaries alone.<sup>27</sup> Such a shift could also reduce the number of staff required, resulting in additional savings to the taxpayers.

## **V. APPROPRIATION OF RESOURCES**

The Grand Jury heard a great deal of disturbing testimony about the budget process as currently constituted in the state. The Grand Jury recognizes that the investigation is continuing, and so refrains from a detailed review of the testimony which it has heard.

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<sup>27</sup> This number is clearly just a bare estimate, assigning an equal current salary of \$80,000 to each of the 253 state legislators, and then calculating the difference between that total and the total if each state legislator earned \$40,000 for part-time status. Although the figure is imprecise, it is instructive on the level of savings that could be achieved by reverting to part-time status.