



MUNICIPAL COURT

Judges Bulletin

Spring 2002 • The Georgia Council of Municipal Court Judges Newsletter • Vol. 4, No. 2

Council of Municipal Court Judges Officers 2000 - 2001

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President's Corner



MY SWAN SONG

At the penning of this letter, we are preparing for our Annual meeting, to be held this year in Augusta. I am thankful for having been given the privilege to hold the office of President of such a wonderful group of Judges. Thank you for the vote of confidence placed in me to have permitted my service in the capacity as President of the Council of Municipal Court Judges for the past year. Regrettably, by the time one realizes all that there is to do and learn how to do it, the time has rolled around for the next leader to surface from the President-elect's office to serve.

We are fortunate to be able to pass the baton to a capable person, in Judge Viviane Ernstes, who I am confident will continue the same outstanding leadership, as those who served before us, in making strides to move forward with improvements and to bring this organization in full swing and respectability among our Council of Superior Court Judges. I am truly grateful to the Executive Committee members for their ardent support during the past year and being so willing to step up to the plate when needed, to enhance a smooth transition and operation. Ours was the last of the Council of Judges to come into existence and to be where we are now in such record

time from its inception to the present is no small feat. That was made possible by the willingness of so many to jump in and dedicate themselves to the task of getting this group up to full speed.

Words can not express or capture the dedicated work on the part of the A.O.C. staff, in the persons of Marla Moore, LaShawn Murphy and Robbie Foote who bring their guiding touch to make it appear that the President knows what needs to be done in such a short period of time. Let us show them our profound thanks for their willing spirit and dedicated hearts.

We need to let our predecessors know how much we appreciate their contributions to moving this organization forward and for their accomplishments. During the next meeting it would behoove each of us to seek out our previous Presidents to express our gratitude to them, not only for what they have done but continue to do, individually and collectively. Our past Presidents are Maurice Hilliard, Tommy Bobbitt, Roger Rozen, Margaret Washburn, and Robert Whatley. We will in a more formal way express our thanks to them during one of our annual meetings.

We continually thank Margaret Washburn for her contributions to put together an outstanding newsletter. Our kudos to Charles Barrett for his able leadership in the legislative effort during the convening of the General

continued on page 2

President's Corner *continued*

Assembly. Frost Ward continues to make us proud to have his guiding hand as Treasurer and on the Probation Advisory Council. Thanks to Tommy Bobbitt for his untiring work in overseeing the coffee mugs made and sold. We know that Jim Payne does an outstanding job each year with his Golf Tournament Committee.

I must especially thank Judge Maurice Hilliard, for his continued support and sound advice during my reign, from the beginning to the present. I have not mentioned everyone who makes this office much easier than it would be without their support and contributions. Indeed that would require Judge Washburn's suspension of all other content of the next newsletter to name everyone who deserve our sincere thanks for all they have done.

It is my hope that our organization will continue to grow and progress as it has in past years and that we continue our mission of providing quality programs of continuing education and court improvements. We must meet the challenge that has been handed us, as Municipal Judges, of developing a strategy of responding to the recent U. S. Supreme Court decision in *Alabama vs. Shelton*, handed down on Monday, May 20, 2002, as we prepare to meet in Augusta this Summer. As you may know, this decision has expanded the Court's ruling in *Argersinger v. Hamlin* (1972), that all defendants facing a possible jail sentence are now entitled to legal counsel at their trial. This provides a heavy burden on already burdened municipal budgets but we must address ways to deal with the implications for our respective jurisdictions, where we have no control or decision-

making authority over budget items for compensation of appointed attorneys for indigent defendants, who must now be provided legal representation if there is a possibility of the imposition of jail time as a penalty. With the capable legal minds that our organization brings to the table, I am confident of a devised strategy by the time we meet from July 8-10, 2002.

We must continue to address and meet the objections being raised by our Council of Superior Court Judges, to our membership on the Judicial Council of Georgia. If their real objection is that of desiring to maintain their current voting bloc, we have proposed a solution of permitting the continued membership of their immediate past President, which would facilitate their controlling number on the Council. A committee was established to address and investigate our issue of membership, during the Council's Kiawah Island, South Carolina meeting. To my knowledge, this committee is yet to convene a meeting to move forward on this issue. We appreciate the other Councils and Council members who have advanced and supported the notion of our gaining membership and especially the support of Judge Alan Blackburn and Judge Thelma Wyatt Cummings Moore.

We will be addressing the issue in our next Council meeting of amending our bylaws to provide for absentee voting for officers and district representatives. We thank Dennis Stills for his laborious efforts to bring this issue to the forefront for our consideration. Let us consider and support this improvement for garnering more participation by all of our members, including those who do not usually attend the annual meeting of our

Council.

We ask your support of our next President in her priorities, which will continue to emphasize more participation in the legislative breakfast meeting in January or February, 2003. The Executive Committee usually meet after the breakfast, so our district representatives are urged to attend. We wish to also advanced the idea of our immediate past President of providing a greater presence during the meeting of the State Bar of Georgia, through a reception or luncheon for the Judicial Council members during the 2003 State Bar meeting. I urge our golf players to give greater support to the golf tournament to be held this year in our State's unofficial golf City of Augusta. Finally, let me take this time to urge more of our members to care enough to be involved and stay involved.

It has been a challenging year but also a rewarding year during my reign. I look forward to seeking ways to continue to give life to the notions and goals that we have identified and approved as further missions of our organization. With the full support of our members, there is nothing too great to tackle, including the issue of our rightful membership on the policy making body for the Judiciary of our State, the Judicial Council.

The Summer meeting of the Judicial Council will convene in Macon, Georgia, on June 12, 2002. That will be my last report to the Council (an agenda item reported on away from the table), as President of the Council of Municipal Court Judges. My report must include our concern that the Committee appointed in Kiawah Island has not yet convened upon its charge to look into the membership

continued on page 3

Minutes from April Council Meeting

Executive Committee of the Council of Municipal Court Judges • April 12, 2002 • Smarr, Georgia.

The meeting was called to order by President-Elect Ernestes at 10:05 AM. Judges Coolidge, Cielenski, Butts, Carlisle, Barrett, Williams, Ward, Bobbitt, Taylor, Whatley, Crawford, and Pierce were present. LaShawn Murphy and Robbie Foote of the AOC were also in attendance.

The minutes of the previous meeting were approved with two corrections. A typographical error in the third paragraph on page two was corrected to change the word "hardest" to "largest." Insofar as the minutes stated that the new benchbook would be on CD-ROM, the minutes were corrected to reflect that the decision to do so is not final.

President's Corner continued

issue. It is imperative that we continue pressing the discriminatory impact when our Council's membership has been excluded from that body, with no sound reason for the decision. We know that one day, in a not too distant future, this august body will wise up and rise up to see the error of its way and be equal to the challenge to live up to the true mission of its cause that we Judges serve, and that is to facilitate the notion of inclusion and not arbitrary and capricious exclusion with no rational basis for such blatant discrimination against a class of courts being accepted as one of its members. That was my maiden voyage concern and remains a heightened concern at my swan song.

Judge Ward and Mr. Foote gave the treasurer's report. The current balance in the dues-generated account is \$18,424.30, reflecting an additional \$519.46 in collections since the last report. We still have \$11,836.46 of our state-appropriated funds.

Judge Cielenski reported that the benchbook was still in the proofreading process.

Judges Barrett and Coolidge reported that House Bill 1169 passed the Senate and that it should pass the House again on the last day of the session. The efforts of the GMA in getting this bill passed were recognized.

The survey will be sent shortly. The AOC is to confirm that it will be sent to clerks, since they are more likely to respond to it than judges.

The deadline for the next newsletter will be in mid-May.

On behalf of the nominating committee, Judge Pierce asked any district representatives who did not wish to continue serving to notify the committee. He also solicited nominees for Vice President. Upon inquiry and some discussion, it was determined that we still have a Vice President.

Judge Williams reported that our efforts at gaining membership on the Judicial Council were "status quo." He noted that were receiving more contacts from judicially-related committees asking for us to participate. The most recent contact was from a committee established to deal with the numerous fine surcharges the courts are required to collect. However, the committee designated to consider our membership on the Council has not met, yet. Various ideas, arguments, and approaches to make or take regarding Council mem-

bership were discussed, as well.

Judge Ward reported that the Probation Advisory Council was fully staffed and functioning well. The Automation Committee is still in existence and appointments to it are expected by June. The Interpreters Committee has also been fully staffed. Judge Ernestes is our representative to it.

The need to address bindover issues was discussed. A committee was appointed consisting of Judge Coolidge (chairman), and Judges Whatley, Barrett, Ernestes, and Williams. A notice will be placed in the next newsletter outlining the relevant issues. The committee will then develop some proposed positions for the membership to consider at the July meeting in Augusta. Any proposed legislation will have to be coordinated with other affected classes of courts.

Under the "new business" section of the agenda, Judge Cielenski reported that he and Richard Reaves met with the CLE Committee and that they agreed to award us lawyer CLE credit for attending judicial ethics courses. We will get _ credit for attending faculty development courses sponsored by ICJE.

The executive committee approved the appointment of Judge L. Patterson to the committee studying the surcharge issue.

The upcoming annual meeting was discussed. Efforts will be made to place the issue of absentee voting on the agenda of that meeting, which will be on July 9, 2002 in Augusta at 10:30 AM.

The meeting was adjourned at 11:05 AM.

Proposed Bylaw Change

By Judge Dennis T. Still

At the annual meeting we have been electing officers and district representatives. Only those judges present could vote. In response to several requests, the Bylaws Committee has considered the feasibility of providing absentee balloting for those judges who would like to vote but are unable to attend the annual meeting. In accordance with Article Eight of the Bylaws of the Council of Municipal Court Judges of Georgia, notice is hereby given that the following proposed amendment to Article Five, Section 2, of the Bylaws will be submitted for consideration by the membership at the annual meeting on July 9, 2002, in Augusta:

ARTICLE FIVE

Section 2. (a). Each year, not later than two (2) months prior to the regular annual meeting at which the election of the officers will occur, the

President shall appoint a Nominating Committee consisting of five (5) members, one of whom is designated as Chair, to prepare a proposed slate of officers for the ensuing year. The proposed slate shall be presented to the members of the Council at the regular annual meeting in which election of officers is to occur. Nominations shall also be permitted from the floor at such regular annual meeting.

(b). The Council Secretary shall by separate letter, or by means of the Council newsletter, notify the membership of the qualified candidates for each office and availability of absentee ballots from the Nominating Committee as described herein. The notice shall be sent to the membership not less than thirty (30) days prior to the announced annual meeting date. Absentee ballots will be available on written request from the Nominating Committee up to fifteen (15) days

prior to the date set for the annual election. The ballots shall be prepared, and on request in writing, sent to the requesting member. Each absentee ballot will contain a numbered envelope for return of the ballot. Numbers on the return envelope will correspond to numbers assigned to each member on the membership list. Only mailed ballots returned in the numbered envelope will be counted in the election. Ballots must be returned by mail to arrive not less than ten (10) days prior to the annual meeting. Members who have solicited an absentee ballot and are in attendance at the annual meeting may vote at the meeting provided that their numbered envelope has not been returned to the Nominating Committee. Mailed ballots will not be opened prior to the date set for election. After verification by the Nominating Committee, each envelope will be opened and all ballots counted.

**Third
Annual**

Municipal Judges Golf Tournament & Round Robin Tennis Tournament



Augusta, GA • July 7, 2002

*River Golf Club • North Augusta, SC
Lunch 11:45 a.m. • Tee Time 1:20 p.m.*



For Golf Tournament

Details Call:

Judge Jim Payne

770-974-6911

For Tennis Tournament

Details Email Judge

Washburn at

mwashbur@bellsouth.net

Committee Appointed to Review Bindover Issues

By Judge William Coolidge III

There have been conflicting rulings on the issue of whether a municipal court can bind a defendant over to State or Superior Court on a state charge or a municipal ordinance violation that is also a violation of state law without the defendant's consent. This might require legislative correction or clarification. In *State v. West*, now pending in the Court of Appeals (case number A02A1049), one judge of the Gwinnett State Court found that OCGA § 40-6-376(b) prohibited the transfer of a DUI case from municipal court to state court without the defendant's consent or a commitment hearing at which the "recorder or city judge" must determine whether there is "probable cause for arrest." The judge found that OCGA § 40-6-376(a) did not authorize such a transfer "because that code section only discusses

allowing a prosecutor to charge a local ordinance as a violation of a state statute." At least one other Gwinnett County judge has found to the contrary. In another case, the State Court of Clayton County ruled that a transfer order from the Municipal Court of College Park was invalid and remanded the case back to the municipal court. However, in a ruling that has not yet been contested, the municipal court entered another order sending the case back to the state court on grounds that OCGA § 40-6-376(a) authorized the transfer that the municipal court initially made. *Diamond v. State*, 151 Ga.App. 690, 261 S.E.2d 434 (1979), was cited as authority.

In addition to the above, OCGA § 40-13-23 requires a transfer to State or Superior Court when the defendant requests a jury trial and provides that "if reasonable cause exists, he shall be immediately bound over

to the (State or Superior Court) ..." The only guidance as to the meaning of "reasonable cause" is found in Unofficial Attorney General's Opinion U89-23, in which the Attorney General opined that "if a defendant has notified the court that he desires a trial by jury, the court must review the case and, if reasonable cause exists to prosecute the matter against the defendant, the court is to bind the case over..." The Attorney General rejected the view that the "reasonable cause" requirement concerned the reasonableness of a demand for a jury trial. Precisely how does the municipal court "review" the matter once a jury trial has been demanded? Some have interpreted the "reasonable cause" requirement to mandate a preliminary or commitment hearing. In courts using an arraignment system, when a defendant demands a jury trial at his "arraignment," how can the case be "immediately" bound over when the officer is not present to testify as to "reasonable cause?" By the way, what is "reasonable cause?" It has been equated with "probable cause." *Erfani v. Bishop*, 251 Ga.App. 20, 553 S.E.2d 326 (2001).

OCGA § 40-5-124 allows a defendant to request a transfer to State or Superior Court, but is silent on whether it can be done without his consent and contains no "reasonable cause" requirement. OCGA §§ 36-32-6 through 10 similarly allow the defendant to request a transfer without any "reasonable cause" requirement, but are silent on whether a transfer can occur without the defendant's consent. Therefore, it could be that under OCGA §40-6-376(b) or § 40-13-23, a preliminary hearing is

continued on page 11

Nominations Solicited

There are more than five hundred municipal court judges in Georgia. Each of these judges is a member of the Council of Municipal Court Judges. The officers of the Council are a president, president-elect, vice president, secretary, and treasurer. In addition to these officers there is an executive committee composed of two representatives from each of the ten judicial administrative districts. With the exception of the president's position, all other officers and representatives will be elected at the annual meeting in July. There will also be three openings on the Training Council that will be filled by election. Of all the municipal court judges, less than 10% are

actively involved in any leadership role. Now is your opportunity to serve. Nominations for each position are solicited. If you would like to assume a more active role in your organization, please consider running for an office. You may nominate yourself for any position. The Council needs your support and involvement. If you have questions or comments or would like to submit a nomination, please contact:

Judge David M. Pierce, Chair
Nominating Committee
89 Cohen Walker Drive
Warner Robins, GA 31088
(478) 987-4695/Fax 987-5249
dpierce@houstoncountyga.org

Municipal Court and Probation Partnership

Mr. Larry Anderson, Regional Director
Behavioral Interventions, Inc.

Over the past twenty years, municipal government officials throughout the United States have been faced with public concerns about safety, security, and overall issues of community quality of life. Disorder, crime, drugs, and violence serve as daily reminders of the threats to community safety and security. Concerns about these threats are increasingly prevalent in not only large urban centers, but also in small towns and rural municipalities. A number of initiatives, which target crime, victimization, community safety, neighborhood problems, and other community quality-of-life issues, are being sponsored by municipal leaders across the country.

Out of these prevailing concerns, increased attention has been given to crime and public safety as major quality-of-life issues. With this attention comes additional recognition that community order and safety are basic rights of citizens, and that good governance in our community should reflect responsive actions on the part of municipal governments and their officials. Municipal courts obviously play a role in their respective jurisdictions, and in doing so help in improving quality of life in the communities they serve. Georgia's municipal courts and its judges grapple with community quality-of-life issues with each offender coming before the bench.

The concept of "Broken Windows" holds that a community's overall quality of life is impacted not only by the commission of major crimes, but also by relatively low-level crimes— even simple acts of vandalism such as breaking windows. The commis-

sion of low-level crimes, and the degree of response to these crimes, are viewed as intricately linked to the public's general perceptions of their community's quality of life and good governance. The public expects the courts to address even the low-level crime that is a part of their community's daily life. The public understands that disorderly conduct, family violence, vandalism, shoplifting, panhandling, and minor drug- and alcohol-related crimes all detract from the community's overall quality of life.



In March 1997, a group of eleven probation practitioners and academicians from across the United States were convened to re-examine the role of probation supervision in light of the "Broken Windows" view of addressing community quality of life. Serving at that time as the State Director of Probation, Georgia Department of Corrections, I had the privilege of being one of the initial participants in this group of criminal justice professionals. Our general consensus after three days of intense discussion was that a "reinvention" of probation was needed — a reinvention that would make probation more aligned with the needs of the courts having jurisdiction over the

lower-level offenses that negatively impact a community's sense of safety, security, and good order.

The vision of this group, subsequently reinforced by expanded group members, was that a closer partnership between probation agencies and the courts would more forcefully ensure that even minor crimes were taken seriously, that offenders convicted of low-level crimes were held accountable, and that appropriate interventions were made directed at changing the offender's behaviors.

The "Broken Windows" model suggest that true partnerships between Georgia's municipal courts and their respective misdemeanor probation supervision providers are needed to build the quality of life in our towns and cities Georgia citizens desire, deserve, and expect. This means that misdemeanors sentenced to probation by the municipal courts should receive supervision and services oriented toward changing behaviors that damage a community's quality of life. Accomplishing this means, first of all, that minor crimes must be taken seriously. It means that probation officers must use the proper level of monitoring for offender compliance to court orders; that payment of fines, fees, and victim restitution as ordered by the court receives continuous attention; and that community service, when ordered, is performed in a manner that accrues real benefit to the community.

For many offenders, perhaps the most important facet of the partnership between the municipal court and its probation provider is the assessment of, and subsequent

continued on page 7

Municipal Court and Probation Partnership continued

actions devoted to, assessing the underlying reasons for criminal behavior. When underlying problems, such as drug/alcohol abuse, family violence, mental illness, poor financial management, inability to control anger, poor decision-making, poor employability skills, etc., continue to exist without resolution, chances are great that criminal behaviors will not only continue, but perhaps escalate. Appropriate behavioral intentions, combined with appropriate punitive sanctions and monitoring, offer the best means for long-term changes in the offender's behavior. Blending criminal justice with services targeting behavioral changes is not a soft approach to crime- - it is an investment in the community's quality of life.

To have an impact on community safety and security, as well as overall quality of life, Georgia's municipal courts and their misdemeanor probation providers can and do play an important, grass-roots role. Their unique connection to Georgia's cities and towns place them at the "ground zero" level of those crimes and victimization that most often give the public their perception of their community's quality of life.

We at BI, Inc., share in common with the 33 other private probation companies in providing misdemeanor probation supervision to Georgia's municipal courts a desire to make our communities better. Recognizing community safety and security as basic rights of our citizens, good governance simply

requires misdemeanor crimes be taken seriously and that they be responded to as such. It happens when we approach community problems as partners, and with a mutual perspective of the impact misdemeanor crimes have on a community's quality of life.

(Mr. Anderson is the Regional Director of Field Services for Behavioral Interventions, Inc., Southeast Region. He is responsible for the overall performance and operations of BI's probation offices located throughout the SE United States, including 42 in Georgia)

Municipal Probation Advisory Council Appointed



By Judge Frost Ward
Chair, County and Municipal Probation Advisory Council

The Governor has finally appointed the remaining members of the County and Municipal Probation Advisory Council. We look forward to their participation and know that they will bring unique expertise and wisdom to the Advisory Council.

The newly appointed members are:

Steve P. Page
Georgia Probation Management
Cumming, Georgia

Mr. Marion Stevens, Sr.
County Commissioner
Liberty County
Midway, Georgia

Sheriff Stanley Tuggle
Clayton County
Jonesboro, Georgia

Ms. Chiquiti A. Dean
State Probation Officer III
Georgia Department of Corrections

Mr. Carl Camon
Mayor
Ray City, Georgia

A Note on Pretrial Diversion Programs

Judge William Coolidge III

Any municipal court that has a pretrial diversion program should review OCGA § 15-18-80, which limits the authority to establish pretrial diversion programs to district attorneys and state court solicitors. If your court is collecting fees for pretrial diversion programs or any other program that includes persons whose cases have not been disposed of, please note subsection (h) and O.C.G.A. § 15-13-35 and use your own judgment about whether this practice should be continued. Please note that "pretrial diversion" should not include conditional discharges for underaged alcoholic beverage possession and marijuana possession, which are specifically authorized by separate statutes.

Alabama v. Shelton

Judge William Coolidge III

On May 20, 2002, in *Alabama v. Shelton*, the United States Supreme Court ruled that an indigent defendant who was not given appointed counsel at trial cannot be given a suspended sentence that could result in incarceration if the conditions of suspension were violated. The indigent defendant had been convicted of a misdemeanor and was sentenced to 30 days in prison, which was suspended. The defendant was placed on 2 years unsupervised probation and was required to pay fines and costs. The 30 day suspended sentence was invalid and since a violation of the probated sentence could trigger the suspended sentence, it is possible that the probated sentence could also be invalid, leaving only the fines and costs. That specific issue was not decided by the U.S. Supreme Court although, the Alabama Attorney General opined that the sentence of

probation would also be invalid if the suspended sentence were found to have violated the Sixth and Fourteenth Amendments. Thus, if an indigent defendant is not afforded counsel at the trial or plea stage in a misdemeanor case, absent a provable knowing and voluntary waiver of his right to counsel, it is clear that his probation cannot be revoked and it is possible that the probated sentence itself could be invalid. This case overrules any precedent that no right to appointed counsel attaches in a misdemeanor case unless there is actual incarceration in the original sentence. The Supreme Court did not hold that

indigent defendants must be given appointed counsel at revocation hearings, but found that doing so would not cure the constitutional defect caused by not appointed counsel at the original trial or plea. The Supreme Court suggested that "pretrial probation," their euphemism for pretrial diversion, would be a cost effective way of dealing with the increased expense of providing counsel to indigents charged with misdemeanors. Of course, that option may not be available to municipal courts, since O.C.G.A. § 15-18-80 appears to limit those programs to State an Superior Court.

Upcoming Council Meetings

3rd Annual Municipal Judges Golf Tournament!!!!

July 7, 2002

The River Golf Club, Augusta SC

(Must RSVP to attend)

Lunch 11:45 a.m.; Tee Time 1:20 p.m.

Training Council Meeting

July 8, 2002 • 5:00 p.m.

Radisson Hotel, Augusta, GA

(in conjunction with certification course)

Business Meeting

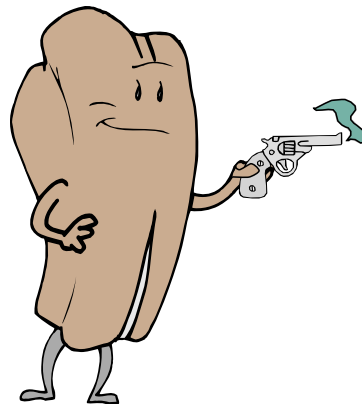
July 9, 2002 • 10:00 a.m.

Radisson Hotel, Augusta, GA

(in conjunction with certification course)

When Groceries Go Bad...

KILLER BISCUITS WANTED FOR ATTEMPTED MURDER (the actual AP headline) Linda Burnett, 23, a resident of San Diego, was visiting her in-laws and while they went to a nearby supermarket to pick up some groceries. Several people noticed her sitting in her car with the windows rolled up and with her eyes closed, with both hands behind the back of her head. One customer who had been at the store for a while became concerned and walked over to the car. He noticed that Linda's eyes were now open, and she looked very strange. He asked her if she was okay, and Linda replied that she'd been shot in the back of the head, and had been holding her brains in for over an hour. The man called



the paramedics, who broke into the car because the doors were locked and Linda refused to remove her hands from her head. When they finally got in, they found that Linda had a wad of bread dough on the back of her head. A Pillsbury biscuit canister had exploded from the heat, making a loud noise that sounded like a gunshot, and the wad of dough hit her in the back of her head. When she reached back to find out what it was, she felt the dough and thought it was her brains. She initially passed out, but quickly recovered and tried to hold her brains in for over an hour until someone noticed and came to her aid.

Legislative Success: HB 1169 Signed by Governor

Judge Charles L. Barrett III

On May 9, 2002, Governor Barnes signed House Bill 1169, which was enacted to correct problems caused by *Shaver v. City of Peachtree City*, 253 Ga.App. 212, 558 S.E.2d 409 (2001). (cert. pending). The bill, which is effective immediately, inserts a new code section, OCGA §36-32-10.2, which provides the following: "Notwithstanding any other contrary provision of law, in municipal courts which have jurisdiction over misdemeanor offenses or ordinance violations, such offenses or violations may be tried upon a uniform traffic citation, summons, citation, or an accusation." At a minimum, this should resolve any Shaver-related problems on a going forward basis. The status of previous cases may possibly be determined by the Supreme Court if it grants the certiorari petition in *Shaver* and perhaps, by the Court of Appeals in another case in which it recently accepted a discretionary appeal involving an amended accusation in municipal court.

House Bill 1169 also amends OCGA §17-7-71(a) and (f) to put municipal courts on the same footing as all other courts by allowing prosecuting attorneys in municipal courts to file and amend accusations. It also allows prosecuting attorneys in all courts to amend accusations and citations, as well. Pursuant to a Senate floor amendment, if a citation or accusation is amended, the judge "shall advise the defendant that he or she has an automatic right to a continuance." Please note that the amendments to OCGA §17-7-71 (a) and (f) only apply if there is a "prosecuting attorney" in your court, which is the situation in all other courts in the state.

The bill was introduced by Rep. Mike Snow of Chickamauga and was managed in the Senate by Sen. Michael J. Moore of Warner Robins. Ted Baggett, Associate General Counsel of the Georgia Municipal Association organized the effort to pass this bill and deserves our gratitude for his hard work on behalf of our courts and cities. Joe Drolet, the Solicitor General of the City (traffic) Court of Atlanta was also instrumental in guiding this legislation.



Governor Barnes signs HB 1189.

House Arrest Program

Mr. Norm Brauner

The House Arrest Program of Atlanta is a participant funded alternative to incarceration. Monitoring of the participant is done by an advance system of voice printing. When the participant is enrolled a voice print is taken at that time. Subsequently each and every time they are contacted during the day, their voice print is matched and their level of intoxica-

tion if any is tested. This is done during their hours of in house arrest. The specialty of HAP is the ability to do this monitoring and testing at any location. This enables people who must travel for business to be monitored where ever they are. Thus enabling them to continue earning their living. This system, known as the warden is currently in use on the federal, state, and municipal levels. HAP was started after my own son



was on house arrest for several years. I saw the limitations and problems associated with monitoring and developed a program for a more reliable and practical application. It works well.

For more information, contact Mr. Brauner at 770-664-7233 or 1-800-395-7233, safeco@aol.com

Minutes of the GA Municipal Courts Training Council

Electrical Cooperative Center • April 12, 2002 • Smarr, Georgia

Judge Still called the Meeting to order at 12:25 p.m. Judge Cielinski moved that the minutes from the January 31, 2002 meeting of the Municipal Courts Training Council be approved. The motion was seconded and unanimously approved.

Update on Training Enrollment

Ms. Mitchem reviewed the list of courses that are available for training in 2002. Two courses, the Search and Seizure course and the Judging and Humanities course, are currently full and carry an extensive waiting list. Ms. Mitchem reported that it would be unlikely for individuals on the wait list to participate in these courses this year and they should choose another course from the other offerings. Judge Cielinski requested that the ICJE reemphasize that all judges are required to register for training by the designated deadline.

Suggestion for improving training were given to Ms. Mitchem. The possibility of adding a second Judging and Humanities course or another Search and seizure course were studied by the council. Unfortunately, due to lack of faculty, this suggestions will not be possible this year.



Ms. Mitchem briefly outlined her plan to have a team of teachers that could address these topics on a rotating basis, and would allow for more individuals to attend.

Special Requests

The Council reviewed a request to receive training credit for attending a judicial ethics course at the American Judicature Society's mid-year conference. Judge Cielinski vouched for the training that the society provides its attendees. After some discussion, a motion to allow six hours of training credit, on a one time basis was made. The motion was seconded and unanimously approved.

The training council also reviewed a request to complete the Basic Judge's three-day seminar by video tape. Following discussion, a motion to deny this request was made, seconded and unanimously approved. Next, a request to receive credit for attending an upcoming magistrate survey course was considered by the training council. Following the pre-existing policies of the municipal courts training council, the members approved six hours of training credit. A motion to this affect was made, seconded, and unanimously approved.

Finally, a request to receive credit for attending the National Judicial College (NJC) was considered. The members of the council expressed their belief that the courses provided by the NJC were of excellent caliber and should be approved for training credit in most circumstances. A motion to approve the 12 hours of credit for attending the National Judicial College was made, second-

ed, and unanimously approved.

Old Business

The training council discussed the upcoming Survey recertification course to be held July 8-10, in Augusta, GA. Ms. Mitchem reviewed the schedule that was provided to the members of the council and reported that there would be three round robin seminars. Judge Ruffin will be invited as the lunch speaker for this event.

Judge Still reported that Judge Rozen, Judge Whatley and himself were currently enrolled to attend a program given at the National Judicial College in May. Those judges that will attend will provide the Council with an article about the College and the seminar they will attend. Judge Still has reviewed the syllabus and course outline and believes that the course will provide the training council with new ideas to strengthen municipal training in the state of Georgia.

Ms. Mitchem discussed the location for the July 27-30, 2003 training seminar. The training council meeting locations including Callaway Gardens Savannah, Sea Palms, Brasstown Valley, and Lake Lanier. Advantages for each location were discussed, and amenities, such as meeting facilities and local family attractions, were taken into account. The council voted to attend Sea Palms in July, 2003. Ms. Mitchem and the ICJE will investigate possible dates for the event. They will also secure the Marriot in Savannah as a backup location should Sea Palms be unavailable.

continued on page 11


Senior Judge Status

A number of judges have expressed interest in pursuing the goal of obtaining senior judge status. This initiative would increase the number of experienced, highly qualified professionals who are available to respond to judicial requirements. Unfortunately there is no "one law fits all" solution.

Our ranks include exceptionally wise non-attorneys, although most municipal court judges are attorneys. We are dedicated part-time and full-time public servants. Some were appointed pursuant to general law and others were appointed pursuant to local/special law. Our duties and salaries vary by jurisdiction. Although we are different in many respects, municipal court judges share a commitment to justice.

In sum, there are a number of challenges that must be addressed. A general law on the subject matter may provide a partial solution and impetus for local consideration. Next year is the target. In the interim, we must educate our communities about the critical role that municipal court judges play in the justice system. Please forward your comments and concerns regarding this matter to:

Judge Charles L. Barrett, III
Municipal Court of Duluth
3625 Savannah Place Drive
Duluth, GA 30096



Minutes of Training Council continued

Ms. Mitchem also reported that she received a request from the ABA regarding their conference scheduled to be held in Atlanta. The ABA would like to allow law enforcement officials to attend the conference and are seeking the training council's permission to allow this to occur. The attendance of these extra individuals will not affect the number of allocated slots for municipal judges and it is believed that the officials would provide a more varied perspective at the seminar. A motion to allow the ABA to open the conference to various law enforcement officials was made, seconded, and unanimously approved.

Judge Cielinski announced that the State Bar of Georgia has agreed to allow Continuing Legal Education (CLE) credit for attendance at judicial ethics courses. Judges will also receive half credit for their attendance at judicial faculty training. Judge Still thanked Judge Cielinski for his work on this endeavor.

New Business

Ms. Mitchem Reported the Municipal Courts Benchbook is currently being updated by Glenn Ashden at a cost of \$2,500. It will be completed by June and will be sent out in hard copy form. Judge Cielinski said that the Benchbook would not be put in a CD-Rom format this year, due to the cost of this production.

The training council will investigate the creation of a formal process for replacing members as their term expires. Judge Still, Judge Rozen, and Judge Washburn's terms will expire by the next meeting.

Adjournment

The meeting was adjourned at 1:55 p.m. The next meeting will be held on July 8th at 5:00 p.m. in Augusta, GA at the Radisson Riverfront Hotel.

Bindover Issues continued

required for a traffic charge under Chapter 6 of Title 40 when the defendant requests a transfer to State or Superior Court, but that one is not required when the defendant has been charged with a non-traffic misdemeanor, or a licensing case arising under Chapter 5 of Title 40.

The Council has established a committee to study this matter and to make recommendations for proposed legislation to be considered at the July meeting in Augusta. If you have any comments or suggestions, please contact the following committee members: Judge Bill Coolidge, Judge David Whatley, Judge Charles

Barrett, Judge Viviane Ernestes, or Judge Henry Williams. The committee will meet (or confer by conference call) before the July meeting to determine which alternatives can be offered at the July meeting. The goal is to obtain approval from the membership to seek introduction of legislation in the 2003 legislature. This will necessarily involve coordination with other classes of courts and the Judicial Council, so if the consensus of the membership is that legislation is desirable, we will need to leave the July meeting with a clear idea of just what our Council wants to do about this issue.

2002 Calendar of Training Courses for Municipal Court Judges

TITLE	CREDIT	LOCATION	DATES
Survey Update (Closed)	12 Hour	Augusta, Radisson	July 8-9
Survey Update	12 Hour	Augusta, Radisson	July 9-10
Domestic Violence (Closed)	12 Hour	Americus, Windsor	July 24-26
Basic - Summer	20 Hour	Athens, Georgia Center	September 4-6
Judicial Computers (Closed)	12 Hour	Athens, Georgia Center	September 19-20
Search & Seizure (Closed)	12 Hour	Jekyll Island, JI Club Hotel	October 16-18
Judging & Humanities (Closed)	12 Hour	Athens, Georgia Center	November 4-5
NHTSA/ABA Traffic Court Technology	15 Hour	Atlanta, Renaissance Downtown	November 7-9

To Register for a training course, contact Kathy Mitchem, with the Institute of Continuing Judicial Education, at (706) 542-7402.

Council of Municipal Court Judges

Administrative Office of the Courts
244 Washington Street, SW • Suite 300
Atlanta, Georgia 30334

MARGARET GETTLE WASHBURN
*Chief Judge, Duluth
Editor*

DAVID L. RATLEY
Director

MARLA MOORE
*Assistant Director,
Judicial Liaison*

ASHLEY G. STOLLAR
Graphic Design