



# MUNICIPAL COURT Judges Bulletin

Winter 2007 • The Georgia Council of Municipal Court Judges Newsletter • Vol. 8, No. 1

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## President's Corner

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

**B**y the time you read this we will have had our annual Legislative Breakfast. I am hopeful we will have a good attendance. I will have attended the Chief Justice's address to the legislature on the State of the Judiciary as well.

We begin this new year somewhat restricted. At our last executive committee meeting we did not have a quorum, thus there were actions we were not able to complete. We needed to have voted on several issues which were left unresolved. In order to do well, we must be a functioning Council. Anyone with a desire to become more involved with the Council please feel free to contact me.

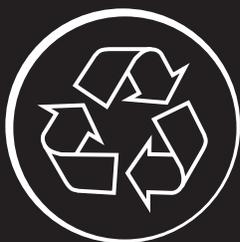
On a positive note, there are several initiatives going forward. I have appointed an Information Technology Committee (IT) to ensure the efforts of the technology strategic planning sessions conducted by the Georgia Courts

Automation Commission (GCAC) continue. The committee, which is chaired by Judge C. David Strickland, will be conducting a technology survey in the near future. It is imperative that every court return the assessment to obtain good data. In addition to this, the Training Council, with the assistance of a Clerks Advisory Committee, has made great strides with the municipal court clerks' certification.

Inroads have been made regarding our Council obtaining a seat on the Judicial Council of Georgia. As you know, we come in contact with the largest number of Georgia citizens through our courts. Surely we deserve representation on the Judicial Council of the State of Georgia. However, your executive committee needs your help. It is imperative that all the members of the Georgia Municipal Court Judges assist in gaining support of the members of the Council of Superior Court Judges.

Happy New Year!

*Please  
Recycle*



# EXECUTIVE COMMITTEE

Judge Michael P. Cielinski  
President  
PO Box 1882  
Columbus, GA 31902-1882  
706-653-0354/F 322-1722

Judge Bill Clifton  
President-Elect  
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Judge John A. Roberts  
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Judge Kathryn Gerhardt  
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Judge Charles A. Gravitt, Sr.  
Treasurer  
118 Main Street  
Jonesboro, GA 30236  
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Judge John Kinsley Edwards, Jr.  
Immediate Past President  
PO Box 1661  
Valdosta, GA 31603-1661  
229-671-2600/F 671-3441

District 1  
Judge Tammy Stokes  
Recorder's Court of Chatham County  
Chatham County Courthouse  
133 Montgomery Street, Rm. 104  
Savannah, GA 31401  
912-652-7429/F 652-7412

Judge Willie Titus Yancey, II  
Thunderbolt  
2821 River Drive  
Thunderbolt, GA 31404  
912-232-3507/F 232-7615

District 2  
Judge Willie C. Weaver, Sr.  
Albany  
911 Pine Avenue  
PO Box 646  
Albany, GA 31702-0646  
229-438-9455/F 438-0674

Judge Henry E. Williams  
Lumpkin  
1101 Valley Road  
PO Box 71747  
Albany, GA 31708-1747  
229-888-2600/F 888-3330

District 3  
Judge S.E. Moody, III  
Montezuma  
PO Box 220  
Perry, GA 31069  
478-988-3114/F 988-0063

position vacant

District 4  
Judge Angela T. Butts  
Recorder's Court of DeKalb County  
3630 Camp Circle  
Decatur, GA 30032-1394  
404-294-2635/F 294-2148

Judge Warren W. Hoffman  
Stone Mountain  
922 Main Street  
Stone Mountain, GA 30083  
404-377-9277/F 377-3006

District 5  
Judge Elaine Lynn Carlisle  
Atlanta  
150 Garnett Street, SW  
Atlanta, GA 30303  
404-954-6794/F 658-6994

Judge Calvin S. Graves  
Atlanta  
150 Garnett Street, SW  
Atlanta, GA 30303  
404-658-7049/F 658-6586

District 6  
Judge John Clayton Davis  
Morrow  
2670 Emerald Drive  
Jonesboro, GA 30236  
770-715-5912/F 320-8930

Judge David J. Turner, Jr.  
Manchester  
PO Drawer 450  
Manchester, GA 31816-0450  
706-846-8427/F 846-5241

District 7  
Judge Robert L. Whatley  
Austell  
3959 Janet Street  
Lithia Springs, GA 30122  
770-941-5833

Judge Diane M. Busch  
Marietta  
800 Kennesaw Ave., NW, Suite 400  
Marietta, GA 30060  
770-424-4343/F 424-1892

District 8  
Judge Thomas C. Bobbitt, III  
Jeffersonville  
101 N. Jefferson Street, C55  
PO Box 1676  
Dublin, GA 31040-1676  
478-272-5010/F 275-0035

Judge Charles W. Merritt, Jr.  
Madison  
155 S. Main Street  
Madison, GA 30650  
706-342-9668/F 342-9843

District 9  
Judge Kenneth E. Wickham  
Norcross  
65 Lawrenceville Street  
Norcross, GA 30071  
770-714-6894

Judge William F. Brogdon  
Lawrenceville  
PO Box 390997  
Snellville, GA 30039  
770-978-1181/F 978-1145

District 10  
Judge Chip Hardin  
Tignall  
105 Andrew Drive  
Washington, GA 30673  
706-678-4404/F 678-4404

Judge C. David Strickland  
Porterdale  
PO Box 70  
Covington, GA 30015-0070  
770-786-5460/F 786-5499

# Minutes of the Fall Meeting

October 13, 2006 • AOC Macon Offices

The fall meeting of the Georgia Council of Municipal court Judges was held on October 13, 2006, at the Administrative Office of the Courts office in Macon. Judge Michael Cielinski called the meeting to order at 1:30 p.m. Due to there not being a quorum any items requiring action or approval were deferred to the next meeting date.

Judge Cielinski introduced the guests present at the meeting. He welcomed Patrick Flynn, Clerk of the Municipal Court of Thunderbolt, who is President of the newly formed Georgia Municipal Court Clerk's Council (GMCCC) and Ashley Garner, Staff Director of the County and Municipal Probation Advisory Council (CMPAC).

The first agenda item was the consideration of the minutes from the summer meeting of the Executive Committee held in Savannah on June 28, 2006. Judge Roberts advised that his name was not on the attendance list but that he had been present at the meeting and the minutes were revised to reflect his presence. Approval of the minutes was deferred to the February 1st meeting due to the lack of a quorum.

## **Financial Reports**

Judge Cielinski then called for the Financial Reports. LaShawn Murphy, of the Administrative Office of the Courts (AOC), reported that as of September 30, 2006, \$1780.34 of the funds appropriated by the state

for the current fiscal year had been spent, leaving a balance of \$17,753.66 on deposit in the state funds account.

Judge Gravitt submitted a written report with respect to the private funds account. As of September 30, 2006, a balance of \$56,935.69 was on deposit which reconciles to the bank statement. Cash inflows consisted of a \$200.00 receipt from the Savannah Traffic Seminar vendor and \$7,320.00 in dues payments from individual Judges and Cities for a total of \$7,520.00. Cash outflows consisted of expenses for flowers in memory of Judge Pierce (\$65.00 Check), Quicken 2006 software update for treasurer record keeping (95.39 Check) and the Wyndham Hotel for sponsoring the reception for the Judicial Council (\$496.22 WebPay), for total expenses of \$656.61

Approval of the financial reports was deferred to the February 1st meeting due to the lack of a quorum.

## **President's Report**

For his President's report, Judge Cielinski commented on the planning that was underway for seminars to provide the training for municipal court clerks mandated by legislation enacted by the legislature during the last session. He noted that existing chief clerks must attend 8 hours of training and new chief clerks must attend 16 hours.

## **AOC Report**

Debra Nesbit gave the report for the AOC. She announced that Marla Moore had left employment with the AOC to take a position with the Criminal Justice Coordinating Council (CJCC) and that Chris Patterson was serving as Acting Associate Director for Court Services. She advised that the Research Division would be sending out a salary and caseload survey in January and emphasized that it was important to return them in order for there to be adequate data. Judges were asked to ensure the completed surveys were returned by their clerks. She also advised the Judicial Council of Georgia would host a legislative breakfast during the legislative session; the leadership of the various court groups would be invited. The AOC is requesting that each judicial branch agency set up a table of information which could be passed to attendees.

## **Training Council**

Judge Cielinski called on Patrick Flynn, President of the newly formed Georgia Municipal Court Clerk's Council (GMCCC), to report on the activities of the Training Council in Judge Still's absence. Because of new legislation, any chief clerk appointed after July 1, 2006, will be required to have 16 hours of training while existing chief clerks will have to have 8 hours. The Training Council plans to hold training for

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# Minutes cont.

new clerks in conjunction with the basic training for judges in Athens. Two additional sessions for existing clerks would be held at other locations. The Council and the Clerks Advisory Committee are currently working to develop a curriculum for the seminars. By way of explanation, Mr. Flynn pointed out that the GMCCC was organized strictly as a vehicle by means of which clerks could share information and get feedback from each other. It is not intended to serve any other purpose.

## ***Probation Advisory Council Report***

Ashley Garner provided the Probation Advisory Council (CMPAC) report in Judge Ward's stead. Judge Ward will be recognized at the November 9th quarterly meeting of the County and Municipal Probation Advisory Council for 10 years of service to the Council on behalf of the Council of Municipal Court Judges. She then provided statistics relevant to private probation in Georgia and advised all members present about the impact of SB 44 on the County and Municipal Probation Advisory Council. All misdemeanor probation providers are now regulated by the council. Approximately 60 cities will be registering their probation systems with the council prior to the December 31st deadline. Five Orientation classes have been offered to governmental providers giving them an introduction to Council Rules, Georgia law, and the registra-

tion process. These classes were well attended. Anyone with questions regarding misdemeanor probation may contact Ms. Garner at 478-471-5778.

## ***Committee Reports***

The following committee reports were then given:

- **Legislative:** Judge Barrett was not present but submitted a written report which outlined several items to be placed on the proposed 2007 legislative agenda. Among the several items, there was a proposal for legislation to simplify the current system of fees and fine surcharges, both in terms of collections and remittances. In the last session, the Senate created a study committee to investigate the matter and recommend changes. It is believed that the committee will recommend a flat percentage surcharge. Ms. Nesbit added she attended the Senate Committee meeting chaired by Senator John Wiles. The committee's goal is not to change the current system but to make it more efficient. During that meeting each of the beneficiaries were provided opportunity to voice concerns.

Legislation is also needed to change the method by which members of the Municipal Court Judges Training Council are appointed upon vacancy so that a vacated position does not have to remain unfilled until the next general election. Judge Cielinski added the legislation regarding leave of absences and appointments to the Training Council will be reintroduced during the next

session. The subject of decriminalization of traffic offenses surfaced; to which, Debra Nesbit advised there is no decriminalization legislation in the works at the present time.

- **Newsletter:** LaShawn Murphy reported for Judge Washburn that the deadline for articles to be included the next newsletter is October 23, 2006. In addition, she requested that anyone interested in submitting an article for publication do so by contacting either Judge Washburn or herself.

- **Uniform Rules:** Judge Weaver was not present but reportedly had been working on the uniform rules draft. LaShawn Murphy distributed a copy of the draft with a request from Judge Weaver for feedback. Judge Cielinski reminded the judges that a proposed uniform rule approved by the Judicial Council of Georgia setting minimum standards for the handling of evidence in both criminal and non-criminal matters had been adopted by all classes of courts, except municipal. The matter was referred to the committee for inclusion in the uniform rules presently being drafted. Judge Whatley also requested that a definition of what constitutes a term of court be included in the rules.

## ***Other Reports***

After committee reports, Judge Cielinski called for reports from liaisons with other agencies.

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# Minutes cont.

• **Judicial Council:** Judge Cielinski reiterated that he felt municipal courts are close to being given a seat on the Judicial Council. He proposed that representatives from the Municipal Court Judges Council meet with Justice Sears to discuss this matter. Given Justice Hines' support of municipal courts, Judge Cielinski recommended that Justice Hines be invited to the meeting as well. Judge Cielinski also urged judges to talk to the superior court judges in their areas, especially those on the Superior Court Judges Council. It is believed that superior court judges are concerned about maintaining the existing voting balance on the Judicial Council. One suggested remedy is to grant an additional seat to the superior court judges in exchange for municipal court inclusion.

• **Georgia Courts Automation Commission:** Judge Strickland was not present but had contacted Judge Cielinski to request the formation of

an Information Technology (IT) Committee. Judge Williams, Judge Graves, and Judge Roberts agreed to serve along with the president and president elect. Judge Strickland will chair the committee which is set to meet on December 1 in Macon. The committee will address matters of I.T. system uniformity among the various municipal courts.

## *Old Business*

Under the heading of Old Business, a brief discussion took place regarding obtaining a lobbyist for the Council. Following up on a proposal made at the summer Executive Committee meeting, Judge Cielinski reported that he had contacted several individuals who had been recommended as possible lobbyists for the municipal courts. Because anyone hired would want to start work prior to the upcoming legislative session, there was a need for immediate decision at today's meeting. After discussion, it was decided that it would be more prudent first to

develop a legislative agenda then contract with a lobbyist. The matter was then tabled for the present time. In addition to this, Judge Cielinski deferred the discussion regarding the Long Range Planning Committee until the February 1st meeting.

Next, Judge Cielinski announced a Georgia Leadership Academy would be held from November 8 through November 10. This initiative is the first of its kind with judges from all classes of courts in attendance. A delegation of municipal court judges are scheduled to participate.

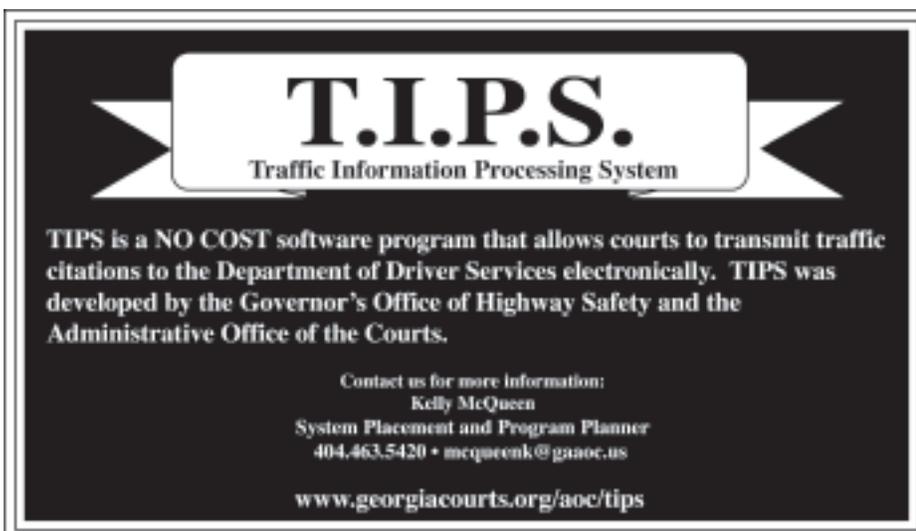
## *New Business*

By way of New Business, Judge Cielinski advised, due to the death of Judge Pierce, there is now a vacancy for a district representative on the Council. A new Nominating Committee chair is needed as well. These matters were tabled until the next meeting.

As the final order of business, Judge Cielinski reminded those present that the next meeting of the Executive Committee will be held in Atlanta on February 1, 2007, in conjunction with the Legislative Breakfast. He stressed the importance of having as many judges as possible in attendance. Legislators should also be encouraged to attend.

There being no further business, the meeting was adjourned at 3:00 p.m.

Respectfully submitted,  
Kathryn Gerhardt, Secretary



**T.I.P.S.**  
Traffic Information Processing System

TIPS is a NO COST software program that allows courts to transmit traffic citations to the Department of Driver Services electronically. TIPS was developed by the Governor's Office of Highway Safety and the Administrative Office of the Courts.

Contact us for more information:  
Kelly McQueen  
System Placement and Program Planner  
404.463.5420 • mcqueenk@gaoc.us

[www.georgiacourts.org/aoc/tips](http://www.georgiacourts.org/aoc/tips)

# Financial Report

## COUNCIL OF MUNICIPAL COURT JUDGES QUARTERLY FINANCIAL REPORT - Q3 2006 7/1/2006 through 9/30/2006

10/7/2006

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Date	Num	Description	Category	Amount
<b>BALANCE 6/30/2006</b>				<b>50,072.30</b>
7/27/2006	DEP	SPONSOR-S... Gift Received		200.00
7/27/2006	DEP	DEPOSIT DUES		30.00
7/28/2006	CK2003	JUDGE MIKE ... FUNERAL FL...		-65.00
7/28/2006	DEP	DEPOSIT DUES		30.00
8/1/2006	DEP	DEPOSIT DUES		780.00
8/9/2006	DEP	DEPOSIT DUES		870.00
8/12/2006	DEP	DEPOSIT DUES		930.00
8/12/2006	DEP	DEPOSIT DUES		210.00
8/12/2006	CK2004	JUDGE CHA... OFFICE SUP...		-95.39
8/18/2006	DEP	DEPOSIT DUES		670.00
8/18/2006	DEP	DEPOSIT DUES		600.00
8/19/2006	DEP	DEPOSIT DUES		780.00
8/25/2006	DEP	DEPOSIT DUES		360.00
8/25/2006	DEP	DEPOSIT DUES		450.00
8/30/2006	DEP	DEPOSIT DUES		180.00
9/6/2006	DEP	DEPOSIT DUES		240.00
9/7/2006	DEP	DEPOSIT DUES		90.00
9/7/2006	WEBPAY	WYNDHAM A... RECEPTION ...		-496.22
9/18/2006	DEP	DEPOSIT DUES		810.00
9/26/2006	DEP	DEPOSIT DUES		380.00
<b>7/1/2006 - 9/30/2006</b>				<b>6,863.39</b>

**BALANCE 9/30/2006** **56,935.69**

**TOTAL INFLOWS** **7,520.00**

**TOTAL OUTFLOWS** **-656.61**

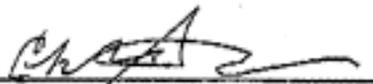
**NET TOTAL** **6,863.39**

### NOTES TO FINANCIAL REPORT

Cash inflows consisted of a \$200.00 receipt from the Savannah hospitality suite sponsor and \$7,320.00 in dues payments from individual Judges and Cities, for a total income of \$7,520.00.

Cash outflows consisted of expenses for flowers in honor of Judge Pierce (\$65.00 Check), Quicken 2006 software update for treasurer recordkeeping (\$95.39 Check) and the Wyndham reception for the judicial council (\$496.22 by WEBPAY), for total expenses of \$656.61.

Closing balance of the bank account at 9/30/2006 was \$56,935.69 which reconciles to the bank statement.

  
Judge Charles Gravitt, Treasurer

# 2007 Legislative Breakfast



# 2007 PEPS Courses

The Personal Enrichment Products announced below represent a variety of unique professional development opportunities being offered Georgia judges in 2007. You're invited to take part. The ICJE is pleased sponsor these events. In their respective topical arenas, these activities have been designed to address cross-cutting matters of: (i) substantive law, (ii) court procedure, and (iii) judicial administration relevant throughout Georgia's various classes-of-court. Program leadership is preparing to work with concerns presented from any class-of-court.

For Municipal Court Judges, participation counts toward the annual MCJE mandate up to a cap of 6 hours toward that requirement.

The ICJE looks forward to your participation!

## 2007 ICJE PROFESSIONAL ENRICHMENT PRODUCTS (PEPS)

Courses of Interest to Judges of all Classes of Court

No Registration Fee

COURSE TITLE	DESCRIPTION	DATES	LOCATION
20 Hour Law & Literature	Situational Ethics: What's a Judge To Do?	March 15-16	Foundry Park Inn-Athens
20 Hour Constitutional Criminal Procedures	4th, 5th, 6th Constitutional Amendment Issues	May 21-23	Crowne Plaza Marietta
20 Hour Domestic Violence (Basic) Retreat	Role of law enforcement, judges, advocates Panel discussion, Domestic Violence dynamics	August 9-10	Chateau Elan Braselton
20 Hour Web Ct Online (Domestic Violence 101)	Requires 2 hours (anytime) per week on line. Advance reading.	October 1- November 10	Virtual Classroom

Registration: Use the above schedule to request enrollment. You will be sent a confirmation letter.

No registration fee: Registration Form--Professional Enrichment Products (PEPs)

To register for any of these courses, complete and mail form to ICJE, 123 Dean Rusk Hall, UGA, Athens, GA 30602 or FAX to 706-542-4211. Questions? Call: Dr. Lynda Hanscome: 706-542-7401 or email: lynda@icje.law.uga.edu

NAME: \_\_\_\_\_

CIRCUIT: \_\_\_\_\_ PHONE: \_\_\_\_\_ EMAIL \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Check if we need to contact you about: Physical needs  Dietary needs

Course: \_\_\_\_\_ Date: \_\_\_\_\_ Location: \_\_\_\_\_

# When Your Short Court Night May Lead to the Long Road to the Appellate Courts

By: Judge Robert L. Whatley

**T**he brief rights discourse in some courts is very thorough. In other courts it either exists at a minimum; or does not exist at all. Recently it became a very important issue in a state political race when one side contended that a south Georgia Houston County court failed to advise the defendant of his Boykin rights (*Boykin v. Alabama*, 395 U.S. 238). The Attorney General was blamed for the omission when the murder case was reversed. *Johnson v. Smith*, 2006 Ga. S06A0122. Likewise, a Fulton County visiting judge tossed out a Fulton County triple murder conviction for a BOYKIN violation. (*DeKelvin Martin*, Case 03SC08175)

A search will reveal many BOYKIN errors that resulted in reversals. Also intertwined with these are *Alabama v. Shelton* errors (*Alabama v. Shelton*, 535 U.S. 654).

But how does all of this affect Municipal Court judges? It affects

them in a critical way. Try as we may, the plea sheet in most courts just cannot cover everything without being a multi-page document with lengthy and time-consuming “going over your rights.” Thus some judges forego these formalities hoping no appeal will ensue. It is a giant leap from a triple murder case to a minor traffic case involving illegal left turns and an expired tag, but the principles are the same. Either afford them their full BOYKIN or ALABAMA rights or risk reversal. This is exactly what happened in *Marot v. State*, 259 Ga. App. 19. She was not given the full litany of rights. Her case was reversed. She was not told about the nature of the offense, possible lesser charges, range of punishment, possible defenses and mitigating circumstances, or a full discussion about the dangers of proceeding pro se. Thus BOYKIN and ALABAMA were violated. But one may say that ‘most’ are on the plea sheet. But most is not all. It would be impossible to put “all possible defenses” on a plea sheet without

giving legal advice. Likewise, it would take precious court time to explain what an “attorney can do for you” and jury options. For example in a D.U.I. case imagine what time would be involved in “all possible defenses.”

But it appears we do not have the option of shortcuts. Indeed under OCGA 36-32-1 (effective January 1, 2005), we may not even have court at all. That code section provides that if legal representation is not provided, that no punishment, including probation, may be imposed. This of course is after a full explanation of the law and indigent status is determined. Some may say “just bind them over.” The Public Defenders Standards forbid this.

Where does that leave us? Either do it right, which may mean staying late when a colloquy is mandated for some rights. A plea sheet just cannot suffice, no matter how long it is.

It seems that we must either stay late or send the solicitor to the appeals court.

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## The Listserv ... Is Ready to Serve You!

**I**f you have not joined, do so now. For those of you who are not aware here are a few reasons to join listserv.

Listsers's purpose is to automatically send information out as well as provide interaction between all Traffic Court and Municipal Judge Subscribers.

- 1) It's an inexpensive way to interact with fellow City Judges and discuss issues concerning your class of court,
- 2) Great way to seek out advice on

unusual cases you may have not experienced before and,

3) It's a quick way to send urgent notices that may otherwise require sending postcards, making long distance calls (faxes) and playing phone tag (remember the cost buildup).

The Council encourages you to subscribe to this list. It is convenient, informative, and not to mention, it can be used as a great reference in referring to past events. Subscribing takes one call or e-mail. Once you have subscribed,

you will receive a welcome message, providing a pass code and instructions on using the service. If you have any questions about this service, please contact AOC Webmaster Brian Collins at (404) 463-3804 or [collinsb@gaaoc.us](mailto:collinsb@gaaoc.us) To subscribe to the Traffic Court Listserv, please contact Leslie Johnson, AOC, at (404) 651-6327 or via email at [johnsonl@gaaoc.us](mailto:johnsonl@gaaoc.us)

Welcome aboard to all new subscribers!

# Keeping the Courts Open During a Public Health Emergency

## *How will Courts be operating during an influenza pandemic?*

By Bob Bray, Associate Director of Planning and Research

Unlike most natural disasters, where an emergency may arise in a particular community or local area and mutual aid pours in from surrounding counties or states; a public health emergency presents an entirely different scenario. The main difference between a public health emergency and natural or man-made disaster is that it will severely impact every community and every state. More importantly, we will not be able to rely on the federal government or our neighbors to come to our rescue - there will be no mutual aid.

The World Health Organization (WHO), the United States Center for Disease Control (CDC) and the Georgia Department of Human Resources Division of Public Health are alerting businesses and governments that we are overdue for a worldwide outbreak of potentially deadly influenza. Both organizations predict that it is not a matter of "if", but of "when" a pandemic virus outbreak will occur. The world is currently focusing on the eruptions of Avian Flu that are occurring on the other side of the world, primarily in Indonesia. Technically, the avian flu, is an agricultural event: wild birds infecting domestic fowl, which has not mutated to the point of becoming transmitted between humans. So far, there have been 252 instances where infected domestic birds have infected humans in the past few years. Of those humans infected by avian flu, 159 have died. So far the avian flu

virus has not mutated to the point where it can be passed on from human to human, however, this particular strain of flu virus, H5N1, can mutate often and rapidly with each infection and the WHO, CDC and the Georgia Division of Public Health are watching this particular strain of influenza very closely.

Utilizing history as a predictor, the last deadly pandemic in the United States occurred in 1917 - 1918. The Spanish Flu Pandemic gives the experts insights on how serious the next Influenza Pandemic could be and why we need to be prepared for the arrival of the next one. Here are some of the published predictions made by the World Health Organization should the avian flu mutate to human-to-human transmission:

- The virus will spread rapidly before a vaccine can be produced;
- The pandemic will last between 18 months and 3 years;
- The pandemic will occur in two or three waves;
- Each episode will last from 6 - 8 weeks;
- The virus is infectious without the person showing any symptoms;
- Once symptoms occur, an infected person may die within 48 hours;
- Possibly 40 % of the population will either die or contract the disease;

- There is no way to produce adequate supplies of vaccine until the virus has mutated;
- It takes time for the vaccines to be produced, and the first wave of influenza will be ending;
- Limited supplies of Tami flu vaccine are available and will be rationed according to a must-need, basis;
- No mutual aid will be available from other states or the federal government; the emergency must be handled at the local level;
- Emergency measures will include isolation, quarantine, cessation of all public gatherings;

There is much more that can be added to this list.

The question then is how will the courts remain open when 40% of the population including those that work or appear in court, are infected and unavailable? How will constitutional and statutory rights be made available? What essential functions must the court handle? How will imposition of social distancing rules affect court operations?

In the words of General Tommy Franks, United States Army, Retired: "Hope is not a plan."

Take just a quick moment to think about how would initial hearings be held after a person is arrested, how would jurors be summoned or even empanelled? Will there be a

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# 2007 POVERTY GUIDELINES AND STANDARDS FOR DETERMINING INDIGENCE

<i>Size of Family Unit</i>	<i>48 Contiguous States</i>	<i>125% or Less (All types of Cases Qualify)</i>	<i>125 % plus (Misd., VOP, or Juvenile Offense punishable by imprisonment (Parents Income) do not qualify unless person earns under 150% and can demonstrate undue hardship)</i>	<i>150% or Less (All Felonies and Juveniles Charged with Felonies (Parents Income))</i>
1	\$10,210	\$12,763	----	\$15,315
2	13,690	17,113	----	20,535
3	17,170	21,463	----	25,755
4	20,650	25,813	----	30,975
5	24,130	30,163	----	36,195
6	27,610	34,513	----	41,415
7	31,090	38,863	----	46,635
8	34,570	43,213	----	51,855
For each additional person, add	3,480	4,350	----	5,220

SOURCE: *Federal Register*, Vol. 72, No. 15, January 24, 2007, pp. 3147-3148

## Keeping the Courts Open cont.

surge in Probate Court cases to handle the possible overwhelming number of deaths? How will individuals appeal an order of quarantine? How will warrants be issued? The questions may seem endless.

Many businesses, professions and court systems across the country are beginning to develop plans to keep their businesses and courts operating. A Continuity of Operations Plan (COOP) establishes what mission essential functions are critical, identify cross-training needs of personnel, identify the line of succession of leadership in the organization or court, develop and conduct training related to implementation of the plan, and many other important items in preparation

for the worst case scenario.

Recognizing the importance of keeping the courts open, Chief Justice Leah Ward Sears has asked the Administrative Office of the Courts to assist the Judicial Council to prepare guidelines and resources that will keep the courts open during a public health emergency. Three important items are to be addressed by this Pandemic Emergency Preparedness Committee: Develop Continuity of Operations Plan guidelines for the courts; Develop a Public Health Benchbook for the Judges; and Develop Training Curriculum for the courts and their families.

Are we prepared for such a public health disaster? An attorney just

used a hand to cover their mouth when they coughed and a minute later shook your hand in greeting.

If you would like more information on developing a Continuity of Operations Plan for your court or have other Pandemic Influenza questions, please contact the Administrative Office of the Courts at [brayb@gaoc.us](mailto:brayb@gaoc.us) or 404-651-6204.

*For more information, visit:*

[www.pandemicflu.gov](http://www.pandemicflu.gov);

[www.whitehouse.gov/homeland/](http://www.whitehouse.gov/homeland/)

[pandemic-influenza-implementation.html](http://pandemic-influenza-implementation.html);

[www.cdc.gov/flu/avian/outbreaks/current.htm](http://www.cdc.gov/flu/avian/outbreaks/current.htm);

<http://health.state.ga.us/pandemicflu/index.asp>

# E-Filing with the Court of Appeals



*The Court of Appeals  
of the  
State of Georgia  
Atlanta, Georgia 30334*

CHAMBERS OF  
CHIEF JUDGE ANNE ELIZABETH BARNES

February 2, 2007

14041856-3454  
barnes@gaappeals.us

The Honorable Michael P. Cielinski  
President, Council of Municipal Court Judges  
Recorder's Court of Columbus-Muscogee County  
P.O. Box 1882  
Columbus, Georgia 31902-1882

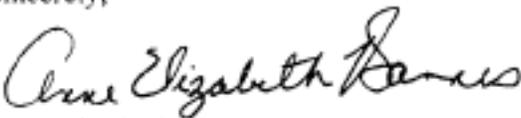
Dear Judge Cielinski:

The Court of Appeals of Georgia will be implementing an e-filing system this summer. In the first phase of the project, we will accept electronic briefs, motions, and requests to argue in direct appeals. The Court will also issue its orders, opinions, and remittitur electronically. We would like to make sure that the trial court judges receive copies of the appropriate documents by email at the same time counsel or parties do. Therefore, we need to let the Municipal Court Judges know about this change and obtain their current e-mail addresses.

We hope that as the President of the Council of Municipal Court Judges, you will help us with this task. Would you please inform the Municipal Court Judges about our project and our need for their email addresses? Our staff will contact you next week to discuss the best method for obtaining those addresses. Once we have them, we will provide a simple way for the judges to update their addresses, should they change. Our goal is to obtain all of the email addresses by April 1, 2007.

Please be assured that we will not provide this information to anyone else nor use it for any other purpose, unless permission is given by the individual judge. Either John Ruggeri, our Information Technology Director, or Holly Sparrow, our Deputy Administrator, will contact you within the next week to talk with you about our new system. Thank you very much for your assistance in helping us create a more efficient way to serve the bench and bar.

Sincerely,

  
Anne Elizabeth Barnes

AEB:lc  
cc: Leslie Johnson  
Council of Municipal Court Judges

## Council Contact Information

### Council of Municipal Court Judges Contact Information

*Administrative Note: Ms. Leslie Johnson has been appointed to assist the Council of Municipal Court Judges.*

Leslie Johnson  
Staff  
404-651-6327  
johnsonl@gaaoc.us

#### *Other Court Services Contacts*

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Associate Director for Court Services  
404-463-3804  
patterc@gaaoc.us

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lewisyl@gaaoc.us

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Judicial Liaison Officer  
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murphyl@gaaoc.us

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Program Manager  
Committee on Access and Fairness in the Courts  
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gainess@gaaoc.us

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Assistant Director  
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boltonb@gaaoc.us

Ashley G. Stollar  
Communications Specialist  
404-656-6783  
stollara@gaaoc.us

## Available Soon: Council of Muni Ct Judges Brochure

# Council of Municipal Court Judges



“Serving the Municipal Courts of  
Georgia with Integrity”

# Age Discrimination under the Fair Housing Act

## *When “Active Adult” Means an Active Problem*

I am sure you have all seen the latest “motorcycling granny” billboards off I-85 and other advertisements for communities catering to “active adults”. I have had everyone from sales agents to other attorneys give me a wide range of perspectives on whether subdivisions can be age restricted and how it is accomplished - from “it’s totally illegal” to “it’s ok ‘cause my zoning says my subdivision is age restricted” to “I’m just marketing it that way.” Because age-restricted communities are becoming more common, it is a good idea to understand what they are and when they are permitted.

The Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-3619) generally makes it unlawful to discriminate against a person whose household includes one or more children under the age of 18. It is the “familial status” portion of the litany of categories which are protected from discrimination by the Fair Housing Act. This includes households where the minor child lives with a parent, a person who has legal custody (including guardianship), or the designee of a parent or legal custodian of the child. It even extends to pregnant women and any person in the process of gaining legal custody of a child.

However, the Fair Housing Act exempts “housing for older persons” from the Fair Housing Act’s prohibitions against discrimination based upon familial status through the Fair Housing Amendments Act of 1988 (“FHAA”). Senior housing facilities

and communities can lawfully discriminate based upon familial status.

Keep in mind that to be legally allowed to discriminate, you have some hoops to jump through. Senior housing facilities or communities must qualify for the exemption from the Fair Housing Act, as outlined in the Housing for Older Persons Act of 1995 (“HOPA”) 42 U.S.C. §3607, to engage in lawful discrimination. To qualify, the facility or community must strictly adhere to the requirements mandated by HOPA. Courts construe the requirements for qualification for the exemption narrowly and the defendant (typically the community association or the facility owner) carries the burden to prove they qualify. See, for example, *Simovits v. the Chanticleer Condominium Association*, 933 F.Supp. 1394, 1401 (N.D. Ill. 1996).

What are the requirements? The housing must:

- (1) be provided under a state or federal program that the U.S. Department of Housing and Urban Development has determined to be specifically designed and operated to assist elderly persons (as defined in the program);
- (2) be intended for and solely occupied by persons 62 years of age or older; OR
- (3) be intended for and operated for occupancy by persons 55 years of age or older. Item 3 above determines that “operated for” means that at least 80% of the occupied units

must be occupied by at least one occupant at least 55 years or age or older, demonstrate intent to operate as “55 or older” housing and comply with HUD’s age verification requirements.

If that were not complicated enough, keep in mind that this exemption does not permit other types of discrimination. For example, if the community is of the “55 or older” variety, families with minor children cannot be segregated into a particular section of the facility or community. The complications continue as you consider the difference between ownership and occupancy. An owner of a unit in one of these communities may be young and have minor children that reside with him or her, but the question is whether that owner occupies the unit.

Compliance requires a great deal of homework to make sure that the qualification requirements are satisfied. The owner or community association with oversight over the community must put policies in place to make sure that the proper actions to show an “intent to comply” are in place and that the other requirements for the type of age-restriction are satisfied.

# Misdemeanor Probation in Georgia

## A Snapshot of the County and Municipal Probation Advisory Council

By Ashley Garner, Staff Director, County and Municipal Probation Advisory Council

### *Let's talk numbers - How many?*

- There are 11 voting members on the Council and one Staff Director.
- There are 43 registered private probation providers in Georgia. A comprehensive list is available at [www.georgiacourts.org](http://www.georgiacourts.org) under Councils / Probation Advisory Council.
- There are 42 registered governmental (city and county) probation entities in Georgia. Their information will be posted on the Council webpage by March 1st.
- Approximately 40 governmental probation systems failed to register by the established deadline of December 31, 2006. All paperwork received after the deadline WILL be accepted and processed with no penalty. Please encourage any entity which has not submitted to do so as soon as possible.

### *Let's talk size - How much?*

- Private probation providers supervised approximately 240,000 offenders and collected \$20 million in fines, fees, and surcharges on behalf of local governments during the 3rd quarter of 2006. Offenders under the supervision of private probation performed almost 609,000 hours of community service during this same time period. Annually, almost 2.4 million hours of community service have been performed, which translates into a labor value of \$12.3 million for cities and counties in Georgia.
- During the month of January 2007, governmental providers will begin reporting data for their courts representing the 4th quarter of 2006. This will be our first glimpse into the volume of cases handled by these entities.

### *What's next?*

- The next quarterly meeting of the Council will be held on February 15, 2007, in Macon, Georgia.

• For those governmental entities who have not registered with the Council, the Staff Director will send a notice of failure to register prior to the established deadline to each entity and court served. Discussions will begin to assist all parties in completing the necessary registration paperwork. Those who refuse to register as set forth in Georgia law and Council Rules will have an opportunity to have their situation reviewed according to the processes outlined in the Administrative Procedures Act.

• Welcome Packets are being sent to all registered governmental probation entities, providing them with useful websites, forms, and information to assist them in communicating most effectively with this Council.

If you have any questions regarding misdemeanor probation in Georgia, please feel free to contact me at 478-471-5778 or email me at [garnera@gaaoc.us](mailto:garnera@gaaoc.us).

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## Municipal Clerks Council Hits the Ground Running

Since its inception in September 2006, the Georgia Municipal Court Clerks' Council (GMCCC) has made great strides in efforts to support municipal court clerks in Georgia. GMCCC is currently working collaboratively with the Municipal Court Training Council and ICJE to develop an annual training curriculum for clerks of court. With assis-

tance from the AOC, the clerks' council has a new listserv and will soon begin working on a website and newsletter. They have also organized a free class on Records Management and Records Retention for all clerks. This is a great start for the new group. The organization currently has more than 240 members representing 195 municipal courts across the state.

### *GMCCC Officers*

Laura Oles, President  
Peachtree City  
Ana Baker, Vice-President  
City of Bainbridge

Karen Fricke, Secretary  
City of Milton

Kathy Bright, Treasurer  
City of Tyrone

# Notification of Change in Municipal Personnel

THE ADMINISTRATIVE OFFICE OF THE COURTS

SUITE 300

244 WASHINGTON STREET, S.W.

ATLANTA, GEORGIA 30334-5900

404-656-5171

FAX: 404-651-6449

CHIEF JUDGE

JUDGE

JUDGE PRO TEM

PRO HAC

CHIEF CLERK

CLERK

DEPUTY CLERK

CITY(list all) \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE (    ) \_\_\_\_\_ FAX (    ) \_\_\_\_\_

EMAIL \_\_\_\_\_

GENDER: Female  Male

ATTORNEY: Yes  No

ELECTION/APPOINTMENT DATE: \_\_\_\_\_ TERM from \_\_\_\_\_ to \_\_\_\_\_

REAPPOINTMENT: Yes  No  TERM from \_\_\_\_\_ to \_\_\_\_\_

Replacing someone? \_\_\_\_\_ If So, Who? \_\_\_\_\_

(Optional) Are you Spanish/Hispanic/Latino Yes  No

(Optional) RACE: African American (Black)  Asian \ Pacific

Euro American (White)  American Indian or Alaska Native

Fax or mail this form to the Administrative Office of the Courts at the contact information above.

Submitted by: NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE # \_\_\_\_\_

# 2007 Municipal Court Judges Registration Form

Early Bird Fee before February 28 is \$225. After is \$325.

Be advised-to offset expenses incurred, \$35 will be billed to registrants who "Fail to Appear."

Mail this form with a check payable to ICJE.

INSTITUTE OF CONTINUING  
JUDICIAL EDUCATION  
123 Dean Rusk Hall, University of Georgia  
Athens, GA 30602

Questions, contact:  
Kathy Mitchem: 706/542-7402, kathy@icje.law.uga.edu  
or  
Stacy Harvey: 706-542-8248, stacy@icje.law.uga.edu

Name \_\_\_\_\_

Phone \_\_\_\_\_ e-mail \_\_\_\_\_

City Judge of \_\_\_\_\_ Are you now a Municipal Judge? \_\_\_\_\_ Have you sat in the past year? \_\_\_\_\_

Office Mailing Address \_\_\_\_\_

Check here if we need to contact you about: Physical needs \_\_\_\_\_ Dietary needs \_\_\_\_\_

2007 Course Title	2007 Dates	Location
Basic Certification - 20 hour	February 21-23	Georgia Center, Athens
Recertification Course	February 22-23	Georgia Center, Athens
Traffic Violations, 17-21	March 8-9	Georgia Center, Athens
Local Ordinance Violations	April 17-18	Georgia Center, Athens
Spanish for Judges	April 4-5	Georgia Center, Athens
Law and Literature	May 17-18	Georgia Center, Athens
Traffic Court	June 27-29	Hyatt, Savannah
Basic Certification - 20 hour	September 17-19	Georgia Center, Athens
Recertification Course	September 18-19	Georgia Center, Athens
Pharmacology of Drugs	October 25-26	Pharmacy School, UGA
Traffic Violations, 17-21	October 11-12	Georgia Center, Athens
Spanish for Judges	November 8-9	Georgia Center, Athens

REGISTRATION: List the seminar you wish to attend from the above list.

Course \_\_\_\_\_

Date: \_\_\_\_\_ Location \_\_\_\_\_

Below is for ICJE use:

# “Welcome to Georgia’s Court System” Poster Popular with Judges and Educators

**W**elcome to Georgia’s Court System” is a hot item

among judges and educators. The first printing of 5,000 copies was quickly exhausted, and a second printing has been run. All told, nearly 12,000 copies of the poster have been distributed to judges, court officials,

middle schools, high schools, and an Atlanta-area technical university.



## Comments

### From Educators:

- Thank you for supplying us with posters. We appreciate you supporting teachers, students & GA education.
- Very nice! These will be a great addition to my GA History classes.

### From Judges:

- What a wonderful tool to take to school presentations! Thanks!
- Great posters — simple — pertinent — well executed.
- Great idea! Long time coming!

Copies are still available. To find out more information, contact Ms. Ashley Stollar at 404-656-6783 or e-mail [stollara@gaoc.us](mailto:stollara@gaoc.us)

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## Council of Municipal Court Judges

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