



# MUNICIPAL COURT Judges Bulletin

Spring 2008 • The Georgia Council of Municipal Court Judges Newsletter • Vol. 9, No.1

## Officers 2007-08

### President

Bill Clifton, Forsyth

**President-Elect**  
position vacant

### Vice-President

Tammy Stokes, Savannah

### Secretary

Kathryn Gerhardt, Macon

### Treasurer

Charles Gravitt, Lake City

## President's Corner



Bill Clifton  
Forsyth Municipal Court

**M**argaret Washburn recently jumped on me for failing to publicize the great things happening with our council. She's right. I owe you more information. We've been so busy that I have not slowed down long enough to talk about all that's going on. So here goes!

Our budget is insanely tight. We have little funding, making it hard to do things like publish newsletters. The good news is this: we have no debt. And, we are working aggressively to position ourselves for the future. Right now the major software vendors working with our courts are coordinating with AOC to create a database that will store revenue and caseload information for our courts. We expect to begin testing of the project about the time you read this article, and we expect to capture the past year's worth of data by the time of our summer meeting in Savannah.

This project is important. The data we obtain from the AOC database will demonstrate the enormous caseload faced by our courts. It will provide a stark contrast between the funding we submit to the State, as compared to the funding we receive in return.

We also are coordinating with the Magistrate, State, and Probate councils. We are considering one set of uniform rules to govern all our courts, a single training standard for all our judges, and a combined legislative agenda for future years. Tommy Bobbitt's Court Security

Committee is enjoying helping hands from the U.S. Marshall's service, retired FBI, and the Georgia Association of Chiefs of Police. And, he is deepening our friendship with the Georgia Municipal Association. Maurice Hilliard's Committee on Prosecuting Attorneys for Limited Jurisdiction Courts is up and running, coordinating the Prosecuting Attorneys Council and others to establish training and standards for our personnel.

Stepping away from his regular duties on the bench and working with the Georgia Public Defenders Standards Council, Charles Barrett drafted three pieces of legislation for submission. All three proposals are fair, reasonable, non-controversial, and non-monetary. All three enhance the stature of our courts. Nelly Withers continues to serve on the Supreme Court Committee on Access and Fairness. She spends her spare time hunting for municipal judges willing to help our cause. Right now, she is looking for a potential treasurer and secretary. Please let her know if you have any interest in working with us.

Michael Cielinski has his hands full acting as liaison with ICJE. He and Terry Massey handle duties on the IT committee. David Strickland continues to work with the Georgia Courts Automation Commission. Dennis Still has his duties with the Commission on Interpreters, bylaws, and the Municipal Courts Training Council; David Mecklin with the Mental Health Task Force; Frost Ward with the Probation Advisory Council, Charles Gravitt with the budget, Willie Weaver

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## NEXT MEETING DATES

**April 24, 2008:** Council of Municipal Court Judges, AOC office in Macon, 1:00 p.m.

**May 2, 2008:** Municipal Courts Training Council, AOC office in Macon, 10:00 a.m.

**June 25, 2008:** Council of Municipal Court Judges, Riverfront Marriott, Savannah. 3:30 pm.

**June 26, 2008:** Council Business Meeting and Election of Officers, Riverfront Marriott, Savannah, 12:00 luncheon

# EXECUTIVE COMMITTEE

Judge Bill Clifton  
President

position vacant  
President-elect

Judge Tammy Stokes  
Vice President  
Recorder's Court of Chatham County

Judge Kathryn Gerhardt  
Secretary

Judge Charles A. Gravitt, Sr.  
Treasurer

Judge Michael P. Cielinski  
Immediate Past President

District 1  
Judge J. Hamrick Gnann, Jr.  
Pooler

Judge Willie Titus Yancey, II  
Thunderbolt

District 2  
Judge Willie C. Weaver, Sr.  
Albany

position vacant

District 3  
Judge Reza Sedghi  
Macon

Judge Michael P. Cielinski  
Recorder's Court of  
Columbus-Muscogee County

District 4  
Judge Angela T. Butts  
Recorder's Court of DeKalb County

Judge Warren W. Hoffman  
Stone Mountain

District 5  
Judge Calvin S. Graves  
Atlanta

Judge Rashida Oliver  
East Point

District 6  
Judge John Clayton Davis  
Morrow

Judge Gregory A. Futch  
McDonough

District 7  
Judge Diane M. Busch  
Marietta

Judge Robert L. Whatley  
Powder Springs

District 8  
Judge Thomas C. Bobbitt, III  
Jeffersonville

Judge Malcolm F. Bryant, Jr.  
Vidalia

District 9  
Judge William F. Brogdon  
Dacula

Judge Kenneth E. Wickham  
Norcross

District 10  
Judge Chip Hardin  
Tignall

Judge C. David Strickland  
Porterdale

## President's Corner cont.

with uniform rules, and Glen Ashman with the benchbook.

Then there are the fun jobs: John Adams coordinates the golf tournament, and William Brogdon handles social soirees and vendor relations. And then there's Margaret Washburn. As you might have guessed, she's in charge of the newsletter.

I apologize if I left anyone out. We have many people working hard on several projects. They need your help. Please don't be shy. Contact any of us and get involved. Believe it or not, we have fun.

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## Instructors Needed!

**I**CJE is looking for a few good judges with experience to assist in training other municipal judges and municipal clerks.

If you have a topic you are especially interested in, and enjoy teaching others, please call Kathy Mitchem at 706-542-7402 (Kathy@icje.law.uga.edu) to let her know you are available.

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## By the Numbers...

Municipal Court Judges, by gender  
Female – 45 [18%]  
Male - 311 [82%]

Special Court Judges (Recorder's Court & Civil Court), by gender  
Female - 7 [30%]  
Male – 16 [70%]

Combined  
Female – 52 [14%]  
Male - 327 [86%]

## TRAINING POLICY CHANGE

Municipal Judges who serve as judges in other classes of court must still attend municipal training (12 hours) every other year. If you aren't sure whether you need municipal training in 2008 or not, please fill out a 'Request for Training Status' on the Council's website at <http://www.georgiacourts.org/councils/municipal/>; click on "Meeting and Training." You should receive a reply within one week. Or you may contact Ms. Leslie Johnson at 404-651-6327 or johnsonl@gaoc.us.

# COUNCIL IN BRIEF • October Minutes

October 26, 2007 • AOC Macon Office

*[Editors note: these minutes are abbreviated since most reports were updated at the January 2008 meeting and are also included in this issue.]*

## President's Report

**Security Plan for Municipal Courts:** Judge Clifton reported that Judge Tommy Bobbitt has agreed to chair a committee to develop a basic security plan for municipal courts to follow. The Committee has representatives from every class of court, the Judicial Council, the chiefs of police, as well as rural and urban courts.

## AOC Report

**Pretrial Diversion:** The results of a survey by AOC indicate there is considerable interest in receiving more information about pre-trial diversion programs. Legislators have expressed concern about courts offering online courses as "diversion", and are interested in knowing who is running the programs and who is supervising them. The new law was specific that the fees are to go back to the city.

## Municipal Courts Training Council

The Training Council voted to distribute the judges Benchbook by CD, but paper copies will be available upon request for \$25.00. The Council voted to mail letters verifying that training requirements have been met each year,

rather than sending certificates to judges and to clerks. The Clerks of Municipal Court have developed a Clerks Reference Manual for municipal courts that will be used for training purposes.

## Committee Reports

• **Legislative Committee:** It was reported that GMA has indicated a possible willingness to support terms for municipal judges. The Council recommendation will be a four year term.

• **Probation Advisory Council:** The Probation Advisory Council's four member staff now oversees 110 programs and 720 courts, mostly municipal. A two year rotation cycle has been set to visit every program and do a program evaluation. Staff hopes to develop a probation training manual for the courts at some point in the future to give guidance for probation programs and the judiciary alike.

• **Institute of Continuing Judicial Education:** Judge Cielinski reported that the Chief Justice is very concerned that the judiciary be fully prepared for statewide emergencies such as a Pandemic flu outbreak. The ICJE Board of Trustees is addressing concerns that all judges should be able to receive hour-for-hour credit for training at cross class of court seminars.

• **Mental Health Task Force:** The Chief Justice is leading an effort for the courts to develop training and resources for management of court users with mental health issues. Judge David Mecklin is the municipal court representative on the Task Force and welcomes input from the membership.

## Old Business

The Council voted to adopt the Strategic Plan for the Municipal Courts, as developed in May of 2007. Judge Stokes and Judge Withers will manage the plan's progress and report.

## New Business

• **Ex Officio Member of the Executive Committee:** Judge Clifton reported that he asked Chief Justice Sears to appoint a member of the Supreme Court to serve as a temporary, non-voting member of the Council's Executive Committee. Justice Harris Hines has agreed to fill the position.

## • Caseload Reporting Form:

Dr. Greg Arnold, AOC Research Division, stated that the Council of Municipal Court Judges developed the current caseload reporting form several years ago and it has remained virtually unchanged since. He and his staff are available to work with the Council to develop a better reporting tool if requested. Judge Clifton asked Dr. Arnold to distribute the caseload reporting form to the judges and to the clerks of court in each municipality. The caseload reporting form for 2008 will be reviewed and updated by Committee.

• **Preview of New Web Site:** The Council reviewed the new features of the Council's web site. The "Behind the Bench" section has not been updated so staff would appreciate guidance and ideas for improvement.

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## Nominating Committee Needs You

**D**o you want to be the "person in the know?" Do you want to make a permanent contribution to the operation of the Municipal Courts in Georgia? Can you invest a little bit of time and make a difference?

Volunteers are now being accepted to serve on the Executive Committee of your Municipal Council. New officers and representatives will be voted upon at the Business Meeting to be held on June 26th in Savannah. If you are interested in serving as a District Representative, Secretary, Treasurer, President-Elect, or Vice President, please contact Judge Nelly Withers at [nwithers@co.dekalb.ga.us](mailto:nwithers@co.dekalb.ga.us)

# COUNCIL IN BRIEF • January Minutes

January 24, 2008 • State Bar Conference Center

The Council welcomed Justice P. Harris Hines as the new Ex Officio member of the Executive Committee, having been appointed by Chief Justice Leah Sears at the request of President William Clifton. (See article on page 6.)

## Financial Report

In the fourth quarter a total of \$1,200.00 was deposited by Judge Gravitt into the Private Funds account, bringing the total available funds to \$59,661.38. The State Funds available for Council operations has stabilized with \$6,925.50 to last through the end of the fiscal year.

## President's Report

Judge Clifton reported that there are many new projects under way. The newest is a Court Collaborative Committee made up of representatives from the Councils of State, Magistrate, Probate, and Municipal Courts. The purpose of the Committee is to concentrate on streamlining functions of the four councils where common elements exist. The issues under discussion currently are:

**Uniform Rules.** Work on combining the Uniform Rules of the four misdemeanor courts, with specific sub-parts where needed.

**Legislative Agendas:** Work on legislative agendas together ahead of time and speak with one voice during the legislative session.

**Training:** Create one training standard that applies to all the judges and work toward more combined training sessions on the topics in common for the different classes of court.

Judge Clifton reported the response by the leadership of the other three councils is very positive.

President Clifton was pleased to report that with the assistance of the Administrative Office of the Courts, an **Automated Data Transmission Project** is underway to collect municipal court data directly from the software vendors. The first test of the system is due in February, with a goal to download all 2007 data before June of 2008. The immediate benefit would be the improvement in caseload reporting from 20% of courts reporting to approximately 80%. Having more realistic data proves the significant contribution of the municipal courts, improving relationships with the state legislature, and from the Georgia Municipal Association as well. The Council voted to make local court participation in the Automated Data Transmission Project compulsory.

Lastly, Judge Clifton reported that there is a vacancy to be filled for a District 3 Representative. According to the new bylaws of the Council, the President can appoint a representative to fill the unexpired term.

## Report from the AOC

The 2007 CMCJ Strategic Business Plan and the Judicial Council's Continuity of Operations Plan for Pandemic Flu will be added to the Behind the Bench section of the Council's website for access to judges only.

To better serve the flow of information to all the judges of the municipal

court, it was voted to add all municipal judges with e-mail addresses to the TrafficJudges listserv, with an option to remove their names on request.

## Committee Reports

• **Benchbook:** The Benchbook update is available to purchase and it is available on CD. Requests or problems should be directed to ICJE.

• **IT Committee:** The Georgia Courts Automation Commission held a joint IT Judiciary Planning meeting to develop a judiciary-wide IT plan. The purpose of the plan is to identify and consolidate initiatives that are common to all classes of court for budget and planning purposes. When permission is secured, the plan will be posted to the Behind the Bench section of the Council's web site.

• **Legislative Committee:** Three bills have been drafted for presentation during this year's legislative session. The first is an amendment to O.C.G.A. § 36-32-2(a) for municipal judges who are appointed at the pleasure of the mayor or other governing authority. The amendment would provide that appointed judges "may not be removed for actions, omission, or decisions otherwise protected by judicial immunity."

The second proposal is to amend O.C.G.A. § 36-32-3 to require that any

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## Looking for Information?

The following titles are located in "Behind the Bench" on your Council website

<http://georgiacourts.org/councils/municipal/>:

- 2006 Legislative Update (Traffic)
- 2007 Traffic Court Reference Manual
- January 2008 Update
- Request to File Hardcopy Citation
- 2007 Municipal Court Strategic Business Plan
- Continuity of Operations Plan - Pandemic Flu Template
- 2007 Judges Benchbook CD order form

Contact AOC for the ID and Password.

# January Minutes *cont.*

future municipal judges appointed must “possess those qualifications for Superior Court Judges as set forth at O.C.G.A. §15-6-4.” There will be a grandfather clause for existing municipal judges. Judge Barrett will also revise the residency requirement for Superior Court judges since it is not applicable for municipal judges. It was also noted that, if enacted, it would eliminate distinctions between state law and ordinance violations. Any judge appointed after enacting the law must meet the new requirements.

The third legislative proposal is to amend O.C.G.A. §16-11-130(a) to add former judges to the list of exemptions from certain state weapons requirements.

- ICJE Report: Judges were reminded to register by February 28th for ICJE training sessions or a \$100 late fee will be added.

- Newsletter: Judge Washburn appealed to the members to contribute articles, biographical sketches, and items of interest happening in their cities for the newsletter. After discussion about returning to a printed newsletter format and the high costs thereof, it was approved to print and mail two issues per year using the Council’s private funds as well as posting them to the website, and two issues per year will be posted on the website only.

- Caseload Committee: It was again suggested that the clerks include their fee and fine information at the end of their caseload reporting form. The caseload data is also being requested on a quarterly basis now.

- Nominating Committee: Candidates are needed to fill the positions of Secretary and Treasurer for next year.

- Strategic Planning: The Council reviewed the one page synopsis of the

Business Plan adopted at the October Council meeting: minimum qualifications for municipal judges are in the process of being addressed through legislation; the Uniform Rules for municipal court have been developed, but have not been finalized; the Judicial Council’s Pandemic Flu Template has provided the first steps for the Standard Emergency Preparedness Plan; and caseload reporting is looking promising with the automated data project. Review the whole plan at <http://georgiacourts.org/councils/municipal> in the “Behind the Bench” section.

- Public Relations: Judge Kay Giese has agreed to serve as the Chair of the Public Relations Committee, and she will be reaching out to other members for assistance. She also reported that the Council of Superior Court Judges has developed a DVD that is a wonderful tool for reaching out to the public about the life of a judge and the role of the court.

## **Liaison Reports**

- County and Municipal Probation Advisory Council (CMPAC): CMPAC Staff is conducting site visits of municipal and county programs for the first time. They are assisting these programs to improve deficiencies in areas such as revocation procedures, warrants that are not properly maintained, non-existent case management procedures, and financial practices not in keeping with good business standards. Several programs with good practices to emulate have also been noted.

- Commission on Interpreters: Georgia State University has established a Graduate Certificate Program in Translation and Interpretation for foreign language court interpreters.

- Georgia Courts Automation Commission (GCAC): The judiciary-wide IT plan has been taken to the Superior and

Magistrate Court Councils for review and adoption. It will be disseminated for Municipal Council review.

- Institute of Continuing Judicial Education (ICJE): Municipal judges who attend training for other classes of court, and not municipal training, must still pay the municipal fee in order to receive municipal credit. The courses for municipal credit have been reorganized for 2008 to encourage judges to attend other coursework.

- Georgia Public Defenders Standards Council (GPDSC): The new Federal Poverty guidelines for determining indigency will be available soon on the GPDSC website.

- Supreme Court Committee on Access and Fairness: The Committee is in the process of doing strategic planning. Judges are asked to support the Color of Justice Program if it comes to their area.

- Municipal Court Security Committee: The Committee includes a cross-section of police, judges, court administrators and others. The goal of the Committee is to determine the needs of the municipal courts, and to develop a set of basic minimum requirements. After that is disseminated, then the Council can work toward making the minimum requirements mandatory upon governing authorities.

- Solicitor Training: The Committee held its first meeting and is conducting a survey to determine how many municipal judges have access to Solicitors or Prosecuting Attorneys. The Committee will investigate the availability of existing Solicitor training through the Prosecuting Attorney’s Council.

*The full text of the Council Minutes will be posted “Behind the Bench” on the Council’s website once approved.*

# Meet Your Leaders!

## Ex-Officio Member Justice P. Harris Hines, Supreme Court of GA



Please allow me to extend my sincerest thanks for the opportunity to serve as the Georgia Supreme Court's liaison to the Council of Municipal Court

Judges. It is an honor to attend the Executive Committee Meetings alongside judges who are dedicated to improving our judiciary and ensuring that the administration of justice is fair, impartial, and accountable to all of Georgia's citizens.

Municipal courts are among the busiest in our state. It is through these very courts that most citizens come in contact with the judicial system. Whether entering the courthouse as a defendant, a victim, a witness, or simply as an observer, it is from this experience that most people form a perception on the quality of justice in Georgia. I know first hand that the judges in municipal courts are busy each day striving to

maintain the proper balance between the need for vigorous prosecution of criminal offenses and the equally important need to ensure that those accused of crimes are granted their constitutional rights. The continued growth in our population will bring increased caseloads and judicial obligations that must be addressed to maintain the stability of our judiciary. It is necessary that the judges who sit on municipal court benches act as the foundation that ensures that this stability continues. Your service to the courts of our state demonstrates dignity and impartiality, and you represent the best of the judiciary.

With great confidence I can say that the judicial branch of government recognizes the critical role of municipal courts. Many of you have made extraordinary sacrifices to fulfill your duties and to offer a hand in maintaining a structure that protects the freedoms we all enjoy. The judiciary, especially the 380 or more municipal court judges, faces a number of challenges as we con-

tinue into the new century. Some of these challenges will be recurring and are inevitable. However, I know that the municipal courts of Georgia are served by judges who believe in our system, its rich history, and the promise of a greater tomorrow. I know that our collective efforts will position us to meet the challenges that will come.

Make no mistake, judges occupy essential and unique positions of public trust and we have been called upon to fulfill unique responsibilities. In the exercise of these responsibilities, we must demonstrate our commitment to honoring the rule of law. I know that we will.

I congratulate your Council on its immense success over the past year, including receiving a seat on the Judicial Council. And, I share your commitment to Georgia's justice system. I look forward to working with your Council, which is a fundamental pillar of Georgia's judiciary.

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## Secretary — Judge Kay Gerhardt, Macon



The secretary of the Council is Kathryn (Kay) Gerhardt. Judge Gerhardt is a municipal court judge for the City of Macon where she sits on the traffic

court and is also the environmental court judge. When she is not judging, she practices law with the firm of Harris & James, LLP.

Judge Gerhardt has been on the bench for more than fifteen years.

Calendars are typically long in the City of Macon so, during that time, she has heard more cases than you would care to count. The one case that means the most to her is one that she does not even remember. She met the defendant in the case on the street several years later and he thanked her repeatedly for giving him a chance and the motivation to turn his life around and told her how well he was doing. He was a young, high-school dropout and she had agreed to suspend his fine if he enrolled in and stayed with a G.E.D. program.

Outside of work, Judge Gerhardt loves to read and takes advantage of living within a block of the library. She also walks her dog almost daily at the Ocmulgee River Trail. The rest of her spare time is spent as a volunteer in the community with various non-profits, her favorite of which is the neighborhood revitalization work she does through the Historic Macon Foundation or maybe the outreach programs for the needy she participates in through her church.

# Using Foreign Language Court Interpreters

By Katherine Cadena, Program Manager, Commission on Interpreters

The Supreme Court Commission on Interpreters is pleased to announce a new form created for your court's convenience when interpreters are utilized. This new form has been added to our website as a guide for determining the qualifications of interpreters. This form includes questions to ask when an interpreter is not licensed with the state of Georgia, the Interpreter Oath, and a disclaimer for all interpreters to sign. Prior to service, each interpreter, regardless of licensure status, is required to comply in writing with the Code of Professional Responsibility, found in Appendix C in the Supreme Court Rule for the Use of Non-English Speaking Persons in the Courts. You can find this form and the Code of Professional Responsibility online at [www.georgia-courts.org/agencies/interpreters.org](http://www.georgia-courts.org/agencies/interpreters.org).

Licensed certified interpreters are available for the following languages:

Arabic, French, Haitian-Creole, Portuguese, and Spanish. Licensed registered interpreters are available for the following languages: Arabic, Bosnian, Cantonese, Farsi, French, German, Japanese, Korean, Mandarin, Polish, Portuguese, Romanian, Russian, Spanish, and Vietnamese. When you employ a licensed interpreter, you are employing someone who has completed mandated training and passed a test on court procedure and ethics. Licensed certified interpreters have passed a national test indicating proficiency in the three modes of interpreting used in courts. Licensed registered interpreters have passed an oral proficiency test in the language they interpret. The Supreme Court Rule for the Use of Non-English Speaking Persons in the Courts outlines that in criminal cases, whenever a certified interpreter is not utilized, the

court shall make an audio or audio-visual recording of any testimony given in a language other than English. In civil cases, whenever a certified interpreter is not utilized and a party was denied the right to use an interpreter of his or her own choosing, the court shall make an audio or audio-visual recording of any testimony given in a language other than English. All current licensed interpreters have an up-to-date card they can provide for verification.

Each licensed interpreter in good standing is issued a new identification card every year. Current cards expire on September 30, 2008. If you have any questions about the use of interpreters, please contact Katherine Cadena, Program Manager for the Commission on Interpreters at 404-657-4219 or e-mail [coi@gaaoc.us](mailto:coi@gaaoc.us).

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## Changes to the Executive Committee Announced

• **Judge John Roberts, Municipal Court of Lithonia**, has announced his resignation as President-Elect of the Council of Municipal Court Judges. He has been an integral part of this year's activities, and his contributions and insight will be sorely missed.

The Chair of the Nominating Committee, Judge Nelly Withers, will present nominations to fill his unexpired term at the meeting to be held on April 24th in Macon.

• **Judge Trey Moody** notified President Clifton that he is no longer a judge for the Municipal Court of Montezuma, and is therefore ineligible to serve as the

District 3 Representative on the Council. The Council is very appreciative of Judge Moody for his previous years of service.

• **Judge Reza Sedghi, Municipal Court of Macon**, was appointed by the President to fill the unexpired term of Judge Moody through the end of June.

• **Judge Charles Gravitt** has announced his intention to resign as Treasurer of the Council, effective June 30, 2008. If you can balance a checkbook, fill out a deposit slip, and have a deep desire to support your Council, this is the job for you.

• **Judge Kathryn Gerhardt** has also announced her intention to resign as Secretary to the Council.

• **Judge Henry Williams** notified the President that he no longer serves as a municipal judge for the city of Lumpkin. The Council thanks Judge Williams for his many active years on the Executive Committee.

# Is Twelve-Three For You?

By Brad Brownlow, Municipal Courts of Loganville and Monroe



In April 2005 three teenagers lost their lives in a high speed crash in Western Walton County. Two of these boys were already probationers at Loganville Municipal Court and the other had a court date the following week. We also lost an 18 year old girl to a one car accident at Good Hope at this same time. I discovered we'd already lost 19 people in Walton County to traffic collisions by April 2005 and would see this number climb to 32 by year's end. After watching along with my law partner, Judge Donald Schaefer, the death toll climb among our clients as well as the public across the north metro Atlanta counties, to permit this tragic set of events to come home to Walton County without taking steps to aid our young people seemed unconscionable indeed. Not having any program model to follow, I began to "wing it" with a new set of court rules for "Under Twenty One Year Old Drivers." They are as follows:

1. All "under twenty-one year old drivers" and other offenders must attend Court and may not pay off tickets. (Oh, yes the crowds were so great we had to split the calendars)
2. All "under twenty-one year olds" must bring a parent or guardian to Court or be prepared to explain why they have not brought a parent or guardian.
3. Any "under twenty-ones" who choose to enter the program will be required to tender a plea of guilty and sign appropriate waivers
4. All "under twenty-ones" tendering such a plea will be entered into a Pre-Trial Diversion Program which has earned the name "Twelve - Three" and if

they complete the Program the case is entered "Not Guilty."

5. The Twelve-Three Pre-Trial Diversion Program consists of a twelve months period of supervision which should be completed in three months - hence the name.

6. During the "PTD" program all "under twenty-ones" must attend a Collision Avoidance Course which entails actually getting in a car and driving it along with an instructor and parent.

7. The "under twenty-ones" must read the book "It Can't Happen to Me" containing life stories about teens slain in traffic collisions, mostly at this time, from Gwinnett County. They must write a report and sign the Pledge contained in the book.

8. Every "under twenty-one" is subject to one or two random drug and alcohol screens and if they fail may be removed from the program, adjudicated guilty, and resented at the discretion of the Court.

9. There is a regular "probation" Supervision fee to be paid by participants in Twelve-Three. They are also assessed a minimum traffic fine which is only a fee and cannot exceed \$300.00 provided for in the PTD Statute.

10. All speeders at Loganville or Monroe going 80 mph or above in downtown areas routinely receive a sentence of 48 hours in custody. Of course speeders above 24 mph who are under twenty-one have a license suspension.

The problem I have found is what to do about "under twenty-ones" who are on "their own" with families to support, jobs, schools & colleges to attend far

away. Also troubling are repeat offenders who have completed the program and are cited again or receive citations while they are in the program. We have quite a few failed drug screens as well. At this point I haven't got an answer to those questions which fits all cases and must handle them on a case by case basis. However, I have relinquished control of the Twelve Three Programs at both Loganville and Monroe to my very competent Solicitors who enter defendants into the program and if any "wash out" they refer them to a court appearance.

I realize the Twelve Three Program is not perfect. However, the Superior Court Judges and other Traffic Court Judges here in Walton County, our District Attorney and the public at large have been very supportive of our efforts. I have received many exit interview evaluations from driving schools where we have required the "under twenty-ones" to attend and they have universally praised the Collision Avoidance Courses. But the real proof of the success of this program is the fact that traffic fatalities in Walton County dropped from 32 in 2005 when we began the program to 14 in 2006 and to 11 in 2007. While I certainly don't credit Twelve Three with saving all those lives I do believe it has saved several and even one would have been worth all the effort and then some.

I [have available] many newspaper articles regarding the Twelve Three Program which appeared in the press here in Walton County. Please contact my office at 404-377-1706 for copies, or for more information about this program.



# Photo Gallery



The Council of Municipal Court Judges met on January 24, 2008 at the State Bar Conference Center in Atlanta.



Ms. Yolanda Lewis demonstrates the Council's newly revised website at the October 2007 meeting of the Council. Judge Robert L. Whatley, Judge Angela Butts, Judge Michael Cielinski, and Ms. Debra Nesbit look on.



Judge Tammy Stokes, Judge Kay Gerhardt, and Judge Frost Ward pay close attention at the October CMCJ meeting.



Judge Tommy Bobbitt chairs the newly created Committee on Security in Municipal Courts. Also shown are Judge Annie Doris Holder, Chief John Vasquez, Judge John Cicala, and Ms. Yolanda Lewis.

## *What Do You Think?*

**D**ue to budget constraints, the Council now publishes the newsletter in a smaller, 8-12 page format on the Council's website. Two issues per year will also be printed and mailed. What is most important to you? What would you like to share with other judges? How do you like some of the new changes so far? Please offer your ideas, news, innovations, or comments to the Editor, Margaret Washburn, at [washburnlaw@bellsouth.net](mailto:washburnlaw@bellsouth.net)

*Please  
Recycle*



# Financial Report

COUNCIL OF MUNICIPAL COURT JUDGES –Q4 FY 2007  
10/01/2007 through 12/31/2007

Date	Account	Num	Description	Memo	Category	Amount
BALANCE 3/31/2007						59,661.38
10/02/2007	DEPOSITS	DEP	DEPOSIT		DUES	960.00
11/24/2007	DEPOSITS	DEP	DEPOSIT		DUES	210.00
12/19/2007	DEPOSITS	DEP	DEPOSIT		DUES	30.00
<b>BALANCE 6/11/2007</b>						<b>60,861.38</b>
TOTAL INFLOWS						1,200.00
TOTAL OUTFLOWS						0.00
NET TOTAL						1,200.00

Cash Inflows: Dues \$1,200.00 membership dues

Cash Outflows: None

Ending Bank Balance at 12/31/2007: \$60,861.38 (reconciled).

Signed: Charles A. Gravitt, Sr., Treasurer

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## Will Daubert Come to Call in Municipal Court?

By Judge Robert L. Whatley

This work will be necessarily brief because of the complex subject matter. First we must pass a first threshold: that everyone knows what DAUBERT is. It is the United States Supreme Court case that mandated the screening of expert witnesses by judges to ensure that the expert's testimony is reliable under accepted and established principles which give it reliability and credence. It has a counterpart in state law under Senate Bill 3 which is being challenged. The federal case is *Daubert v. Merrell Dow pharmaceuticals*, 509 U.S. 579.

It has been extended to criminal

cases, but one would rightfully inquire of its applicability in municipal court. Perhaps some examples would be instructive.

First one may attempt to use a drug testing kit to determine violators of a probation condition. The kit and the probation officer's personal knowledge of drug interaction may be insufficient under *Daubert*. Likewise there may be a "junk science" ruling in a "new" radar device machine. And an emissions control device in an officer's patrol car trunk may be suspect.

In a municipal court which conducts preliminary hearings for felonies a mul-

titude of questionable expert witnesses could surface if the weakness of other evidence demanded its presentation.

This new area of law has many ramifications and extensions and a reading of the case will enable one to understand its implications.

*Please Recycle*



# Defensive Driving Courses: Certificates of Completion Acceptable?

Brandon A. Poarch, Georgia Department of Driver Services, Business Analyst ~ Judicial Liaison.

A court can choose to accept a defensive driving certificate of completion (whether approved by DDS or not) in exchange for a nolle pros of the case. Technically, these cases do not result in a finding of guilty and therefore the court has no legal obligation to report them to DDS.

However, as was mentioned in a recent letter from Taggart's Driving School, that was mailed out to municipal court judges, these courses are not suffi-

cient to invoke the provisions of 40-5-57(c) for the purposes of either a Zero-Point Order through the court, a Points Reduction directly with DDS, or for reinstatement of a suspension.

While DDS does allow for certain on-line courses to count toward the "knowledge based" component of Driver's Education under Joshua's law, we have not specifically approved this course. As the Taggart letter states, this is a modified course from their

Defensive Driving classroom curriculum (which is approved by DDS) and is also based on their On-line driver's education component (which is also approved by DDS). However, I would like to stress again that the particular course mentioned in the letter has NOT been approved by DDS for any of our official purposes. I hope this information is helpful if you are considering accepting these certificates in exchange for dropping traffic citations.

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## Prosecuting Attorney Training Available

Interested persons should go to: <http://www.pacga.org/training/pac.shtml> Check back often. New classes are posted as they become available.

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## NEW CONTACT INFORMATION FOR DDS INQUIRIES

Mr. Brandon Poarch leaves the Department of Driver Services on Friday, April 11, 2008. As a regular at ICJE classes for clerks and judges, he will certainly be missed. We wish him well in Washington D.C.

Effective Immediately – please consider the following as a point of contact for all Judicial Liaison inquiries:

Judicial.Liaison@dds.ga.gov  
678-413-8444

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## 2008 Municipal Judge Training

For the list of courses still available for municipal judge continuing education, please visit: [http://georgiacourts.org/councils/municipal/municipal\\_docs/Training07regisform.pdf](http://georgiacourts.org/councils/municipal/municipal_docs/Training07regisform.pdf) or contact ICJE directly at 706-542-7402.

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## Municipal Court Clerk Training

The first class for new Municipal Court Clerks for 2008 was full! Instructors representing DDS, GCIC, and the Superior Court Clerks Authority, covered topics such as record keeping, data transmission, traffic law updates and FTAs. Judges and experienced clerks shared such topics as Bonds, Ethics, caseload reporting, public health emergencies, routine paperwork, and judicial expectations of clerks.

If your court clerk as not signed up for mandatory training for this year, the following dates and locations are still available:

Basic Certification  
Tifton • October 8-9

Recertification  
Athens • May 22 (p.m.) -23 (a.m.)

Recertification  
Tifton • November 13

Contact ICJE for Registration Forms and Schedules.



# Judiciary-wide IT Plan

By Judge Timothy Pape, Chairman, Georgia Courts Automation Commission

In November of 2007, the Georgia Courts Automation Commission facilitated a strategic planning session where representatives from each class of court came together to develop a Judiciary-Wide Strategic Information Technology (IT) Plan. The Judiciary-wide IT Plan identifies common needs from the strategic plans that each Court Council has developed. The Judiciary-wide plan will provide the Judiciary a way to present common needs to the legislature in “one voice”, as well as a planning process that integrates with the individual councils’ IT planning activities.

The Judiciary-wide IT plan focuses only on those common needs and is not

intended to replace or supersede a council’s planning process. The Judiciary-wide plan will be reviewed with the individual councils for their feedback and support. After those reviews, the planning group plans to present the Judiciary-wide IT Plan to the Judicial Council for consideration and adoption.

If you would like to review the plan, it can be found at <http://www.gcacommission.org/reports.htm>. Additionally, you may contact one of the planning group representatives below for your class of court.

“While it is clear that, in a time when IT expenditures are perceived as out of control, a unified approach to IT funding is essential, it is axiomatic that a

Judiciary-wide IT plan is essential to achieve that end as well as a pattern of success. It simply makes good sense. GCAC and the Judiciary of this state have established themselves as the leaders in state government in taking this good sense approach to technology and its funding”

## **Planning Group Representatives**

*Juvenile* – Robin Shearer

*Magistrate* – Betsy Kidwell

*Municipal* – Michael Cielinski

*Probate* – Ken Van Horn

*State* – Joe Iannazzone

*Superior* – Brenda Weaver

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