From Chaos to Creation
Policy, Politics, and Policy-Making
A Conversation with Pennsylvania's Executive and Legislative Leaders

Governor Tom Corbett
Distinguished Lecturer, Duquesne University School of Law

&

Senator Jay Costa, L’89
Democrat Minority Leader

Moderator: Professor John T. Rago, Duquesne University School of Law
• Governor, Commonwealth of Pennsylvania, 2010-2014


• United States Attorney for Western Pennsylvania from 1989 to 1993 in the George H.W. Bush administration

• In 1988 Corbett was first elected to public office as a Commissioner in the Pittsburgh suburb of Shaler
State Senator Jay Costa
Democratic Leader
Representing the 43rd District

• Elected Senate Democratic leader in 2010

• Previously, he served as Democratic chair of the Senate Appropriations and Judiciary Committees & caucus chair

• Co-chairs the General Assembly’s Arts and Culture Caucus

• Democratic chair of the Senate Veterans Affairs and Emergency Preparedness Committee.
Pick Four

Energy
(Opportunity)

Transportation
(Need)

Criminal Justice
(Public confidence in law enforcement and Child and Safety)

Education
(Genuine philosophical differences/budget allocation)
According to PA DOP, since 2007 more than 8000 wells have been drilled in Pennsylvania to extract natural gas from the Marcellus Shale formation, with the number expanding exponentially every year.

More than 100 energy companies, including Multinational Shell with its Beaver County Cracking plant, and related subcontracting firms have moved to Pennsylvania and are now active within the Marcellus Shale region, bringing significant employment and business opportunities for the foreseeable future.

However, the development of Marcellus Shale is also bringing some significant challenges, including environmental concerns over “fracking” and social impacts. Most of the development is occurring in relatively small communities that lack the infrastructure and support necessary to accommodate rapid, intense population growth and economic and workforce expansion.
Unconventional Wells drilled in Pennsylvania per calendar year

2007 - 50
2008 - 195
2009 - 763
2010 - 1454
2011 - 1937
2012 - 1365
2013 - 1207
2014 - 1370

Data from: Pennsylvania Department of Environmental Protection.
Act 13 and the Surprising Response from the Pennsylvania Supreme Court

• The Pennsylvania General Assembly passed HB1950 by a narrow margin in early February 2012, and Act 13 was signed into law February 14, 2012 by Governor Corbett.

• The local zoning provisions took effect in mid-April 2012 and gave municipalities 120 days to comply. The oil & gas industry had argued they needed a standardized statewide township ordinance, while the resulting Act was considered onerous by many since it essentially stripped local municipalities of their zoning rights.
State Supreme Court rules against shale industry-friendly provisions

Robinson Township et al v. Commonwealth of Pennsylvania

- **Notification.** If you are a state resident who has a private water well, you don't have to be notified of a toxic spill at an industry site that may affect your drinking water, according to Act 13.  

- **Medical gag order.** Two sections of Act 13 prohibit doctors and other health care professionals from disclosing information that oil and gas companies consider to be trade secrets.  

- **Eminent Domain.** If a gas company has rights to a majority of a Pennsylvania resident's land, Act 13 allows it to take the final portion through eminent domain for gas storage wells.  

- **Severability.** The Supreme Court has already struck down parts of Act 13. Because of those decisions, there are some other sections of the act that no longer apply.
PA. CONST. art. I, § 27
The “Environmental Rights Amendment”

Section 27 of the Declaration of Rights in the Pennsylvania Constitution, which states:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.
Transportation & Infra-Structure
PA’s 2013 Transportation Funding Law (Act 89)
The $2.3 billion dollar transportation bill was signed by Governor Corbett

- The state House voted 113-85 to tax gasoline and raise motorist fees to ramp up over five years to at least $2.3 billion in annual additional funding.
- The state Senate had approved the legislation with a vote of 43-7.
- The bill funds bridges, highways and mass transit facilities in need for overdue repair. The $2.3 billion is to be phased annually over the next five years.
- Many studies on the US state highways has been conducted based on performance and cost effectiveness; Pennsylvania has always been near the bottom of those lists.
- A small portion of these funds will go to airports, ports, railways and walkways.
Criminal Justice

Child Safety Legislation

Public Confidence in Law Enforcement
Lessons from Sandusky Modernized Child Abuse Laws

• HB726: Lowers the threshold of what injuries may constitute child abuse from ones causing severe pain to ones causing substantial pain.

• HB436: Adds attorneys to the list of mandated reporters of child abuse and imposes a direct reporting scheme to replace the previous indirect scheme.

• SB23: Updates the list of who may be considered a perpetrator of child abuse to include anyone who has access to children through activities sponsored by schools, religious organizations or nonprofits and for-profit organizations that cater to children.

• SB24: Creates an online reporting system.

• HB431: Establishes a training program for mandated reporters, among others, to learn about the changes in the laws.
US Confidence in Police

At Lowest Level in 22 years (Source: Gallup)

What lies behind the statistics?
Any reasonable person would have to admit that the job of a police officer is dangerous and often thankless.

In 2014 51 police officers in the United States were shot and killed while on duty (up from 27 the previous year). The number of citizens killed during interactions with police was 1,029, the highest on record in a single year for our nation.

Since 9/11/2001, the number of police killed is 1510; citizens deaths now exceed 5000.

In a year-long study, the Washington Post found that the great majority of people who died at the hands of the police fit at least one of three categories: they were . . .

(1) wielding weapons
(2) suicidal or mentally troubled, or
(3) they ran when officers told them to halt.
There have been **347 post-conviction** DNA exonerations in the United States. The first took place in **1989**. Exonerations have been won in **37 states**; since 2000, there have been 263 exonerations. **20** of the 344 served time on death row. Another **16** were charged with capital crimes but not sentenced to death. **36** of the **347 DNA exonerees** pled guilty to crimes they did not commit. The average length of time served by exonerees is **14 years**. The total number of years served is approximately **4,685**. The average age of exonerees at the time of their wrongful convictions was **26.5 and 42** at exoneration.

**• Races of the 344 exonerees:**

- 212 African Americans
- 105 Caucasians
- 25 Latinos
- 2 Asian American
Public Confidence in criminal justice is sustained when we establish policies conceived under the operating principle of being equally “good for law enforcement, victims, and the accused.”

(1) Eyewitness Identification & Examination Procedures
(2) Electronic Recording of Custodial Interrogations
(3) Evidence Preservation Practices
(4) Body Camera Deployment for Uniformed Police
Police and Prosecutors Recognize An Emerging New Normal For Juries: “If it’s not on film - it did not happen.”
“Our legislation is designed to ensure officers will use body cameras to record and hopefully defuse incidents of violence, protect the identities of victims or people who have been victimized by crime, and sustain public confidence in law enforcement by providing juries with objective evidence.”

Senator Stewart Greenleaf
Chairman, PA Senate Judiciary Committee
First Hurdle . . . Overcoming Pennsylvania’s Structural & Political Challenges: No Single Authority & Resistance to Legislation

* Pennsylvania’s law enforcement community has its own political and structural challenges with more than **1120 distinct police agencies statewide including 28,000 plus sworn officers.**

* Allegheny County’s law enforcement community consists of 166 agencies and 4100 sworn officers – as a county, it is among the most structurally fractured law enforcement communities in the nation.

* Without legislation, there is **no single authority to effectively guide or control all of the practices and policies of these agencies.**
* Officer Liability for Violating the Wiretap Act (felony)

* Use of force & De-escalation

* Officer/Citizen Safety

* RTK

FOP, PA Chiefs, PSP, PDAA
Expressed interests in BWC Policy primarily focused on these considerations
Sections 14 & 15 of the PA Constitution yield a perennial focus of public policy debates regarding the adequacy and equity of school funding in Pennsylvania.

The most specific language in the Pennsylvania Constitution relating to public education is contained in two sections of Article III: Section 14, titled "Public School System" and Section 15, titled "Public School Money Not Available to Sectarian Schools."

Each of these two sections is exactly one sentence long, and state that . . .

"The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth (Sec.14)."

"No money raised for the support of the public schools of the Commonwealth shall be appropriated to or used for the support of any sectarian school (Sec. 15)."
Are Constitutional “fixes” needed for PA Public Education?

PA courts have consistently ruled that the maintenance of a thorough and efficient system of public education is a matter for the General Assembly and not the courts to decide. Should the language of the constitution be amended in response to these rulings?

- **Should the constitution state specifically who is responsible for the funding of public education or define specifically the duties of the state verses the local school districts?** If so, how?
- Should the Constitution include specific language of a minimum state appropriation for public education (as it did in the 1874 version)? How much? By dollar amount or ratio?
- **Should the Constitution say that each child has a right to a fair and adequate education opportunity (individual right vs. collective obligation)?** Should it say anything about children specifically as compared to what it says about the system in general?
- Should language in the constitution address more specifically the issue of charter schools, educational tax credits, tuition vouchers, or other specific educational reform proposals?
- **Should the constitution set up some sort of periodic review process required to examine the adequacy/equity/effectiveness of the public education system?**
- Should the constitution address specifically the subjects or content to be covered in a basic curriculum? If so, what suggestions for content would you make?
PSBA, PSEA
A sampling of Issues facing Education in Pennsylvania

• Legacy Costs & Pension Reform
• Charter School Reform to Remove System Inequities
• Adequate and Fair Funding
• Standardized Testing (Toxic Testing)
• Every Student Succeeds Act – ESSA (replacing No Child Left Behind)
One answer or a non-starter?
“Management” & “Bargaining” Consolidation for Pennsylvania’s 500 Public School Districts

Pennsylvania's 29 intermediate units were established in 1971 by the Pennsylvania General Assembly to operate as regional educational service agencies to provide cost-effective, management-efficient programs to Pennsylvania school districts.
## Regional Comparisons
### 2012-13 Data

<table>
<thead>
<tr>
<th>State</th>
<th>Schools</th>
<th>Dists.</th>
<th>Students</th>
<th>Teachers</th>
<th>T/P ratio</th>
<th>Admin/P ratio</th>
<th>$ per pupil*</th>
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<tbody>
<tr>
<td>Pennsylvania</td>
<td>3,127</td>
<td>500</td>
<td>1,763,677</td>
<td>123,147</td>
<td>1:14.3</td>
<td>1:344.5</td>
<td>$13,864</td>
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<td>Maryland</td>
<td>1,449</td>
<td>25</td>
<td>859,638</td>
<td>57,718</td>
<td>1:14.9</td>
<td>1:243.3</td>
<td>$13,829</td>
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<td>New York</td>
<td>4,822</td>
<td>950</td>
<td>2,710,703</td>
<td>207,060</td>
<td>1:13.1</td>
<td>1:296.4</td>
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<tr>
<td>Ohio</td>
<td>3,685</td>
<td>1,093</td>
<td>1,729,916</td>
<td>106,000</td>
<td>1:16.3</td>
<td>1:331.4</td>
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<tr>
<td>U.S. Totals</td>
<td>98,454</td>
<td>18,093</td>
<td>49,771,118</td>
<td>3,109,101</td>
<td>1:16</td>
<td>1:294.1</td>
<td>$10,700</td>
</tr>
</tbody>
</table>

*Per pupil spending data reflects information reported for fiscal year 2013.

Sources: National Center for Education Statistics, "Table 2 - Number of operating public schools and districts, state enrollment, teacher, and pupil teacher ratio, by state: School year 2012–13” United States Census Bureau, "Public Education Finances: 2013 (Table 20)"