

JUDICIAL COUNCIL OF GEORGIA

General Session

Friday, August 26, 2011

*Renaissance Atlanta Waverly Hotel
Cobb Galleria*

9:00 a.m. – 12 p.m.

Kennesaw Room



*Luncheon
12:00 p.m.*

*2450 Galleria Parkway SE
Atlanta, GA 30339-3130*



RENAISSANCE.
WAVERLY HOTEL
ATLANTA, GEORGIA

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Judicial Council of Georgia
Renaissance Atlanta Waverly Hotel Cobb Galleria
2450 Galleria Parkway SE, Atlanta, GA 30339-3130
Friday, August 26, 2011
9:00 a.m.-12:00 p.m. in Kennesaw Room
Continental Breakfast will be served at 8:00 a.m.
Lunch will be served at 12:00 p.m.

- 1. Introductions and Preliminary Remarks**
(Chief Justice Hunstein, Est. Time — 10 Min.)

- 2. Approval of Minutes**
(Chief Justice Hunstein, Est. Time — 5 Min.)
 - A. April 22, 2011 Tab 1
 - B. July 20, 2011 Tab 2

- 3. Consideration by the Judicial Council of Requests for Circuit Judgeship Studies and Recommendations to the General Assembly and the Governor** Tab 3
(Ms. Molly Perry, Est. Time — 30 Min.)

- 4. Vote on Requests by Written Ballot**

- 5. 2012 and 2013 Budget Requests** Tab 4
(Justice P. Harris Hines, Est. Time — 10 Min.)

- 6. Judicial Council Committee Reports:**
 - A. Nominating Committee** Tab 5
(Judge Stephens, Est. Time — 5 Min.)

 - B. Judicial Workload Assessment Committee** Tab 6a
(Judge Emerson, Est. Time---5 Min.) Tab 6b

 - C. Accountability Courts Committee** Tab 7
Written Report

 - D. Domestic Violence Committee** Tab 8
Written Report

 - E. Justice for Children Committee** Tab 9
Written Report

- 7. Report from AOC Director**

- 8. Reports from Appellate Courts and Trial Court Councils**
 - A. Supreme Court**
(Chief Justice Carol W. Hunstein, Est. Time — 5 Min.)

B. Court of Appeals
(Chief Judge John J. Ellington, Est. Time — 5 Min.)

C. Council of Superior Court Judges
(Chief Judge John C. Pridgen, Est. Time — 5 Min.)

D. Council of State Court Judges
(Judge Larry B. Mims, Est. Time — 5 Min.)

E. Council of Juvenile Court Judges
(Judge Deborah A. Edwards, Est. Time — 5 Min.)

F. Council of Probate Court Judges
(Judge Todd A. Blackwell, Est. Time — 5 Min.)

G. Council of Magistrate Court Judges
(Judge Mary Kathryn Moss, Est. Time — 5 Min.)

H. Council of Municipal Court Judges
(Judge Rashida O. Oliver, Est. Time — 5 Min.)

9. Old/New Business

A. Special Council on Criminal Justice Reform for Georgians
(Chief Justice Hunstein, Est. Time---10 Min)

B. Recusal Rule Update
(Justice Melton, Est. Time — 5 Min.)

Tab 10a
Tab 10b

C. Use of Interpreters for LEP Citizens
(Justice Melton, Est. Time — 10 Min.)

Tab 11

- 1) COI Rule
- 2) ABA Proposed Rule

D. Jury Reform Update
Written Report

Tab 12

E. Proposed Tax Court
(Ms. Marla Moore, Est. Time — 5 Min.)

10. Concluding Remarks and Adjournment
(Chief Justice Carol W. Hunstein, Est. Time — 5 Min.)

Next Regular Council Meeting

Date: January 5, 2012, in conjunction with mid-year meeting of State Bar

Place: Loew's Hotel Atlanta

Time: 1:00 p.m.

**Meeting of Judicial Council of Georgia
Vinzant Hall, State Offices South at Tift College
Forsyth, Georgia
April 22, 2011 • 9:00 a.m.**

Members Present:

Chief Justice Carol W. Hunstein
Presiding Justice George H. Carley
Chief Judge John J. Ellington
Presiding Judge Herbert E. Phipps
Judge Louisa Abbot
Judge J. William "Bill" Bass, Sr.
Judge Todd A. Blackwell
Judge Deborah A. Edwards
Judge C. Andrew Fuller
Judge Kathlene F. Gosselin
Judge F. Bryant Henry, Jr.
Judge Ronnie Joe Lane
Judge Arch W. McGarity
Judge Larry B. Mims
Judge Mary Kathryn Moss
Judge H. Frederick Mullis, Jr.
Judge George Nunn (for Judge Christian)
Judge John C. Pridgen
Judge Rashida Oliver (for Judge Withers)
Judge Mark Anthony Scott
Judge Mary E. Staley
Judge Lawton E. Stephens
Judge William A. "Al" Willis
Judge Cynthia D. Wright

Members Absent:

Judge Martha C. Christian
Judge Mary T. Cranford
Judge Nelly F. Withers

Staff Present:

Ms. Marla S. Moore
Mr. Byron Branch
Ms. Michelle Daza
Ms. Ashley G. Stollar

Guests Present:

Ms. Tee Barnes, Clerk, Georgia Supreme Court
Mr. Tracy BeMent, Tenth District Court Administrator
Mr. Bob Bray, Council of State Court Judges
Trooper James Brown, Georgia State Patrol
Mr. Stan Cooper, Georgia Department of Corrections
Mr. John Cowart, Second District Court Administrator
Judge David Darden, State Court of Cobb County
Judge David T. Emerson, Superior Court, Douglas Judicial Circuit
Mr. Steve Ferrell, Ninth District Court Administrator
Mr. Adam Gelb, Pew Charitable Trusts
Justice P. Harris Hines, Georgia Supreme Court
Mr. Eric John, Council of Juvenile Court Judges
Mr. Greg Jones, Third District Court Administrator
Ms. Yolanda Lewis, Fifth District Court Administrator
Ms. Tia Milton, Georgia Supreme Court
Mr. Bob Nadekow, Eighth District Court Administrator
Mr. Brian Owens, Georgia Department of Corrections
Ms. Jody Overcash, Seventh District Court Administrator
Ms. Sharon Reiss, Council of Magistrate Court Judges
Mr. Kenneth L. Shigley, President-Elect, State Bar of Georgia
Ms. Kirsten Wallace, Council of Juvenile Court Judges
Mr. Shannon Weathers, Council of Superior Court Judges
Mr. Max Wood, Chief Judge, Office of State Administrative Hearings

Call to Order

Chief Justice Hunstein called the meeting to order at 9:15 a.m. After introducing herself, she asked members of the Council to tell their names and court represented. Following these introductions the Chief Justice asked members of the audience to identify themselves.

Approval of Minutes

Chief Justice Hunstein asked if there were any corrections or additions to the minutes of the Judicial Council meeting held on January 21, 2011 as presented. Judge Abbot moved approval of the minutes. Judge Fuller seconded. The motion carried.

National Initiatives on Evidence-Based Sentencing

Prior to the committee reports Mr. Adam Gelb of the Pew Charitable Trusts made a presentation on national initiatives on evidence-based sentencing. He

discussed the national prison population and costs and dramatic changes in corrections reforms.

Committee Reports

Standing Committee on Policy & Legislation. Ms. Moore made the report at the request of Presiding Justice Carley. She discussed the status of legislation the Judicial Council supported and other judicial legislation that was watched by the committee. Significant legislation that passed included the Jury Reform Act (HB 415) and Evidence Code Rewrite (HB 24). Other legislation that passed: HB 339 expands the Chief Justice's role and streamlines jurisdictional and procedural matters in the case of a pandemic; SB 39 authorizes Mental Health Courts; HB 373 allows a judge to modify an Order for Restrictive Custody; SB 47 allows for the Magistrate Court Judges Training Council to set training requirements for magistrates and senior magistrates between a minimum of 12 hours and a maximum of 20 hours; HB 41 has reduced the fee from \$10 to \$1 per page to file an appellate record; HB 158 moves judicial elections back to the primary election; HB 265 created the Special Council on Criminal Justice Reform; HB 421 deals with a Plea of Mental Incompetence in a criminal procedure; and SB 30 requires judges serving on municipal courts to be attorneys and grandfathers in current non-attorney judges.

Legislation that did not pass: HB 272 would have taken away the requirement for Rehearing an Order of Associate Juvenile Court Judges; HB 155 would have increased protections afforded accused; HB 100 was an extensive re-write of the tax code and would have created a Georgia Tax Court; HB 149 would have changed the service of a magistrate to be at the pleasure of the Chief Magistrate, rather than for a consecutive term of the Chief Magistrate; HB 262 would have added a 1% qualifying fee to support JQC operations; HB 284 would have required AOC to certify process servers; SB 235 would have allowed certain drivers with suspended licenses to have limited driving permits.

Standing Committee on Budget. Justice Hines reported the Judicial Council FY2011 Amended budget as \$12,969,364, an additional 4.75% reduction from the FY2011 budget. Judge Bass moved approval of the amended budget. Judge Staley seconded. The motion carried.

Justice Hines then reported the FY2012 Budget as \$13,468,576, a 7% across the board reduction from the FY2011 budget. Presiding Justice Carley moved approval of the budget. Judge Bass seconded. The motion carried.

Chief Justice Hunstein called for judges of all classes of court to help support the Institute of Continuing Judicial Education's efforts to restore full funding in the next legislative session.

Standing Committee on Drug Courts. Ms. Moore made the report on behalf of Judge Bagley, the committee chair. She discussed the upcoming Drug Court Conference, May 31 - June 2, 2011, at the Renaissance Atlanta Waverly Hotel in Atlanta. This is the last year federal grant funds are available to support the conference. Next year the conference may have to rely on registration fees as a funding source. The committee is reviewing applications for FY 2012 state grant funds and will be developing standards for mental health courts. Unlike other budget programs under the Judicial Council, Accountability Courts actually received an increase in funding and has been designated as an independent program. For purposes of administration, Accountability Courts is still under the Judicial Council and the AOC will be responsible for the staffing and financial administration of the program.

Court Reporting Matters Committee. Presiding Judge Phipps referred members to a written report provided in the agenda.

Report from AOC Director

Ms. Moore began her report by dispelling an assertion that the AOC had increased its payroll by \$1 million during the past year. She noted that the agency actually had a 30 percent reduction in staff over the last two fiscal years and is using a "critical hire" process similar to that employed by the executive branch to determine if vacated positions will be filled. She noted the upcoming retirement of Ms. Billie Bolton, AOC Assistant Director for Communication, in June after 32 years with the state.

Ms. Moore reported some of the measures the AOC will take to reduce expenditures in FY2012, including the continuation of a restricted travel policy, divesting the agency of three aging vehicles, implementing a policy that will reduce

costs for telecommunications devices, and using zero-based budgeting for one AOC Division each year over the next four years.

She reviewed recent activities relating to the annual caseload study and the Superior Court 2011 Time and Motion Study. Judges and clerks were notified via e-mail of the CY2010 Caseload Study and were directed to submit data through the AOC portal. To date, 53% of submissions have been received electronically. Superior court clerks were furnished an instruction manual (Georgia Caseload Reporting Guide: CY2010) to assist with collecting data from the courts they serve. She thanked the Council of Superior Court Clerks for their assistance in creating the manual.

The Superior Court 2011 Time and Motion Study was conducted during the month of March. Time and case data recorded electronically and manually by 146 superior court judges is now being entered into a database. On May 20, the Judicial Workload Assessment Committee will receive an interim report on the study.

Ms. Moore reminded the Council that at its meeting in January she had begun a review of AOC functions with an in-depth look at its state and federal grant projects. The second part of the review covered today is the Certification and Licensing unit within the Office of Judicial and Court Services which includes the Board of Court Reporting, Commission on Interpreters, County and Municipal Probation Advisory Council, Family Violence Intervention Programs, and Office of Dispute Resolution.

The Board of Court Reporting has operated at the AOC since 1974 and its mission is to ensure minimum proficiency of court reporters. Its nine-member board is supported by three staff members. State funds account for \$53,108 of its \$231,760 budget, with fees accounting for the remainder. In FY 2010, the board issued 1,257 certifications and renewals, in addition to offering training and answering complaints.

The Commission on Interpreters was established in 2003 by Supreme Court rule. Its mission is to provide interpreter licensing, regulatory and education services for Georgia courts to ensure the rights of non-English speaking persons. Its eighteen-member board is supported by one staff person. State funds account for

\$88,637 of its \$204,315 budget; fees account for the remainder. The Commission regulates 153 interpreters in 13 languages and trained 113 individuals and examined 181 individuals in the past fiscal year.

The County and Municipal Probation Advisory Council (CMPAC) was established in 1991 as an executive branch agency with funds for operations appropriated to the AOC. Four staff members support the eleven-member Council. The Council is statutorily prohibited from charging fees, and its \$240,238 budget is solely from state funds. In CY2010, CMPAC processed three new programs, 91 renewals, and 13 formal complaints. The council held 21 training courses with 455 attendees.

Oversight of Family Violence Intervention Programs (FVIP) was established in 2002 under the Georgia Commission on Family Violence through a memorandum of understanding with the Department of Corrections. The commission, a 37-member board, approves and provides training, certification and monitoring. The FVIP is supported by one staff person and funded entirely by fees and has a budget of \$90,000. In FY2010, 100 programs were certified to operate in 170 sites; eleven trainers were approved for 25 courses.

The Office of Dispute Resolution was established in 1992 by Supreme Court Rule. Three staff members support the 16-member board. Its \$300,371 budget was comprised of \$65,013 in state funds and \$235,358 in fees in FY2011. The office handled 2,216 registrations, renewals, and reinstatements and trained 635 participants in 66 courses.

During FY2011, Certification and Licensing accounted for 7.9% of total state funds appropriated to the AOC.

Reports from Appellate Courts and Trial Court Councils

Supreme Court. Chief Justice Hunstein noted the success of the Jury Reform Bill and acknowledged Justice Hugh Thompson and the others who have worked since 2002 on this important legislation. The Chief Justice acknowledged Judge McGarity for his work during the legislative session, in particular his work on the Jury Bill. Notwithstanding the Governor's signature on the bill to reduce the

appellate record fee to \$1 per page, the Supreme Court will continue to use the Record Appendix Rule.

She noted the success of E-filing (60%) and the possibility of making E-filing mandatory in the future. The Supreme Court is working with the Court of Appeals to implement a program where the trial court record can be received via E-mail from the local Clerk's office.

Chief Justice Hunstein reported on the upcoming Atlanta Conference of Chief Justices/Conference of State Court Administrators Annual Meeting, which will take place July 31 – August 3 at the Ritz-Carlton Buckhead.

Court of Appeals. Chief Judge Ellington commended all judges for working together during the legislative session; he acknowledged the work and leadership of Chief Justice Hunstein. He introduced Presiding Judge Phipps who now serves on the Judicial Council.

Superior Court. Judge Gosselin noted the work of the Council's Executive Committee, Uniform Rules Committee, and Personnel Committee. The Uniform Rules Committee expressed its appreciation to the Supreme Court for promptly approving its rule revisions. She reported that state funds have been added to the Council's budget for senior judges. Judge Gosselin introduced Judge Prigden and Judge Emerson, the incoming president and president-elect.

State Court. Judge Bass thanked Ms. Moore, Ms. Bolton, Ms. Stollar, and Ms. Steele for their hard work on behalf of the judiciary. He extended an invitation to Judicial Council members to attend the State Court Council's spring seminar in Athens (May 18-20). Judge Mims and Judge Darden, the incoming president and president-elect were introduced. The State Court Judges' Council has worked toward increasing communication with other classes of court and commended the collegiality of the Judicial Council. The council is working on "Guidelines for Pro Se Parties" based on the guidelines developed by the Council of Magistrate Court Judges.

Juvenile Court. Judge Henry reported on the Council's improved collaboration with the Department of Juvenile Justice and Department of Human Resources, Department of Family and Children's Services. He reported on the Council's

legislative efforts and the failure of Georgia to approve the Interstate Compact for Juveniles. Judge Henry introduced Judge Edwards as the incoming president.

Probate Court. Judge Blackwell reported on the council's upcoming strategic planning meeting and traffic court bench book. At the council's spring seminar the probate judges voted to oppose HB 262, which would require an additional 1% on the qualifying fee for judicial candidates; they also voted to oppose the de-funding of the Institute of Continuing Judicial Education. Judge Blackwell thanked Chief Judge Ellington for his presentation at the council's spring seminar.

Magistrate Court. Judge Willis reported on the publication of the council's Bench Book in electronic format and the creation of complaint forms for internal affairs. He also noted the passage of SB 27 which allows the Training Council to set the minimum number of training hours (between 12 and 20 hours) magistrates need. He thanked Judge Bass, Presiding Justice Carley, Justice Thompson, Judge McGarity, Mr. Cuccaro, and the AOC for their support. Judge Willis introduced Judge Moss as the incoming president.

Municipal Court. Judge Oliver reported that publication of the council's Annual Report has been delayed because of budget issues. She noted the council is considering amending its bylaws to allow for staggered terms for training council membership. The Council is encouraging all municipal courts to participate in the case count study. Judge Oliver reported that the executive committee has approved the preparation for a first-appearance video, a public relations effort to increase awareness of the municipal courts and its procedures.

Old/New Business

Chief Justice Hunstein asked Judge Emerson to report on current activities of the Judicial Workload Assessment Committee (JWAC). He reported that the JWAC had adopted an aggressive schedule to complete the case count and the time and motion study; data submitted by judges for the time and motion study is being reported and compiled now. JWAC will meet in May to review those preliminary findings and may ask for a special meeting before the August Judicial Council Meeting to adopt new minutes to be used in the judgeship recommendation study for the 2012 Session.

Concluding Remarks and Adjournment

The next meeting of the Judicial Council will be Friday, August 26, 2011, at the AOC offices in Atlanta. A tour of the facilities will follow the lunch. (Other options for this meeting site are being explored.)

Chief Justice Hunstein adjourned the meeting at 12:15 p.m.

Respectfully submitted:

Ashley G. Stollar
Graphic Designer

The above and foregoing minutes were
Approved at the meeting held on the 26nd
Day of August, 2011.

Meeting of Judicial Council of Georgia
Teleconference
July 20, 2011 • 3:00 p.m.

Members Present:

Chief Justice Carol W. Hunstein
Presiding Justice George H. Carley
Chief Judge John J. Ellington
Presiding Judge Herbert E. Phipps
Judge Louisa Abbot
Judge Todd A. Blackwell
Judge Martha C. Christian
Judge Mary T. Cranford
Judge David Darden
Judge David T. Emerson
Judge C. Andrew Fuller
Judge Alan Harvey
Judge Ronnie Joe Lane
Judge Arch W. McGarity
Judge Larry B. Mims
Judge Mary Kathryn Moss
Judge H. Frederick Mullis, Jr.
Judge A. Gregory Poole
Judge John C. Pridgen
Judge Mark Anthony Scott
Judge Mary E. Staley
Judge Lawton E. Stephens
Judge Kenneth Wickham (for Judge Oliver)
Judge Cynthia D. Wright

Members Absent:

Judge Rashida Oliver
Judge Deborah A. Edwards

Staff Present:

Ms. Marla S. Moore
Dr. Greg Arnold
Mr. Edwin Bell
Mr. Christopher Hansard
Ms. Maggie Reeves
Ms. Ashley G. Stollar

Guests Present:

Judge James G. Bodiford, Superior Court, Cobb Judicial Circuit
Mr. Daniel E. DeLoach, Jr., First District Court Administrator
Judge Kathlene F. Gosselin, Superior Court, Northeastern Judicial Circuit
Mr. Eric John, Council of Juvenile Court Judges
Mr. Greg Jones, Third District Court Administrator
Ms. Sandy Lee, Council of Superior Court Judges
Ms. Yolanda Lewis, Fifth District Court Administrator
Mr. Bob Nadekow, Eighth District Court Administrator
Ms. Sharon Reiss, Council of Magistrate Court Judges
Ms. Kirsten Wallace, Council of Juvenile Court Judges
Mr. Shannon Weathers, Council of Superior Court Judges

Call to Order

Chief Justice Hunstein called the meeting to order at 3:04 p.m. Ms. Moore called the roll of members and asked guests to identify themselves. Ms. Moore introduced staff present.

2011 Superior Court Time and Motion Study/Recommendations for Average Times to Disposition, Circuit Classifications, and Judge-Year Values

Judge Emerson reported the results of the 2011 Time and Motion Study, thanking the judges who participated in the study, AOC staff, and Ms. Dena Adams, Superior Court Clerk of White County who had assisted in getting the superior court clerks to provide disposition data. He explained the methodology used in the study and Mr. Christopher Hansard explained the formula utilized to determine Average Time to Disposition. Judge Emerson detailed the change in values for case type, including new categories created since the 2009 Time and Motion Study.

During discussion, Judge Fuller asked if Accountability Courts, for circuits that have them, were given consideration. Judge Emerson explained that Accountability Courts are not a category of case and currently are not used in the formula; he reported that the unique way Accountability Courts operate and how little key data was collected during the one month collection period posed a problem in counting them for this Study. Additionally, clerks have no category for Accountability Courts in their database. Judge Fuller urged consideration for treatment courts in the study and will submit a proposal at the next meeting. Ms. Moore assured the Council that staff will review the seven circuits which have

requested judgeship studies and will look specifically at Accountability Courts data to insure that the workload of those courts is taken into consideration.

Judge Emerson explained the new circuit classifications and judge-year values. A new circuit classification was created — Single County Suburban. Judge-year values increased for all categories with the exception of the Multi-County Suburban category which decreased. Adoption of these recommendations will make these values effective with upcoming circuit studies for consideration by the Judicial Council at its August 26 meeting. Judge Emerson moved approval of the recommendations. Judge Stephens seconded. The motion carried.

Out of Time Requests

Chief Justice Hunstein opened discussion regarding the June 16, 2011, request by the Chattahoochee Judicial Circuit for a Circuit Workload Assessment, noting that it was received past the deadline of: “June 1 of the year prior to the legislative session in which a change in judicial resource allocation would be sought.” Chief Justice Hunstein stated that the rule is clear and the out of time request would not be considered. Judge Christian asked for clarification on whether this deadline was clearly stated in the correspondence. Judge Pridgen noted that additional senior judge funds may be available for use in the event the caseload is affected as feared.

Accountability Courts Recommendation Report

Ms. Moore gave the report for Judge Bagley. She referred the Council to Attachment C detailing the Grant Awards from the Accountability Courts Committee, noting a reserve of funds for additional Accountability Courts and Mental Health Courts. Judge Carley moved approval of the recommendations. Judge Ellington seconded. The motion carried.

Concluding Remarks and Adjournment

Chief Justice Hunstein thanked the Judicial Workload Assessment Committee for the past two years of hard work, especially Judge Emerson’s leadership.

The next meeting of the Judicial Council will be Friday, August 26, 2011, at 9:00 a.m. at the Renaissance Atlanta Waverly Hotel at the Galleria Center in Atlanta.

Chief Justice Hunstein adjourned the meeting at 3:45 p.m.

Respectfully submitted:

Ashley G. Stollar
Communications/Outreach Specialist II

The above and foregoing minutes were
Approved at the meeting held on the 26nd
Day of August, 2011.

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Judicial Workload Assessment Guide

A Description of the Process of Evaluating the Need for Additional Superior Court Judgeships

**Administrative Office of the Courts
Office of Research, Planning, and Data Analysis
August 2011**

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Introduction

The purpose of this Guide is to provide Judicial Council members an understanding of the methodology and activities precipitating recommendations to the Governor and General Assembly for additional superior court judgeships. The Guide presents the policies, procedures, and fundamental concepts used by the Judicial Council and Administrative Office of the Courts in their work. We hope you will find that the information enhances your knowledge of the entire judicial workload assessment process, and we are grateful for your questions and comments to improve its usefulness.

Historical Overview

Legislation establishing the Administrative Office of the Courts (AOC) as the administrative arm of the Judicial Council of Georgia was enacted in 1973 as a result of a national initiative¹ to combat crime that encouraged states to examine their court structure, organization and management. Governor Jimmy Carter's subsequent Commission on Judicial Processes evaluated the state's court system and endorsed creation of a court administrative structure to support court modernization.

A critical element of applying business management practices to the courts has been the collection and analysis of caseload data, and a specific responsibility of the AOC is to "compile statistical and financial and other information on the judicial work of the courts and on the work of other offices related to and serving the courts, which data and information shall be provided by the courts." (OCGA §15-5-24 (3))

The first statewide caseload collection was initiated in June 1974 and encompassed superior, state, juvenile and probate courts. Because the task proved difficult due to inadequate records across the state, the AOC did not complete its calendar year 1973 caseload study until after June 1975. The initial presentation of superior, state, juvenile and probate court data was included in the AOC's third annual report (fiscal year 1976).

While the AOC still oversees the collection of data, it is the efforts of countless state and local officials that have contributed to valid and reliable results over the years. These officials include trial court judges, clerks, court administrators, prosecutors, probation personnel and others.

In early years, AOC staff, court administrators and seasonal employees fanned out across the state to count cases manually, from handwritten docket books kept by court clerks. As information technology developed and was employed to manage court case information, electronic reporting began to replace manual data collection. Government budget constraints have created increasing reliance on technology to furnish accurate compilations of criminal and civil data.

Most recently, clerks of all courts are assuming the role of reporting case data to the Administrative Office of the Courts via its Internet portal. As of August 16, 2011, 63 percent of all courts—including 73 percent of superior courts—reporting 2010 caseload had used the

portal in some capacity. Superior court clerks compile general civil and domestic relations filings through the Georgia Superior Clerks Cooperative Authority (GSCCCA) by electronic or paper based reports, and these totals are uploaded to an AOC database. On rare occasions but as necessary, AOC staff travel and count cases in the clerk's office.

The AOC reports statewide caseload activity annually to the National Center for State Courts and other national organizations to inform court and criminal justice system stakeholders about Georgia courts. Case information also serves as a historical description of the courts - the published data are used by a number of judicial branch agencies, state and local executive agencies, project and program managers and grant applicants to support ongoing process and operational improvements.

The first data-driven analysis of the need for additional superior court judgeships was undertaken in response to requests for seven circuit studies in preparation for General Assembly consideration in 1974. These special studies were conducted according to a methodology dependent on comparisons of geographic, demographic, caseload and practicing attorney data. However, the goal was to craft a methodology in line with the following premise articulated by the Judicial Council: *“The single most important determinant of the number of judges required in a judicial circuit is the current and anticipated caseload in that circuit. Techniques . . . generally known as ‘weighted case averaging’ provide an informed basis for comparing different trial courts within a system and determining which ones may be overloaded and therefore in need of additional judicial manpower. Experience suggests that this type of caseload measure is a much better indicator of the need for new judgeships than other measures such as the simple number of case filings or changes in community population.”*

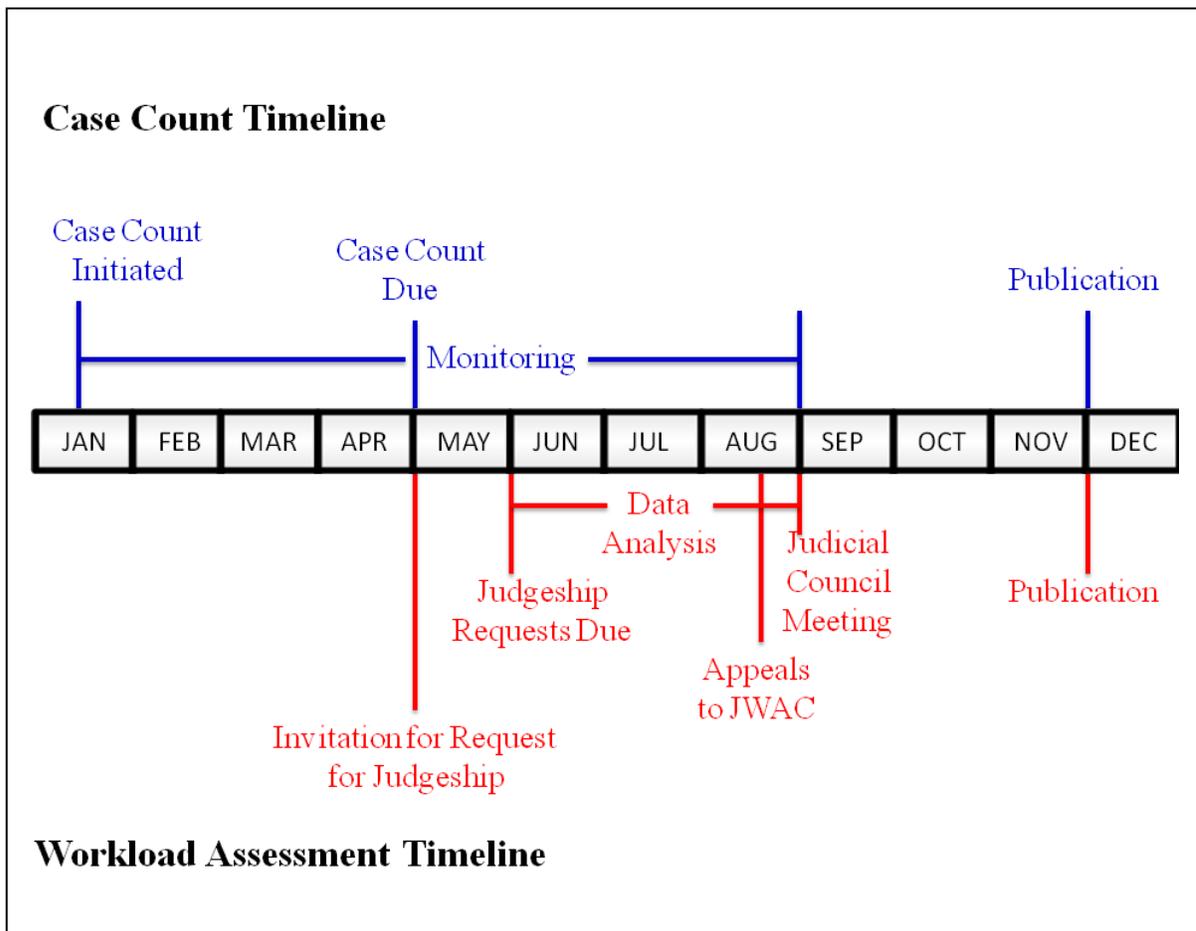
Since 1976, the Judicial Council has employed a weighted case averaging methodology in assessing superior court workload and recommending additional judgeships to the Governor and the General Assembly. Although it has been modified over the 35 years to account for changing resources and technology, the methodology has always taken into account differing case types and their average time requirements. The Council's Judicial Workload Assessment Committee is assigned the responsibility of reviewing and suggesting improvements to the methodology and potential changes to the Judicial Council policy governing additional superior court judgeships.

Caseload Study

The Judicial Council/Administrative Office of the Courts employs standards and definitions for criminal and civil filing and case types, including what and how to count cases heard in the superior courts. The current case types have been in effect since 2010 and are listed below:

General Civil	Domestic Relations	Criminal
<ol style="list-style-type: none"> 1. Appeals/Reviews 2. Contract/Account 3. Dispossessory/Distress 4. Forfeiture 5. Habeas Corpus 6. Non-Domestic Contempt 7. Other General Civil 8. Post-Judgment/Garnishment 9. Real Property 10. Tort/Negligence 	<ol style="list-style-type: none"> 1. Adoption 2. Child Support Enforcement 3. Contempt 4. Divorce/Alimony 5. Family Violence 6. Legitimation 7. Modification 8. Non-Child Support Enforcement Custody 9. Other Domestic 	<ol style="list-style-type: none"> 1. Serious Felony 2. Felony 3. Misdemeanor 4. Unified Appeal 5. Probation Revocations

In December 2001, the Council suspended the collection of open and backlog cases. At that time, budget and personnel resources were constrained and remain so. In the future, the Council may reconsider the collection of these data elements.



Early in the calendar year, communication is initiated with superior court judges and clerks requesting criminal case filings from the prior year. For the 2010 data collection, the AOC provided clerks a *Caseload Reporting Guide* with instructions for submitting data

through the AOC portal. Along with civil data uploaded from the Clerks' Authority, data received by the AOC is furnished later to these officials for verification. Staff continuously monitors receipt of data to ensure it is ready for analysis and eventual publication in the *Annual Report of Georgia Courts*.

Workload Assessment

In the spring, the Chair of the Judicial Council formally advises the Governor, Lieutenant Governor, General Assembly and chief superior court judges that they may request a study to assess the need for an additional judgeship. Before a request is contemplated, other means to address increased workload or improve efficiency should be implemented, such as caseload management, optimizing use of supporting courts and senior and visiting judges and upgrading case management technology. An official request made to the Administrative Office of the Courts by the June 1 deadline triggers a series of analyses resulting in a comparison of a circuit's available judge time against the standard judge time needed to process its caseload.

Integral to the workload assessment process is the quantitative analysis based on data produced from a time and motion study of superior court judge work activities. A time and motion study is a scientifically developed method of tracking an activity over a period of time. Superior court judges record time spent on their work during a certain period, and these time data are joined with disposition data from the same interval to arrive at average times to disposition and judge year values. Three time and motion studies have been conducted in Georgia, in 2000, 2006 and 2011 to refresh the average time to disposition values as needed.

The 2011 Time and Motion Study contains two data collection components. The first component is judge time spent on case and non-case related activities. Data collection took place during March 2011, with 147 of 205 superior court judges, representing 46 circuits, documenting time on printed or electronic forms. These judges, along with nine magistrates designated to preside in superior court, submitted 1,562,117 minutes of case and administrative activity data to the AOC.

The second data collection component is disposition data. Superior court clerks in circuits with participating judges were asked to complete a summary report of dispositions for the month of March and submit it to the Council of Superior Court Clerks. The Council compiled data furnished by 126 clerks and forwarded a report totaling 32,742 criminal, general civil and domestic relations defendants and dockets to the AOC.

Once statewide data were synthesized, the following formula was applied to case related data to determine each case type's average time to disposition value:

$$\Sigma \left[\frac{\Sigma \text{Judge Minutes} - \Sigma \text{Judge Minutes from counties without disposition data}}{\Sigma \text{County disposition reports} \times \frac{\text{Participating judges in the circuit}}{\text{Total judges in the circuit}}} \right] \text{ for all circuits} = \text{Average Time to Disposition}$$

To ensure a valid calculation, the AOC removed the judge time recorded in counties for which no disposition data was furnished, and disposition reports for circuits where not all judges recorded time were adjusted proportionally to the number of judges participating.

Each case type is multiplied by its corresponding average time to disposition value as determined in the 2011 Time and Motion Study and the resulting products are summed for each circuit. An example of this process for two circuits is show in the table below.

Case Type	Average Time to Disposition	Multiplied by number of cases (X)	Gamma Circuit (minutes)	Delta Circuit (minutes)
SF	353.79	X	73	324
F	49.30	X	852	1305
M	13.17	X	1398	209
UA	7,200.00	X	0	0
PR	19.34	X	1512	451
T/N	125.31	X	33	103
HC	134.35	X	4	3
A/R	54.58	X	16	10
RP	154.20	X	7	66
FF	66.75	X	37	4
C/A	15.80	X	1003	427
PJG	3.31	X	124	103
D/D	27.02	X	4	1
NDC	76.57	X	1	1
OGC	38.01	X	145	480
C	26.22	X	15	324
LEG	32.14	X	38	42
MOD	58.03	X	70	88
FV	24.32	X	142	249
CSE	10.07	X	1207	95
CUS	187.67	X	18	86
A	52.51	X	19	67
D/A	45.92	X	426	773
ODR	11.67	X	29	113
Total			192,094	318,612

The total minutes figure (in red) represents the amount of time all judges in the circuit spent on case related work. To determine if their time qualifies them for an additional judge, another calculation is made.

A circuit's *Judge Year Value* is calculated to determine the number of minutes that judges in each circuit should have available for case related work. Total hours in an average work year of 40-hour weeks are estimated to be 2,920. From this number, the following standard deductions were identified:

Standard Deductions	Hours
Weekends	832
Holidays	96
Annual Leave	120
Sick Leave	72
CJE	40
Total	1,160

Total Hours [2,920] – Standard Deductions [1,160] = Average Work Hours [1,760]

To complete the analysis, additional deductions are made based on circuit demographics and the administrative activity data submitted by judges. All times are in hours.

Non-Case Activities	Urban	Suburban Single County	Suburban Multi-County	Rural
Travel	0	0	104	160
Administration	181	208	293	247
Community Activities	68	53	49	44
Total	249	261	446	451

Counties are classified into four categories - urban, suburban single county, suburban multi-county and rural - based on the following table. Note the *Judge Year Values* are given in minutes.

Circuit	Classification	Judge Year Value
Alapaha	Rural	78,540
Alcovy	Suburban Multi County	78,900
Appalachian	Suburban Multi County	78,900
Atlanta	Urban	90,660
Atlantic	Rural	78,540
Augusta	Suburban Multi County	78,900
Bell-Forsyth	Suburban Single County	89,940
Blue Ridge	Suburban Single County	89,940
Brunswick	Suburban Multi County	78,900
Chattahoochee	Suburban Multi County	78,900
Cherokee	Suburban Multi County	78,900
Clayton	Suburban Single County	89,940
Cobb	Urban	90,660
Conasauga	Suburban Multi County	78,900
Cordele	Rural	78,540
Coweta	Suburban Multi County	78,900
Dougherty	Suburban Single County	89,940
Douglas	Suburban Single County	89,940
Dublin	Rural	78,540
Eastern	Suburban Single County	89,940
Enotah	Rural	78,540
Flint	Suburban Single County	89,940
Griffin	Suburban Multi County	78,900
Gwinnett	Urban	90,660
Houston	Suburban Single County	89,940
Lookout Mountain	Suburban Multi County	78,900
Macon	Suburban Multi County	78,900
Middle	Rural	78,540
Mountain	Rural	78,540
Northeastern	Suburban Multi County	78,900
Northern	Rural	78,540
Ocmulgee	Rural	78,540
Oconee	Rural	78,540
Ogeechee	Rural	78,540
Pataula	Rural	78,540
Paulding	Suburban Single County	89,940
Piedmont	Suburban Multi County	78,900
Rockdale	Suburban Single County	89,940
Rome	Suburban Single County	89,940
South Georgia	Rural	78,540
Southern	Suburban Multi County	78,900
Southwestern	Rural	78,540
Stone Mountain	Urban	90,660
Tallapoosa	Suburban Multi County	78,900
Tifton	Rural	78,540
Toombs	Rural	78,540
Towaliga	Rural	78,540
Waycross	Rural	78,540
Western	Suburban Multi County	78,900

A circuit's minutes total is divided by its *Judge Year Value* to arrive at a value to qualify. If this value to qualify is greater than or equal to the threshold to qualify, then the circuit meets the minimum requirement to receive a Judicial Council recommendation for an

additional judgeship. Below is the completion of the analysis of Gamma and Delta circuits. One circuit qualifies for an additional judgeship whereas the other does not.

	Gamma Circuit	Delta Circuit
Total Minutes	192,094	318,612
Judge Year Value	1,309	1,499
Threshold to Qualify	2.7	2.7
Value to Qualify	2.45	3.54
Qualified	No	Yes

Thresholds to qualify are based on the number of judges in a circuit as shown in the table below.

No. Judges in Circuit	Threshold to Qualify
2	2.70
3	4.02
4	5.32
5	6.60
6	7.86
7	9.10
8	10.32
9	11.52
10	12.70
11	13.86
12	15.00
13	16.12
14	17.22
15	18.30
16	19.36
17	20.40
18	21.42
19	22.42
20	23.40

A requesting circuit whose value to qualify does not meet or exceed the appropriate threshold is entitled by Judicial Council policy to appeal to the Judicial Workload Assessment Committee for reconsideration. For those circuits that meet the minimum requirement or attain a successful appeal, the AOC conducts an in-depth study of

demographic and other pertinent data. At the Judicial Council meeting in late summer, the AOC presents its analysis and findings.

The *Judicial Council Policy for Judgeship and Circuit Boundary Studies* (see following pages) guides the Council's deliberations and voting. A majority must approve qualified circuits via secret ballot voting. If a circuit does not meet or exceed the threshold value, it must obtain a two-thirds majority vote to receive a recommendation. The Council Chair votes in the event of a tie. A second secret ballot vote occurs to rank the qualified circuits in order of priority need.

The votes are counted and tallied in secret by the Presiding Judge of the Court of Appeals and AOC staff. The Chair notifies pertinent state and local officials of the recommendations and a press release is issued. Legislators representing the recommended circuits are responsible for presenting and passing bills to implement any judgeships and generally do so at the General Assembly session subsequent to the recommendations. Common practice is to make new judgeships effective on July 1 of the same year.

Judicial Council Policy for Judgeship and Circuit Boundary Studies

Initiation

Recommendations to the Governor and the General Assembly for judicial personnel allocations for the superior courts shall be made annually prior to the beginning of the regular session of the General Assembly. Studies by the Administrative Office of the Courts of the need for judgeships or of the need for changes in circuit boundaries may be authorized by the Judicial Council upon the request of the governor, members of the General Assembly, or by a judge of the county or counties affected. Such requests shall be submitted in writing by June 1, prior to the session of the General Assembly during which the judgeship or change in circuit boundaries is sought. Any request received after June 1 shall not be considered until the following year. Any judge who intends to make a request for a study must notify the Judicial Council of any special circumstances or data of the courts involved in the request by June 1 so that these special circumstances may be investigated during the studies conducted by the Administrative Office of the Courts (AOC). (12/7/2005) (6/11/2010)

Purpose

The Judicial Council seeks to achieve a balanced and equitable distribution of case load among the judges of the state to promote speedy and just dispositions of citizens' cases. The Judicial Council recognizes that the addition of a judgeship is a matter of great gravity and substantial expense to the counties and the state and should be approached through careful inquiry and deliberate study before action is taken. (10/27/1981)

Policy Statements

The Judicial Council will recommend the creation of additional judgeships or changes in circuit boundaries based only upon needs demonstrated through comparative "objective" studies. The Judicial Council will not recommend the addition of a judgeship not requested by the circuit under study unless there is clear and convincing evidence that an additional judgeship is needed. (10/27/1981)

As a matter of policy, the Judicial Council recommends that no new part-time judgeship be created. Because of the advantages of multi-judge circuits, the Judicial Council generally will not recommend the creation of additional circuits. (10/27/1981)

Judgeships

1. Part-time judgeships

As a general rule, part-time judgeships are not an effective method of handling judicial workload. The disadvantages of part-time judgeships are many; a few specific ones are:

a. The cost of training a part-time judge is the same as that of training a full-time judge, but the benefits to the state or local government of training a part-time judge are only a fraction of those realized by training a full-time judge, since a part-time judge will hear only a fraction of the cases heard by a full-time judge receiving the same training. Additionally, part-time judges are generally not paid for the time they spend in continuing education. This

creates a financial disincentive for part-time judges to attend continuing education, whom might ordinarily spend time practicing law or conducting law or conducting other business. (10/27/1981)

b. Conflicts of interest often arise in professional relationships for part-time judges. It is often difficult for other attorneys to litigate against an attorney and have to appear before the same attorney, sitting as judge, the next day. Additionally, cases in which part-time judges are disqualified usually arise in their own court, thus eliminating a large potential portion of their law practice. (10/27/1981)

2. Promotion of Multi-Judge Circuits

Multi-judge courts are more effective organizations for administrative purposes. Some specific advantages of multi-judge courts are:

a. Accommodation of judicial absences. Multi-judge circuits allow better management in the absence of a judge from the circuit due to illness, disqualification, vacation, and the demands of other responsibilities such as continuing legal education. (10/27/1981)

b. More efficient use of jurors. Better use of jury resources can be effected when two judges hold court simultaneously in the same county. One judge in a multi-judge circuit may use the other judge's excess jurors for a trial of a second case rather than excusing them at an added expense to the county. Present courtroom space in most counties may not permit two trials simultaneously; but such a practice, if implemented, may justify the building of a second smaller courtroom by the county affected, or the making of other arrangements. (10/27/1981) (6-11-2010)

c. Accommodation of problems of impartiality or disqualification. A larger circuit with additional judges may permit hometown cases where acquaintances are involved to be considered by an out-of-town judge without the appearance that the local judge is avoiding responsibility. (10/27/1981)

d. Improves court administration. Multi-judge circuits tend to promote impartiality and uniformity of administrative practices and procedures by making court administration something more than the extension of a single judge's personality. Multi-judge circuits also permit economies in the deployment of auxiliary court personnel. (10/27/1981)

e. Expedites handling of cases. Probably most important of all, under the arithmetic of calendar management, the judges of a multi-judge court can handle substantially more cases than an equal number of judges operating in separate courts. Besides the advantage of improved efficiency to be realized through the use of multi-judge circuits, there are also a number of other reasons as to why this approach should be taken. Under the existing law, a new judgeship may be created without the addition of another elected district attorney, although an assistant district attorney is added. However, when the circuit is divided and a new circuit thereby created, another elected district attorney is needed. A second reason supporting the use of multi-judge circuits is that upon division of an existing circuit into two

new ones, one new circuit may grow disproportionately to the other, or population or other factors suggesting division may diminish, thus negating the factors which initially led to the division and compounding future problems of adjustment. (10/27/1981)

Methodology

1. Criteria for Superior Court Judgeship Requests

In establishing the need for additional superior court judgeships, the Judicial Council will consider weighted caseloads per judge for each circuit. If the per judge weighted caseload meets the threshold standards established by the Council for consideration of an additional judgeship, additional criteria will be considered. The threshold standard is a value set by the Judicial Council in open session. (06/08/2005) No study will be conducted when a requesting circuit does not meet the threshold criteria established by the Judicial Council. When the AOC determines that a requesting circuit does not meet the minimum criteria, the chief judge of the circuit will be so notified along with information as to how to appeal to the Council's Judicial Workload Assessment Committee and the time frame for such appeal. (6/11/2010)

Additional criteria considered may include, but are not limited to, the following and are not necessarily in the order of importance as listed below:

- a. Filings per judge
- b. Growth rate of filings per judge
- c. Open cases per judge
- d. Case backlog per judge
- e. Population served per judge
- f. Population growth
- g. Number and types of supporting courts
- h. Availability and use of senior judge assistance
- i. Number of resident attorneys per judge
- j. Responses to letters to legislators, county commissioners, presidents of local bar associations, district attorneys, and clerks of superior court asking for their input. (8/25/2000)

2. Criteria for Studying Requests to Alter Circuit Boundaries

The criteria used by the Judicial Council in reviewing proposals to alter circuit boundaries will include the following criteria:

a. Weighted Caseload per Judge - After the proposed change in circuit boundaries, caseload should be more evenly distributed. In addition, a proposed circuit's workload should not vary significantly from the statewide average weighted caseload per judge. (10/27/1981)

b. Caseload Growth Trends - Caseload growth trends should be examined so that an imbalance in growth rates when a circuit boundary is changed will not necessitate a reallocation of resources or alteration of circuit boundaries again in the near future. Such

continual shifts in circuit boundaries or resources could be very unsettling and, thereby, significantly reduce judicial efficiency. If a reliable caseload projection method is available, this technique will be used to determine future case filings; if one is not available, caseload growth rates, increases in the number of attorneys per capita and population projections will be analyzed. The population per judge should be evenly divided among the geographical areas affected by the proposed circuit boundary change if a recommendation is to be made. Secondly, population projections should be examined to insure that disparate population growth rates will not create a great imbalance in the population to be served by each judge within a short period of time from the date of the alteration of the circuit boundaries. Lastly, the population per judge of the altered circuit should not be substantially different from the statewide average population per judge. (10/27/1981) (6/11/2010)

c. Changes in Judicial Travel Time - Travel time diminish total judicial time available for case processing; therefore, travel time should not be significantly increased for judges in circuits affected by a change in circuit boundaries before such a change should be recommended. Terms of court in and the number of times each county was visited on case-related business by the judges should be determined and these trips should be translated into travel time by using official distances between courthouses and road conditions determined by the Georgia Department of Public Safety. (10/27/1981)

d. Projected Changes in Cost to State and Local Government - Cost savings or additional expenditures required of local and state governing authorities should be determined. Changes in cost for personnel, facilities, and travel should be considered. A recommendation for change should not be made unless additional expenditures required are minimal or balanced by equivalent cost savings. (10/27/1981)

e. Characteristics of populace in areas of circuits sought to be separated, such as rural or urban. (12/11/1981)

f. Operational policies of circuit as presently constituted as might involve inattention to smaller counties in circuit. (12/11/1981)

g. Whether creation of new circuit would obviate necessity of one or two additional judges in parent circuit. (12/11/1981)

h. Travel and other expenses incident to serving smaller counties. (12/11/1981)

i. Alleviation of case assignment problems in larger counties of circuit. (12/11/1981)

j. Population growth of counties of circuit which would reflect need for new circuit. (12/11/1981)

k. Comparison population per judge in new circuit with standards approved by Judicial Council in recent years. (12/11/1981)

1. The Judicial Council will presume that a multi-judge circuit is preferred over a single-judge circuit. (12/11/1981)

m. If a county is to be split off from the circuit of which it is a part, the possibilities of adding that county to another circuit should be exhausted prior to the council's recommending a single- judge circuit. (12/11/1981)

Judicial Council Deliberations

1. Testimony

Judges, legislators, and others deemed appropriate by the chair shall be invited to make written remarks or present data regarding the need for judgeships or to alter circuit boundaries. Any special circumstance or data of a circuit for which a request is to be made must be brought to the attention of the Judicial Council by a judge of the requesting circuit by June 1 of the year prior to the year of the legislative session during which the judgeship or change in circuit boundaries will be considered. Any request submitted after the stated deadline will not be considered until the following year. The written testimony of the judges, legislators and other persons shall be reviewed and considered by the Judicial Council in their deliberations regarding judicial resources. Oral arguments will not be made. (6/6/1984) (6/6/2006) (6/11/2010)

2. Final Deliberations

After all written presentations, the Judicial Council and key (AOC) staff, in open session, will discuss the merits of each request. (6/6/1984) (6/11/2010)

3. Staff Presentations

The AOC will present data evaluating the need to add judgeships or to alter circuit boundaries based on council approved criteria and will make staff recommendations. (10/27/1981)

4. Vote

After final deliberations, the Council will, in open session, approve or disapprove recommended changes in judicial resource allocations. Votes on such motions shall be by secret written ballot. A two-thirds vote of the council membership present at the session will be required to override an unfavorable recommendation based on the criteria contained in these by-laws (policy). After determining those circuits in which the council recommends an additional judgeship, the council will rank the recommendations based on need. Any ranking ballot that does not rank each and every judgeship recommendation presented on the secret ballot shall not be counted. (12/07/2005) (6/11/2010)

5. Length of Recommendations

Upon a recommendation of an additional judgeship or to alter circuit boundaries for a judicial circuit by the council, the recommendation shall remain approved by the council for a period of three years, unless the caseload of that circuit decreases ten percent or more. (Rev. 12/13/1996) (6/11/2010)

6. Disqualifications

Any council member in a circuit or county affected by a council recommendation shall be eligible to vote by secret ballot on motions affecting that circuit, but shall not be present or participate in the council's final deliberations regarding his or her circuit. (Rev. 6/6/1984)

Dissemination of Recommendations

1. Study of the Need for Additional Superior Court Judgeships

The AOC shall prepare a report, including data required by the council for their deliberations and council policy statement, on the Judicial Council's recommendations as to the need for additional superior court judgeships. Such report shall be distributed to the governor, members of the judiciary and special judiciary committees of the Senate and House, all superior court judges and other interested parties approved by the director of the AOC. Additionally, the AOC shall prepare and distribute a press release summarizing the council's recommendations. (10/27/1981)(6/11/2010)

2. Special Studies of Judicial Resources. Including Alteration of Circuit Boundaries

a. The AOC shall prepare reports on the Judicial Council's recommendations for special studies, including reports on requests to alter circuit boundaries and for judgeships of courts other than the superior court and shall distribute them to the requestor, and, in the discretion of the director, to other interested parties. (10/27/1981)

b. In preparing special reports, written remarks of judges, legislators, and others deemed appropriate by the chairperson shall be solicited by the AOC and considered by the Judicial Council. (12/11/1986) (6/11/2010)

Appendix A

Example of Judicial Workload Assessment Processes

This will give a brief example of how to calculate whether a circuit qualifies for an additional judgeship and demonstrate why exclusively relying on population or an unweighted filing count is an unreliable means of assessing circuit judicial need.

Caseload Report for Alpha and Beta Circuits

Case Type	Alpha Circuit	Beta Circuit
Serious Felony	54	201
Felony	412	1468
Misdemeanor	36	789
Unified Appeal	0	2
Probation Revocation	881	1016
Appeals/Review	28	5
Contract/Account	2,007	1,321
Dispossessory/Distress	30	0
Forfeiture	33	0
Habeas Corpus	4	2
Non-Domestic Contempt	91	4
Other General Civil	262	116
Post Judgment/Garnishment	352	207
Real Property	74	0
Tort/Negligence	90	1
Adoption	43	0
Child Support Enforcement	322	0
Contempt	559	84
Divorce/Alimony	537	552
Family Violence	48	80
Legitimation	49	50
Modification	23	57
Non-CSE/Custody	29	35
Other Domestic	58	32
Total	6,022	6,022

Observations

Both circuits have two judges.

Both circuits are classified as rural.

Both circuits have 6,067 defendants/dockets filed in calendar year 2009.

Based on the information above, the circuits could be called “equal.”

Analysis

Beta Circuit's caseload includes two unified appeals filings and 201 serious felony filings. Alpha Circuit's caseload includes no unified appeals filings and only 54 serious felony filings.

Beta Circuit had 1,468 felony filings and Alpha Circuit had only 412 misdemeanor filings. Observers in the judiciary would say that the criminal caseload in the Beta Circuit is far more time consuming than that in the Alpha Circuit.

No system for comparing the judge's workload is ideal, completely objective, or devoid of complexity. In the past few years, most judges, court administrators, and other court personnel have reluctantly compromised on the mechanics of how to compare the workload of one court with another. The weighted caseload is the most widely accepted and broadly implemented method for comparison.

The broad intent of the weighted caseload is to allow for a determination of how many judge hours of work will be needed in the next year. The second intent is to equalize the basis of comparison from different classes of court filings to a comparison based on time required for the entire workload of a circuit.

The next two pages show the calculations needed to obtain the judge workload for Alpha and Beta Circuits. A comparison of the judge workload in the Alpha and Beta Circuits reveals that there is approximately 2.41 and 3.26 judge years of work in the circuits respectively.

Case Type	Average Time to Disposition	Alpha Circuit No. of Cases	Case Minutes
Serious Felony	353.79	54	19104.66
Felony	49.30	412	20311.6
Misdemeanor	13.17	36	474.12
Unified Appeal	7,200.00	0	0
Probation Revocation	19.34	881	17038.54
Appeals/Review	54.58	28	1528.24
Contract/Account	15.80	2,007	31710.6
Dispossessory/Distress	27.02	30	810.6
Forfeiture	66.75	33	2202.75
Habeas Corpus	134.35	4	537.4
Non-Domestic Contempt	76.57	91	6967.87
Other General Civil	38.01	262	9958.62
Post Judgment/Garnishment	3.31	352	1165.12
Real Property	154.20	74	11410.8
Tort/Negligence	125.31	90	11277.9
Adoption	52.51	43	2257.93
Child Support Enforcement	10.07	322	3242.54
Contempt	26.22	559	14656.98
Divorce/Alimony	45.92	537	24659.04
Family Violence	24.32	48	1167.36
Legitimation	32.14	49	1574.86
Modification	58.03	23	1334.69
Non-CSE/Custody	187.67	29	5442.43
Other Domestic	11.67	58	676.86

Total Case Minutes: 189,511.5

Total Case Hours: 3,158.53

Total Case Hours divided by Judge Year Value: 2.41

Convert Total Weight in Minutes to Hours

Total weight in minutes / 60 = total weights in hours

Calculate Judge Need

Total weight in hours / judge year value in hours

Analysis

At 2.41 there is not enough workload to justify three judges in the circuit. The Alpha Circuit does not qualify for an additional judgeship.

Case Type	Average Time to Disposition	Beta Circuit No. of Cases	Case Minutes
Serious Felony	353.79	201	71111.79
Felony	49.30	1468	72372.4
Misdemeanor	13.17	789	10391.13
Unified Appeal	7,200.00	2	14400
Probation Revocation	19.34	1016	19649.44
Appeals/Review	54.58	5	272.9
Contract/Account	15.80	1,321	20871.8
Dispossessory/Distress	27.02	0	0
Forfeiture	66.75	0	0
Habeas Corpus	134.35	2	268.7
Non-Domestic Contempt	76.57	4	306.28
Other General Civil	38.01	116	4409.16
Post Judgment/Garnishment	3.31	207	685.17
Real Property	154.20	0	0
Tort/Negligence	125.31	1	125.31
Adoption	52.51	0	0
Child Support Enforcement	10.07	0	0
Contempt	26.22	84	2202.48
Divorce/Alimony	45.92	552	25347.84
Family Violence	24.32	80	1945.6
Legitimation	32.14	50	1607
Modification	58.03	57	3307.71
Non-CSE/Custody	187.67	35	6568.45
Other Domestic	11.67	32	373.44

Total Case Minutes: 25,6216.6

Total Case Hours: 4,270.28

Total Case Hours divided by Judge Year Value: 3.26

Convert Total Weight in Minutes to Hours

Total weight in minutes / 60 = total weights in hours

Calculate Judge Need

Total weight in hours / judge year value in hours

Analysis

At 3.26 there is enough workload to justify three judges in the circuit. The Beta Circuit does qualify for an additional judgeship.

2010 Judgeship Assessment Data Analysis per Judge

Circuits, Number of Judges, and Weighted Caseload							Value	
Circuit	Counties	Superior	State	Juvenile	Probate ¹	Qualify	Judge Year	
Bell-Forsyth	1	2	2	2	0	2.70	3.54	
Clayton	1	4	5	3	0	5.32	4.85	
Middle	5	2	5	1	0	2.70	3.27	
Oconee	6	2	0	2	6	2.70	2.80	
Piedmont	3	3	1	1	2	4.02	5.59	
Western	2	3	2	2	1	4.02	3.86	

¹ Represents probate court judges hearing traffic.

Criminal Defendants per Judge with Rank and Five Year Percentage Change							
Circuit	U/A	Felony	Misdemeanor	Probation		Rank	Percent Change CY2006 to 2010
				Revocations	Total		
Bell-Forsyth	0	815	105	226	1,145	3	85.19%
Clayton	0	954	90	198	1,242	1	46.71%
Middle	0	610	4	145	758	6	37.94%
Oconee	0	453	391	126	970	4	7.30%
Piedmont	1	581	416	205	1,202	2	19.04%
Western	0	382	60	421	863	5	-11.09%
Mean		632	177	220	1,030		

Civil Dockets by Rank and Five-Year Percentage Change Per Judge and Total Civil and Criminal Cases										
Circuit	General		Change 2006 to 2010	Domestic		Change 2006 to 2010	Total		Civil and Criminal	
	Civil	Rank		Relations	Rank		Civil	Rank	Cases	Rank
Bell-Forsyth	599	5	-4.85%	919	3	10.26%	1,518	4	2,663	3
Clayton	242	6	14.40%	1,136	2	1.02%	1,378	6	2,620	4
Middle	777	2	66.27%	1,302	1	54.17%	2,079	1	2,837	2
Oconee	671	4	28.54%	854	4	4.21%	1,525	3	2,495	5
Piedmont	1,177	1	44.30%	798	5	21.29%	1,975	2	3,177	1
Western	693	3	38.02%	714	6	1.61%	1,407	5	2,270	6
Mean		693		953			1,647		2,677	

Population Per Judge: 2010 U.S. Census and 2015 Projection ²				
Circuit	2010	Rank	2015	Rank
Bell-Forsyth	87,756	1	110,564	1
Clayton	64,856	2	72,741	2
Middle	49,468	4	52,962	5
Oconee	39,957	6	38,547	6
Piedmont	49,416	5	62,550	3
Western	49,841	3	54,992	4
Mean		56,882	65,393	

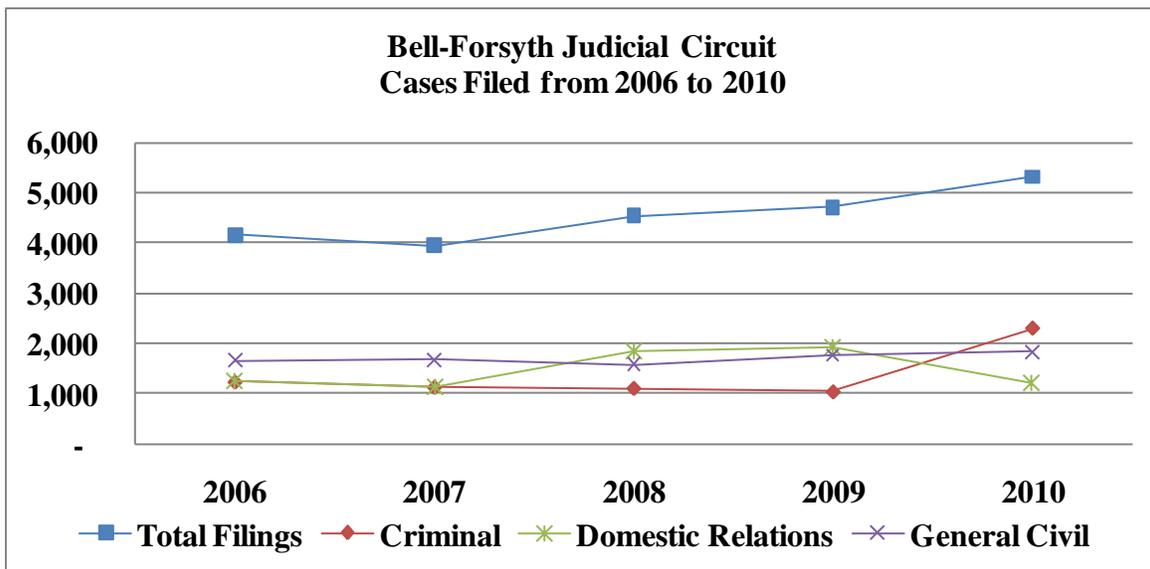
² The 2015 population projection is by the GA Office of Planning and Budget.

Bell-Forsyth Circuit

Court Characteristics

1. The number of supporting courts consists of 2 state, 1 juvenile, 1 probate, and 3 magistrate court judges totaling 7 judges. The number of supporting judges is likely to increase as the caseload grows and cases become more complex. The circuit last received an additional judge in 2000. There are 225 active attorneys in the circuit.
2. The circuit has an accountability court with 129 participants.
3. The total caseload has remained fairly stable and exhibits growth. Criminal filings have remained relatively constant from 2006 to 2010 with an increase in 2010. The total caseload increase from 2009 to 2010 was 13 percent; the greatest proportion of the increase in total filings is attributed to criminal cases. There was a decrease in number of general civil filings from 2009 to 2010 probably due to the increase in filing fees. See **Graph 1**. The court reported 587 open cases at the end of calendar year 2010.

Graph 1

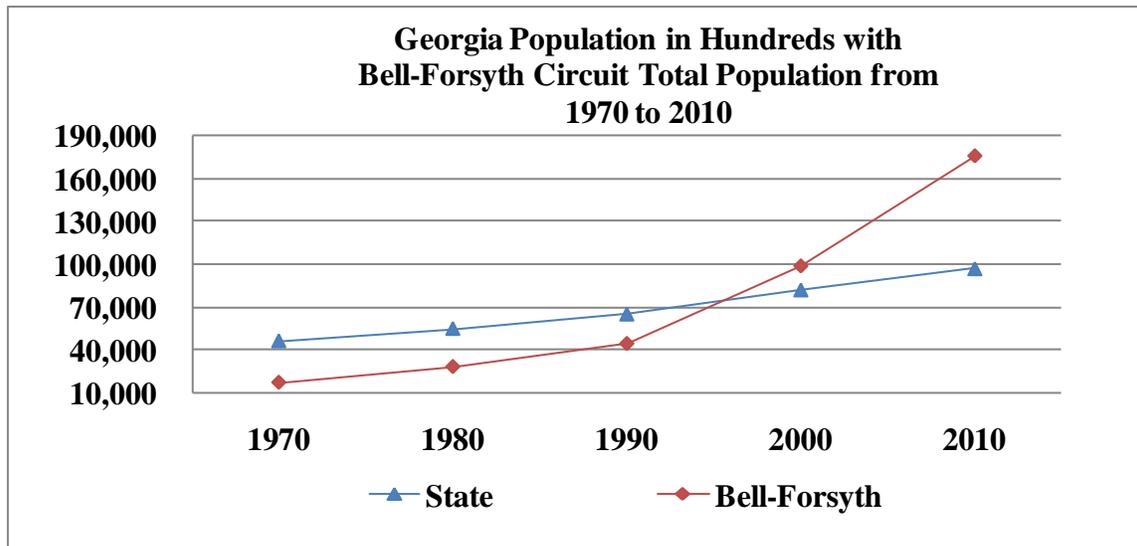


Circuit Characteristics

1. The Judicial Council classified the circuit as a “Suburban Single County.” It is within the Atlanta Metropolitan Area.
2. The circuit is located in the Piedmont Plain. The topography of the county is hilly, borders Lake Lanier, and consists of a small number of farms. The total acreage under cultivation has decreased from 34,000 in 1997 to 20,000 in 2007 a change of 41 percent. It is highly urbanized; Cumming is the one incorporated area.
3. The demographics are mixed but are changing, with race/ethnic categories comprised of 4.1 percent Hispanic, 8.6 percent Black, and 87 percent White. The median age for men and women is 47 years old; gender composition is 50 percent male and 49 percent female. Population density in 2000 was 436 and in 2009 was 773 persons per square mile. The unemployment rate was 8.1 percent in June 2011 compared to the state rate of 9.1 percent.

Total population in 2010 is 175,511 according to the decennial census. This means that the population per judge is 87,756. **Graph 2** compares the circuit population with the state.

Graph 2

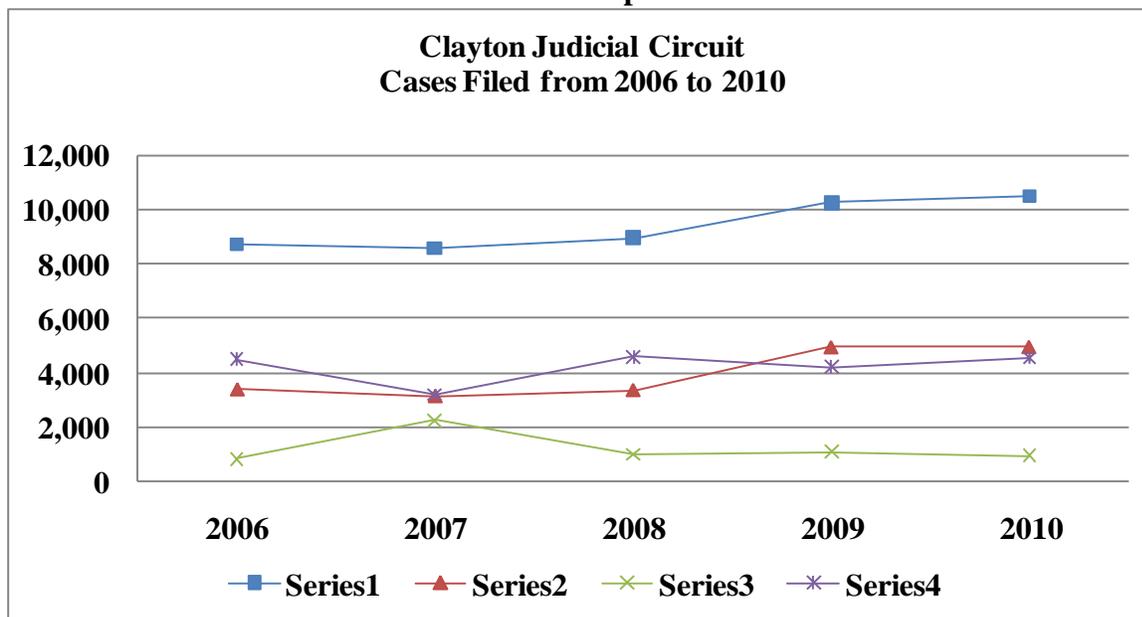


Clayton Circuit

Court Characteristics

1. The number of supporting courts consists of 5 state, 3 juvenile, 1 probate (not hearing traffic), and 6 magistrate court judges, totaling 15 judges. There are 110 active attorneys in the circuit.
2. The circuit has an accountability court with 22 participants per year.
3. The total caseload remained stable from 2006 to 2010; there was a small increase in 2010. The total caseload increase from 2009 to 2010 was 2 percent; the greatest proportion of the increase in total filings results from the domestic relations cases. There was a decrease in number of general civil filings from 2009 to 2010 probably due to the increase in filing fees. See **Graph 1**. The courts reported 1,120 open cases at the end of calendar year 2010.

Graph 1



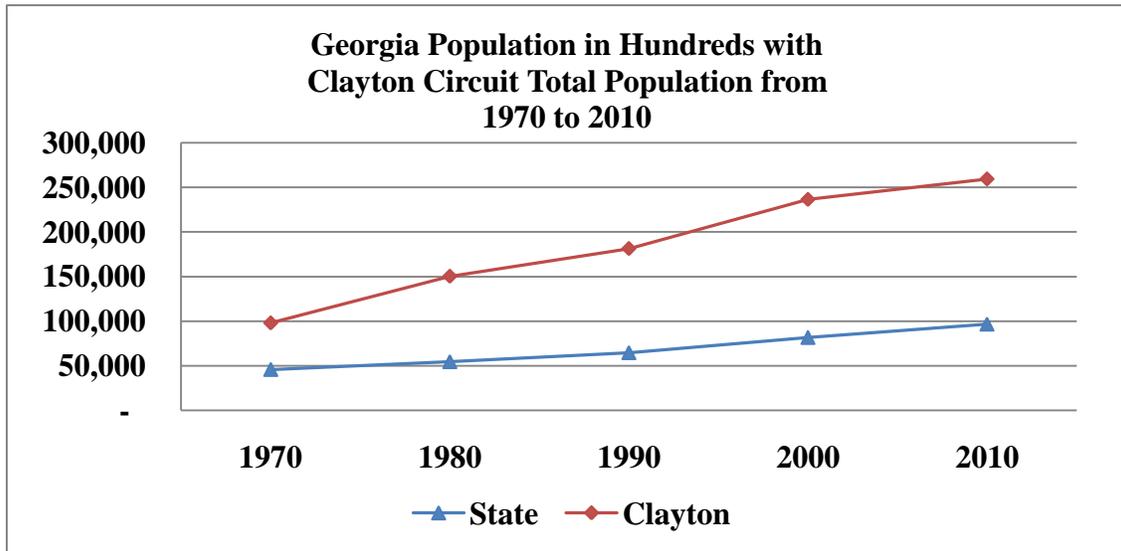
Circuit Characteristics

1. The Judicial Council classified the circuit as “Suburban Single.” It is in the core of the Atlanta Statistical Metropolitan Area.
2. The circuit is located in the north central region of the state. The circuit is in the Piedmont Plain, and is flat with only a few gently rolling hills. The county has 1.9 percent of land under cultivation; this percent is stable. There are 8 large incorporated cities: a part of College Park is in Fulton County and a part of Hampton is in Henry County. The Hartsfield-Jackson Atlanta International Airport is primarily located in the county. The county is a transportation hub, utilizing airlines, trains, and over-the-road vehicles, for the Southeastern United States and, mainly by airline, South America. The Clayton State University is in Morrow and offers graduate degrees.
3. The demographics have stabilized since 2006 with race/ethnic categories comprised of 13.7 percent Hispanic, 66.1 percent Black, and 18.9 percent White. The median age for men and women is 32; gender composition is 49 percent males and 51 percent females.

Population density in 2000 was 1,658 and in 2009 1,934 persons per square mile representing an increase of 17 percent. The unemployment rate was 13 percent in June 2011 compared to the state rate of 10.1 percent.

4. Total population in 2010 is 259,424; the population per judge is 64,856. **Graph 2** compares the trend in state population with the circuit population.

Graph 2

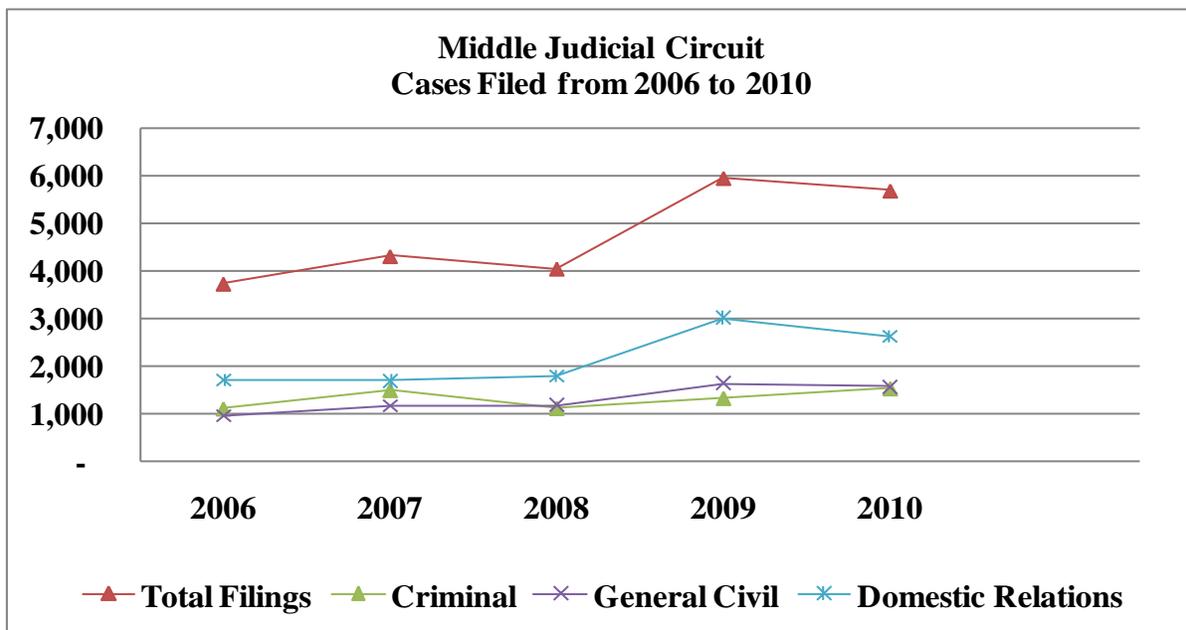


Middle Circuit

Court Characteristics

1. The number of supporting courts consists of 5 state, 1 juvenile, 5 probate (not hearing traffic), and 14 magistrate court judges, totaling 25 judges. The circuit last received an additional judge in 1977. There are 158 active attorneys in the circuit. The circuit does not have an accountability court.
2. The total caseload from 2006 to 2010 has varied. The total filings have been stable; there was an increase in 2009 and a decrease from 2009 to 2010. The total caseload decrease from 2009 to 2010 was 4 percent; however, the greatest proportion of the only case type which increased is result of the criminal cases. There was a small decrease in number of general civil filings from 2009 to 2010 probably due to the increase in filing fees. See **Graph 1**. The courts reported 720 open cases at the end of calendar year 2010.

Graph 1

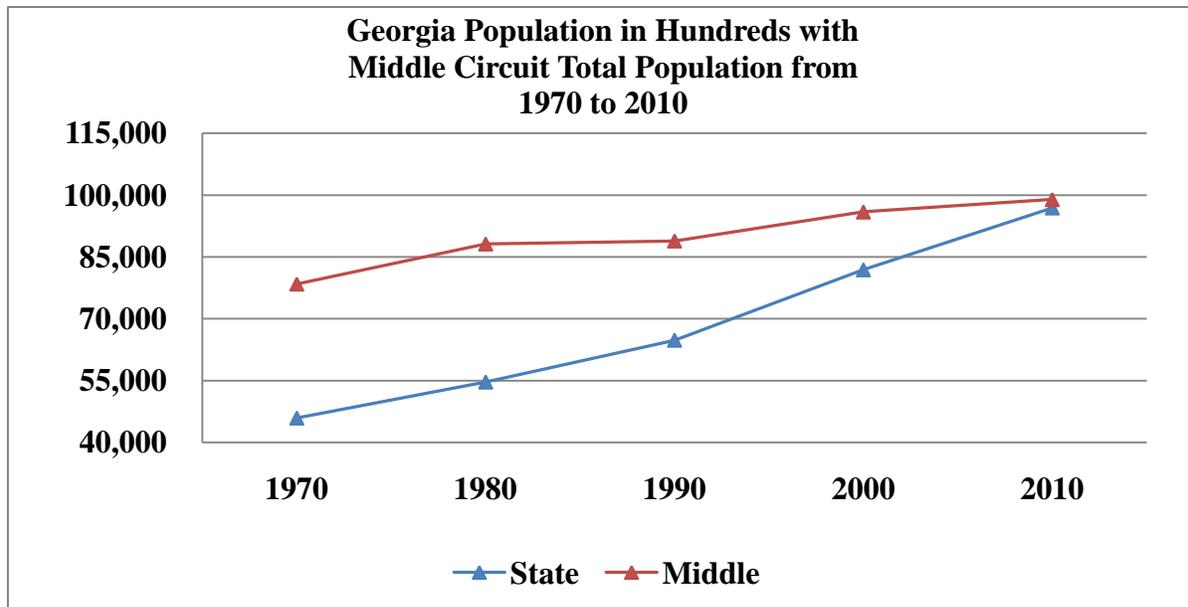


Circuit Characteristics

1. The Judicial Council classified the circuit as “Rural.” The circuit is in the central eastern part of the state. The circuit is located in the Atlantic Coastal Plain, and includes Candler, Emanuel, Jefferson, Toombs, and Washington Counties. The topography of the county is characterized by gentle hills and consists of considerable farm land. The total acreage under cultivation has decreased from 576,849 in 2002 to 521,429 in 2007 a change of 10 percent. Candler County exhibited an increase of 18 percent. It is a highly rural circuit. The distances among the counties considerable. The Middle Georgia College, Brewton Parker College, and Sandersville Technical College are in the circuit.
2. The demographics are fairly stable; with race/ethnic categories comprised of 4.1 percent Hispanic, 40 percent Black, and 56 percent White. The median age for men and women is

37 years old; gender composition is 48 percent male and 52 percent female. Population density in 2000 was 206 and in 2009 was 215 persons per square mile. The unemployment rate was 13.2 percent in June 2011 compared to the state rate of 9.1 percent. Total population in 2010 is 98,936 according to the decennial census; the population per judge is 49,468. **Graph 1** compares the circuit population with the state.

Graph 2

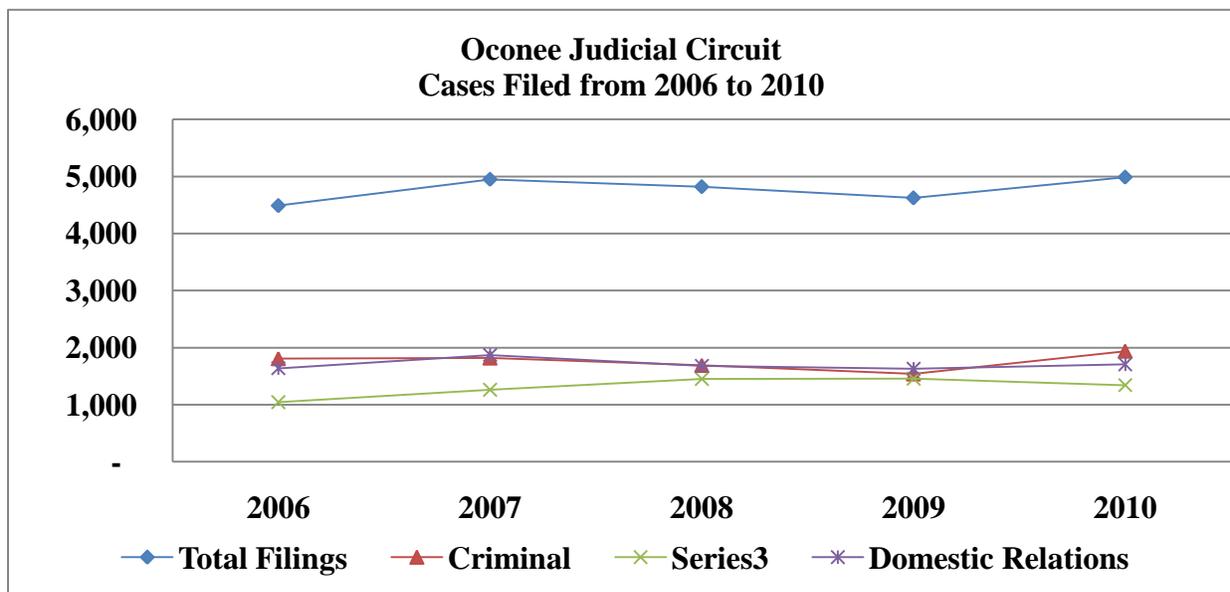


Oconee Circuit

Court Characteristics

1. The number of supporting courts consists of 1 state, 2 juvenile, 6 probate (all hearing traffic), and 11 magistrate court judges, totaling 20 judges. The circuit last received an additional judge in 1976. There are 35 active attorneys in the circuit.
2. The circuit does not have an accountability court.
3. The total caseload has remained stable and exhibits minimal growth. The total caseload increase from 2009 to 2010 was 8 percent; the greatest proportion of the increase in total filings is attributed to criminal cases. See **Graph 1**. The courts reported 1,013 open cases at the end of calendar year 2010.

Graph 1

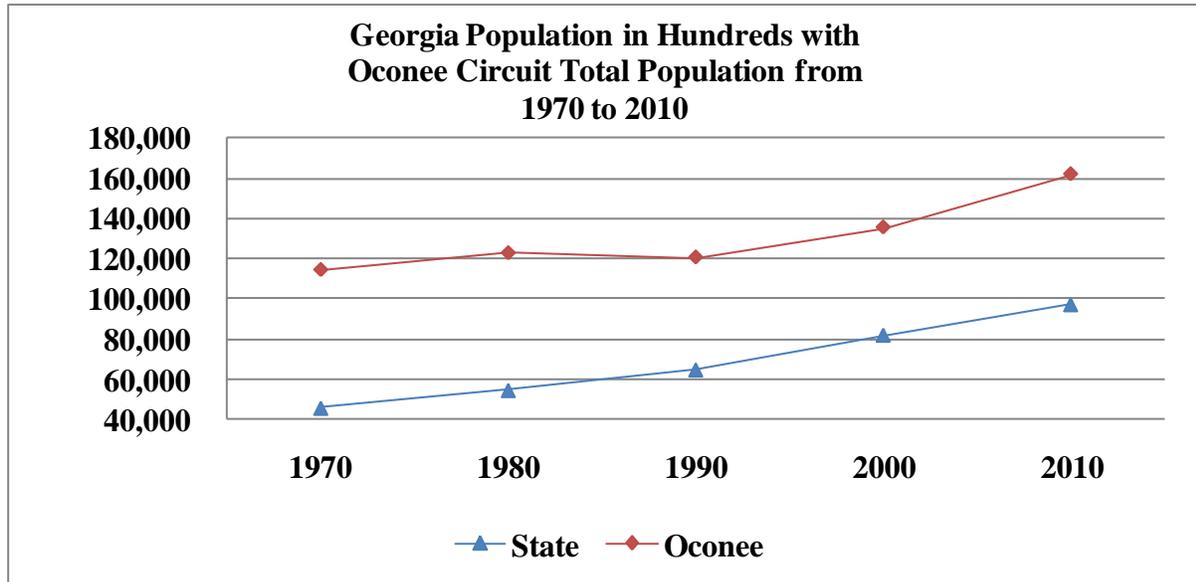


Circuit Characteristics

1. The Judicial Council classified the circuit as a “Rural.” It is located in central part of the state and consists of Bleckley, Dodge, Montgomery, Pulaski, Telfair, and Wheeler Counties.
2. The circuit is located in the Atlantic Coastal Plain. The topography is characterized by gently rolling hills, the Altamaha, Ocmulgee, and Oconee Rivers, and consists of considerable farm land. The total acreage under cultivation has decreased from 1,655 in 2007 to 1,597 in 2007 a change of 4 percent. It is a predominantly rural circuit.
3. The demographics are mixed but stable with race/ethnic categories comprised of 4 percent Hispanic, 30 percent Black, and 67 percent White. The median age for men and women is 36 years old; gender composition is 50 percent male and 49 percent female. Population density in 2000 was 212 and in 2009 was 228 persons per square mile. The unemployment rate was 12.9 percent in June 2011 compared to the state rate of 9.1 percent. Total

population in 2010 is 79,913 according to the decennial census: the population per judge is 39,957. **Graph 2** compares the circuit population with the state.

Graph 2

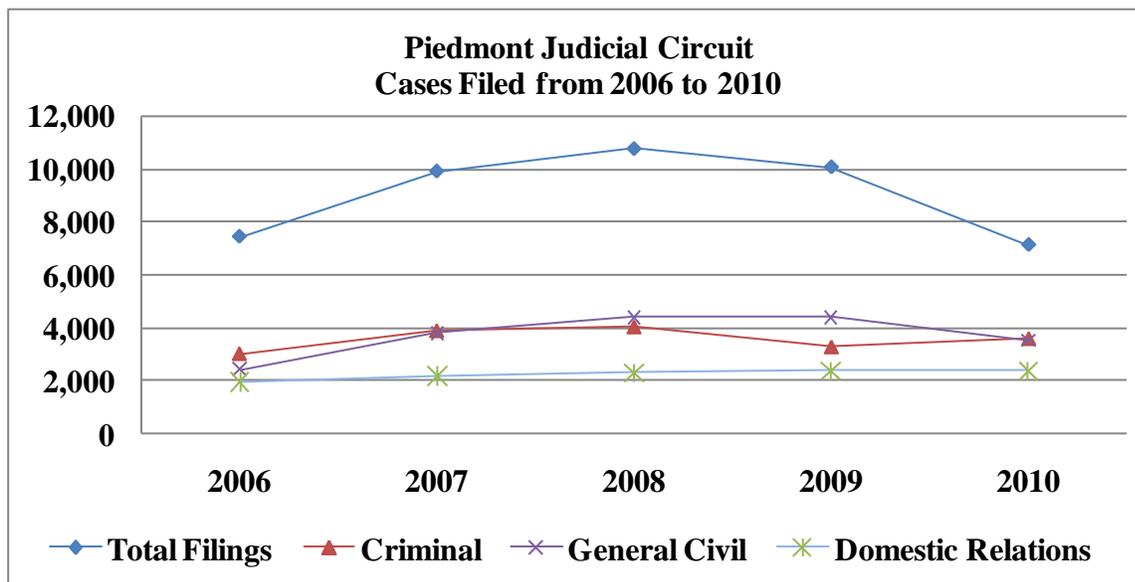


Piedmont Circuit

Court Characteristics

1. The number of supporting courts consists of 1 state, 1 juvenile, 3 probate (two hearing traffic), and 6 magistrate court judges, totaling 11 judges. The circuit last received an additional judge in 1986. There are 82 active attorneys in the circuit. The circuit has an accountability court created in 2010 with 33 participants.
2. The total caseload from 2006 to 2010 has varied. The total filings have been stable; there was an increase in 2007 and has exhibited a decreasing trend from 2007 to 2010. The total caseload decrease from 2009 to 2010 was 29 percent; however, the greatest proportion of the decreasing case type is attributed to general civil cases. The decrease in number of general civil filings from 2009 to 2010 is probably due, partially, to the increase in filing fees. See **Graph 1**. The courts reported 3,383 open cases at the end of calendar year 2010.

Graph 1

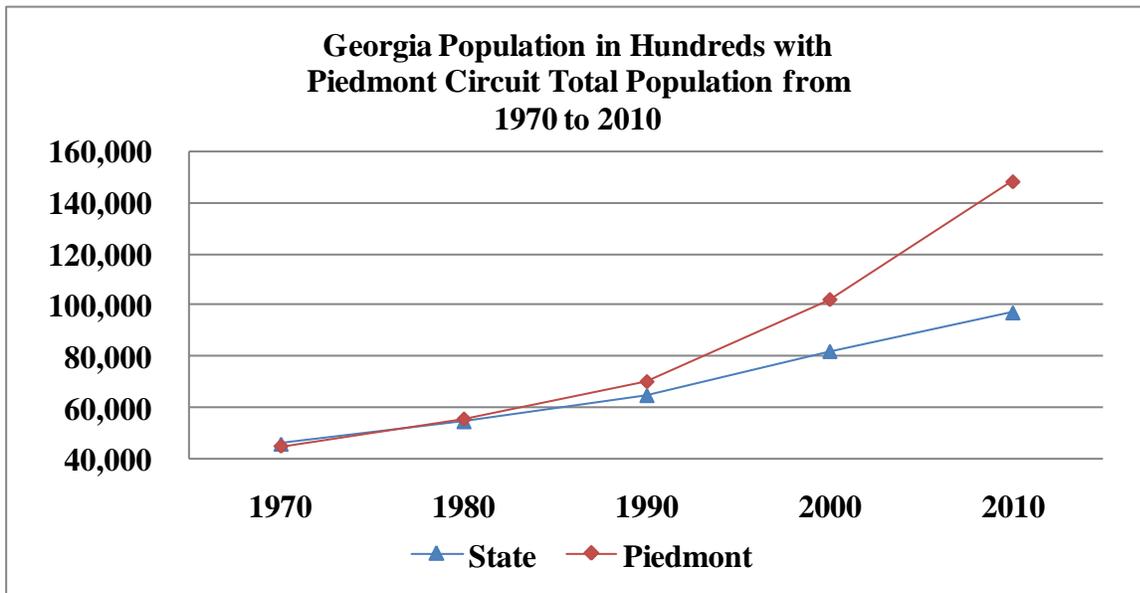


Circuit Characteristics

1. The Judicial Council classified the circuit as “Suburban Multiple County.” The circuit is in the Atlanta Metropolitan Area and consists of Barrow, Banks, and Jackson Counties. The circuit is located in the central northeastern part of the state. The topography of the county is characterized by gentle hills that become steeper in the northern part of the circuit. There is a moderate amount of farm land. The total acreage under cultivation has increased from 163,369 in 2002 to 165,461 in 2007 a change of 1 percent. The circuit is becoming urbanized at an increasing rate. The demographics are fairly stable with race/ethnic categories comprised of 7 percent Hispanic, 8 percent Black, and 84 percent White. The median age for men and women is 37 years old; gender composition is 50 percent male and 50 percent female. Population density in 2000 was 468 and in 2009 was 702 persons per

square mile an increase of 50 percent. The unemployment rate was 9.5 percent in June 2011 compared to the state rate of 9.1 percent. Total population in 2010 is 98,936 according to the decennial census; the population per judge is 49,468. **Graph 1** compares the circuit population with the state.

Graph 2

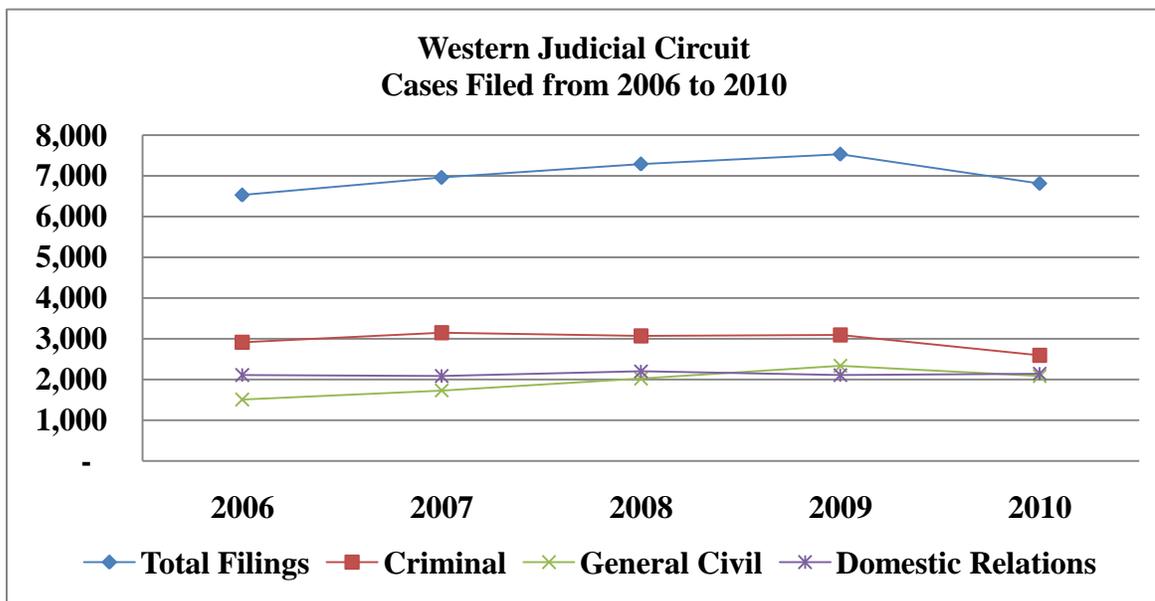


Western Circuit

Court Characteristics

1. The number of supporting courts consists of 2 state (both in Clarke County), 2 juvenile, 2 probate (one hearing traffic in Oconee County), and 4 magistrate court judges, totaling 10 judges. The circuit last received an additional judge in 1995. There are 465 active attorneys in the circuit. The circuit has a felony/DUI and a mental health court; the felony drug/DUI court has 58 participants.
2. The total caseload from 2006 to 2010 has been stable. However, there was a decrease from 2009 to 2010 of 10 percent; the greatest proportion of the decreasing caseload is attributed to criminal filings. See **Graph 1**. The courts reported 2,035 open cases at the end of calendar year 2010.

Graph 1

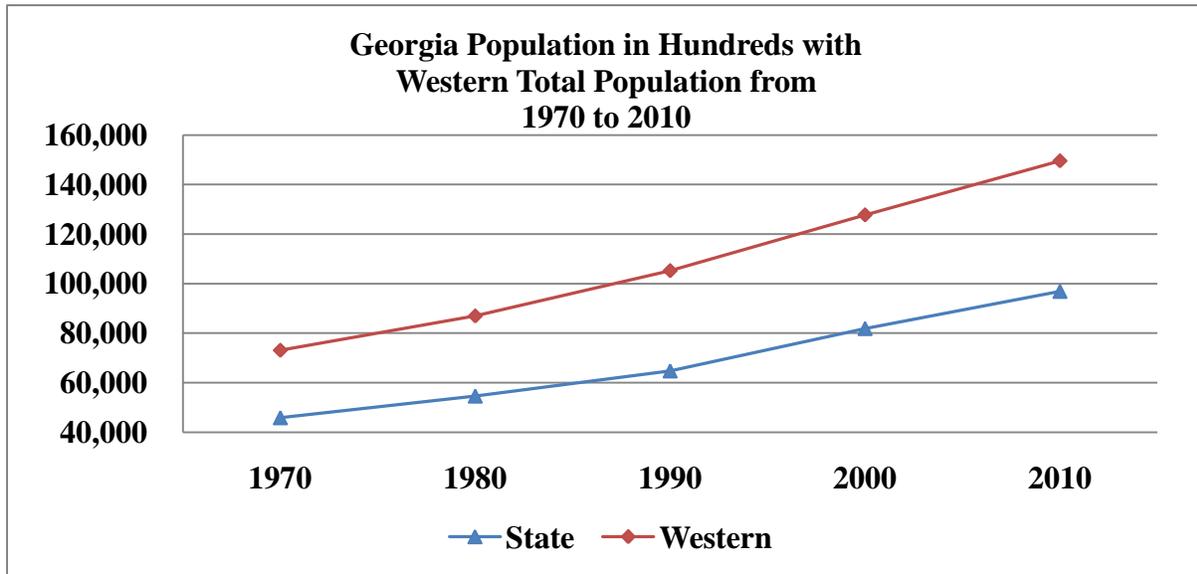


Circuit Characteristics

1. The Judicial Council classified the circuit as “Suburban Multiple County.” The circuit is in the Athens-Clarke Metropolitan Area consisting Athens-Clarke and Oconee Counties. The circuit is located in the central northeastern part of the state. The topography of the county is characterized by gentle hills that become steeper in the northern part of the circuit. There is a small number of farms, and it increased by 4 percent from 2002 to 2007. The total acreage under cultivation has decreased from 68,198 in 2002 to 59,235 in 2007 a change of 13 percent.
2. The circuit is highly urbanized. The demographics are fairly stable with race/ethnicity categories comprised of 9 percent Hispanic, 22 percent Black, and 68 percent White. The median age for men and women is 32 years old; gender composition is 49 percent male and 51 percent female. Population density in 2000 was 981 and in 2009 was 1,143 persons per square mile an increase of 17 percent. The unemployment rate was 8.7 percent in June

2011 compared to the state rate of 9.1 percent. Total population in 2010 is 149,522 according to the decennial census; the population per judge is 49,841. **Graph 1** compares the circuit population with the state.

Graph 2



Name	Circuit	Position	Support
Greg G. Allen	Bell-Forsyth	Clerk, Forsyth County	Yes
Mike Dudgeon	Bell-Forsyth	State Representative	Yes
Jack Murphy	Bell-Forsyth	State Senator	Yes
Brian R. Tam	Bell-Forsyth	Commission Chair, Forsyth County	Yes
Glenn Baker	Clayton	State Representative	Yes
Harold G. Benefield	Clayton	Chief Judge, State Court	Yes
Chiquiti A. Dean	Clayton	Chief Probation Officer	Yes
Kemuel A. Kimbrough	Clayton	Sheriff, Clayton County	Yes
Tracy Graham Lawson	Clayton	District Attorney	Yes
Gregory Porter	Clayton	Chief of Police	Yes
Jacqueline D. Wills	Clayton	Clerk, Clayton County	Yes
Hayward Altman	Middle	District Attorney	Yes
Horace Daniel	Middle	Commissioner, Washington County	Yes
Brandi D. Payne	Middle	Public Defender	Yes
William Rabun	Middle	Commission Chair, Jefferson County	Yes
Brandon L. Braddy	Oconee	Commissioner, Montgomery County	Yes
Carol W. Bragg	Oconee	Clerk, Wheeler County	Yes
Dianne C. Brown	Oconee	Clerk, Bleckley County	Yes
Peggy Fauscett	Oconee	Clerk, Pulaski County	Yes
S. Keith Hamilton	Oconee	Clerk, Montgomery County	Yes
Steven M. Harrison	Oconee	Public Defender	Yes
Gene Johnson	Oconee	Clerk, Telfair County	Yes
Dan McCranie	Oconee	Commission Chair, Dodge County	Yes
Jimmy Pruett	Oconee	State Representative	Yes
Timothy G. Vaughn	Oconee	District Attorney	Yes
Tommy Benton	Piedmont	State Representative	Yes
Terry England	Piedmont	State Representative	Yes
Tim Harper	Piedmont	Clerk, Banks County	Yes
Regina B. McIntyre	Piedmont	Clerk, Barrow County	No
David Motes	Piedmont	Chief Judge	Yes
Donna Seagraves	Piedmont	Public Defender	Yes
Camie W. Thomas	Piedmont	Clerk, Jackson County	Yes
John Donnelly	Western	Public Defender	Yes
Beverly Logan	Western	Clerk, Clarke County	Yes
Ken Mauldin	Western	District Attorney	Yes
Eric W. Norris	Western	Bar Association President	Yes

Tab 4

The 2012 and 2013 Budget Report will be given out at the Judicial Council meeting on August 26, 2011.



Judicial Council of Georgia

Board of Court Reporting

Marla S. Moore
Director, AOC

Report to:
Aquaria R. Smith, Program Manager

Memorandum

To: Members of the Judicial Council of Georgia

From: Chief Judge Lawton Stephens, Chair
Judicial Council Nominating Committee

Date: August 11, 2011

Re: Judicial Council Nominating Committee Report

Cc: Judicial Council Nominating Committee
Marla S. Moore, Secretary to the Board of Court Reporting
and Director, Administrative Office of the Courts

The Judicial Council Nominating Committee is charged with identifying qualified individuals to fill the vacancies of the Board of Court Reporting of Judicial Council, and pursuant to O.C.G.A. § 15-14-24, the Judicial Council appoints the members of the Board for two year terms.

The Board of Court Reporting of the Judicial Council of Georgia is composed of nine members: five certified court reporters, two representatives from the State Bar of Georgia, and two members of the judiciary (one Superior Court judge and one State Court judge). The seats for the three certified court reporters (two machine writers and one voice writer), one state court judge, and one attorney representative are currently open for appointment for two year terms beginning August, 2011.

The Judicial Council Nominating Committee recommends:

- The Honorable Patricia Booker, State Court of Richmond County to replace Chief Judge Philip C. Smith, State Court of Forsyth County;
- Attorney Cheryl Griffin, Albany, to replace Attorney John K. Larkins, Jr, Atlanta;
- Reappointment of Machine Writers Ms. Carol Glazier, Blairsville (Enotah Judicial Circuit) and Ms. Tina Harris, Cobb (Atlanta Judicial Circuit); and
- Voice Writer Stacey Folds, Leesburg (Pataula Judicial Circuit) to replace Janice Baker, Jonesboro, (Clayton Judicial Circuit)

A brief synopsis on each person desiring to fill the vacancies is listed below:

STATE COURT JUDGE

1. Judge Patricia Warren Booker, State Court Judge, Richmond County. The Honorable Patricia Warren Booker has served as Judge to the State Court of Richmond County since her appointment in 2007. She is an active member of the State Bar of Georgia and the Council of State Court Judges. She has served as Assistant District Attorney for Richmond Judicial Circuit. Judge Booker received her J.D. from the University of Georgia School of Law.

STATE BAR OF GEORGIA MEMBER

2. **Cheryl Griffin**, is the Managing Attorney for the Albany Regional Office of the Georgia Legal Services Program. Ms. Griffin has served as Past President of the Dougherty and Pataula Judicial Circuit Bar Association. She received her J.D. from Mississippi College School of Law. Ms. Griffin was referred by the Honorable Joe Bishop for consideration.

CERTIFIED COURT REPORTERS – MACHINE WRITERS

3. **Carol Glazier (Incumbent on the Board)**, Official Court Reporter for Chief Judge David E. Barrett of the Enotah Judicial Circuit and a partner of Appalachian Court Reporting firm. Ms. Glazier has been a member of the court reporting profession for more than 30 years. She served as president, treasurer, and general director of the Georgia Shorthand Reporters Association and is a member of the National Court Reporters Association. Ms. Glazier was appointed in July 2009 and has actively served as Chair of the Electronic Reporting and Certification committees. She seeks reappointment to the Board.

4. **Tina Harris (Incumbent on the Board)**, Official Court Reporter in the Atlanta Judicial Circuit. Ms. Harris has worked in Georgia superior and state courts as a freelance reporter for several years. She has served on the Executive Committee of the Court Reporters' Training Council of the Board of Court reporting and is a member of the Georgia Shorthand Reporters Association. Ms. Harris is completing one term on the Board of Court Reporting where she avidly served on the Executive Committee of the Board and Chair of the Certification and Publicity committee. Ms. Harris seeks reappointment to the Board.

CERTIFIED COURT REPORTERS – VOICE WRITER

5. **Stacey L. Folds**, Official Court Reporter for Chief Judge Joe C. Bishop and Judge Ronnie Joe Lane of the Pataula Judicial Circuit. She also serves as an official court reporter for Judge Richard L. Waters, Jr. State Court of Mitchell County. Ms. Folds began her career as a freelance court reporter and is the owner of AAA Reporting Service. She has been a member of the court reporting profession since 2001. Ms. Folds was referred by Judge Ronnie Joe Lane for consideration.

**Minutes of the
Judicial Workload Assessment Committee
of the Judicial Council of Georgia
Teleconference/AOC, Atlanta
August 5, 2011 10:00 a.m.**

Members Present

Judge David Emerson, Chair
Judge David Barrett
Judge C.J. Becker
Judge Joe Bishop
Judge William Boyett
Ms. Cinda Bright
Judge Bonnie Oliver
Ms. Jody Overcash
Judge Stephen Scarlett
Judge Lawton Stephens

Staff Present

Mr. Greg Arnold
Mr. Justin Brady
Ms. Pam Dixon
Mr. Christopher Hansard
Ms. Molly Perry
Ms. Maggie Reeves

Guests Present

Judge Jeffrey Bagley
Mr. T.J. BeMent
Judge David Dickinson
Judge Dane Perkins

Call to Order

Judge Emerson called the meeting to order at 12:05 p.m.

2011 Workload Assessment

Review of Workload Assessment Analysis

Mr. Hansard explained the information presented on the workload analysis spreadsheet, noting that the average times to disposition and judge-year values had been approved by the Judicial Council at its July 20, 2011 meeting and the threshold values had been in place since 2005.

Judge Emerson discussed the new appeal process for circuits requesting an additional judgeship but not qualifying on the basis of threshold value alone. The committee's charge is to determine if a full blown circuit study should be performed to enable consideration by the Judicial Council. Ms. Perry read the Judicial Council policies relating to threshold criteria and appeals. This is the first meeting to address appeals following approval of the policy in June 2010.

Review of Carryover Status Determination

Ms. Perry read the Judicial Council policy regarding length of judgeship recommendations which is three years if caseload does not decrease by 10 percent or more. She reviewed recent circumstances involving the withdrawal of requests in 2008 and 2009, resulting in the Judicial Council making no recommendations for judgeships. Circuits with recommendations pending in 2008 were granted an additional year to provide a four-year recommendation period. Of the three requests qualified in carryover status, Clayton and Western circuits renewed theirs (Appalachian did not) following specific direction of the committee to seek a renewal request from the chief judge. Judge Oliver noted that this is the last carryover year for these two circuits.

Consideration of Appeals from Circuits Not Qualified

Judge Emerson indicated that the Atlanta Circuit had withdrawn its request. He reported on his review of the caseload numbers for the Alapaha Circuit and recognized Chief Judge Perkins who related that discrepancies in family violence and child support enforcement cases had been researched and case counts resubmitted. Mr. Hansard noted that he had calculated the formula with the revised numbers, and it resulted in the Alapaha Circuit exceeding the threshold value of 2.70. He requested additional time to re-count other case types. Judge Oliver made a motion to qualify Alapaha Circuit on a tentative basis contingent on it furnishing final data. The motion was adopted. Ms. Perry added that the information would need to be provided quickly for the next meeting for which a suggested date is August 12.

Judge Emerson called on Chief Judge Bagley who expressed serious concern that the 2010 caseload had not qualified the circuit given its 2008 and 2009 qualification. He questioned the caseload totals furnished by the superior court clerk, explained that there had been a case management system conversion and requested additional time to investigate them. Judge Emerson noted that the circuit's child support totals appear low and the custody cases look high given the population of the circuit. Judge Oliver noted that Judge Emerson's observations support Judge Bagley's request. Judge Dickinson observed that the latest census shows a major increase in population. Judge Oliver made a motion to allow Bell-Forsyth additional time to correct its case count. The motion passed.

Other Business

Accountability Court Time and Motion Study

Mr. Hansard reported that he had begun researching similar efforts by other states to identify methodologies that might be replicated. He mentioned that initiatives in Florida and Indiana could be helpful. Judge Becker asked to be sent information documenting such studies to review and contribute feedback.

There was a short discussion about the use of Accountability Court data in the current studies. Although judges' time had been recorded, disposition data submitted by superior court clerks were not reliable. It was emphasized that circuits with such courts should note them as special circumstances or furnish supplemental information if available. Ms. Perry reminded the committee that staff coordinates its work in this area with Mr. John Zoller, AOC's Accountability Courts Coordinator. Mr. Hansard noted that time would be needed to digest numbers and re-group.

Death Penalty Habeas Corpus Average Time to Disposition

Ms. Perry recalled the committee's agreeing to conduct a two-question Delphi survey of judges assigned these cases by the Council of Superior Court Judges' president. Staff is working with that Council's staff to identify a sufficient number of participants to produce valid results, in the range of 30 to 40 judges.

Next Meeting

A meeting will be scheduled for 12:00 p.m. September 30, 2011.

The meeting was adjourned at 12:57 p.m.

**Minutes of the
Judicial Workload Assessment Committee
of the Judicial Council of Georgia
Teleconference Meeting
August 12, 2011 12:00 p.m.**

Members Present

Judge David Emerson, Chair
Ms. Dena Adams
Judge David Barrett
Judge Joe Bishop
Judge William Boyett
Judge Bonnie Oliver
Ms. Jody Overcash

Staff Present

Mr. Greg Arnold
Ms. Pam Dixon
Mr. Christopher Hansard
Ms. Marla Moore

Guests Present

Mr. T.J. BeMent

Call to Order

Judge Emerson called the meeting to order at 12:05 p.m.

Approval of August 2011 Minutes

The minutes of the August 5, 2011 meeting were not approved as there was not a quorum present.

Consideration of Appeals from Circuits Not Qualified

Bell-Forsyth Circuit

Mr. Hansard reported that the new caseload figures finalized earlier this week resulted in a qualification value of 3.54 for the circuit. This exceeds the threshold value of 2.70 thereby meeting the criteria for qualification. Judge Emerson noted that Judge Bagley had questioned the original Serious Felony count as significantly lower than the previous two years. Following some discussion, the committee approved the appeal and directed staff to complete the more in-depth study for the circuit.

Alapaha Circuit

Mr. Hansard reported that new caseload numbers furnished by the Alapaha Circuit did not meet the threshold requirement for a full circuit study. Subsequent discussion noted that the circuit was given sufficient opportunity to detail its caseload. The committee agreed that the circuit would not be granted a study.

There was some discussion about how child support cases are to be counted. Judge Emerson clarified that these cases are counted when filed, not when served. In this instance, the Alapaha Circuit had 1,678 cases filed, but only 1,207 served, and even though this differential was not the determining factor for a circuit study, Judge Emerson wanted to make sure the methodology was understood.

Since Judge Perkins had not been notified of the results of the revised count, Ms. Moore related that she would report the calculations to him before official notice of the committee action is sent.

Judge Emerson consulted committee members about the lack of a quorum. It was decided that Judge Emerson would call other committee members for their votes and then tally the results. There was some discussion about the qualification value for the Western Circuit, but it was explained that the circuit was in carryover status for its final year.

Other Business

Judge Emerson reported that the Florida and Indiana studies on drug treatment courts included good explanations for workload assessment methodology and asked Mr. Hansard to send them to the committee members for discussion at the next meeting.

Next Meeting

An in-person meeting will be scheduled for 11:00 a.m., September 30, 2011.

The meeting was adjourned at 12:35 p.m.

Addendum

Pursuant to the committee's direction, Judge Emerson contacted the following committee members who voted to concur with the decisions regarding appeals for the Alapaha and Bell-Forsyth circuits: Judges Cynthia Becker, Daniel Craig, and Lawton Stephens.

Judicial Council of Georgia
Administrative Office of the Courts

Marla S. Moore
Director

Accountability Courts Report

Chief Justice Hunstein created the Judicial Council Accountability Court Committee to replace the Drug Court Committee, which was dissolved. All members of the Drug Court Committee continue to serve on the newly formed committee with their terms and positions remaining the same. In addition, the Chief Justice appointed Judge Kathlene F. Gosselin, Superior Court of the Northeastern Judicial Circuit to fill out the un-expired term of Judge Sandra W. Miller and she appointed two additional members, Judge Susan P. Tate, Probate Court of Clarke County and Judge Winston P. Bethel, Senior Magistrate of DeKalb County to the Accountability Court Committee. The charge of the Committee is to develop policies and best practices for Accountability Courts and to make recommendations to the Judicial Council for the allocation of state funds appropriated and federal grants awarded to the Judicial Council/Administrative Office of the Courts for the purpose of Accountability Courts.

The Judicial Council approved the allocation of \$1,810,678 in state funds to 68 Accountability Courts across Georgia via voice vote on July 20, 2011. This results in an average award of \$26,627. An additional amount of \$350,000 was allocated by the state and has been set aside for Mental Health Courts.

Standards have been developed for Mental Health Courts.

Judge Girardeau, Senior Superior Court Judge from the Northeastern Judicial Circuit, was inducted into the Stanley M. Goldstein Professional Drug Court Hall of Fame on July 20. He received the award from the National Association of Drug Court Professionals in Washington, D.C.

Judicial Council of Georgia
Administrative Office of the Courts

Marla S. Moore
Director

Domestic Violence Annual Report

FY 2011 Report (Final)

The Judicial Council Domestic Violence Committee annually grants to Georgia nonprofits funds to provide free civil legal services to approximately 4,500 impoverished victims of family violence and their children. The Legislature appropriates funds each year for this purpose. For fiscal year 2011, the amount of \$1,849,415.00 was appropriated to the Judicial Council, but this amount was reduced by 4.75269% after January. Six nonprofit agencies received grants after a competitive grant process. The grant recipients were as follows:

<u>FY 2011 Grant Recipients</u>	<u>Area(s) Covered</u>
Amity House	Glynn county
Atlanta Legal Aid, Inc.	Metro Atlanta (5 counties)
Gateway House, Inc.	Hall county
Georgia Law Center for the Homeless	Fulton and DeKalb counties
Georgia Legal Services Program	All counties outside metro Atlanta
Northeast Georgia Shelter Collaborative	11 counties in north Georgia served by 5 shelters

FY 2012 Report (Preliminary)

The Judicial Council Domestic Violence Committee met on June 15, 2011, and considered eleven grant applications from nonprofit agencies serving domestic violence victims in Georgia. The total amount of the grants requested by these agencies was \$1,969,554.00; the amount available for agencies was \$1,718,171.00. After a spirited deliberation, grant awards were made to the following agencies:

FY 2012 Grant Recipients*

Atlanta Legal Aid, Inc.	\$ 403,791.00
Gateway House, Inc.	\$ 16,688.00
Georgia Law Center for the Homeless	\$ 22,000.00
Georgia Legal Services Program	\$1,205,485.00
Northeast Georgia Shelter Collaborative	\$ 40,715.00
Northwest Georgia Family Crisis Center, Inc.	\$ 19,907.00
Wayne County Protective Agency (Fair Haven)	\$ 9,585.00

*These awards may be reduced due to future budget reductions by the Legislature.

The 2011-2012 Judicial Council Domestic Violence Committee members were:

Judge William T. Boyett, Chair
Judge William P. Bartles
Judge Maria Golick
Judge Horace Johnson
Judge J. Carlisle Overstreet
Linda A. Klein
Greg Loughlin, advisor

Judge Anne E. Barnes
Judge Thomas Bobbitt
Judge Divida Gude
Judge Tripp Self
Allegra Lawrence-Hardy
Jody Overcash, advisor
Cynthia Clanton, AOC

Respectfully submitted,

The Honorable William T. Boyett
Chair, Judicial Council Committee on Domestic Violence

Judicial Council of Georgia
Administrative Office of the Courts

Marla S. Moore
Director

Justice for Children Committee

The Supreme Court of Georgia Committee on Justice for Children (J4C) which is staffed by the Administrative Office of the Courts (AOC) will end its five year Court Improvement Grant on October 1, 2011. Congress has refunded the same grant which guides the J4C work for an additional two years which also starts October 1, 2011. For the last 15 years, the mission of J4C has remained constant which is to improve the legal process of child deprivation cases.

Justice P. Harris Hines serves as the current chair of the Committee on J4C. Current committee members and advisors (listed on the website below) represent the judiciary, the State Bar, the Department of Family and Children Services, as well as the community. The current membership term is coming to a close and the Supreme Court of Georgia will be appointing new committee members and advisors in September of 2011 to begin a two year term of service starting on October 1, 2011. The new committee will guide the new round of funding.

Today, Georgia has approximately 7000 children in foster care due to child abuse or neglect. The number of children in foster care has been dropping steadily since 2005. Priority goals for J4C in 2011 include: improving the educational outcomes for children in foster care; improving the process of appealing termination of parental rights cases; improving the quality of representation of children, parents and the agency; defining and implementing a set of child outcome measures for courts in deprivation cases; hosting judicial and community J4C summits in all 49 judicial circuits; and exploring the judiciary's role in preserving families safely.

Improvement goals for the past nine years have included: automation of the deprivation case records; cross-training and setting standards of practice for all participants in juvenile court; increasing the representation of parents and children in juvenile court; and obtaining state funding for juvenile court judges. Benchmarks for some of these goals have been reached while others have needed refinement.

For 2011 and 2012, J4C will also focus on quality assurance for continuous improvement by reviewing children's case files and particularly of children who have been in foster care for long periods of time. This project is titled the Cold Case Project. The reviews explore all permanency options for these children, check court order legal requirements, check due process measures and the quality of representation. In addition, the J4C just obtained a Quality Improvement Center (QIC) grant to participate in research administered by the University of Michigan to study the QIC legal representation model against existing attorney practices.

J4C has a web site hosted by the AOC with regular progress reports and publications as well as a list serve open to all interested. See: www.gajusticeforchildren.org



Judicial Council of Georgia
Recusal Rule Committee
August 9, 2011
Judicial Conference Room
10:00am

Minutes

I. Members Present

- | | |
|-------------------------------|--|
| a. Judge James Anderson | Municipal Court of Sandy Springs |
| b. Judge J.D. Smith | Court of Appeals |
| c. Mr. Jeff Davis | Director, Judicial Qualifications Commission |
| d. Mr. W. Jackson Winter, Jr. | Judicial Qualifications Commission |

II. Excused

- | | |
|----------------------------------|---|
| a. Chief Justice Carol Hunstein | Supreme Court |
| b. Representative Edward Lindsey | House of Representatives, District 54 |
| c. Presiding Judge Robin Shearer | Juvenile Court, Clarke County |
| d. Chief Judge Bob Turner | Magistrate Court, Houston County |
| e. Judge Pam Ferguson | Probate Court, Clayton County |
| f. Judge H. Gregory Fowler | State Court, Chatham County |
| g. Judge Michael Clark | Superior Court, Gwinnett Judicial Circuit Chief Judge |

III. Guests

- | | |
|--------------------------|---|
| a. Justice Harold Melton | Supreme Court |
| b. Judge Herbert Phipps | Court of Appeals |
| c. Judge Lynwood Jordan | Probate Court, Forsyth County |
| d. Judge Melodie Clayton | State Court, Cobb County |
| e. Marla Moore | Director, AOC |
| f. Bob Bray | Executive Director, Council of State Court Judges |
| g. Shannon Weathers | Council of Superior Court Judges |
| h. Kelly Steele | AOC |

IV. Call to Order

The meeting was called to order by Justice Melton at 10:05am. Justice Melton guided the Committee through the final iteration of the proposed Code of Judicial Conduct revisions specifically highlighting three meaningful updates since the group last met.

The first change addressed the definition of 'Maximum Allowable Contribution' by adding the

last sentence “Where the “Act” does not prescribe a limitation, there is no “maximum allowable contribution.”” The justification for the addition was that allowed speech cannot have a negative consequence. Several members of the Committee agreed that this caveat was a more or less mandatory addition to the definition.

The second change was in Canon 3 addressing the “Campaign Contribution Disclosure Report” being deemed a disclosure to all parties of the information contained therein. After some discussion about the shared burden of disclosure on the judge as well as the moving parties, the Committee agreed that the added language was acceptable but also requested that the “State of Georgia Financial Disclosure Statement” be referenced in Canon 3 as well as added to the definitions.

The third change was a house keeping edit removing ‘or appear to commit’ from Canon 3(1)(e). It had been removed in a previous version and as such should be removed from the final version.

After no further discussion, the Committee agreed that it was comfortable with all of the changes suggested with the addition of the “State of Georgia Financial Disclosure Statement” in both Canon 3 and the definitions. There were no objections to the vote in support of the final version with previously stated edits.

The final version will be presented at the Judicial Council Meeting Friday August 26, 2011.

Justice Melton adjourned the meeting at 10:26 am.

Amendments to Code of Judicial Conduct

Amend the definitions in “TERMINOLOGY”¹ as follows:

“Aggregate,” in relation to contributions# for a candidate,* means not only contributions# in cash or in kind made directly to a candidate* or the candidate’s* campaign committee# within the current or immediately preceding election cycle# but also all contributions# made indirectly or independently with the knowledge* that they will be used to influence the election of the judge.

“Campaign Committee” is defined as that term is defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-3), as may be amended from time to time.

“Campaign Contribution Disclosure Report” is defined as that term is defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-3), as may be amended from time to time.

“Contribution” is defined as that term is defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-3), as may be amended from time to time.

“Election cycle” is defined as that term is defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-3), as may be amended from time to time.

“Financial Disclosure Statement” is defined as that term is defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-50), as may be amended from time to time.

“Maximum Allowable Contribution” is defined as such limitations are defined by the “Georgia Government Transparency and Campaign Finance Act of 2010” (O.C.G.A. § 21-5-41), as may be amended from time to time. Where the “Act” does not prescribe a limitation, there is no “maximum allowable contribution.”

¹ * denotes “Terminology” currently defined in the Code of Judicial Conduct

#denotes “Terminology” proposed for inclusion in the Code of Judicial Conduct

“Support” is defined as non-monetary assistance to a candidate.

Canon 3

E. Disqualification

(1) Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

Commentary: Under this rule, judges are subject to disqualification whenever their impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that firm appeared, unless the disqualification was waived by the parties after disclosure by the judge. Judges should disclose on the record information that the court believes the parties or their lawyers might consider relevant to the question of disqualification, even if they believe there is no legal basis for disqualification. The public filing of a “Campaign Contribution Disclosure Report”# or “Financial Disclosure Statement” shall be deemed a disclosure to all parties of the information contained therein. The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as possible.

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding;

Commentary: A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b); judges formerly employed by a governmental agency, however, should disqualify themselves in a proceeding if their impartiality might reasonably be questioned because of such association.

(b) the judge served as a lawyer in the matter of controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a ~~material~~ witness or party concerning it in the matter of controversy;

(c) the judge or the judge's spouse, or a person within the ~~third~~ sixth² degree of relationship* to either of them, or the spouse of such a person, or any other member of the judge's family residing in the judge's household*:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known* by the judge to have a more than de minimis* interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge* likely to be a material witness in the proceeding.

Commentary: The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Section 3E(1)(c)(iii) requires the judge's disqualification.

(d) the judge has received or benefited from an aggregate# amount of campaign contributions# or support# so as to create a reasonable question as to the judge's impartiality. When determining impartiality with respect to campaign contributions# or support,# the following may be considered:

(i) amount of the contribution# or support#;

(ii) timing of the contribution# or support#;

(iii) relationship of contributor or supporter to the parties;

2 O.C.G.A. § 15-1-8(a)(2), which statutorily governs judicial disqualification, provides for a sixth degree of separation. For the sake of consistency between the Canons and the statutory law, the JQC recommends that this provision be changed to reflect state law.

(iv) impact of contribution# or support#;
(v) nature of contributor's prior political activities or support# and prior relationship with the judge;
(vi) nature of case pending and its importance to the parties or counsel;
(vii) contributions# made independently in support of the judge over and above the maximum allowable contribution# amount which may be contributed# directly to the candidate*; and
(viii) any factor relevant to the issue of campaign contribution# or support# that causes the judge's impartiality to be questioned.

(e) the judge has made pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office, or statements that commit or appear to commit the candidate* with respect to issues likely to come before the court.

(2) Judges shall keep informed about their personal and fiduciary* economic interests*, and make a reasonable effort to keep informed about the personal financial interests of their spouses and minor children residing in their households.

Commentary: A judge shall recuse when the judge knows* or learns by means of a timely motion that a particular party, a party's lawyer, or the law firm of a party's lawyer has within the current or immediately preceding election cycle# of a judicial campaign for public election* made aggregate# contributions# in an amount that is greater than the maximum allowable contribution# permitted by law.

There is a rebuttable presumption that there is no *per se* basis for disqualification where the aggregate# contributions# are equal to or less than the maximum allowable contribution# permitted by law. However, because the presumption is rebuttable, a judge who knows* or learns by means of a timely motion that a party, a party's lawyer, or the law firm of a party's lawyer has within the current or immediately preceding election cycle# of a judicial campaign for public election* made aggregate# contributions# permitted by law, should weigh the considerations in subsection 1(d) of Canon 3E in deciding whether recusal may be appropriate.

Where a motion to recuse is based upon campaign contributions# to the judge and the aggregate# of contributions# alleged would result in a rebuttable presumption that there is no *per se* basis for disqualification under the provisions of this Canon, any affidavit required to be filed by court rule must specify additional facts

demonstrating a basis for disqualification pursuant to the considerations set forth in subsection (d) of this Canon. In the absence of such additional facts, the affidavit shall not be deemed legally sufficient to require assignment to another judge under applicable court rules.

In summary, Canon 3E provides that:

(1) If contributions# made to a judicial candidate* or to that candidate's* campaign committee# are permitted by the law and do not exceed the maximum allowable contribution#, then there is no mandatory requirement that the judge recuse.

(2) If (a) a judicial candidate* has knowledge* of a contribution# made to the candidate* or the candidate's* campaign committee# that exceeds the maximum allowable contribution# permitted by law and, (b) after having such knowledge,* the violation is not corrected in a timely manner (i.e., usually accomplished by returning the contribution#); then the judge shall recuse.

(3) If a judge has knowledge* of a pattern of contributions# made by a particular party, a party's lawyer, or the law firm of a party's lawyer that include contributions# (a) made to a judicial candidate* or to that candidate's* campaign committee# and/or (b) made to a third party attempting to influence the election of the judicial candidate,* then the judge should consider whether recusal is appropriate in accordance with the considerations in subsection 1(d) of Canon 3E.

F. Remittal of Disqualification.

Judges disqualified by the terms of Section 3E may disclose on the record the basis of their disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than ~~that~~ personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary: A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that

consideration of the question of remittal is made independently to the court, judges must not solicit, seek or hear comment on possible remittal or waiver of the disqualification, unless the lawyers jointly propose remittal after consultation as provided in Section 3F. A party may act through counsel, if counsel represents on the record that the party has been consulted and consents. As a practical matter, judges may wish to have all parties and their lawyers sign a remittal agreement.

Judicial Council of Georgia
Administrative Office of the Courts

Marla S. Moore
Director

To: Members of the Judicial Council

From: Marla S. Moore
Director

RE: Changes to COI Rules and Regulations

Recently the Commission on Interpreters adopted revisions to Appendix A of its Rules and Regulations. These revisions were occasioned by the Department of Justice's interpretation of Title VI of the 1964 Civil Rights Act. The revised Rules and Regulations are available on the Commission's website and copies were sent to all judges. We have included a copy of Appendix A with the changes noted. Justice Harold Melton, Chair of COI, will discuss these changes and be available for questions.

**APPENDIX A
UNIFORM RULE FOR INTERPRETER PROGRAMS**

I. General Rule: The following rules apply to all criminal and civil legal proceedings in Georgia ~~courts~~ where there are non-English speaking persons in need of interpreters. *See also Ling v. State, 702 S.E.2d 881 (Ga. 2010).* All other court-managed functions, including information counters, intake or filing offices, cashiers, records rooms, sheriff's offices, probation and parole offices, alternative dispute resolution programs, pro se clinics, criminal diversion programs, anger management classes, detention facilities, and other similar offices, operations and programs, shall comply with Title VI of the Civil Rights Act of 1964.

- (A) An interpreter is needed and a ~~court~~ interpreter shall be appointed when the decision maker, which would include the judge, magistrate, special master, commissioner, hearing officer, arbitrator, neutral, or mediator, determines, after an examination of a party or witness, that: (1) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or (2) the witness cannot speak English so as to be understood directly by counsel, ~~court~~ decision maker, and/or the jury.
- (B) The ~~court~~ decision maker should examine a party or witness on the record to determine whether an interpreter is needed if: (1) a party or counsel requests such an examination; or (2) it appears to the ~~court~~ decision maker that the party or witness may not understand and speak English well enough to participate fully in the proceedings, or (3) if the party or witness requests an interpreter. The fact that a person for whom English is a second language knows some English should not prohibit that individual from being allowed to have an interpreter.
- (C) To determine if an interpreter is needed the ~~court~~ decision maker should normally include questions on the following:
1. Identification (for example: name, address, birth date, age, place of birth);
 2. Active vocabulary in vernacular English (for example: "How did you come to the ~~court~~ proceeding today?", "What kind of work do you do?", "Where did you go to school?", "What was the highest grade you completed?", "Describe what you see in the ~~court~~ room", "What have you eaten today?"). Questions should be phrased to avoid "yes or no" replies;
 3. The ~~court~~ criminal or civil proceedings (for example: the nature of the charge or the type of ~~case before the court~~ proceeding, the purpose of the proceedings and function of the ~~court~~ decision maker, the rights of a party or criminal defendant, and the responsibilities of a witness).
- (D) After the examination, the ~~court~~ decision maker should state its conclusion on the record, and the file in the case should be clearly marked and data entered electronically when appropriate by ~~court~~ personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.
- (E) For good cause, the ~~court~~ decision maker should authorize a pre-appearance interview between the interpreter and the party or witness. Good cause exists if the interpreter needs clarification on any interpreting issues, including but not limited to: colloquialisms, culturalisms, dialects, idioms, linguistic capabilities and traits, regionalisms, register, slang,

Comment [mj1]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj2]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj3]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj4]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj5]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

speech patterns, or technical terms.

- (F) When a Certified, Conditionally Approved, or Registered interpreter is not being used, the ~~court decision maker~~ or ~~the court's~~ designee should give instructions to interpreters, either orally or in writing, that substantially conform to the following:
1. Do not discuss the pending proceedings with a party or witness, outside of professional employment in the same case.
 2. Do not disclose communications between counsel and client.
 3. Do not give legal advice to a party or witness. Refer legal questions to the attorney or to the ~~court decision maker~~.
 4. Inform the ~~court decision maker~~ if you are unable to interpret a word, expression, special terminology, or dialect, or have doubts about your linguistic expertise or ability to perform adequately in a particular case.
 5. Interpret all words, including slang, vulgarisms, and epithets, to convey the intended meaning.
 6. Use the first person when interpreting statements made in the first person. (For example, a statement or question should not be introduced with the words, "He says . . .")
 7. Direct all inquiries or problems to the ~~court decision maker~~ and not to the witness or counsel. If necessary you may request permission to approach the bench with counsel to discuss a problem.
 8. Position yourself near the witness or party without blocking the view of the ~~judge decision maker~~, jury, or counsel.
 9. Inform the ~~court decision maker~~ if you become fatigued during the proceedings.
 10. When interpreting for a party at counsel table, speak loudly enough to be heard by the party or counsel but not so loudly as to interfere with the proceedings.
 11. Interpret everything including objections.
 12. If the ~~court decision maker~~ finds good cause under section (E), hold a pre-appearance interview with the party or witness to become familiar with speech patterns and linguistic traits and to determine what technical or special terms may be used. Counsel may be present at the pre-appearance interview.
 13. During the pre-appearance interview with a non-English speaking witness, give the witness the following instructions on the procedure to be followed when the witness is testifying:
 - (a) The witness must speak in a loud, clear voice so that ~~each participant in the entire court proceeding~~ and not just the interpreter can hear.
 - (b) The witness must direct all responses to the person asking the question, not to the interpreter.
 - (c) The witness must direct all questions to counsel, ~~or to the court decision maker~~, and not to the interpreter. The witness may not seek advice from or engage in any discussion with the interpreter.
 - (d) During the pre-appearance interview with a non-English speaking party, give the following instructions on the procedure to be used when the non-English speaking party is not testifying: (i) The interpreter will interpret all statements made in ~~open court the proceeding~~; (ii) The party must direct any questions to counsel; (iii) The interpreter will interpret all questions to counsel and the responses; and (iv) The party may not seek advice from or engage in discussion with the interpreter.

Comment [mj6]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj7]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj8]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj9]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj10]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj11]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj12]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj13]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Commentary: A model written form for performing this procedure may be obtained from the Georgia Commission on Interpreters. It is recommended that when a non-professional interpreter

is used that the ~~Court~~court or decision maker personally verify a basic understanding of the interpreter's role on the record.

- (G) ~~The court decision maker or the court's designee~~ should give the following instructions to counsel, either orally or in writing:
1. When examining a non-English speaking witness, direct all questions to the witness and not to the interpreter. (For example, do not say to the interpreter, "Ask him if . . .");
 2. If there is a disagreement with the interpretation, direct any objection to the ~~court decision maker~~ and not to the interpreter. Ask permission to approach the ~~benefit~~decision maker to discuss the problem;
 3. If you have a question regarding the qualifications of the interpreter, you may request permission to conduct a supplemental examination on the interpreter's qualifications.

Comment [mj14]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

II. Criminal Cases.

- (A) Each non-English speaking ~~defendant party~~ will be provided with an interpreter at each ~~critical stage~~ep of the proceedings ~~at no cost; within the judge's discretion, costs can be assessed upon a defendant when appropriate.~~
- (B) A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the ~~court~~decision maker. The ~~court~~decision maker shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily ~~and that the person has been assisted by utilizing~~ the services of the most available interpreter. Additionally, counsel may waive the presence of an interpreter in bond hearings.
- (C) ~~The court state shall provide a~~An interpreter ~~shall be provided at no cost~~ to any non-English speaking person whenever the non-English speaking person is a party, or has been subpoenaed, or summoned or has otherwise been compelled to appear in a ~~court~~ proceeding. ~~The provided interpreter shall be present at all times when the non-English speaking person is e~~Consultations with legal counsel, guardians, court psychologists, probation officers, doctors, and other individuals who are employed, paid, or supervised by the courts should said legal counsel not be able to communicate with the non-English speaking person shall comply with Title VI of the Civil Rights Act of 1964. ~~Within the judge's discretion, costs can be assessed upon a defendant when appropriate.~~

Comment [mj15]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj16]: This was changed to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

Comment [mj17]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj18]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj19]: This was changed to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

Comment [mj20]: This was changed to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

Comment [mj21]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

Comment [mj22]: This was changed to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

Comment [mj23]: These changes were made to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

Comment [mj24]: This was changed to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

III. Civil Cases.

- (A) Upon request, each non-English speaking person shall be provided with ~~the fee schedule and a list of the interpreters who have been approved for providing services within that particular~~ court legal proceeding.
- (B) Each non-English speaking party shall have the right to an interpreter at each ~~critical stage~~ep of the proceedings ~~at no cost to the expense of~~ the non-English speaking person. ~~Consultations The provided interpreter shall be present at all times when the non-English speaking person is consulting with legal counsel, guardians, court psychologists, probation officers, doctors, and other individuals who are employed, paid, or supervised by the courts shall comply with Title VI of the Civil Rights Act of 1964. should said legal counsel not be able to communicate with the non-English speaking person. If a fee schedule exists then one shall be given.~~ Advance notice of use of an interpreter shall be provided to all parties and to the ~~court~~decision maker.

~~(C) In the event the court has approved a pauper's affidavit in any civil case and the person filing said affidavit requires the use of an interpreter, one will be provided at no cost to said person.~~

Comment [mj25]: This change was made to ensure that interpreter costs are not charged to one or more parties as noted in Example 2 in the DOJ's August 16 memo.

IV. Juvenile Cases.

(A) Each non-English speaking person in ~~a delinquency proceeding~~ any juvenile proceeding (including children, and parents of a minor child offender, and parents and guardians of minor victims of crime) or whose parental rights to full custody of any minor child are challenged by any governmental unit or agency such as DFCS, shall be provided with an interpreter ~~at no cost at during~~ each critical stage step of the proceedings.

Comment [mj26]: This is a clarification made to make the rules more consistent with the Adm. Order JB-06-3 of the Supreme Judicial Court of Maine, which is referenced in the DOJ's August 16 memo.

(B) The ~~court or decision maker~~ shall provide a qualified interpreter to any non-English speaking person whenever such person's rights to full custody of any minor child are challenged for allegedly causing a child to be dependent, deprived, or delinquent in violation of the Georgia Juvenile Court Code of 1971, as amended, and the rules established by this court.

(C) ~~Consultations~~ ~~The provided interpreter shall be present at all times when the non-English speaking person is consulting with legal counsel, child advocates, guardians, court psychologists, probation officers, doctors, and other individuals who are employed, paid, or supervised by the courts shall comply with Title VI of the Civil Rights Act of 1964 or other governmental unit should said legal counsel not be able to communicate with the non-English speaking person.~~

(D) ~~A non-English speaking person may waive the right to the use of an interpreter. Such a waiver shall be in writing and approved by the court decision maker. The court decision maker shall determine, on the record, that the right to an interpreter has been waived knowingly and voluntarily and that the person has been assisted by the services of the most available interpreter, utilizing the services of the most available interpreter. In no event shall the failure to request an interpreter be deemed to be a waiver.~~

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Comment [mj27]: These changes were made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

V. **Replacement of Interpreter.** Upon a request by the non-English speaking person, by his or her counsel, or by any other officer of the ~~court proceeding~~, the ~~court decision maker~~ shall determine whether the interpreter so provided is able to communicate accurately with and translate information to and from the non-English speaking person. If it is determined that the interpreter cannot perform these functions, ~~the court state shall provide~~ the non-English speaking person shall be provided with another interpreter.

Comment [mj28]: These change were made to ensure that language services are not restricted to courtrooms as noted in Example 3 in the DOJ's August 16 memo.

VI. Interpreter's Fees and Expenses.

(A) Any interpreter providing service under this rule shall be compensated as directed by ~~these rules~~ the local court or appropriate governing body.

Comment [mj29]: This change was made to ensure that language services are not restricted to certain proceedings or to courtrooms as noted in Examples 1 and 3 in the DOJ's August 16 memo.

(B) The expenses of providing an interpreter in any ~~court legal proceeding~~ may be assessed by the courts as costs in such proceeding will be borne by the local court or appropriate governing body.

Comment [mj30]: The DOJ's aim is "universal free, and qualified" court interpreting, as noted in their August 16 memo. A feasible way to accomplish this is to spread the costs of interpreters over all proceedings. This would mean that either the state or local courts would dictate compensation. These changes assume that local courts are dictating compensation. CHC: See item 2 p. 2 in DOJ letter

**Jury Composition Reform Act of 2011
Judicial Council Update, August 26, 2011.**

The effort to reform Georgia's balanced box method of establishing the constitutionality of juries began at the Jury Summit in 2002, and has continued under the leadership of Justice Hugh Thompson's Committee on Jury Composition. That Committee had the participation of judges, clerks, attorneys and other stakeholders who all came to agree that there is a better method for creating county jury pools that fulfill our constitutional principles.

While we have the law in place, there are operational questions that must be addressed. In many cases there are answers, and in some cases there are not. From the outset however, the new law is not intended to dramatically alter jury management on the local level. The main focus of the Act is to create the list of potential eligible voters which is the starting point for constructing your jury pool. Please consider this the opening of a conversation -- because ultimately this is a new process for constituting YOUR juries and we will need your questions, suggestions and understanding to make this work.

To understand the new Act, it is essential to understand that we are replacing a system that relies on "exclusion" with a system that relies on "inclusion." Georgia is the only State in the Union that relies on the exclusionary balanced box method of creating a jury pool. The balancing shaves potential jurors from the jury array until the pool of potential jurors is similar to the last census. It has been demonstrated time and time again that over the intervening 10 years between each decennial census county demographics can change significantly. Judge Nation in a recent order noted that comparing Rockdale County's jury pool to the new 2010 census figures showed an underrepresentation of approximately 25% for African-Americans. The consensus is that we can do better.

And research validates that we can do better. An analysis by Applied Research Services validated an inclusive approach to constructing county jury pools. This approach seeks to find as many potential eligible jurors as possible. If enough potential eligible jurors are found when compared to the expected number based on population estimates, then that pool should fairly represent any cognizable group within the county. The Georgia Supreme Court seems amenable to adopting the 85% inclusiveness standard recommended by the National Center for State Courts. Setting aside questions of felons and noncitizens, the simple arithmetic looks like this:

$$\frac{\text{Number of potential eligible jurors}}{\text{Total estimated eligible jurors (18+ residents)}} = \text{Inclusiveness Percentage}$$

The result of an inclusive list should be (1) many more potential eligible jurors for each county, (2) a more equitably shared responsibility of jury service, and (3) a new statistical standard for meeting the constitutional requirements of fair representation within the jury pool of every county. The new bill also consolidates the jury pools for trial and grand juries, while eliminating some of the subjective requirements for potential jurors. These changes are thought to streamline jury management and make it easier to meet constitutional muster under the inclusiveness standard.

The post-enactment effort on the jury composition effort has developed along two tracks. The AOC and members of the Jury Composition Committee are fashioning a draft Supreme Court rule to put in place a guide to the mechanics of creating the new jury lists. That will include the formula and process for filtering the voter and drivers lists of redundancies and errors. The rule is drafted to require the new list compiler to issue a certificate to each county that it has followed the process requirements and that the new list has achieved a specific inclusiveness percentage. This inclusiveness percentage, if it meets the threshold established in the rule, will be the new indicator that all cognizable groups are fairly represented in the jury array.

One issue with the new certificate is wrapped up in the unified appeal and the judges' duty to decide whether the certificate is sufficient to indicate that constitutional requirements have been met. We have not yet determined the solution to what standard needs to be applied to the new certificate and I have asked for members of the CSCJ Uniform Rules Committee to look at this change and how we can modify the unified appeal to ensure that the judge has had the opportunity to make the necessary inquiry on the constitutionality of the jury array.

The second track is operationalizing the new Act and this is being led by the Council of Superior Court Clerks, which is charged with administering the new statewide and county master jury lists. Under the new law, it is expected that most of the work of creating the jury list will be performed by a vendor hired by the Council of Superior Court Clerks, who will use the business rules set out in the new Supreme Court rule to create the statewide and county master jury lists each year. The list will be created by processing and merging the state voter and

drivers lists, eliminating duplicates, eliminating identified felons and deceased persons, and using statistical analysis and National Change of Address registries to identify current addresses.

Each county's list will be delivered in electronic format to the clerk of the Board of Jury Commissioners. Other than list creation, local management of the list should not change. Random selection is still the linchpin of fairness in choosing jurors from the array. Since the vendor is creating the list, the vendor will have to have someone available to testify about the manner in which the list was created. I believe that potential vendors are being asked about how other states defend challenges to their lists. The clerk of court and jury commissioners will only have to be able to testify to any changes they've made, which can only be in the form of removing persons from the list – they won't be able to add names, only remove those who have died or otherwise become ineligible or incapable of serving.

Part of the difficulty in the General Assembly with this reform effort was the legislature's resistance to funding new programs. The answer to funding for this Act is that counties will pay for the cost of preparing the lists via a subscription fee to receive the inclusiveness certificate. There have been some questions about the subscription fee of "up to 3 cents per eligible juror" that is provided for by law. The question on many minds is whether this is just another burden on the counties. I think everyone wants to see the tab come in at less than three cents per name, especially once the business processes have been established and the services acquired. At three cents per name, all 159 counties combined would chip in about \$210,000. This is indeed an added cost, but there should be cost reductions based on the new lists as well. Some current local jury management vendor services such as NCOA processing will become redundant. To generalize, the new method of compiling the lists of eligible jurors should result in a significant reduction in the percentage of bad addresses while increasing the size of the jury pool an average of about fifty percent. Depending on your jury management now, you will fall somewhere above or below that state average. We think that the cost savings for most counties will offset the subscription costs, but I do not feel comfortable promising that for every county. ACCG did scrutinize the subscription fee and endorsed the legislation, and I hope and expect that they will monitor the costs and support clerks and sheriffs to reduce their jury-related expenses by taking advantage of the new lists.

Though we certainly hope that most counties will save some money, the primary goal is to ensure that the list is as inclusive as possible while reducing the

error rate on addresses. This means that jury clerks will still use a jury management system, and the jury clerk and/or jury commissioners will track inactive persons and excusals at the county level. Having looked at one local order on juries, I do think that judges and their clerks should review to see if changes are necessary. We expect that there may need to be changes, but the reform legislation and court rules should not intrude on the basic management of the jury pool in your counties.

The Council of Superior Court Clerks has hired a project manager to manage the process of finding a vendor to produce the new statewide and county master jury lists. The AOC is providing assistance as an information resource since our staff has over time assisted some counties with their jury lists. The Council of Superior Court Clerks and their project manager have been compiling and addressing questions from their clerks and the process is underway to have a vendor in place which can deliver jury lists in time to meet the July 1, 2012 deadline. We hope that it is possible for this delivery date to be moved up to mid-May or so in order to allow some time to begin using the new list to summons potential jurors off the lists to meet the July 1, 2012 deadline. This has been a common concern and we are continuing to monitor this and talk about the deadline.

To summarize, there are many “to do’s” to create and implement the Jury Composition Reform Act of 2011. There are many participants and many questions and the Supreme Court Committee on Jury Composition will be meeting on August 31st to continue addressing these questions. Mindful of the implementation dates and the importance of protecting the constitutionality of the lists, the reform efforts are proceeding.