

Montemuro Talking Points

- In the 1987 case *County of Allegheny v. Commonwealth of PA*, the Pennsylvania Supreme Court ruled that a lower court system funded by 67 counties with disparate fiscal capacities created an inherently unequal system of justice. To correct this Constitutional violation, it ruled that the Commonwealth must take over funding and administration of the lower courts.
- At that time, the Court allowed the 1987 county funding system to remain in place until the legislature had reasonable time to act. After five years of legislative inaction, CCAP filed a petition for mandamus with the Court in December, 1992. The Court found in favor of the Association and appointed retired justice Frank Montemuro as master to develop a set of recommendations on how the decision could be implemented.
- The Montemuro report was issued in 1996 and adopted by the Court. It outlines a four-part transition to Commonwealth assumption of funding and administration of the lower judiciary. The first phase consisted of transfer of court administrators and certain deputy administrators to the Commonwealth payroll. Core court personnel (support staff) were included in the second phase, the third phase was court-supervised functions (domestic relations, probation) and the fourth, court-related row offices.
- Only the first phase, transfer of the court administrator and certain deputies to the Commonwealth payroll (Act 12 of 1999), has been completed to date, and all of the remaining functions scheduled for transfer remain under county responsibility and part of the county budget.
- The Montemuro report indicated that counties should be responsible to fund only the cost of facilities and security for the courts. Counties would also surrender revenues currently collected through the court system, and assume up-front costs associated with transitioning county employees to the state system.
- It also recognized that cost efficiencies could be achieved in the court system by eliminating the office of jury commissioner, a recommendation that counties support but need action from the state to accomplish.
- During the last ten years, the state has failed to take additional steps to achieve the Constitutional equity the Court has required in the justice system. The filing being undertaken by CCAP is asking the Court, which retained original jurisdiction in the matter, to enforce its 1996 order
- In spite of the *Allegheny* decision and subsequent Montemuro report, county responsibility for court funding has actually increased as state appropriations for domestic relations, adult and juvenile probation, district attorney salaries, and other court functions decrease.
- Counties are solely reliant on the property tax, which means that local property owners continue to bear the responsibility of funding a system which should be funded by the state.

Examples of General Statewide County increases in Funding Responsibility

- District attorneys are part of the local judicial system, and are paid by the counties. Act 57 of 2005 makes all district attorneys full-time (until then more than half had been part time), and requires the Commonwealth to fund 65% of the cost of those salaries. Zero dollars were appropriated for this purpose in the 2008-2009 Commonwealth budget, and a special court fund established to provide reimbursement has collected barely \$250,000 against an annual obligation exceeding \$6.5 million.
- Counties receive a reimbursement from the state for the court system, amounting to \$70,000 per judge. This amount has not been increased since 1981 and, if adjusted for inflation, it would require a reimbursement of \$166,000 to have the same purchasing power as 1981.
- The district attorney's salary is tied to the common pleas judge salary, so is subject to the same automatic cost of living increase each year as the judges.

Research Points for Local Budgets -- CCAP suggests that counties prepare specific information related to local expenditures for Montemuro-related costs when talking with reporters.

Phase 2 Montemuro Costs

- What does your county spend on common pleas staff, as well as magisterial district judges and staff, and personnel such as court reporters, data processors and administrative support staff? What does this dollar amount equate to in millage for property taxpayers? *This estimate should not include costs of security and facilities, which Montemuro recommended be funded by the counties.*

Phase 3 and 4 Montemuro Costs

- What does your county contribute to each of the following, and what does this contribution equate to in millage?
 - Adult Probation and Parole
 - Domestic Relations
 - Juvenile Probation and Parole
 - Clerks of court, prothonotaries, registers of wills
 - Law Library

Current Revenue Derived from the Courts

- What revenue is generated from the court costs and fees collected by the county that would be lost if responsibilities are shifted to the state?

In the short term, implementation of the Montemuro report may not result in savings to counties, as there will be expenses involved for counties in transferring county pension plans to the state system, and other personnel expenses related to accrued sick leave and vacation time, for example.