

JUDICIAL COUNCIL OF GEORGIA

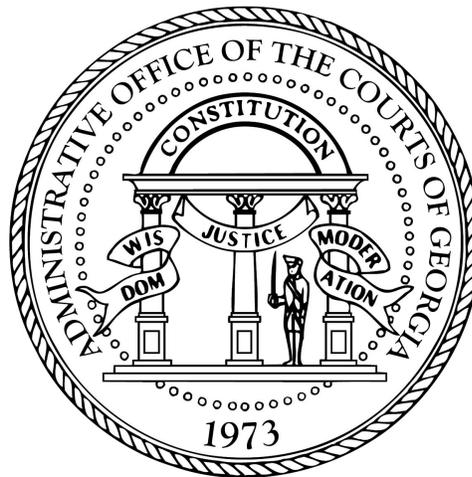
General Session

Thursday, January 5, 2012

1:00 p.m. – 4:00 p.m.

Loews Hotel

*In conjunction with the State Bar of Georgia's
Board of Governors Mid-Year Meeting*



**1065 Peachtree Street NW
Atlanta, Georgia 3030;**

Directions to the Loews Hotel

1065 Peachtree Street
Atlanta, Georgia 30309

From the North (I-75)

Take Interstate 75 South to the Techwood/14th Street exit.
Turn left at the first light (14th Street) and proceed east to Peachtree Street.
Turn right on Peachtree Street.
Loews Atlanta Hotel is located on the left hand side.

From the North (I-85)

Take Interstate 85 South to the Techwood/14th Street exit.
Turn left at the first light (14th Street) and proceed east to Peachtree Street.
Turn right on Peachtree Street.
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From the South (I-75/I-85)

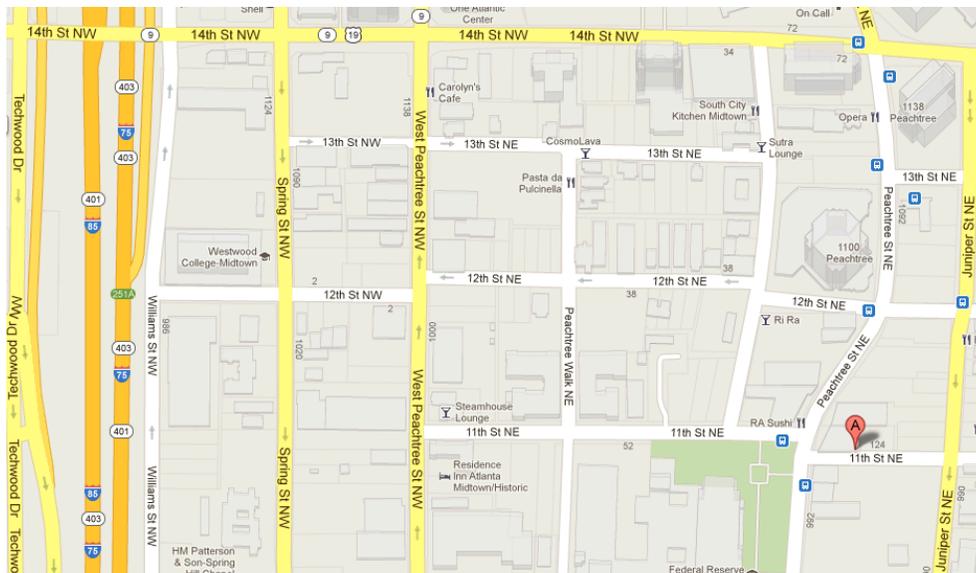
Take Interstate 75/85 North to the 10th/14th Street exit.
Turn right onto 14th Street.
Turn right on Peachtree Street.
Loews Atlanta Hotel is located on the left hand side.

From the West (I-20)

Take Interstate 75/85 North to the 10th/14th Street exit.
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From the East (I-20)

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Judicial Council of Georgia
Loews Hotel
1065 Peachtree Street
Atlanta, GA 30309

Thursday, January 5, 2012

1:00 p.m. – 4:00 p.m.

Group photograph will be taken at 2:30 p.m.

1. **Introduction and Preliminary Remarks**
(Chief Justice Carol W. Hunstein, Est. Time – 10 Min.)
2. **Approval of Minutes, August 26, 2011** **TAB 1**
(Chief Justice Carol W. Hunstein, Est. Time – 5 Min.)
3. **Grants Update**
 - A. **Domestic Violence Pilot Court Project, OVW Grant**
(Chief Judge Daphne Walker, Est. Time – 5 Min.)
 - B. **Committee on Justice for Children, New Grants**
(Justice P. Harris Hines, Est. Time – 5 Min.)
4. **Special Council on Criminal Justice Reform** **TAB 2**
(Chief Justice Carol W. Hunstein, Est. Time – 20 Min.)
5. **Judicial Council Budget Report** **TAB 3**
(Mr. Mark Williams, Est. Time – 20 Min.)
6. **Judicial Council Committee Reports**
 - A. **Policy & Legislation Committee**
 1. Report **TAB 4**
(Presiding Justice George H. Carley, Est. Time – 15 Min.)
 2. Jury Reform Update **TAB 5**
(Justice Hugh P. Thompson, Mr. Mike Cuccaro, Est. Time – 5 Min.)
 3. HB 149 and Pike County Final Judgment and Consent Order **TAB 6**
(Judge Mary Kathryn Moss, Est. Time – 5 Min.)
 - B. **Accountability Courts Committee** **TAB 7**
(Minutes Only)
 - C. **Process Server Certification Committee**
(Chief Judge John C. Pridgen, Est. Time – 10 Min.)
 - D. **Court Reporting Matters Committee** **TAB 8**
(Presiding Judge Herbert E. Phipps, Est. Time – 5 Min.)
 - E. **Judicial Workload Assessment Committee** **TAB 9**
(Minutes Only)

Break and Member Photo (15 Minutes)

7. **Institute of Continuing Judicial Education Curricula** **TAB 10**
(Mr. Rich Reaves, Est. Time – 15 Min.)
 - A. **Magistrate Courts Training Curriculum**
 - B. **Municipal Courts Training Curriculum**

8. **Report from AOC Director**
(Ms. Marla S. Moore, Est. Time – 20 Min.)
 - A. **Immigration and the State Courts Initiative** **TAB 11**
 - B. **Judicial Leadership Systems Change Initiative on Addiction Science** **TAB 12**
 - C. **ABA Language Access Standards** **TAB 13**
 - D. **Criminal Justice Coordinating Council** **TAB 14**

9. **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 Charles B. Mikell, 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** **TAB 15**
(Judge Mary Jo Buxton, Est. Time – 5 Min.)

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

 - H. **Council of Municipal Court Judges** **TAB 16**
(Judge Rashida O. Oliver, Est. Time – 5 Min.)

10. **Old/New Business**
(Chief Justice Carol W. Hunstein, Est. Time – 5 Min.)

11. **Concluding Remarks and Adjournment**
(Chief Justice Carol W. Hunstein, Est. Time – 5 Min.)

Judicial Council Members

January 5, 2012

Supreme Court

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Presiding Justice George H. Carley
Vice-Chair, Judicial Council
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Court of Appeals

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Presiding Judge Herbert E. Phipps
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Superior Court

Judge John C. Pridgen
President, CSCJ
Cordele Judicial Circuit
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Judge David T. Emerson
President-Elect, CSCJ
Douglas Judicial Circuit
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Judge S. Phillip Brown
Macon Judicial Circuit, 3rd JAD
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Stone Mountain Judicial Circuit, 4th JAD
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Judge Cynthia D. Wright
Atlanta Judicial Circuit, 5th JAD
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Superior Court, cont.

Judge Arch W. McGarity
Flint Judicial Circuit, 6th JAD
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awm8439@yahoo.com

Judge Mary E. Staley
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Judge H. Frederick Mullis, Jr.
Oconee Judicial Circuit, 8th JAD
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Judge C. Andrew Fuller
Northeastern Judicial Circuit, 9th JAD
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Judge Lawton E. Stephens
Western Judicial Circuit, 10th JAD
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State Court

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Magistrate Court

Judge Mary Kathryn Moss
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Judge Alan Harvey
First Vice-President, CM CJ
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acharvey@dekalbcountyga.gov

Municipal Court

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Municipal Court of East Point
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roliver@eastpointcity.org

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Division Director
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Patricia Gavel
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Stacey Seldon
404-463-0043

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Bernetha Hollingsworth
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Deborah Atwater
404-232-1409

Matthew Kloiber
404-463-1319

Commission on Interpreters

Linda Smith
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Office of Dispute Resolution

Shinji Morokuma
404-463-3785

Tynesha Manuel
404-463-3788

Probation Advisory Council

Ashley Garner
404-656-6447

Deborah Boddie
404-232-1444

Shawn DeVaney
404-463-3927

Amy Hartley
404-463-4266

Children, Families, & the
Courts

Michelle Barclay
404-657-9219

Patricia Buonodono
404-463-0044

Christopher Church
404-463-5227

Araceli Jacobs
404-656-5171

Elaine Johnson
404-463-6383

Alice Limehouse
404-463-1849

Paula Myrick
404-463-6480

Tracy Powell
404-463-0040

*Commission on Family
Violence*

Greg Loughlin
404-463-6230

Jenny Aszman
404-657-3412

Jameelah Ferrell
404-656-5586

Family Violence, cont.

Jennifer Thomas
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Greg Arnold
404-656-6413

Joshua Becker
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Pamela Dixon
404-277-4654

Christopher Hansard
404-463-1871

Kimberly Miller
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Krista Bradley
404-463-9016

Kim Burley
404-463-3816

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404-463-1907

Monte Harris
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Tanya Osby
404-463-0237

Andrew Theus
404-463-5177

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Jorge Basto
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Michael Alexandrou
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Bradley Allen
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Ann Batchan
404-656-5169

Byron Branch
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Tawanna Conley
404-656-5171

Tim Dalton
404-656-7694

Richard Denney
404-731-1357

Michael Neuren
404-657-4218

Wanda Paul
404-538-0849

Kriste Pope
404-731-1358

Ayshwarya Sridharan
404-463-0031

Roger Watson
404-651-8169

Council of State Court

Judges
Bob Bray
404-651-6204

Council of Magistrate Court

Judges
Sharon Reiss
404-463-4171

**Meeting of Judicial Council of Georgia
Kennesaw Room, Renaissance Atlanta Waverly Hotel
Atlanta, Georgia
August 26, 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 Todd A. Blackwell
Judge Mary Jo Buxton (for Judge Cranford)
Judge Martha C. Christian
Judge David Darden
Judge David T. Emerson
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 Rashida Oliver
Judge A. Gregory Poole
Judge John C. Pridgen
Judge Mark Anthony Scott
Judge Mary E. Staley
Judge Lawton E. Stephens
Judge Brenda Weaver (for Judge Fuller)
Judge Cynthia D. Wright

Members Absent:

Judge Mary T. Cranford
Judge C. Andrew Fuller
Judge Deborah A. Edwards

Staff Present:

Ms. Marla S. Moore
Dr. Greg Arnold
Mr. Jorge Basto
Mr. Byron Branch
Mr. Michael Cuccaro
Mr. Randy Dennis
Mr. Christopher Hansard
Ms. Molly Perry
Ms. Maggie Reeves

Ms. Kelly Steele
Ms. Ashley G. Stollar

Guests Present:

Ms. Tee Barnes, Supreme Court of Georgia
Judge Michael P. Boggs, Superior Court, Waycross Judicial Circuit
Mr. Bob Bray, Council of State Court Judges
Mr. Daniel E. DeLoach, Jr., First District Court Administrator
Judge David Dickinson, Superior Court, Bell-Forsyth Judicial Circuit
Justice P. Harris Hines, Supreme Court of Georgia
Judge James T. Irvin, State Court of Stephens County
Ms. Sandy Lee, Council of Superior Court Judges
Ms. Yolanda Lewis, Fifth District Court Administrator
Justice Harold D. Melton, Supreme Court of Georgia
Mr. Charles Miller, Council of Superior Court Judges
Ms. Tia Milton, Supreme Court of Georgia
Judge David Motes, Superior Court, Piedmont Judicial Circuit
Mr. Bob Nadekow, Eighth District Court Administrator
Ms. Jody Overcash, Seventh District Court Administrator
Ms. Alyson Palmer, Fulton County Daily Report
Mr. Rich Reaves, Institute of Continuing Judicial Education
Ms. Sharon Reiss, Council of Magistrate Court Judges
W. Travis Sakrison, Georgia Public Defender Standards Council
Mr. Kenneth L. Shigley, President, State Bar of Georgia
Mr. Matthew Sorensen, Court Administrator, Clayton Judicial Circuit
Justice Hugh P. Thompson, Supreme Court of Georgia
Ms. Kirsten Wallace, Council of Juvenile Court Judges
Judge Peggy Walker, Juvenile Court, Douglas Judicial Circuit
Mr. Shannon Weathers, Council of Superior Court Judges
Judge Kenneth Wickham, Council of Municipal Court Judges
Mr. Max Wood, Chief Judge, Office of State Administrative Hearings

Call to Order

Chief Justice Hunstein called the meeting to order at 9:04 a.m. Chief Justice Hunstein introduced Judge Weaver as the substitute for Judge Fuller and Judge Buxton as the substitute for Judge Cranford. She explained that for purposes of voting during the judicial recommendations, while Judge Weaver could participate in the discussion, she could not vote; however, since Judge Cranford's absence was because of an illness, Judge Buxton would vote as Judge Cranford's proxy.

Approval of Minutes

Judge Emerson moved approval of the minutes of the Judicial Council meeting held on April 22, 2011. Judge Abbot seconded. The motion carried.

Judge Abbot moved approval of the minutes of the teleconference of the Judicial Council held July 20, 2011. Chief Judge Ellington seconded. The motion carried.

Consideration by the Judicial Council of Requests for Circuit Judgeship Studies and Recommendations to the General Assembly and the Governor

Ms. Molly Perry, AOC Court Services Division Director, noted the updated *Judicial Workload Assessment Guide* in the agenda materials, commenting on the historical overview, explanation of methodology, background of judicial recommendations, and policies for judgeship and circuit boundary studies provided in the document.

Ms. Perry then reported on the Caseload and the Time and Motion studies conducted this year. A *Caseload Reporting Guide* was produced and E-mailed to the Superior Court Clerks. This *Guide* encouraged clerks to submit caseload electronically using the AOC Portal. Fifty-three percent of caseload was submitted via the Portal. The 2011 Time and Motion Study was conducted with 147 of 205 Superior Court Judges participating. The filing information provided by judges during the study was used in conjunction with disposition information obtained from Superior Court Clerks to establish new times to disposition for this year's judgeship analysis. All communications were handled electronically. The appeals process set in place last year was used for the first time allowing a circuit whose data did not support a new study for a circuit to appeal to JWAC and provide further information. Ms. Perry referenced the Superior Court Judgeships (1992-2011) chart illustrating each circuit's number of judges for each year, including state-wide totals. She noted the Judicial Council had not made any recommendations for judgeships during the 2009, 2010, or 2011 Legislative Sessions.

Analysis. Ms. Perry explained in detail the analysis process used by staff to determine qualifying circuits.

There were two carry-over requests from the 2008 study, using 2007 caseload information: Clayton and Western circuits. There were six new requests, one request was withdrawn and two did not qualify. Of the two that did not qualify, appeals were

submitted to JWAC; one appeal was successful. The circuits studied for recommendation were Bell-Forsyth, Middle, Oconee, and Piedmont. Ms. Perry reviewed the four charts provided for each new request which details court characteristics, case filings, circuit characteristics, and circuit/Georgia population from 1970-2010.

There was great interest in accountability courts and their bearing on caseload. Ms. Perry reported accountability court numbers as new information for consideration. The Bell-Forsyth Circuit had 99 participants of maximum 100 in its felony drug court; the Clayton Circuit had 25 participants of 60; the Piedmont Circuit had 25 participants for 75 available slots; numbers indicated the Western Circuit had 34 participants out of 50 slots. The numbers presented for accountability courts were reported in FY12 grant applications as of January 1, 2011. Judge Stephens disputed the numbers for the Western Circuit based on the 42 Felony Drug court participants; additionally the Western Circuit has a Mental Health Court and a Parental Accountability Court.

Open cases per judge were obtained by telephone calls to the Clerks in the counties for the requesting circuits. The Judicial Council has not looked at open cases or backlog in its case count data obtained from the courts, but the information is available. Judge Wright inquired whether the open cases/backlog is now a factor or if it is just something to review. Ms. Perry responded that it is an additional piece of information for consideration and does not show in the analysis. Ms. Perry called attention to a table in the materials describing the letters of support which were received for each circuit; copies of the letters of support are available for review.

Discussion. Chief Justice Hunstein asked Judge Mullis and Judge Stephens to leave the room during the discussion, explaining that Council policy does not allow members from requesting circuits to be present during discussion. Discussion from the audience is also prohibited. The Chief Justice called for discussion; hearing none she explained that a vote of “yes” signifies an affirmative recommendation to the General Assembly and the Governor that a requesting circuit should receive an additional judgeship. A “no” vote that the circuit does not receive an additional judgeship. Judge Christian asked for clarification as to limiting discussion prior to vote regarding rankings. Ms. Moore explained that discussion could occur during each step of the process. Presiding Justice Carley asked when Judge Mullis and Judge Stephens would be admitted

back to the table. Ms. Moore explained that the judges who left the room would come back for the recommendation vote. Ms. Moore then noted that all four new requesting judgeships meet the minimum requirements, so they only need a simple majority for a recommendation. Chief Justice Hunstein noted that Clayton and Western requests were carry-over requests. Judge Emerson explained that the carry-over requests qualified in the past. Discussion was closed and Judge Mullis and Judge Stephens were called back to the table. Judge Emerson moved that the four new requests be approved. Judge McGarity seconded. The motion passed.

Chief Justice Hunstein called for discussion on ranking of the Circuit Judgeship Recommendation. Judge Christian requested clarification regarding Clayton Circuit's recommendation. In the 2011 study, the circuit would need a 5.32 Judge Year Value to qualify for a new judge, but because it is a carry-over request it does not need to meet that value. Judge Pridgen clarified that if this were a new request, the Clayton Circuit would not have qualified. Ms. Moore noted that Clayton Circuit could have received a recommendation if they received a 2/3 majority vote. Chief Justice Hunstein called for the members to rank the circuits. Ms. Perry and Ms. Moore explained that Judicial Council policy dictates each circuit must be a part of the rank; ballots with blank rankings would not be counted. Judge Emerson clarified that the lower the number, the higher the rank.

During the ranking process, Chief Justice Hunstein recognized Mr. Ken Shigley, President of the State Bar of Georgia, and thanked Judge Emerson and the Judicial Workload Assessment Committee for their work, establishing new criteria to get the caseload closer to being correct. Following tradition that a Court of Appeals judge oversee the tabulation of the ranks, Presiding Judge Phipps retired with staff to complete the process. Chief Justice Hunstein called for a break.

Ranking. Following the break, Ms. Perry expressed her appreciation to Dr. Arnold and Mr. Hansard and thanked the Judicial Council members for their thorough review of the materials. She then announced the rankings: 1. Bell-Forsyth; 2. Piedmont; 3. Middle; 4. Oconee; 5. Western; 6. Clayton.

2012 and 2013 Budget Requests

Justice Hines reported on the 2012 Amended Judicial Budget Request of \$13,719,216, a 1.86% increase from the 2012 Base Budget of \$13,468,576. Justice Hines noted that in the 2012 Amended Budget Request, there were five entities outside the Judicial Council's budget; the Office of Dispute Resolution requesting \$0. Budget increases are being sought by the Georgia Resource Center (\$172,640) after losing grant funding and seeking funds to maintain its budget; the Judicial Qualifications Commission (\$53,000) for a staff attorney; and the Administrative Office of the Courts (\$25,000) to purchase software and hardware for the Interpreters Pilot Project.

Justice Hines reported on the 2013 Judicial Budget Request which includes only four budget units not within the Judicial Council's budget; the Office of Dispute Resolution was not included as it no longer receives state funds. Justice Hines reported the 2013 Budget Request of \$14,279,836, a 6% increase from the 2012 Base Budget. Increases in requests from the Georgia Resource Center (\$234,500); Judicial Qualifications Commission (\$106,000); and the Administrative Office of the Courts (\$470,760) were reviewed. The Institute of Continuing Judicial Education request was not available for discussion during the meeting. (It was later determined ICJE would request a continuation amount equal to its 2011 allocation.)

Justice Hines moved a three-part motion: 1. Adopt FY2012 Amended Budget Committee recommendations; 2. Adopt FY2013 Budget Request; 3. Give the Budget Committee authority to make decisions during the 2012 Legislative Session. Judge Emerson asked for clarification as to how the Judicial Council should consider the motion: as one motion or as separate motions. Justice Hines deferred to the Council's judgment. The motion was voted unanimously as one item.

Judge Harvey requested a brief explanation of where the budget request is sent. Chief Justice Hunstein answered that the budget is sent to the Governor's office first, then is reviewed by the budget committees in the House and Senate.

Committee Reports

Nominating Committee. Judge Stephens reported to the Judicial Council the Nominating Committee's recommendations to appoint members to the Board of Court Reporting: Judge Patricia Booker, State Court of Richmond County, Ms. Cheryl Griffin, Ms. Stacey Folds, Ms. Carol Glacier, and Ms. Tina Harris. Judge Stephens explained that

a review of the statute revealed that Judge Booker had not served as a State Court Judge long enough to sit on the Board. Judge Richard Kent was nominated in her stead. Judge Stephens moved to accept the nominations as amended. Presiding Justice Carley seconded. The motion passed.

Judicial Workload Assessment Committee. Judge Emerson thanked the Committee members and AOC staff who worked on compiling the data needed for judicial recommendations. There have been difficulties with accuracy of data reported. Some studies were wrong and a new study was warranted. Judge Emerson implored judges who have requested judgeship studies to get involved in case counting and ask for a monthly report of filings and dispositions from clerks within a judge's circuit.

Major changes have been made in the judgeship study that has made it somewhat harder for some circuits to get judges, but it is a very accurate system. When JWAC determines a circuit qualifies, there is a very real need for judicial resources in that circuit. The Committee is still working at the local level to obtain accurate numbers. Training and working with clerks is necessary to fully count the work of judges. JWAC will meet in September to continue discussion on accurately counting treatment courts including reviewing other states' procedures when counting treatment cases. Illinois counts treatment cases at nearly 200 minutes; Florida, 95 minutes. A standard felony in Georgia is counted as 48 minutes. Judge Abbot commented that even if a circuit does not qualify, it is still important to make sure the numbers are accurate. In the Eastern Circuit, hand counts are being done after uncovering large discrepancies in the computer count. She mentioned that it is hard to know what the AOC wants in a count; training or help from the AOC is warranted. Ms. Moore responded that the AOC is planning in-service training in the fall.

Judge Emerson mentioned the AOC Portal where clerks can input case count. This year 55% of the state's Superior Court Clerks used the Portal to submit caseload. In 2010, 14% of caseload was submitted to the Portal. Out of 159, 18 counties have not submitted their caseload and the *Annual Report on the Work of the Georgia Courts* cannot be published without the missing data. Chief Justice Hunstein inquired if the judges in the delinquent counties knew that their caseload had not been submitted. Judge Emerson responded that he personally has contacted the Chief Judges of those circuits.

Judge Abbot will reach out to those circuits within her district whose data has not been submitted. Judge Christian requested that the AOC notify the Chief Judges of each circuit of when in-service trainings are scheduled so that she can advise clerks in her circuit about them. Judge Scott echoed that request. Judge Emerson volunteered to answer any questions the Council members might have.

Accountability Courts Committee. Chief Justice Hunstein noted that the Accountability Courts Committee has replaced the Drug Court Committee. Members who served on the Drug Court Committee continue to serve on the newly-formed Accountability Courts Committee. Judge Kathlene Gosselin has been appointed to fill the unexpired term of Sandra W. Miller; also appointed were Judge Susan Tate, Probate Court of Clarke County, and Judge Winston Bethel, Senior Magistrate of DeKalb County. The Committee is looking to develop the best practices and policies for accountability courts because the Legislature is looking for uniformity in the programs across the state.

Domestic Violence Committee. Chief Justice Hunstein referred members to a written report provided in the agenda.

Justice for Children Committee. Chief Justice Hunstein referred members to a written report provided in the agenda.

Court Process Servers. Chief Justice Hunstein recognized Rep. Wendell Willard and asked him to address the Council. Rep. Willard reported that several years ago the process server bill was passed. A provision was placed in the bill that gave the state's sheriffs a veto concerning persons who became qualified. Sheriffs have taken the provision to blanket disallow anyone anywhere. The Judicial Council and AOC have established a training and testing program for process servers. A separate provision in the bill recognizes that courts have their own power and discretion in setting up individuals for service of process. OCGA 9-11-4.1(h) states that the provision of this subsection shall not apply to a certified process server who was appointed by the court to serve process or who was appointed as a permanent process server by a court. Rep. Willard asked the Council of Superior Court Judges to adopt a rule to recognize service of process by those who have gone through the training and been qualified through testing. Rep. Willard expressed his willingness to work with the Rules Committee to set

up this rule and, unless there are State or Magistrate Court rules to the contrary, those rules would control. Judge Abbot, Chair of Uniform Rules Committee, commented that 9-11-4.1 still allows Superior Court judges to appoint permanent process servers without testing which creates a loophole. She proposed making the process uniform by requiring training for everyone or eliminating the ability for judges to appoint permanent process servers. Judge Abbot expressed her willingness to work with Rep. Willard.

Report from AOC Director

Ms. Moore began her report by noting that on August 1, she celebrated her second anniversary as Director of the Administrative Office of the Courts. There have been many challenges and she thanked the Judicial Council for help getting through the challenges. Ms. Moore thanked some of the AOC staff, in particular: Ms. Cynthia Clanton, Mr. Randy Dennis, Mr. Jorge Basto, Ms. Molly Perry, and Ms. Kelly Steele who is leaving the AOC later this year.

Ms. Moore brought attention to several handouts. The *Judicial Council Members' Guide*, a corrected version from what was distributed at the April 2011 meeting, includes historical information on the AOC and Judicial Council, a judge's role as a member of the Judicial Council, Supreme Court orders, bylaws, and policies. The *Judicial Council Members' Guide* is also available at georgiacourts.gov. The *Georgia Courts Directory* is the one publication the AOC continues to print. Ms. Moore noted that agenda materials will be recycled if they are left on the table at the end of the meeting.

Ms. Moore reported on the Immigration and State Court Initiative being conducted by the Center for Public Policy Studies (CPPS) in partnership with the State Justice Institute. The project is focused on four strategic priorities: 1. Increasing understanding and awareness of the impact of immigration in the state courts; 2. developing and testing state and local approaches for assessing and addressing the impact of immigration on the state courts; 3. enhancing state and local court capacity to improve court services affected by immigration; and 4. building effective national, state, and local partnerships for addressing the impact of immigration on the state courts. Ms. Moore expressed her excitement that Georgia was chosen as one of the states to which the Initiative will provide their expertise. The CPPS has already begun to research the state's statutes and policies. At the end of this project, judges will have tools to assist in

day-to-day operations. A meeting is planned for September 7 and 8 with stakeholders and experts in Georgia to discuss the challenges and solutions associated with immigrants and immigration issues. Those who are interested in participating should contact Ms. Tracy Powell at the AOC.

The National Judicial College has made available the opportunity to hold a Symposium on Addiction. The goal of the Symposium on Addiction is to look at addiction in a systemic way: how do you bring resources to people that need services? There are slots for fifty participants. Chief Judges in eight circuits have been asked to put together five-member teams; ten people from state-level positions have also been invited. The Symposium will be held October 26-28.

With the retirement of Ms. Billie Bolton, Ms. Ashley Stollar and Ms. Maggie Reeves have taken the reins of the Communications Section for the agency. Ms. Moore urged members to keep an eye out for *On Balance* and the *Georgia Courts Journal* and mentioned the agency's presence on social media sites Facebook, Twitter, and YouTube.

Ms. Moore called on Mr. Jorge Basto to make the report on the IT Division of the AOC.

Case Management Re-engineering. He reported that the AOC offers Case Management Solutions to facilitate data reporting and transmission mandates from the Legislature or other state agencies. AOC IT is looking for ways to have viable, sustainable solutions for the courts. SUSTAIN continues to be viable through the next decade. In the past 12 months resources have been focused on training and updating SUSTAIN. Currently 261 courts are utilizing SUSTAIN, TIPS, MCIS, PCIS, GAJury, and Child Support e-Filing software; 21% of the state's courts are using AOC-supported programs. Additionally, the AOC is looking for options to continue providing AOC software or alternatives through vendors.

E-Filing. Mr. Basto reported the growth in the number of superior courts using the Child Support e-Filing Software. The AOC has worked with the Superior Court Clerks Cooperative Authority on this project using the clerks' portal. There are 32 courts actively filing with three more ready to file; additionally there is a waiting list for future installations. This project is seen as a model for data exchange and interagency

cooperation and will be featured prominently at the Court Technology Conference in October in Long Beach, CA.

AOC Portal. The AOC Portal currently has 1,093 registered users. In 2010, it began as a self-service feature to allow judges and clerks access to update their contact information for the *Georgia Courts Directory*. Last year, the case count module was introduced and had a 55% user rate this year. Mr. Basto proposed that in the future, the Portal could be used for Court Reporters, Court Interpreters, ICJE reporting, and research requests.

Citation Management. Mr. Basto noted that citation management is prime for use of technology and automation; noting the needs the AOC has heard about from its customers for streamlining a very cumbersome process that includes the courts, law enforcement, and other agencies. The 85 courts that use TIPS now have access to on-line credit card payments. The effort is increasing revenue, reducing the volume of foot traffic at courthouses, reducing clerk time, and reducing the need for law enforcement officers to appear in court. AOC IT is also working on a project developed to electronically upload citations, a time consuming process that is prone to data entry errors. There are several projects in motion to install hardware in police cars that would originate citations which would then be uploaded electronically to the courts. Mr. Basto reported on the work being done on citation imaging allowing for actual image of signatures and the Uniform Traffic Citations to be delivered electronically.

Mr. Basto ended his report noting that these projects are affecting every level of court and are having a positive impact for the courts. Chief Justice Hunstein recognized the AOC for all the progress it has made while Ms. Moore has been Director over the past two years. She stated that the AOC serves all the courts and judges would do well to take advantage of the expertise, support, and help available.

Reports from Appellate Courts and Trial Court Councils

Supreme Court. Chief Justice Hunstein reported on the Council of Chief Justices/Conference of State Court Administrators meeting that was held in Atlanta July 31 – August 3 at the Ritz-Carlton in Atlanta. Chief Justices from 45 states attended; 250 total participants attended the conference. The conference was well received and participants were impressed with Georgia’s judicial system and the Administrative Office

of the Courts. The Georgia State Patrol and Atlanta Police Department acted as security for the conference. The Chief Justice recognized Ms. Tia Milton, Ms. Kelly Steele, and Ms. Tee Barnes who, along with the Clerk's office and AOC, did a great job organizing the conference. She commented that over the last two years, the judiciary has established a credible and friendly relationship with legislators and their budget staffs and has educated them in court functions.

Chief Justice Hunstein brought attention to the Georgia Appellate Resource Center. In the past, IOLTA funds have been used to fund the Center; this year a majority of the funds were awarded to Georgia Legal Aid and Atlanta Legal Aid. It is very important to be supportive of their request for the amended budget for FY12, otherwise the Resource Center will not be able to function. Georgia is the only state in the nation that does not provide funding for habeas corpus representation in death penalty cases. At the budget committee meeting the day prior, Judge Emerson recommended that the death penalty cases in Butts County have a system to bring the records and transcripts electronically from the Butts County Clerk's Office to the Supreme Court. Currently when there is an order out of Butts County Superior Court, someone must drive to Atlanta when executions and stays of executions are being deliberated. Judge Emerson noted the special need and the practicality with today's technology of this project. Staff at the Clerk's office in Butts County supports the idea; he expressed his hope that funding can be found to support the project. Approximately \$48,000 would be required for hardware and software. This project would give the Attorney General's office, death penalty attorneys, and the habeas judge on-line access to those records.

Chief Justice Hunstein reported on a request received by Rep. Rich Golick for the Judicial Council to support legislation that would provide dedicated funding for the Georgia Public Defenders Standards Council (GPDSC). A constitutional amendment would be required. Rep. Golick would like to have a show of support that the court system can only function properly if there is adequate funding for indigent defense in Georgia. The Chief Justice asked Judge Michael Boggs to report on his conversation with Rep. Golick. Judge Boggs reported that Judge McGarity presented the proposal to the Council of Superior Court Judges. Last year, there was a \$4.5 million difference between what was collected and what was allocated to the GPDSC. Judge McGarity

reported that he appeared in front of the non-civil judiciary committee chaired by Rep. Golick. There were concerns raised about dedicated funding being a limit to funding; while it might not be adequate, dedicated funding would be a starting point as long as a cap were not placed on funding. The budget of the GPDSC is currently 10% short of its needs. Rep. Golick has introduced a resolution that would provide for dedicated funding. Excess funds at the end of the fiscal year would not go back into the state's general fund; a reserve would be built with any excess. Chief Justice Hunstein asked all councils to support this effort. The request will be assigned to the Policy and Legislation Committee. She commended Rep. Golick for his work on funding for the GPDSC.

Court of Appeals. Chief Judge Ellington made no report.

Superior Court. Judge Pridgen reported that the Superior Court Judges are doing the best they can with what they have to work with. The Council has had very positive meetings with leaders in the House and Senate in the appropriations arena and will be making some budget enhancement requests and are encouraged they will receive a favorable response.

State Court. Judge Mims noted the State Court Judges excitement at the invitation to be involved in the Impact on Immigration in the Courts study. Many State Courts are in areas where immigration has had a significant impact and are looking forward to participating in that effort. Judge Mims invited the Judicial Council members to review a study published by National Highway Traffic Safety Administration that is an evaluation of the DUI courts in Chatham, Hall and Clarke counties which collected anecdotal evidence showing the impact that DUI courts have made on the judicial system. The report found a retention rate of 79% in DUI courts; graduates had a 9% recidivism rate and terminated offenders experienced a 26% recidivism rate. The study shows that the participation in these courts prevented between 47-112 repeat arrests during a four-year period which ties in to cost-saving for courts. This study will give some idea of the impact of accountability courts. The study results may help judges understand that accountability courts may be a way to help do their jobs more efficiently. Judge Mims noted that the report may be viewed online:
<http://www.nhtsa.gov/Driving+Safety/Research+&+Evaluation>.

Juvenile Court. Judge Poole reported on the proposed new model code. The Council of Juvenile Court Judges is reviewing the code in its committees. Three judges appeared before the legislature the day before the Judicial Council meeting to voice the Council's concerns. The Council continues to meet quarterly with DFACS and is meeting with the Department of Juvenile Justice in an effort to have a collaborative relationship.

Probate Court. Judge Blackwell reported that the Council of Probate Court Judges has updated its Benchbook through the 2011 legislative session. It has contracted for a revision of the criminal Benchbook for courts with traffic jurisdiction and is set for distribution in November.

The Council made changes to ten of its standard forms and proposed the addition of two new forms: Temporary Medical Consent Guardian and Determination of the Right to Dispose of a Body. The Council held its IT Strategic Planning in March at the AOC offices to review and update the 2009 plan ensuring it is in compliance with the business plan of the Council. In August, a Strategic Planning meeting was held to reexamine the strategic goals, assess progress, set goals for implementation, and discuss past and future legislative initiatives. A legislative committee meeting is being planned for mid-September to discuss current pending new legislation for the 2012 session which will be available for the Judicial Council Legislative and Policy Committee for vetting.

The Council's Retirement Committee has been in discussion with the Council of State Court Judges and the Superior Court Clerks about the impact the creation of new state courts has on probate judges' retirement.

Because of statute changes for weapons carry licenses, the Council is working with the Department of Administrative Services through the AOC to secure equipment and supplies necessary to produce new weapons carry licenses which now must have enhanced security features. RFPs have been issued and vendors have until August 30 to respond. January 1, 2012 is the implementation date for the new licenses.

The Council will hold its annual fall seminar October 10-13 in Savannah, in conjunction with the Constitutional Officers Association of Georgia (COAG). Executive, Business and Training Committees will be held at that meeting.

Nine sessions were held in June on the National Instant Criminal Background Check System (NICS) with the FBI in conjunction with the Council. NICS is a

computerized system designed to immediately identify those persons who are disqualified from receiving or possessing firearms by conducting a search of available records.

Judge Blackwell reported that the Council is strengthening its mentoring program and moving forward with accreditation for all Probate Court Judges. The mandatory accreditation program will require 72 hours of training and will begin in Spring of 2012.

Magistrate Court. Judge Moss reported that Magistrate Court Judges are developing a non-legislative resolution in response to HB 149. They have met with the Judicial Qualifications Commission and are working with the Supreme Court. The Council has hired a consultant from the National Center for State Courts to study Georgia's magistrate court. The study will compare Georgia with magistrate courts in the Southeast and nationally and will study the selection, term, and removal of magistrates in Georgia. The resulting report will include best practices and will be shared with the Judicial Council and the AOC. Judge Moss noted that the Magistrate Council meetings have now been scheduled to coincide with ICJE recertification in order to streamline Council meetings in the current budget climate.

Municipal Court. Judge Oliver reported that the Council of Municipal Courts Judges *Annual Report* has been published and distributed. Actions taken at its annual meeting include: amending council bylaws to stagger terms of the training council and outlining specific requirements and duties of district representatives. The Council is trying to improve its track record of submitting data to the case count study. This year 80% of municipal courts have submitted their caseload. Because clerks are not necessarily under the supervision of the judges, a letter was sent out to mayors whose courts had not reported. Judge Oliver noted that most clerks are using the AOC Portal to submit caseload. The Executive Committee has approved funding and the script for its First Appearance Video which is scheduled to be produced within the next six months.

Old/New Business

Chief Justice Hunstein reported that the Special Council on Criminal Justice Reform is meeting on a regular basis and has made substantial progress. On the judicial side, the Chief Justice, Judge Boggs, and Judge Ural Glanville are looking at evidence-based sentencing with risk assessments so that low-risk offenders and some medium-risk offenders would not be incarcerated, but would keep the highest-risk offenders in the

prison system keeping the public as safe as possible while reducing costs to taxpayers. An upcoming item for consideration is reducing the sentence for misdemeanors to six months. Based upon a US Supreme Court decision, a defendant would not be entitled to a jury trial in some misdemeanor cases. Chief Justice Hunstein noted that this should free up time for state courts and some superior courts. Judge Wright asked for a list of meeting times for the Special Council as she would like to attend. The Chief Justice answered that she rarely is given more than three or four days notice for a meeting. However, when a meeting comes up, that information can be distributed.

Justice Harold Melton reported on two amendments to the Recusal Rule concerning Financial Disclosure Statements and the Maximum Allowable Contributions Canon. Judge Wright asked if there was any place PAC money must be disclosed. Justice Melton responded there was not. In response to questions posed by Judge Wright, Justice Melton explained that it is the judge's obligation to inform the parties or the parties obligation to find out if a judge received PAC money. The amendment does not pose a constitutional violation but a Code of Judicial Conduct violation which is more tangible and thus may be more easily dealt with by the courts. (See Appendix A for complete wording.)

Justice Melton reported on two rule amendments by the Commission on Interpreters. The changes guarantee non-English speakers are provided with interpreters at each critical stage of a criminal or civil legal proceeding at no cost. The rule changes were in response to a letter from the Department of Justice (DOJ) mandating all court-managed functions comply with Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968. The new rules are intended to help ensure that some degree of help is available throughout the courthouse and court proceedings and to avoid a DOJ investigation in Georgia like similar investigations in Colorado and Alabama. The Alabama investigation led to a Memorandum of Understanding calling for monitors and high level financial investments to meet the DOJ standards. Judge Emerson noted his concern the scope of the DOJ wording of "all court proceedings" could end collateral programs. Justice Melton mentioned the joint resolution of the Conference of Chief Justices/Conference of State Court Administrators resolution to the American Bar Association to hold off on a model rule in line with these

rules as written. Judge Abbot asked if there is a procedure for use of a non-certified or non-registered interpreter in uncontested cases when a litigant brings a friend or family member to serve as an interpreter. Justice Melton advised caution in such situations. While the Commission on Interpreters provides a list of qualifying questions for someone who proposes to be an interpreter, if that person is not providing a meaningful interpretation the litigant will not be able to participate meaningfully in a judicial proceeding.

Chief Justice Hunstein referred members to the written report regarding the Jury Reform Update. The Chief Justice thanked Justice Thompson for his hard work on the Jury Reform legislation.

Ms. Moore reported that AOC staff has been in talks with interested parties about a Proposed Tax Court since February. A portion of the statute indicates that the Judicial Council would look at the Tax Court as a pilot project for non-uniform jurisdiction court; however, as it is proposed, the Tax Court does not meet the requirements for Judicial Council review. The AOC has suggested changes to the statute to bring the proposal in-line with the policy.

Concluding Remarks and Adjournment

The next meeting of the Judicial Council will be Friday, January 5, 2012, at 1:00 p.m. at the Loews Hotel in Atlanta in conjunction with the State Bar of Georgia's mid-year meeting.

Chief Justice Hunstein adjourned the meeting at 12:00 p.m.

Respectfully submitted:

Ashley G. Stollar
Communications/Outreach Specialist II

The above and foregoing minutes were
Approved at the meeting held on the 5th
Day of January, 2012.

Report of the Special Council on Criminal Justice Reform for Georgians

November 2011

Executive Summary

Criminal Justice Reform Process

Seeking new ways to protect public safety while controlling the growth of prison costs, the 2011 Georgia General Assembly passed HB 265 to establish the inter-branch Special Council on Criminal Justice Reform for Georgians (Council). Beginning in the summer of 2011, the Council members began a detailed analysis of Georgia's sentencing and corrections data and solicited input from a wide range of stakeholders to identify ways to improve public safety for the citizens of Georgia. The Council used that information to develop tailored policy options, including proposals that would invest a portion of any savings from averted prison spending into evidence-based strategies to improve public safety by strengthening probation and parole supervision and reducing recidivism.

Cost of Doing Nothing

During the past two decades, the prison population in Georgia has more than doubled to nearly 56,000 inmates. As a result, Georgia has one of the highest proportions of adult residents under correctional control. This growth has come at a substantial cost to Georgia's taxpayers. Today the state spends more than \$1 billion annually on corrections, up from \$492 million in FY 1990. Yet despite this growth in prison, Georgia taxpayers haven't received a better public safety return on their corrections dollars: the recidivism rate has remained unchanged at nearly 30 percent throughout the past decade. If current policies remain in place, analysis indicates that Georgia's prison population will rise by another 8 percent to reach nearly 60,000 inmates by 2016, presenting the state with the need to spend an additional \$264 million to expand capacity.

Opportunities for Reform

The Council's analysis revealed that inmate population growth is due in large part to policy decisions about who is being sent to prison and how long they stay. The data shows that drug and property offenders represent almost 60 percent of all admissions. Importantly, many of these offenders are identified as lower-risk. In 2010, Georgia courts sent more than 5,000 lower-risk drug and property offenders to prison who have never been to prison before, accounting for 25 percent of all admissions. Looking more closely at drug admissions, more than 3,200 offenders are admitted to prison each year on a drug possession conviction (as opposed to a sales or trafficking conviction), and two-thirds of these inmates are assessed as being a lower-risk to re-offend.

The Council also identified several challenges to the state's ability to effectively supervise offenders on probation and parole and provide interventions that can reduce the likelihood of reoffending. Since 2000, Georgia's felony probation population has grown by 22 percent to 156,000 and the state's parole population has grown by 9 percent to 22,000. Currently, probation and parole agencies operate effective programs using evidence-based tools to identify and supervise higher risk offenders. But the Council's analysis shows that these options are limited and supervision agencies do not have the resources required to supervise offenders adequately. With greater investment in these and other programs and expansion to additional sites to serve more offenders, the state can reduce recidivism and create viable sentencing options for judges that can achieve better public safety outcomes at a lower cost.

Policy Options

This report provides analysis and options for policymakers to consider. These policy options increase public safety and avert the growth currently projected for the state's prison population. The Council considered these recommendations and options and, despite not reaching consensus on every one, agreed to forward the report to the legislature for consideration and action in the 2012 legislative session.

The Council recommends that where potential savings are achieved, a portion should be reinvested into those options proven to reduce recidivism and improve public safety. These include expanding the availability of drug and other accountability courts and strengthening community supervision. The Council also recommends investing in effective information and performance measurement systems.

Impact

Many of the policy proposals in this report focus on improving community-based supervision, sanctions and services as well as other practices proven to reduce recidivism, which are essential to improving public safety. Some of these proposals will require investment by the state. In order to allow for this reinvestment, the policy proposals in this report provide the legislature with options to avert much if not all of the projected growth in the prison population and corresponding costs over the next five years.

Acknowledgements

The Council would like to thank the following individuals for their assistance throughout the Council's work:

Georgia Department of Corrections

Brian Owens, Commissioner

Stan Cooper, Director, Probation Operations

Jay Sanders, Special Assistant to the Director of Probation Operations

Mark Waldron, Director, Office of Planning and Strategic Management

Ron Henry, Office of Planning and Strategic Management

Delois Brown, Office of Planning and Strategic Management

Warren Reid, Office of Planning and Strategic Management

Dr. Timothy S. Carr, Office of Planning and Strategic Management

Phil Sellers, Director, Office of Information and Technology

Jeff Smith, Office of Information and Technology

Keith Perry, Office of Information and Technology

Dilip Mehra, Office of Information and Technology

State Board of Pardons and Paroles

Michael Nail, Executive Director,

Scott Maurer, Assistant Director, Research, Evaluation and Technology

Judicial Council / Administrative Office of the Courts

Marla Moore, Director

Mike Cuccaro, Assistant Director, Governmental and Trial Court Liaison

John Zoller, Statewide Accountability Court Coordinator

Bob Bray, Executive Director, Council of State Court Judges

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

Georgia Bureau of Investigation

Vernon Keenan, Director

Dan Kirk, Assistant Director

Dr. George Herrin, Deputy Director, Division of Forensic Sciences

Nicole Astor, Chemistry Technical Leader

Overview of the Council's Work

Seeking new ways to protect public safety while controlling the growth of prison costs, the 2011 Georgia General Assembly passed HB 265 to establish the inter-branch Special Council on Criminal Justice Reform for Georgians (Council). The legislation also created a Special Joint Committee on Georgia Criminal Justice Reform (Joint Committee), made up of members from both legislative chambers, to consider the recommendations of the Council in the 2012 legislative session.

The state's leaders laid out the following goals for the council:

- “Address the growth of the state’s prison population, contain corrections costs and increase efficiencies and effectiveness that result in better offender management;
- Improve public safety by reinvesting a portion of the savings into strategies that reduce crime and recidivism; and
- Hold offenders accountable by strengthening community-based supervision, sanctions and services.”¹

Beginning in the summer of 2011, the Council members (see sidebar) began a detailed analysis of Georgia’s sentencing and corrections data and solicited input from a wide range of stakeholders to identify ways to improve public safety for the citizens of Georgia. The Council used that information to develop tailored policy options, including proposals that would invest a portion of any savings from averted prison spending into evidence-based practices (EBP)² to improve public safety by strengthening probation and parole supervision and reducing recidivism.

The Council received technical assistance from the Public Safety Performance Project of the Pew Center on the States (Pew) in conjunction with the Justice Reinvestment Initiative of the U.S. Department of Justice. Pew has provided assistance to over a dozen states by analyzing data to identify the drivers of prison growth and by developing research-based, fiscally sound policy options to protect public safety, hold offenders accountable and contain corrections costs. In Georgia, Pew’s team was assisted by the Crime and Justice Institute and Applied Research Services, Inc.

The Council members divided into working groups to develop specific recommendations in three areas: sentencing and prison admissions; prison length-of-stay and parole; and community supervision. The working groups met individually throughout the summer and fall to review data, assess the state’s criminal justice system and existing policies, and to explore policy options before presenting their findings and recommendations to the Council. The Council then assembled a package of policy options with the underlying goal of protecting and improving public safety and compiled this report to the Governor, Lieutenant Governor, Speaker of the

¹ Letter to the U.S. Department of Justice and the Pew Center on the States dated May 27, 2011 and signed by Governor Nathan Deal, Chief Justice Carol W. Hunstein, Lieutenant Governor Casey Cagle, and Speaker David Ralston.

² “Evidence-based practices” refers to supervision policies, procedures, programs and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or post-release supervision.

House of Representatives, and Chief Justice of the Supreme Court for full consideration by the Joint Committee.

Members of the Special Council on Criminal Justice Reform for Georgians

Gubernatorial Appointees

Hon. Todd Markle (Chair and designee of the Governor)	Superior Court Judge, Atlanta Judicial Circuit
Linda Evans	Member, Judicial Qualifications Commission
David McDade	District Attorney, Douglas County
Ken Shigley	President, Georgia State Bar

Senate Appointees

Sen. John Crosby	District 13, Tifton
Sen. Bill Hamrick	District 30, Carrollton
Sen. Ronald Ramsey	District 43, Decatur

House Appointees

Rep. Mary Margaret Oliver	District 83, Decatur
Rep. Jay Powell	District 171, Camilla
Rep. Willie Talton	District 145, Warner Robins

Judicial Branch Appointees

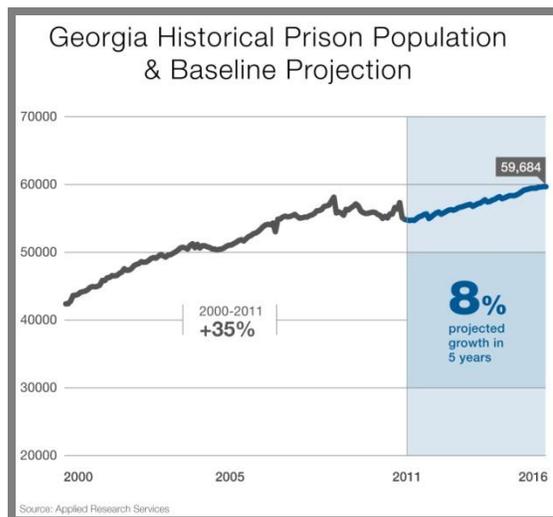
Hon. Carol Hunstein	Chief Justice, Supreme Court of Georgia
Hon. Michael P. Boggs	Superior Court Judge, Waycross Judicial Circuit
Hon. Ural Glanville	Superior Court Judge, Atlanta Judicial Circuit

Corrections Trends and the High Cost of Inaction

During the past two decades, the prison population in Georgia has more than doubled to nearly 56,000 inmates.³ Since 2000, the population has grown 35 percent.⁴

As a result, Georgia has one of the highest proportions of adult residents under correctional control. At year end 2007, 1 in 70 adults was behind bars in Georgia, compared to the national incarceration rate of 1 in 100 adults, and Georgia had the fourth highest incarceration rate in the country.⁵

This size and growth has come at a substantial cost to Georgia's taxpayers. Today, corrections costs the state more than \$1 billion per year,⁶ up from \$492 million in FY 1990.⁷



Yet despite this growth in prison population and spending, Georgia taxpayers haven't received a better return on their corrections dollars. The recidivism rate—the proportion of inmates who are reconvicted within three years of release—has remained unchanged, hovering just shy of 30 percent throughout the past decade.⁸

If current policies remain in place, analysis indicates that Georgia's prison population will rise by an additional 8 percent to reach nearly 60,000 inmates by 2016.⁹ With the state's existing prison facilities filled to 107 percent of their capacity,¹⁰ continued inmate growth creates the likelihood of new and substantial taxpayer burdens. Absent policy reform, the state faces the need to spend an additional \$264 million over the next five years in order to expand capacity to meet the projected increase in population.¹¹

³ Georgia Department of Corrections, Weekly Report. Includes prison inmates plus the jail backlog.

⁴ Georgia Department of Corrections, Weekly Report. Includes prison inmates plus the jail backlog.

⁵ Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009).

⁶ State of Georgia's Budget in Brief FY 2011 and FY 2012.

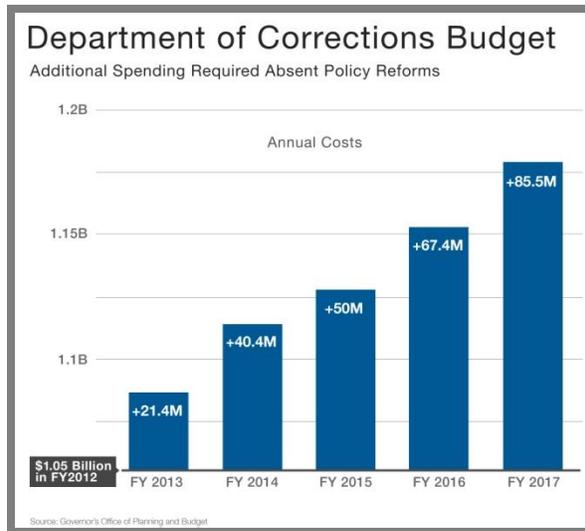
⁷ Georgia Department of Corrections, Budget in Brief, 1990. In inflation adjusted terms, the 1990 figure is \$854 million.

⁸ Georgia Department of Corrections.

⁹ Analysis conducted by Applied Research Services.

¹⁰ Georgia Department of Corrections as of July 1, 2011.

¹¹ Office of Planning and Budget.



Georgia's challenges are daunting but not unique. Across the country, state prison populations and corrections budgets have expanded rapidly in recent decades. Over the last 20 years, spending on corrections has been the second fastest growing state budget item behind Medicaid.¹²

Facing projections of significant increases in correctional costs due to the growth in their prison populations, many states have embraced a "justice reinvestment" strategy aimed at improving public safety and controlling corrections costs by reinvesting funds saved from averted prison growth into proven recidivism reduction strategies. For example, in

January 2007, Texas faced a projected shortfall up to 17,000 prison beds in just 5 years. Rather than spend \$523 million in the 2008-2009 biennium to accommodate this growth, policymakers passed a comprehensive package of reforms to address their projected growth and invested \$241 million in residential, diversion and treatment centers.

As a result, this law and order state has averted the need for an estimated \$2 billion in new prison construction before 2012.¹³ In fact, Texas is now closing a prison for the first time in its history.¹⁴ Most importantly, Texas' 2010 crime rate is the lowest since 1973. And Texas is not the only state that has succeeded in reducing both crime and imprisonment: all 19 states that cut their imprisonment rates between 1999 and 2009 also experienced a decline in their crime rates.¹⁵

Georgia's Corrections Challenges

Ensuring that there is enough prison space for violent, career criminals is essential to protecting public safety. In recent years, Georgia has made strides in using its corrections resources more effectively by devoting an increasing percentage of prison beds to violent offenders. Since 2000, the share of prison admissions for crimes against persons¹⁶ has grown by more than 6 percentage points.¹⁷ In addition, Georgia has made some progress in improving supervision,

¹² National Association of State Budget Officers, "State Expenditure Report FY 2006." December 2007. <http://www.nasbo.org/Publications/PDFs/fy2006er.pdf>.

¹³ Council of State Governments Justice Center, *Justice Reinvestment in Texas: Assessing the Impact of the 2007 Justice Reinvestment Initiative*. (New York: Council of State Governments Justice Center, 2009).

¹⁴ Grissom, Brandi. "Prison Closing Pleases City and Helps State Budget." *Texas Tribune*. August 19, 2011.

¹⁵ Pew Center on the States, *State of Recidivism: The Revolving Door of America's Prisons*. (Washington, DC: The Pew Charitable Trusts, April 2011).

¹⁶ The State Board of Pardons and Paroles has developed a list of crimes that are considered person offenses. This list currently includes 105 crimes and gets updated each year.

¹⁷ Georgia Department of Corrections.

sanctions and services, and increasing the use of evidence-based practices for offenders on community supervision.

These are laudable advances, but Georgia's correctional challenges persist. The Council conducted an extensive review of Georgia's corrections system, analyzing sentencing and corrections data to identify what is driving the growth in the state's prison population. In addition, it audited state policies and practices to better understand ways to improve the state's community corrections system.¹⁸ The Council identified several specific challenges during their analysis.

Prison Population

The Council determined that prison growth cannot simply be explained by an increase in crime. Like most states, despite some annual fluctuation, Georgia has experienced an overall decline of both violent and property crime rates. In the past decade, violent and property crime rates have fallen 20 and 21 percent, respectively.¹⁹ And despite a growing resident population, the total number of violent crimes reported to police in 2009 is the same as it was in 1999.²⁰

The Council's analysis revealed that inmate population growth is due in large part to policy decisions about who is being sent to prison and for how long. Today, Georgia prisons are at or beyond capacity and the Council identified several challenges regarding the prison population and its growth, including:

- The data shows that most individuals sentenced to prison are drug and property offenders, and these offenders are also staying behind bars for longer periods of time. Drug and property offenders represent almost 60 percent of all admissions.²¹ In fact, five of the top six most common prison admission offenses²² are drug and property offenses (burglary, forgery, possession of cocaine, theft by taking and theft by receiving stolen property).²³ The data indicates that for drug and property crimes, the average length of stay behind bars more than tripled between 1990 and 2010.²⁴
- Importantly, many of these offenders are identified as lower-risk,²⁵ meaning they are less likely to reoffend based on an assessment tool that measures offenders' criminal risk factors that research shows are related to criminal behavior. In 2010, Georgia courts sent

¹⁸ 2010 data unless otherwise noted.

¹⁹ Crimes Reported to Police, Georgia UCR, 1999-2009. In comparison, the national declines for violent and property crimes during the same period were 18 and 19 percent.
http://www2.fbi.gov/ucr/cius2009/data/table_01.html.

²⁰ US Census Bureau and Crimes Reported to Police, Georgia UCR, 1999-2009.

²¹ Georgia Department of Corrections.

²² Offense refers to the most serious conviction offense according to the Georgia Department of Corrections.

²³ Georgia Department of Corrections. Offenses are listed in order starting with the most common.

²⁴ *Ibid.* Analysis conducted by Applied Research Services. Average time served grew from 0.6 years in 1990 to 2.0 years in 2010.

²⁵ Defined as offenders who received a 1-- 4 score out of a 10 point scale on the Parole Board's static risk assessment. The 2003 parole static risk instrument is conducted on all GDC inmates and predicts the probability of re-arrest. The risk factors assessed are age at sentencing, primary offense, number of prior prison incarcerations, number of prior drug sale or possession convictions, number of prior probation revocations, number of prior parole revocations, history of mental illness, history of assault offenses or behavior, and history of drug/alcohol use.

more than 5,000 lower-risk drug and property offenders to prison who have never been to prison before, accounting for 25 percent of all admissions last year.²⁶

Looking more closely at drug admissions, more than 3,200 offenders are admitted to prison each year on a drug possession conviction (as opposed to a sales or trafficking conviction), and based on historical trends they are likely to spend approximately a year and a half in prison before returning to the community.²⁷ Yet two-thirds of these inmates are assessed as being a lower-risk to re-offend.²⁸ Research indicates that incarceration can lead to increased recidivism for certain offenders, and that this effect is strongest among felony drug offenders.²⁹

Community Corrections

The Council also identified several challenges to the state's ability to effectively supervise offenders on probation and parole and provide interventions that can reduce the likelihood of reoffending.

Similar to the state's growing prison population, the number of people on probation or parole in Georgia has also risen consistently. Since 2000, Georgia's felony probation population has grown by 22 percent³⁰ and the state's parole population has grown 9 percent.³¹ As of 2010, there were more than 156,000 felony probationers and 22,000 parolees being supervised in Georgia communities.³² In both 2009 and 2010, more offenders entered probation supervision than were discharged, a change from the previous three years,³³ Probation sentences are also twice as long – almost 7 years – as the national average.³⁴ The result of the growth trends is that supervision agencies are overburdened in their efforts to conduct effective supervision.

Further, services and programs to which officers refer offenders are either insufficient or unavailable in many areas of the state. Research makes clear that evidence-based interventions can reduce recidivism among medium- and high-risk offenders. However, Georgia struggles with limited services and programs in the community, notably for substance abuse and mental health services. Currently, there are only 33 drug courts in the state, covering less than 50 percent of the state's counties³⁵ and serving fewer than 3,000 offenders.³⁶ In addition, there are only 13 Day Reporting Centers (DRC), which are community-based supervision and service centers that handle between 80 and 120 offenders per center.³⁷ The state operates just three

²⁶ Analysis conducted by Applied Research Services.

²⁷ Analysis conducted by Applied Research Services.

²⁸ Analysis conducted by Applied Research Services.

²⁹ Spohn, Cassia and Holleran, David. "Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders." *Criminology* Volume: 40 Issue: 2 Dates: May 2002 Pages: 329-358.

³⁰ Georgia Department of Corrections, active probationers.

³¹ Georgia Board of Pardons and Paroles.

³² Georgia Department of Corrections.

³³ *Ibid.* In 2010, 33,807 offenders came off probation while 39,417 offenders were admitted to probation.

³⁴ Average probation sentence in Georgia is 6.83 years according to the Georgia Department of Corrections. Nationally the average sentence is three years and two months. Source: "Felony Sentences in State Courts." 2006, Bureau of Justice Statistics, December 2009. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>.

³⁵ Georgia Adult Felony Drug Courts, "Summary of Performance Measures," January 2010 - January 2011.

³⁶ Administrative Office of the Courts.

³⁷ Georgia Department of Corrections.

probation substance abuse treatment centers which provide residential treatment for 800 offenders on probation with serious substance abuse problems.³⁸

The lack of community-based options not only constrains probation officers, it limits sentencing options available to judges. Insufficient alternatives in the community can result in judges sending lower-risk offenders to prison simply to get them into treatment or some other program. There are currently more than 800 inmates housed in county jails awaiting a bed at a Probation Detention Center (PDC)³⁹ and another 750 inmates are in jails awaiting a slot at a Residential Substance Abuse Center (RSAT).⁴⁰

Currently, probation and parole agencies operate some effective programs using evidence-based tools to identify and supervise higher risk offenders. But the Council's analysis shows that these options are limited and supervision agencies do not have the resources required to supervise offenders effectively. With greater investment in these and other programs and expansion to additional sites to serve more offenders, the state can reduce recidivism and create viable sentencing options for judges that can achieve better public safety outcomes at a lower cost.

³⁸ Administrative Office of the Courts, "Facts about Georgia's Courts." Revised 2/23/2011.
[http://w2.georgiacourts.org/gac/files/Facts%20Sheet%20-Drug%20Court%20Programs%202-23-2011\(1\).pdf](http://w2.georgiacourts.org/gac/files/Facts%20Sheet%20-Drug%20Court%20Programs%202-23-2011(1).pdf).

³⁹ Georgia Department of Corrections.

⁴⁰ *Ibid.*

Policies to Protect Public Safety, Hold Offenders Accountable and Contain Corrections Costs

Georgia policymakers are looking for ways to increase public safety and to control corrections spending and growth in the prison population. Per its legislative mandate, the Council undertook an extensive review of the state's data and practices to analyze whether Georgia's laws, policies and practices were focused on reducing recidivism and improving public safety.

This report provides analysis and options for policymakers to consider to increase public safety and avert the growth currently projected for the state's prison population. It provides descriptions of each of the options. The Council strongly recommends that where potential savings are achieved, a portion be reinvested into those options that have been proven to reduce recidivism and improve public safety. These include expanding the availability of drug and other accountability courts and strengthening community supervision. The Council also suggests investing in effective information and performance measurement systems.

The following policy options are presented in three sections:

- The first section consists of recommendations to improve public safety and hold offenders accountable by improving the criminal justice system in Georgia, particularly focusing on strengthening community supervision, sanctions and services.
- The second section outlines potential sentencing reform options that will focus expensive prison beds on violent, career criminals and identify lower-level, non-violent offenders who could be effectively supervised in the community.
- The final section summarizes the priority reinvestment opportunities that the Council believes should be adopted by the legislature in order to improve public safety in Georgia.

Part I: Improving Public Safety and Holding Offenders Accountable

The Council's analysis indicated that Georgia has established several good community-based sentencing options, but that they are insufficient in scale and scope to meet current needs. These options often do not exist in many parts of the state and too many of the options have waiting lists.

In addition, the Council noted that the number of people on probation or parole in Georgia has risen consistently. Since 2000, Georgia's felony probation population has grown by 22 percent⁴¹ and the state's parole population has grown 9 percent.⁴² As of 2010, there were more than 156,000 felony probationers and 22,000 parolees being supervised in Georgia communities.⁴³ In both 2009 and 2010, more offenders entered probation supervision than were discharged.⁴⁴

⁴¹ Georgia Department of Corrections, active probationers.

⁴² Georgia Board of Pardons and Paroles.

⁴³ Georgia Department of Corrections.

⁴⁴ *Ibid.* In 2010, 33,807 offenders came off probation while 39,417 offenders were admitted to probation.

Finally, probation sentences are twice as long as the national average.⁴⁵ The result of these facts and trends is that supervision agencies are overburdened in their efforts to provide effective supervision.

Based on this analysis, the Council developed a number of recommendations to improve public safety and hold offenders accountable. The recommendations focus on four areas: (1) Ensuring access to effective community-based sanctions, (2) Strengthening community supervision, (3) Ensuring resources are used effectively, and (4) Improving government performance to achieve long-term success.

Ensure Access to Effective Community-Based Sanctions

Recommendation 1: Create a statewide system of accountability courts. The Council recommends expanding the number of accountability courts and implementing a comprehensive standards and evaluation system to ensure all accountability courts are effective at improving public safety. Georgia has a number of accountability courts currently operating, including drug courts, mental health courts, veterans' courts, and others, but some areas of the state do not have any accountability courts. Drug courts, for example, have been proven effective when they follow specific best practices both here in Georgia and across the country.⁴⁶ By creating a statewide system of accountability courts that establishes best practices, collects information on performance measures, increases funding and conditions funding on adherence to best practices, Georgia can ensure that its accountability courts are making the most of their potential to increase public safety and controlling costs.

Specifically, the Council recommends that:

1. the Administrative Office of the Courts develop an electronic information system for performance measurement and require the submission of performance data.
2. the Judicial Council Standing Committee on Accountability Courts define and publish standards and mandatory practices to be promulgated by the Judicial Council within 6 months.
3. the Administrative Office of the Courts condition the award of state funds on compliance with standards and best practices.
4. the Administrative Office of the Courts create a certification and review process to ensure programs are adhering to standards and mandatory practices to include onsite auditing and the provision of technical assistance with evidence-based practices.
5. the state expand funding for accountability courts. The Council considered several options, including (1) redirecting savings from other reforms in this report, (2)

⁴⁵ Average probation sentence in Georgia is 6.83 years according to the Georgia Department of Corrections. Nationally the average sentence is three years and two months. Source: "Felony Sentences in State Courts." 2006, Bureau of Justice Statistics, December 2009. <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>.

⁴⁶ See National Highway Traffic Safety Administration, Department of Transportation, "An Evaluation of the Three Georgia DUI Courts." March 2011. <http://www.nhtsa.gov/staticfiles/nti/pdf/811450.pdf> and also Georgia Department of Audits and Accounts, "Judicial Branch Statewide Drug Court Programs Adult-Felony Drug Courts." September 2010.

<http://w2.georgiacourts.org/gac/files/Drug%20Court%20Performance%20Audit%20%20draft%202010.pdf>.

dedicating a percentage of the County Drug Abuse Treatment and Education (DATE) Fund to drug courts and expanding the number of offenses that could be considered for a DATE fine, and (3) implementing a minimum fine for any drug offense that would be dedicated to accountability courts.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Recommendation 2: Expand access to effective treatment and programming options in communities around the state. Georgia struggles with a lack of community intervention resources, notably for substance abuse and mental health services. This means that judges have limited non-prison sentencing options to choose from. Programs that do exist like residential substance abuse treatment programs (RSATs) and day reporting centers (DRCs) have significant wait lists and are not available in all parts of the state. The Council recommends expanding these resources immediately and using a portion of the savings identified in this report to support them, with particular attention to residential treatment beds and day reporting centers. Currently there are 750 inmates sitting in local jails awaiting a treatment bed.⁴⁷ If the state doubled the number of residential treatment beds available by opening 3 new facilities with 200 beds each, the state would nearly eliminate this backlog. In addition, GDC has identified 25 areas of the state in need of a DRC and to date has opened centers in 13 of those areas. If the state can open the remaining 12 sites, Georgia will have responded to the significant community-based programming needs throughout the state as each DRC can handle 80-125 offenders. DRC's are good sentencing options for many offenders, including those on probation and parole who have committed technical violations. In addition, the Council also discussed the possibility of drug court participants receiving expedited admission to these facilities since they have volunteered and acknowledged their addiction.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Strengthen Community Supervision

Recommendation 3: Require the implementation of Evidence-Based Practices. Research and practice over the past 25 years have identified new strategies and policies that can make a significant dent in recidivism rates. Ensuring that evidence-based practices (EBP) are used and that state funds are spent on EBP will ensure the state is getting the best public safety return on its investment. This recommendation would require that offenders on probation and parole are supervised in accordance with practices proven to reduce recidivism, and that state funds for offender programming are spent on programs that are evidence-based.⁴⁸ By adopting a comprehensive, research-based approach to supervision, corrections systems can reduce recidivism by up to 30 percent.⁴⁹ This significantly improves public safety and reduces costs.

⁴⁷ Georgia Department of Corrections.

⁴⁸ The Council recommends that "evidence-based practices" be defined in legislation.

⁴⁹ Andrews, D. A. and James Bonta, *The Psychology of Criminal Conduct*, 4th edition (Cincinnati: Anderson Publishing, 2006); MacKenzie, Doris L, "What Works In Corrections: Reducing the Criminal Activities of Offenders and Delinquents," (New York: Cambridge University Press, 2006); and Sherman, L.W., D. Gottfredson,

Recommendation 4: Create Performance Incentive Funding Pilot Projects. Evidence-based community corrections agencies can cut recidivism, but adequate funding for them is a perennial challenge in the criminal justice system. States and localities can align their fiscal relationships in ways that reward performance. If corrections agencies are successful in cutting the rate at which offenders are sent back to prison for new crimes or rule violations, the state reaps savings by avoiding prison costs. By sharing some of those savings with the successful agencies and localities, states can help build stronger community corrections systems without appropriating new funds. The incentive funding can be used to implement EBP, provide effective substance abuse treatment and other risk reduction programs, reduce caseloads and strengthen victim services. This recommendation would allow the Georgia Department of Corrections to work with localities to create up to 10 performance incentive funding pilot programs that provide fiscal incentives to reduce the rate at which offenders sent back to prison for new crimes or rule violations. The Council recommends that the pilots be conducted in circuits and that a local body, composed of local criminal justice stakeholders, oversee the pilot and receive and distribute funding. The Council also recommends that the legislation include requirements for the use of these dollars, and that this local body be tasked with using the funding in accordance with those requirements.

Recommendation 5: Implement mandatory supervision for all offenders who max-out their sentence. In 2010, 7,495 offenders released from prison had no parole supervision to follow. Of those offenders, 1,592 also had no probation supervision to follow meaning that they were released from prison with no supervision at all.⁵⁰ These offenders include serious and even some chronic offenders, and by requiring that offenders serve time on parole, parole officers can provide supervision while these offenders transition back into the community. They also can serve as a valuable resource to crime victims, who are eager for information concerning the offenders in their cases. This recommendation requires that all inmates who would be released without any supervision be transferred to parole supervision six months before their discharge date. The Council recommends that legislators consider the role that Transition Centers and other work release options could serve for these offenders. This recommendation would free up financial resources to pay for the cost of short and long-term increases to the parole population.

Ensure Georgia's Resources are Used Effectively

Recommendation 6: Improve Government Performance by Eliminating Dual Supervision. Currently some offenders are supervised by both probation and parole at the same time. However, it is unknown exactly how large this population is due to the difficulty of identifying these offenders through different information systems. Any overlap of time and resources to supervise offenders under both probation and parole is a significant waste of resources for the state. This recommendation would require GDC and the Board of Pardons and Paroles to identify a way to measure and track offenders who are dually supervised, whether as a result of the same or separate cases, and require that they develop rules governing how to eliminate such overlap.

D. L. MacKenzie, J. Eck, P. Reuter and S. Bushway, "Preventing Crime: What Works, What Doesn't and What's Promising," (Washington, D.C.: National Institute of Justice, 1997).

⁵⁰ Georgia Department of Corrections.

Recommendation 7: Implement Earned Compliance Credits for Probation and Parole. With the average probation sentence in Georgia twice as long as the national average, offenders stack up and stretch probation thin. Earned compliance credits allow agencies to devote time and effort to offenders who present a greater threat to community safety and who are more likely to benefit from supervision and programs. It also promises to enhance motivation and promote behavior change by providing offenders with incentives to meet the goals and conditions of supervision.⁵¹

This recommendation creates an earned compliance credit that would reduce the offender's term of probation by 20 days for each month that an offender (1) exhibits positive progression toward the goals and treatment of the offender's case plan,⁵² (2) has no new arrests, and (3) is current on payments for court ordered restitution, fines and fees. If the offender is convicted of a new crime, the offender's existing credits are lost. Offenders currently on probation or parole would be able to begin earning these credits immediately. In addition, an offender's earned compliance credits in no way affect the ability of the parole board to commute an offender's sentence, nor does it affect the ability of judges to amend their sentences as they see fit.

The Council had significant discussions about ways to ensure that offenders are compliant and, in particular, the Council discussed the use of drug testing to ensure compliance. With current resources and staffing, probation is only able to conduct about 6,000 drug tests per month, resulting in many offenders being tested infrequently or not at all.⁵³ Thus, the Council suggests that standards for drug testing be developed.

Recommendation 8: Expand the Performance Incentive Credit (PIC) program. Georgia can reserve prison space for higher-risk offenders and create incentives for offenders to participate in programming that will reduce the likelihood to reoffend upon release. This recommendation endorses changes that GDC and Board of Pardons and Paroles are making to the current PIC program. These changes, which include allowing offenders to earn up to 12 months of PIC time off their sentence for participation in work or risk reduction, should be codified in statute.

Recommendation 9: Improve the mechanism for ending probation for non-violent offenders on unsupervised or administrative supervision. Currently there are more than 50,000 probationers on unsupervised or administrative supervision.⁵⁴ Georgia law allows supervision officers to bring probationers back to court to request that supervision be terminated.⁵⁵ However, probation termination is frequently not sought or granted. Removing low-risk, non-violent probationers who have met all of their obligations, including restitution, from supervision caseloads allows officers to focus their time on moderate and high-risk offenders who need supervision. This recommendation would require that when an offender is placed on unsupervised or administrative supervision they are brought back before the judge to determine whether they

⁵¹ Pew Center on the States, *Policy Framework to Strengthen Community Corrections*. (Washington, DC: The Pew Charitable Trusts, December 2008).

⁵² The Council discussed what it meant to exhibit positive progression and suggests it at least include having no positive drug screens, attending programs, not having a reporting violation, following instructions, not changing residence without permission, and having valid employment or being exempt.

⁵³ Georgia Department of Corrections.

⁵⁴ Georgia Department of Corrections.

⁵⁵ O.C.G.A. § 42-8-37.

should be removed from probation. In addition, the Council suggests allowing judges to identify offenders at sentencing (through a check box on the sentencing form) for whom they would allow probation to be terminated, without returning to court, once the offenders have met all the obligations of the courts and been placed on unsupervised or administrative supervision.

Recommendation 10: Cap Sentences at Probation Detention Centers (PDCs). PDCs were meant to be 60 to 120 day programs.⁵⁶ According to GDC, the average length of stay for those leaving a PDC in FY 2011 was 183 days, with the average length of stay at one PDC reaching 254 days.⁵⁷ In addition, there are currently about 800 offenders in local jails awaiting a PDC bed.⁵⁸ Capping stays at PDCs would reduce the jail backlog by allowing more offenders into PDC beds. In addition, providing information to judges on the current utilization levels of PDCs and any current PDC backlog will assist judges in making the best decisions.

This recommendation would require a 180-day cap on the sentence at Probation Detention Centers. The Council discussed not applying this cap, however, to offenders receiving a suspended PDC sentence in order to participate in a drug court program. In addition, the Council suggests that the Georgia Department of Corrections be required or incentivized to remove an offender from a local jail if beds are available. The GDC would also be required to include information in the judicial information system on utilization levels of PDC's and any PDC backlog.

Improve Government Performance and Ensure Long-Term Success

Recommendation 11: Create a Criminal Justice Reform Oversight Council. This recommendation would create an oversight council composed of legislative, executive, and judicial branch members, as well as representatives from the various sectors of the criminal justice system at the state and local level. The Oversight Council would be a continuing organization charged with monitoring and reporting back to the General Assembly on the implementation of the Special Council's recommendations and the Special Committee's legislation. The Oversight Council would also be asked to make additional recommendations to the General Assembly on future legislation and policy options.

Several issues were raised by Council members that could not be fully addressed for this report, but that the Council members felt deserved further examination. The Oversight Council could examine these issues further. These issues include, but are not limited to, the following:

- Juvenile justice reform: Council members believe that a full examination of the state's juvenile justice system should be undertaken to develop recommendations for reform.
- Misdemeanor probation: Georgia's unique approach to supervising misdemeanor offenders in the community should be fully examined, including the financing and

⁵⁶ Georgia Department of Corrections.

⁵⁷ Georgia Department of Corrections.

⁵⁸ *Ibid.*

monitoring of private probation, to determine whether it meets the public safety needs of the state and whether it adheres to evidence-based practices.

- Battered person syndrome reforms: Some offenders currently incarcerated may not have been able to present evidence about abuse they endured. Council members believe that consideration of changes to the parole relief statute, ability to bring petitions to the Supreme Court, and ability to bring petitions to the Court of Appeals would allow for a fairer criminal justice system and could remove from the prison population people who do not present a threat to society.

Recommendation 12: Improve the electronic criminal justice information systems. Council members highlighted three areas of Georgia’s current exchange of criminal justice information for improvement: providing information to judges about sentencing and parole practices, requiring submissions of electronic sentencing information to Corrections and Parole, and creating electronic notification of parole notifications to judges and prosecutors. This recommendation would require that GDC and Parole develop and maintain an information portal through the GDC website for judges with up to date sentencing and parole information. It would include average historical sentences by offense type across the state, circuit, and individual judge as well as information on how the guidelines rating chart works, crime severity levels, and risk scores. In addition, it would require that GDC, Parole and AOC develop and maintain a system to transmit sentencing packages electronically in coordination with the local courts, clerks, and sheriffs. Finally, it would also create an electronic notification process for the Parole Board.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Recommendation 13: Implement a performance auditing system. Internal audits by the Georgia Department of Corrections have shown significant strengths among the agency’s programs and facilities. However these audits also indicate a fidelity problem among some programs and facilities operated by the department. For example, not all offender files contained structured case plans, case plans were inconsistent and sometimes were not linked to assessments, and risk was not always a factor in selecting offenders. In addition, approximately 40 percent of facilities that were audited received lower scores in 2010 than in 2009.⁵⁹ This recommendation would require that GDC and Parole develop a system to regularly conduct external audits of all programs, practices and facilities, require that they report yearly on such audits to the Oversight Council and detail how they are using the audits to improve outcomes and meet the evidence-based practices requirement. The Council also suggests that an evaluation of the Probation Options Management (POM) system be conducted on public safety outcomes, including recidivism, and that there be an ongoing evaluation of POM to ensure fidelity of implementation. POM has been shown to improve processes within the justice system, however a study has not been done to determine whether it is increasing public safety, including reducing recidivism rates among POM probationers.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

⁵⁹ Georgia Programs Assessment Inventory 2009 and 2010 Reports.

Recommendation 14: Implement a systematic performance measurement model. Most performance measures in Georgia track processes such as case flow (new cases received, cases discharged, cases remaining), activity counts (number of office or field contacts completed, number of drug tests administered), or point-in-time snapshots (average caseload size, types of cases supervised). Such measures provide information about the agency workload, but fail to address the results achieved by the agency. The absence of outcome measures handicaps policy makers and others who wish to assess the overall performance of the agency, and also limits the ability of corrections executives to effectively manage their staff and resources. This recommendation would require that GDC and Parole implement a systematic performance measurement model that includes measures of outcomes in key performance areas and report yearly to the Oversight Council on key performance measures such as recidivism, employment, substance use, payment of victim restitution, compliance with “no contact” orders, and the overall performance of supervised individuals as measured by the type of discharge from supervision.

This recommendation is also highlighted as a priority in the Reinvestment Options section.

Part II: Focus Expensive Prison Beds on Serious Offenders

Drug and property offenders represent almost 60 percent of all admissions to Georgia prisons.⁶⁰ In fact, five of the top six most common prison admission offenses⁶¹ are drug and property offenses.⁶² The average time spent in prison for offenders convicted of drug and property offenses tripled between 1990 and 2010.⁶³

Importantly, many of these offenders are identified as lower-risk to reoffend.⁶⁴ In 2010, Georgia courts sent more than 5,000 lower-risk drug and property offenders to prison who had never been incarcerated before, accounting for 25 percent of all admissions last year.⁶⁵

Looking more closely at admissions for drug crimes, nearly 3,200 offenders entered prison following a conviction for drug possession (as opposed to trafficking or sales) and, based on historical trends, are likely to spend a year and a half in prison before returning to the community.⁶⁶ Yet two-thirds of these inmates were assessed as having a lower-risk to re-offend.⁶⁷

⁶⁰ Georgia Department of Corrections.

⁶¹ Offense refers to the most serious conviction offense according to the Department of Corrections.

⁶² Georgia Department of Corrections. The offenses are burglary, forgery, possession of cocaine, theft by taking and theft by receiving stolen property, listed in order starting with the most common.

⁶³ Georgia Department of Corrections, Analysis conducted by Applied Research Services. Average time served grew from 0.6 years in 1990 to 2.0 years in 2010. Based on analysis of cohorts of exiting prisoners.

⁶⁴ Defined as offenders who received a 1-- 4 score out of a 10 point scale on the Parole Board’s static risk assessment. The 2003 parole static risk instrument is conducted on all GDC inmates and predicts the probability of re-arrest. The risk factors assessed are age at sentencing, primary offense, number of prior prison incarcerations, number of prior drug sale or possession convictions, number of prior probation revocations, number of prior parole revocations, history of mental illness, history of assault offenses or behavior, and history of drug/alcohol use.

⁶⁵ Offenders received a Parole Board static score between 1 and 4.

⁶⁶ Analysis conducted by Applied Research Services.

⁶⁷ Analysis conducted by Applied Research Services Offenders received a Parole Board static score between 1 and 4 as defined in supra note 25.

Research suggests that incarceration can lead to increased recidivism for certain offenders, and that this effect is stronger for felony drug offenders.⁶⁸

The Council considered a number of options to identify low-risk offenders who could be effectively supervised in the community at a lower cost, ensuring prison beds are available for more high-risk offenders.

The Council developed general consensus around the options listed in Package 1 below. Details of these proposals would need to be specified by the legislature. These options would serve to avert a substantial portion of the growth in the prison population projected for the next five years. The Council also considered additional options that would further curtail correctional population and cost growth that it wanted to present to the legislature for its consideration. These are presented as Additional Options 1 and 2 below. Should policies be adopted that reduce the need for prison spending, the Council strongly recommends that at least a portion of any savings from these options should be reinvested to create a stronger system of community-based supervision, services and sanctions that will reduce recidivism.

Policy Options	Five Year Impacts (2011-2016)
<p>Package 1</p> <ul style="list-style-type: none"> • Theft • Burglary • Forgery • Front-end risk assessment • Mandatory minimum safety valve • Minor traffic offenses • Parole guidelines 	<p>Reduce projected prison growth by up to 3,300 offenders. Even if these reforms are implemented, the prison population will still grow by approximately 600 offenders by the end of the next five years.</p>
<p>Additional Policy Option 1</p> <ul style="list-style-type: none"> • Package 1 options plus • Create a proportionate scale of penalties for drug possession based on quantity 	<p>Reduce projected prison growth by up to an additional 700 beds (in addition to Package 1 impacts).</p>
<p>Additional Policy Option 2</p> <ul style="list-style-type: none"> • Package 1 options plus • Implement presumptive probation for possession of drugs 	<p>Reduce projected prison growth by approximately 300 to 900 additional beds (in addition to Package 1 impacts)</p>

⁶⁸ Spohn, Cassia and Holleran, David. "Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders." *Criminology* Volume:40 Issue:2 Dated:May 2002 Pages:329-358. Gendreau, P., & Swartz, K. (2009). "Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-analysis in the Field of Corrections." *Victims & Offenders*, Volume: 4 Issue: 2 Pages: 148-169.

Policy Options: Package 1

The Council developed the following options for consideration by the legislature. These options focus on identifying low-risk, nonviolent offenders who could be effectively supervised in the community at a lower cost, ensuring prison beds are available for more dangerous offenders. The following policy options would reduce the projected growth in the prison population by up to 3,300 offenders over five years. However, even if these reforms are implemented, the prison population will still grow by approximately 600 offenders by the end of that time frame.

Package 1: Theft

The felony theft threshold in Georgia, last changed in 1982, is \$500.⁶⁹ Adjusting for inflation, this means that the felony standard has decreased by more than 50 percent (\$500 in 1982 is equivalent to more than \$1,100 today). In recent years, many other states have updated their felony thresholds. South Carolina raised its to \$2,000; Texas to \$1,500; and North Carolina to \$1,000.

The Council suggests increasing the theft threshold for certain theft offenses from \$500 to \$1,500 and instituting sentence ranges that correspond to the value of the theft, including increasing the sentencing range for higher values. This increase would apply to the following statutes: Theft by taking, by deception, by conversion, by receiving stolen property, by receiving property stolen in another state, by bringing stolen property into state, theft of services, of lost or mislaid property, and copper theft.

In addition, the Council suggests increasing the threshold of theft by shoplifting from \$300 to \$750.

Package 1: Burglary

The Council recognizes that burglary is a serious offense. However, Georgia's current burglary statute includes one sentencing range for all types of burglaries, spanning theft from an unoccupied tool shed to a nighttime invasion of an occupied home.⁷⁰ Some states create different degrees of burglary based on the specific type of burglary committed and the details of the offense. The Council suggests creating two degrees of burglary by separating burglary of unoccupied structures from dwellings. Second degree burglary would include burglaries of unoccupied structures, which would include structures such as tool sheds, barns, commercial buildings, railroad cars or other structures that are not lived in or are not meant to be lived in. First degree burglary would include burglaries of any dwelling, whether unoccupied or occupied.⁷¹ The Council also suggests adjusting the sentencing range to correspond to the degree of the offense, including raising the sentencing range for serious offenses that involve residential homes.

⁶⁹ O.C.G.A. § 16-8-12(a)(1) (1981), *as amended by* O.C.G.A. § 16-8-12(a)(1) (November 1, 1982).

⁷⁰ O.C.G.A. § 16-7-1.

⁷¹ The Council recommends that any legislation specifically define what is considered a dwelling, whether occupied or unoccupied, and what is considered an unoccupied structure.

Package 1: Forgery

The current forgery statute groups all types of forgeries together without distinguishing between the type of document that is forged. Some states create separate degrees of forgeries based on the specific type of forgery committed and the details of the offense. The Council suggests creating degrees of forgery by separating forgery of checks from forgeries of other documents and also implementing a differentiation for forgeries of checks above or below \$1,500. In addition, the Council suggests adjusting the deposit account fraud (“bad checks”) threshold from \$500 to \$1,500 for consistency. The Council also suggests adjusting the sentencing range to correspond to the degree of the offense, including raising the sentencing range for more serious forgeries.

Package 1: Mandatory Minimum Safety Valve

The Council suggests allowing judges to depart from mandatory minimum sentences for drug trafficking under the following specific circumstances:

- The interests of justice are served by a reduced minimum sentence;
- Public safety is likely to be improved with expedited access to risk-reduction programs;
- And the court specifies on the record the specific circumstances and reasons warranting this departure.

The Council recommends that a deviation floor be set whereby, if these criteria are met, the judge could reduce the minimum sentence by a certain percentage of the mandatory minimum, which would set a deviation floor ensuring some period of imprisonment for these offenders. The Council also recommends that the standard of review be determined in legislation for any appeals based on a deviation.

In addition to the crime of drug trafficking, the General Assembly may want to consider using this safety valve procedure with other crimes subject to mandatory minimums excluding sentences imposed for serious violent felonies as they are defined by O.C.G.A. § 17-10-6.1(a) (commonly referred to as the “seven deadly sins”).

Package 1: Front-End Risk Assessment

The Council suggests authorizing AOC and GDC to establish a pilot program that would implement a risk assessment tool to identify prison-bound, non-violent drug and property offenders (without a prior violent or sex conviction, prior drug sale or trafficking conviction) who could be diverted from prison.

The Council discussed the challenges to implementing a risk assessment for prison-bound offenders and felt that through a pilot program the AOC and GDC could work out these issues before expanding statewide. The Council discussed two possible implementation options that AOC and GDC could consider:

- Pre-Sentencing - Develop a tool that would identify those offenders most likely to be sentenced to prison. This group would be assessed by GDC before sentencing.

- Post-Sentencing - Develop a tool that would identify the lowest risk offenders for potential diversion (similar to Alabama) and require GDC to go back to the judge to request a different sentence for low-risk offenders.

Once the specific type of system is developed, the Council suggests that the legislature invest 50 percent of the projected savings achieved through diversions to improve community supervision and increase access to substance abuse and mental health services in the community. In addition, the Council suggests that the AOC and GDC report to the Oversight Council what the actual reduction in admissions was from the diversion programs. The Oversight Council should suggest to the legislature what the future reinvestment should be based on the percentage of offenders being diverted from prison compared to the baseline year of 2010.

Package 1: Minor traffic offenses

Currently, Georgia criminalizes minor traffic offenders while most other states treat them as violations with a fine as penalty. The numbers of traffic offenses that clog the court process are significant. The state has more than 2 million traffic offenses a year.⁷² Even though these offenses do not contribute to the prison population they indirectly impact other prison drivers like revocations because backlogs in courts are often impacted by heavy dockets including traffic cases.

The Council suggests changing minor traffic offenses from misdemeanors to violations, creating a new class of violations that are non-criminal for minor traffic offenses. It is suggested that this include offenses below four point violations, and thus would not include offenses such as DUI, driving with a suspended driver's license, or other serious traffic offenses.

The Council discussed options to enforce the fines imposed for such offenses, and recommend that the fines be tied to person's driver's license renewal and vehicle registration.

Package 1: Parole Guidelines

In 2008, the Parole Board implemented parole guidelines. The Council recommends requiring the Board of Pardons and Paroles to revalidate the guidelines every five years beginning in the year after enactment of these sentencing reforms so that the guidelines reflect current practice and standards.

Additional Policy Options

Georgia's prisons hold several thousand people serving time for possession of controlled substances. The Council examined the background of these offenders as well as the policies and practices leading to their incarceration. The Council concluded that these policies and the lack of sentencing options have both a public safety and a financial cost.

The Council found two significant factors in the high number of possession offenders admitted to prison. First, the sentencing laws related to drug offenses are broad compared with other states. Second, some communities have limited if any options for offenders. In order to improve public safety and reduce costs the Council considered several sentencing options for drug offenses.

⁷² Administration Office of the Courts.

However no consensus was reached. The Council includes in this report two of the specific options considered and recommends that state policymakers consider these options or other options to address how the state deals with offenders whose criminal conduct is largely driven by drug addiction.

The Council believes that in order for any change in sentencing practices to be effective, courts and probation officers must have options that address the treatment needs of the state. There must be a commitment to improve and expand the services currently available so that judges and the public believe that putting a person on probation will improve public safety. Toward that end, the recommendations elsewhere in this report related to day reporting centers, residential treatment centers and accountability courts should be a priority for the legislature in the coming year.

Additional Policy Option 1: Develop a simple drug possession offense based on weight.

Currently, the only weight threshold for drug offenses exists for trafficking offenses, which is 28 grams.⁷³ Possession includes any amount up to that level. The Council discussed creating a simple possession statute for cocaine and methamphetamine below a specific amount such as 1 gram.

This option will create additional burdens on the system, including on local governments and the Georgia Bureau of Investigation. The GBI would have to conduct additional tests in certain cases in order to positively identify the drugs up to that weight. The GBI has conducted a preliminary estimate and determined that it would require between \$1 and \$1.3 million in additional funding for drug chemistry scientists and equipment if this type of option was implemented.⁷⁴

This option could reduce the projected growth of the prison population by up to an additional 700 beds (in addition to Package 1 impacts).

Additional Policy Option 2: Presumptive probation for drug offenders. This option would require that any person convicted of possessing a controlled substance shall be presumed to be appropriate for a sentence of probation in lieu of a prison sentence so long as the person has not been convicted of a violent offense, a sex offense, or a trafficking offense. The presumption of probation may be overridden and a prison sentence may be imposed if the judge finds that other factors present a significant public safety risk.

In addition to a sentence of probation, the judge may require enhanced supervision and treatment depending on the offender's behavioral characteristics. These enhancements include accountability courts, day reporting centers, residential treatment centers and GPS monitoring. Determining the appropriate level of supervision and treatment shall be made using a validated assessment tool and the frequency and recency of similar drug arrests and convictions.

A similar presumption could also apply to those offenders convicted of low-level 1st or 2nd drug sale offenses but only if the offender shows that his or her criminal conduct was driven by drug

⁷³ O.C.G.A. § 16-13-31.

⁷⁴ Analysis by Georgia Bureau of Investigation.

addiction. In short, offenders could get probation in lieu of prison sentences if they were selling drugs to support their drug habit.

This option would reduce the growth of the prison population by approximately 300 to 900 additional beds (in addition to Package 1 impacts).

Part III: Reinvestment Priorities

In order to create a sentencing and corrections system that takes maximum advantage of research-based strategies to improve public safety, the Council recommends that the legislature consider specific reinvestment priorities detailed in this report. Among the top priorities of the Council members are providing reinvestment funds to expand accountability courts, residential treatment beds and day reporting centers. These programs will give greater options to judges and broaden access to effective alternatives for appropriate offenders.

In addition, the Council recommends that funding be provided to implement external audits of programs, implement a performance measurement system, and improve and integrate state and local criminal justice information systems. These recommendations will improve the performance of the criminal justice system and ensure long-term success and sustainability.

Finally, the Council recommends that funding be expanded to increase the prevalence and effectiveness of drug testing of offenders on community supervision and increase the use of GPS monitoring for appropriate offenders. These options will ensure that offenders are supervised effectively and are held accountable while on supervision.



Judicial Council of Georgia
Administrative Office of the Courts

Chief Justice Carol W. Hunstein
Chair

Marla S. Moore
Director

MEMORANDUM

To: Judicial Council
From: Judicial Council Budget Committee
Date: 1/4/12
Re: Recommendation to Fund Accountability Courts Proposal.

On December 16, 2011, the Judicial Council Budget Committee met to discuss a proposal to fund Accountability Courts as recommended by the Special Council on Criminal Justice Reform. After a presentation by AOC staff, Judge Pridgen moved to approve the concept of the proposal as outlined by staff and illustrated in Table-1, attached. The motion was passed to be presented to the Judicial Council at its meeting on January 5, 2012.

The Budget Committee recommends that the Judicial Council add the following items to its FY 2013 budget request:

Unit	Amount	Purpose
Judicial Council / Accountability Courts	\$16,974,131	Pass-through grants to counties
Judicial Council/AOC	\$475,000	Personnel to manage and audit program
	\$1,767,750	State-wide contracts for training & other services.
	\$19,216,881	

Other Recommendations from Special Council on Criminal Justice Reform

Superior Court	\$696,000	Senior Judge support
Department of Corrections	\$5,216,879	Supervision services
Department of Behavioral Health and Developmental Disabilities	\$10,200,000	Treatment services for mental health and drug courts
	\$16,112,879	

Note: Total cost is estimated at \$35,329,760. \$19, 216,881 is needed to fund Judicial Council components; \$16,112,879 would fund other entities, including Department of Corrections, Department of Behavioral Health and Developmental Disabilities and Superior Court.

Item	Stakeholder	Description	Cost	Calculations	Quarter	Funding Bucket
Develop Standards	NPC Research, Portland, Oregon	NPC - Cost for technical from NPC Research for proprietary survey, analysis and assistance w/ standards	50,000	Negotiated price based on a verbal description of services required	Q1	Judicial Council/AOC
Annual Training	AOC	Funding will provide for an annual in-service training conference for all Accountability Courts.	127,750	73 courts @ \$1,750 ea.	Q4	Judicial Council/AOC
Senior Judge Support	Superior Court Judges	Senior Judges provide support for Superior Court Judges managing Accountability Courts through presiding over termination hearings, conflict cases and sitting when the assigned Judge is unable to conduct court for some other reason. Support requested would provide assistance two days per month for each Accountability Court operated in a Superior Court and half that for expansion courts.	696,000	48 courts with support two days per month for one year and 20 courts with support two days per month for six months at \$500 per day for Senior Judges.	Q1	Superior Court
Audits & Performance Measurement	AOC	Central staff dedicated to the collection, aggregation, analysis and publishing of relevant programmatic data (1 position); 2 positions assigned to the field review of programs across the state to ensure compliance with standards and fidelity to the provision of evidence-based practices; 1 position for fiscal management; Existing Accountability Courts Coordinator; Program travel.	475,000	Including Benefits: 1 Data Analyst @ \$85,000; 2 Field Auditor positions @ \$80,000 ea.; 1 State Grants coordinator @ \$80,000; Existing Accountability Courts Coordinator position @ 125,000. Travel \$25,000.	All positions to be filled in Q1	Judicial Council/AOC
Operational Tune-UP	AOC, County	Operational Tune-Up is an advanced training program presented by the National Drug Court Institute (NDCI) and focuses on the targeting of high risk/needs participants, the use of screening and assessment instruments to classify offenders, curricula development based on offender profile and Constitutional issues. This is a two day training program for 34 jurisdictions. Faculty and logistical constraints limit the number of courts that can be properly trained simultaneously and requires a minimum of three training programs.	425,000	34 courts @ \$12,500 ea.	Q1 or Q 2	Judicial Council/AOC

Item	Stakeholder	Description	Cost	Calculations	Quarter	Funding Bucket
DCPI training	AOC, County	20 jurisdictions receiving week-long training from NDCI - two sessions of ten courts per session. Includes faculty, hotel, travel for participants and contract with NDCI	560,000	20 courts @ \$28,000 ea.	Q2 or Q3	Judicial Council/AOC
Coordinator	AOC, County	A coordinator for each drug and mental health court is essential for the its' operation and management. Because of the collaborative nature of these courts, the coordinator is often the only full-time employee dedicated to the court. One coordinator for each existing adult drug court and mental health court (salary and benefits) and support for 25 additional coordinators for six months	5,142,500	48 existing courts @ \$85,000; plus 25 new courts (6 months) @ \$85,000 annually.	Q1 - Q4	Judicial Council/Accountability Courts
Participant - Ancillary Services	Community	Ancillary services are an essential component to drug and mental health courts and include activities such as GED preparation, life skills training, parenting classes, domestic violence counseling, health screening and anger management. These services are an adjunct to the therapeutic services received through the Department of Behavioral Health and Developmental Disabilities (DBHDD) and are typically provided through community groups at some cost to the courts.	605,000	48 existing courts @ \$10,000; plus 25 new courts (6 months) @ \$5,000 ea.	Immediate need and could be used Q1-Q4	Judicial Council/AOC
Therapeutic Services	DBHDD	Provision of all therapeutic services for drug court and mental health court participants including but not limited to access to a full continuum of therapeutic substance abuse and mental health treatment services including in-patient treatment, psychiatric oversight and psychotropic medication, when warranted	10,200,000	Based on DBHD records: 3400 current participants and 475 expansion participants (half year)	This will require a formal assessment of the skill level of all current providers, training for most, coordination between agencies for those where DBHDD/CSB does not provide services and hiring additional staff for many treatment agencies. Some jurisdictions could begin using the funds immediately while others will not need it until Q2 or even 3 because of existing contracts for services.	Department of Behavioral Health and Developmental Disabilities

Item	Stakeholder	Description	Cost	Calculations	Quarter	Funding Bucket
Participant Transportation	Participant	Transportation is a problem for most offenders participating in drug and mental health courts. Many do not have private vehicles or lack public transportation yet their conditions of participation require attendance at treatment and support meetings daily. Not all jurisdictions have public transportation so the cost in rural jurisdictions can be expected to be substantially higher per participant, per trip.	1,455,000	3400 Current Participants X 80 meetings @ \$5 roundtrip. 475 Expansion participants are added at half year cost	Immediate need and could be used Q1-4	Judicial Council/Accountability Courts
Participant Housing	Participant	Many offenders participating in drug and mental health courts require some type of housing assistance for a temporary period. Most offenders enter these courts directly from jail, many of whom are categorized as homeless. It is estimated that at least 25% of the offenders participating in these courts need housing assistance for at least four months. Average cost to provide housing in a group home setting is \$850 per month.	3,293,750	3400 Participants x 1/4 needing supportive housing @ \$850 month for 4 months. Expansion of 475 participants included at half-year cost	Immediate need and could be used Q1-4	Judicial Council/Accountability Courts
Supervision of Felony Offenders	DOC	Cost for the Georgia Department of Corrections to perform intensive supervision services for all felony offenders participating in drug and mental health courts.	5,216,879	3400 participants @ \$3.93 per day, 365 days per year and 475 expansion participants for half of a year	Would require additional staff but DOC could begin the hiring process prior to the beginning of the year - Q1-4	Department of Corrections
Lab Tech	County	This position will be responsible for the collection of fluid samples necessary for the accurate detection of drug usage and for the input of related data into a statewide case management system.	3,630,000	Including Benefits: 48 existing courts @ \$60,000; plus 25 new courts (6 months) @ \$30,000 ea.	Similar situation to that of coordinators. Q1-4	Judicial Council/Accountability Courts

Item	Stakeholder	Description	Cost	Calculations	Quarter	Funding Bucket
Drug Testing & Screening	County	Drug screens serve as an objective barometer to detect continued use of illegal drugs by offenders participating in drug and mental health courts. For these screens to accurately detect illicit use, they must be performed three times per week, including holidays.	3,452,881	The cost to test a participant for illicit drugs is \$5.38 per sample. \$2,853,552 to test current participants and \$199,329 to test new participants. \$100,000 for confirmatory testing - average of less than one such test per participant at \$30 each. In addition, verification tests are performed periodically to verify results when challenged and to check for new drugs entering a jurisdiction or when the standard testing protocol fails to detect newly constructed designer drugs. These verification tests are run approximately three times per participant at a total cost of \$300,000.	Immediate need and could be used Q1-4	Judicial Council/Accountability Courts

35,329,760

NOTES

CURRENT: 34 adult drug courts with a census of 2800 , 14 adult mental health courts with a census of 600 for a total of 3,400 current participants and 48 Courts/Programs.

EXPANSION: 20 drug court programs of 20 participants each. 5 mental health courts of 15 participants each. Total population projected for expansion programs = 475 ((20*20) +(5*15))

State General Funds Budget Status Report
 FY 2012 Judicial Council Budget Section
 (as of 30 November 2011)

<u>Attached Agencies (Programs)</u>	<u>Appropriations</u>	<u>Expenditures</u>	<u>% Spent</u>	<u>Balance</u>	<u>% Remaining</u>
Georgia Resource Center	565,500	282,750	50%	282,750	50%
Accountability Courts	2,263,559	270,437	12%	1,993,122	88%
Office of Dispute Resolution					
Institute of Continuing Judicial Education	461,789	201,181	44%	260,608	56%
Judicial Qualifications Commission	409,240	138,362	34%	270,878	66%
Sub-Total	3,700,088	892,730	24%	2,807,358	76%
Judicial Council Program					
Administrative Office of the Courts	5,797,307	2,399,996	41%	3,397,311	59%
Council of State Court Judges	1,268,744	305,403	24%	963,341	76%
Child Support Attorney	102,050	46,760	46%	55,290	54%
County and Municipal Probation Advisory Council	243,803	96,827	40%	146,976	60%
Legal Services to Victims of Domestic Violence	1,753,235	1,753,235	100%	0	0%
Council of Probate Court Judges	62,128	10,722	17%	51,406	83%
Council of Municipal Court Judges	16,427	2,383	15%	14,044	85%
Council of Magistrate Court Judges	164,220	70,607	43%	93,614	57%
Georgia Council of Court Administrators	4,117	4,117	100%	0	0%
Georgia Commission on Family Violence	356,458	97,768	27%	258,690	73%
Sub-Total	9,768,489	4,787,818	49%	4,980,671	51%
Total Judicial Council Budget Section	13,468,577	5,680,548	42%	7,788,029	58%
 <u>Other Funding Sources: Judicial Council Program</u>					
Federal Funds	2,552,935.00	1,238,482	48.51%	1,314,453.18	51.49%
Other Funds	484,685.00	269,591	55.62%	215,094.32	44.38%



Judicial Council of Georgia

Standing Committee on Policy

Presiding Justice George H. Carley
Chair

MEMORANDUM

TO: Judicial Council Members
FROM: Presiding Justice George H. Carley
RE: Policy Committee Report
DATE: January 5, 201G

The Policy Committee recommends the Judicial Council **SUPPORT** the following legislation:

I. State Courts: [SB 236](#) - Drivers' Licenses; persons convicted under the influence; allow certain drivers with suspended licenses; limited driving permits

SPONSORS: Sen. Bill Cowser (R – Athens), Sen. John Crosby (R – Tifton), Sen. Tommie Williams (R – Lyons), Greg Goggans (R – Douglas)

SUMMARY: SB 236 allows a judge, at his or her discretion, to allow a participant in a Drug/DUI Court program a limited driving permit. The bill expands the places that a person with a limited driving permit may drive. It also reduces the time a participant in a Drug/DUI Court program must use an interlock device, at the Judge's discretion, and provides for penalties for violating the limited driving permit or ignition interlock provisions.

STATUS: House Judiciary Non-Civil Committee

II. Juvenile Courts: [HB 272](#) - Juvenile court; rehearing an order of associate juvenile court judge

SPONSORS: Rep. Tom Weldon (R – Ringgold), Rep. Roger B. Lane (R – Darien), Rep. Bob Bryant (D - Garden City), Rep. Alex Atwood (R – Brunswick), Rep. Hank Huckaby (R – Watkinsville), Rep. Mike Cheokas (D – Americus)

SUMMARY: HB 272 removes the requirement for rehearing of associate juvenile court judges' decisions.

STATUS: Senate Judiciary Committee

III. Probate Courts: O.C.G.A § Title 29 Updates & Guardianship

SUMMARY: Grants the probate courts authorization to conduct national background checks on potential guardians

IV. Magistrate Courts: [HB 155](#) - Show cause hearing; application and notice to appear; provide

SPONSORS: Rep. Tom Weldon (R – Ringgold), Rep. Roger B. Lane (R – Darien), Rep. Glenn Baker (D – Jonesboro), Rep. Alan Powell (R – Hartwell), Rep. Gerald E. Greene (D – Cuthbert), Rep. Bill Hembree (R – Winston),

SUMMARY: HB 155 adds additional procedural safeguards in the issuance of a warrant by a judicial officer. It would require a hearing with notice to the Defendant before a Judge could issue a warrant; a court could require a good behavior bond with conditions. In the judicial officer’s discretion, arrest warrants may be issued in cases of imminent danger to persons or property.

STATUS: House Judiciary Non-Civil Committee

V. Magistrate Courts: [HB 196](#) - Modification of Recording Requirements for Video Search Warrants

SPONSORS: Rep. B.J. Pak (R – Lilburn), Rep. Jan Tankersley (R – Brooklet), Rep. Yasmin Neal (D – Jonesboro), Rep. Tom Weldon (R – Ringgold), Rep. Rich Golick (R – Smyrna), Rep. Alex Atwood (R – Brunswick)

SUMMARY: HB 196 amends O.C.G.A. § 17-5-21.1 to only require recording of a video search warrant “if the judge accepts additional oral testimony in support of the written application.” Failure to record testimony would be a ground to challenge the issuance of the search warrant only in the event of intentional misconduct by the State.

STATUS: Senate Judiciary Committee

VI. Municipal Courts: O.C.G.A § 36-32-1

SUMMARY: Allows the Chief Judge of any court exercising municipal court jurisdiction to recommend, to the local governing body, a schedule of fees to assist the court in its operation and budget. If the local governing body fails to approve or disapprove the fee schedule within 30 days, the fee schedule shall become effective immediately.

VII. Municipal Courts: O.C.G.A §§ 36-32-11 and 36-32-27

SUMMARY: Amends the statute to specify all judges exercising municipal court jurisdiction be required to complete mandatory training.

VIII. Municipal Courts: O.C.G.A § 15-18-5

SUMMARY: Authorizes courts of limited jurisdiction the power to employ prosecuting attorneys; provided, however, that the decision be vested solely in the governing authority of the county or city served by the court.

The Policy Committee recommends **OPPOSING** the following proposed legislation:

I. **HB 665** - Clerk of superior court offices; modernize provisions

SPONSORS: Rep. Billy Maddox (R – Concord)

SUMMARY: HB 665 contains many provisions of interest to superior court clerks. Various councils have reviewed this bill and found problems with particular provisions. The Policy Committee recommends that staff engage with the proponents of the legislation to see if matters of concern to the courts can be removed in lieu of opposing the entire piece of legislation.

STATUS: Introduced.



Judicial Council of Georgia
Administrative Office of the Courts

Chief Justice Carol W. Hunstein
Chair

Marla S. Moore
Director

January 5, 2012

MEMORANDUM

TO: Judicial Council Members

FROM: Justice Hugh P. Thompson

RE: **Jury Composition Reform Act Technical Changes**

The Supreme Court Committee on Jury Composition and the Council of Superior Court Clerks would like to seek legislation to amend last year's legislation creating the new process for generating inclusive master jury lists.

The changes are intended for the limited purposes of:

1. Fixing a drafting oversight in the 2011 legislation to clarify that felons who have not had their rights restored are still barred from serving on trial juries (Section 1-17 of the Act repealing O.C.G.A. §115-12-40.2). This would be accomplished by merging the disqualifications for trial jurors and grand jurors into a new section; and
2. Set out in law a transition to the new list that allows jurors summoned from balanced boxes prior to July 1, 2012, to serve as jurors after July 1, 2012. This amendment would give clerks some time to process the new lists at the county level (Section 1-16 of the Act, codified as O.C.G.A. §15-12-40.1(e)).

The Judicial Council is asked to consider supporting legislation to amend the jury composition statutes consistent with these limited purposes.

The Senate Judiciary Committee offered the following substitute to HB 149:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated,
2 relating to magistrates, so as to change provisions relating to magistrates under certain
3 circumstances; to provide for related matters; to provide an effective date; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

6 Article 2 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
7 magistrates, is amended by revising Code Section 15-10-20, relating to the number and
8 selection of magistrates, as follows:
9

10 "15-10-20.

11 (a) Each magistrate court shall have a chief magistrate and may have one or more other
12 magistrates. Such magistrates shall be the judges of the magistrate court and shall be
13 known as magistrates of the county. Unless otherwise provided by local law, the number
14 of magistrates in each county shall be fixed from time to time by majority vote of the
15 judges of the superior court of the county, but no magistrate shall be removed from office
16 during a term of office except for cause as provided by Code Sections 15-10-24 and
17 15-10-25. The number of magistrates authorized for the county shall be one magistrate
18 until increased by the judges of superior court or by local law; ~~but this subsection shall not~~
19 ~~operate to remove a magistrate from office during his term of office.~~

20 (b) ~~The term of office of any magistrate taking office prior to January 1, 1985, shall expire~~
21 ~~on December 31, 1984, except that this subsection shall not operate to shorten any term of~~
22 ~~office in violation of Article VI, Section X, Paragraph II of the Constitution.~~ The term of
23 office of any magistrate taking office on or after January 1, 1985, shall be for four years
24 beginning on the first day of an odd-numbered year, except that in selecting magistrates to
25 fill newly created positions or if otherwise necessary, a magistrate may be selected for a
26 term of less than four years to expire on the last day of an even-numbered year.

27 (c)(1) Unless otherwise provided by local law, all magistrates, other than the officers
 28 becoming magistrates pursuant to Code Section 15-10-120, who are selected to take
 29 office prior to January 1, 1985, shall be selected as provided in this subsection. The
 30 judges of the superior court of the county shall by majority vote appoint as chief
 31 magistrate either an officer becoming a magistrate pursuant to Code Section 15-10-120
 32 or some other person meeting the qualifications specified in subsection (a) of Code
 33 Section 15-10-22. Any other magistrates, other than the officers becoming magistrates
 34 pursuant to Code Section 15-10-120, shall be appointed by the chief magistrate with the
 35 consent of the judges of superior court.

36 (2)(A) If the chief magistrate so selected is an officer becoming a magistrate pursuant
 37 to Code Section 15-10-120, then his or her term as chief magistrate will be as provided
 38 by this paragraph.

39 ~~(B) If the term which he was serving on June 30, 1983, will expire on the last day of~~
 40 ~~1984 or 1986, then his term as chief magistrate will likewise expire on the last day of~~
 41 ~~1984 or 1986.~~

42 ~~(C)~~ If the term which he or she was serving on June 30, 1983, will expire other than
 43 on the last day of 1984 or 1986, then his or her term as chief magistrate shall expire on
 44 December 31, 1984, even though he or she is granted a longer term as magistrate by
 45 Article VI, Section X, Paragraph II of the Constitution; but his or her term as magistrate
 46 shall not be shortened in violation of said Paragraph of the Constitution. In any case
 47 covered by this subparagraph, the person whose term as chief magistrate expires
 48 December 31, 1984, but who is granted by the Constitution a longer term as magistrate
 49 shall be eligible to succeed himself or herself for a four-year term as chief magistrate
 50 beginning January 1, 1985, if he or she resigns his or her current term as magistrate
 51 prior to beginning such four-year term as chief magistrate.

52 (d)(1) Unless otherwise provided by local law, all magistrates taking office on or after
 53 January 1, 1985, shall be selected as provided in this subsection. The chief magistrate
 54 shall be elected by the voters of the county at the general election next preceding the
 55 expiration of the term of the incumbent chief magistrate, in a partisan election in the same
 56 manner as county officers are elected, for a term beginning on the first day of January
 57 following his or her election. His or her successors shall likewise be elected
 58 quadrennially thereafter for terms beginning on the first day of January following their
 59 election.

60 (2) Magistrates other than the chief magistrate shall be appointed by the chief magistrate
 61 with the consent of the judges of the superior court. ~~The term of a magistrate so~~
 62 ~~appointed shall run concurrently with the term of the chief magistrate by whom he was~~
 63 ~~appointed~~ Upon the expiration of the term of office of a magistrate who was appointed
 64 pursuant to this paragraph and who is serving on July 1, 2011, his or her successor shall
 65 no longer have a set term and shall serve at the pleasure of the chief magistrate and shall
 66 only be removed for cause by the chief magistrate with the consent of a majority of the
 67 superior court judges of the circuit. This paragraph shall not apply to any magistrate
 68 selected pursuant to local law. As used in this paragraph, the term 'majority' means the
 69 chief judge in a circuit with one judge, both judges in a circuit with two judges, or more
 70 than half of the judges in a circuit with three or more judges.

71 (e) Unless otherwise provided by local law, a vacancy in the office of chief magistrate
 72 shall be filled by an appointment by majority vote of the judges of superior court for the
 73 remainder of the unexpired term; and a vacancy in the office of any other magistrate shall
 74 be filled by an appointment by the chief magistrate with the consent of the judges of
 75 superior court for the remainder of the unexpired term. If, however, a vacancy occurs
 76 which does not reduce the number of magistrates for the county below the number of
 77 magistrates authorized for the county, then such vacancy shall not be filled.

78 (f) The General Assembly may by local law provide for the number of magistrates of a
 79 county, provide for a different method of selecting magistrates than that specified in
 80 subsections (c) and (d) of this Code section, and provide for a different method of filling
 81 vacancies than that specified in subsection (e) of this Code section.

82 (g) The General Assembly may at any time provide by local law that the probate judge
 83 shall serve as chief magistrate or magistrate and provide for compensation of the probate
 84 judge in his or her capacity as chief magistrate or magistrate; and in such a case the chief
 85 magistrate or magistrate shall not be separately elected but shall be the probate judge.

86 (h) Each magistrate taking office after July 1, 1985, shall before entering on the
 87 performance of his or her duties execute bond in the amount of \$25,000.00 for the faithful
 88 performance of his or her duties. Each magistrate in office on July 1, 1985, shall execute
 89 such a bond not later than September 1, 1985. The amount of bond required of the
 90 magistrate or magistrates of any county may be increased by local law. Such bonds shall
 91 be subject to all provisions of Chapter 4 of Title 45 in the same manner as bonds of other
 92 county officials. The premiums due on such bonds shall be paid by the fiscal authority of
 93 the county out of county funds.

94 ~~(i)(1) Any person who is holding office on January 1, 1994, as a judge of the superior~~
 95 ~~courts of this state, whether within the term for which elected or appointed or otherwise,~~
 96 ~~and who subsequent to such date and prior to December 31, 1996, is effectively removed~~

97 from such office by federal court order shall upon such removal become a special judge
 98 of the magistrate court as provided for in this subsection. As used in this subsection, the
 99 term 'federal court order' shall mean only an order of a federal court which is entered in
 100 a civil action challenging under federal law or federal constitutional provisions (or both)
 101 the validity of the manner of selection of superior court judges in this state. A person
 102 shall be considered as effectively removed from office by such an order if the order by
 103 its terms prohibits such person's continued service as a judge of the superior courts
 104 without by the terms of the order allowing such person a meaningful opportunity to seek
 105 an appointment or election as a judge of the superior courts which would take effect
 106 within 30 days following such removal. Nothing in this subsection shall apply with
 107 respect to any removal from office resulting from criminal conduct or other malfeasance
 108 on the part of the person removed from office.

109 ~~(2) Any person becoming a special judge of the magistrate court pursuant to this~~
 110 ~~subsection shall become a special judge of the magistrate court of the county in which~~
 111 ~~such person resides. Any such special judge of the magistrate court shall serve for a term~~
 112 ~~of office expiring December 31, 1996. The Governor shall issue to each such special~~
 113 ~~judge of the magistrate court a commission stating the date of commencement and~~
 114 ~~expiration of such term of office.~~

115 ~~(3) Any special judge of the magistrate court serving pursuant to this subsection shall~~
 116 ~~have all the same powers and duties as any other judge of such magistrate court.~~

117 ~~(4) Any special judge of the magistrate court serving pursuant to this subsection shall be~~
 118 ~~compensated and reimbursed for expenses in such amount or amounts as are now or~~
 119 ~~hereafter provided by law for a judge of the superior courts, such compensation to be~~
 120 ~~payable from state funds in the same manner as now or hereafter provided by law for a~~
 121 ~~judge of the superior courts.~~

122 ~~(5) The provisions of this subsection shall control over any other conflicting provisions~~
 123 ~~of this chapter."~~

124 SECTION 2.

125 This Act shall become effective upon its approval by the Governor or upon its becoming law
 126 without such approval.

127 SECTION 3.

128 All laws and parts of laws in conflict with this Act are repealed.

IN THE SUPERIOR COURT OF PIKE COUNTY

Pike Co. Superior Court
Filed for record in open court.

3:40P M. 11-17-2011

STATE OF GEORGIA

[Signature]
Cathy Williams
Clerk

PIKE COUNTY,

Plaintiff

vs.

LORETTA RAKESTRAW

Defendant

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)
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)
)
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)
)
)

CIVIL ACTION FILE NO.
NO. 2010 CV-212

CONSENT ORDER AND FINAL JUDGMENT

This matter came before the Court on November 17, 2011, for a hearing on a proposed Consent Order and Final Judgment jointly submitted by the parties.

Because this matter involves a public official and a governmental entity, members of the public were invited to articulate any legally sufficient reasons during the hearing why the proposed consent order and final judgment submitted by the parties should not be entered.

Notice of the hearing was advertised to the public via a notice published in the legal notice's section of Pike County's legal organ on November 16, 2011. Written notice of the hearing and a copy of the proposed Consent Order and Final Judgment were continuously and conspicuously posted at the Pike County Courthouse and the county's administrative offices from November 14, 2011, until the commencement of the hearing. The court did not hear during the November 17, 2011, hearing any legally sufficient reasons to reject the Consent Order and Final Judgment proposed by the parties.

Via written correspondence dated November 16, 2011, Chief Magistrate Marcia Callaway-Ingram objected through counsel to the reinstatement of Loretta Rakestraw as an Associate Magistrate and to the payment of Rakestraw's attorney's fees as contemplated by the parties.

The Court addresses herein the objections articulated by Chief Magistrate Callaway-Ingram, and makes the following factual and legal findings:

FACTS

1. Loretta Rakestraw ("Rakestraw") was appointed to a four (4) year term as an Associate Magistrate of Pike County, Georgia, commencing on January 1, 2009.
2. On April 8, 2010, the Chief Magistrate who appointed Rakestraw to her four (4) year term, Priscilla Killingsworth ("Killingsworth"), resigned from office. Marcia Callaway-Ingram was appointed to replace Killingsworth as Chief Magistrate on or around May 25, 2011.
3. Pike County, Georgia was concerned that Rakestraw's four (4) year Associate Magistrate term ended upon the resignation of Killingsworth because Killingsworth appointed Rakestraw. Fearing that Rakestraw's judicial actions taken after Killingsworth's resignation could be null and void, Pike County filed this declaratory judgment action on April 14, 2010, seeking a judicial determination as to whether Killingsworth's resignation terminated Rakestraw's appointment.
4. On or around August, 2010, Rakestraw was effectively removed from her Associate Magistrate position. The parties agree that only her removal from office--and not the circumstances surrounding that removal--is relevant to the resolution of this matter.
5. On or around December 20, 2010, Rakestraw filed a motion to add a permissive counterclaim by supplemental pleading. That proposed counterclaim, inter alia, seeks an Order facilitating Rakestraw's return to her judicial office. Pike County does not oppose Rakestraw's motion.

OBJECTIONS ARTICULATED BY CHIEF MAGISTRATE CALLAWAY-INGRAM

As noted above, Chief Magistrate Callaway-Ingram communicated objections in advance of the November 17, 2011, hearing via correspondence to Pike County. A copy of that correspondence has been filed with the Clerk's Office and is a part of the record. The Court will accept those objections as if they were articulated during the hearing. After considering those objections, the Court rejects them for the reasons explained below.

1. Chief Magistrate Callaway-Ingram contends that the settlement reached by the parties should be memorialized in the form of a traditional release agreement and not a Consent Order. The Court finds that the procedural posture of this case dictates that this case be resolved via a consent order. The civil action as filed by the county seeks a judicial declaration as to whether Killingworth's resignation effectively terminated Rakestraw's term. For obvious reasons, the parties are not empowered to make judicial determinations in a release agreement. Moreover, as the Pike County Magistrate Court is politically and legally separate and distinct from Pike County, Georgia, see Georgia Const. of 1983 at Art. 9, Sec. 2, Par. 1(c)(7), Rakestraw's reinstatement cannot be effected by agreement of the parties in this civil action.
2. Chief Magistrate Callaway-Ingram also objects to Rakestraw's Associate Magistrate position being reduced to part-time by consent of the parties. More specifically, she contends that Rakestraw's appointment was full-time and that the county is attempting to convert her appointment into a part-time position. Rakestraw, by jointly submitting this proposed Consent Order, has consented to working on a part-time basis. This consent is significant because there is nothing in the law that confers upon a Chief Magistrate the power to prevent an Associate Magistrate from becoming a part-time Associate Magistrate during her term. Under the law, the Chief Magistrate's power over an

Associate Magistrate is quite limited. See O.C.G.A. § 15-10-21 ("The chief magistrate shall assign cases among the several magistrates of the county and shall decide any disputes between the magistrates of the county"). The power to discipline and remove an Associate Magistrate is reserved exclusively to the Judicial Qualifications Commission. O.C.G.A. § 15-10-24. Thus, the law does not give the Chief Magistrate any means to discipline an Associate Magistrate who desires part-time service or to otherwise prevent an Associate Magistrate from working less than forty (40) hours a week. To the contrary, the law expressly contemplates that an Associate Magistrate has unilateral authority with respect to salary issues. See O.C.G.A. § 15-10-23(a)(5)(allowing associate magistrates to waive minimum salary guaranteed by statute without referencing any need to obtain Chief Magistrate's consent).

Moreover, as acknowledged by Chief Magistrate Callaway-Ingram in her correspondence, Rakestraw has not been working at all since August of last year. Thus, the practical effect of this settlement is to increase the manpower in the Pike County Magistrate Court by transforming Rakestraw's position from a zero hour a week position to a twenty hour a week position. The Court fails to see how Chief Magistrate Callaway-Ingram can object to the county "reducing" the Associate Magistrate position from full-time to part-time when she desires to effectively abolish the position altogether by maintaining the status quo.

3. Chief Magistrate Callaway-Ingram also objects to Rakestraw being reinstated as an Associate Magistrate based on her contention that Rakestraw abandoned her position. The only body that can prevent Rakestraw's return for job abandonment--or any other reason--is the Judicial Qualifications Commission as the law confers upon it the sole

power to discipline and remove magistrates. O.C.G.A. § 15-10-24. To the extent that Chief Magistrate Callaway-Ingram believes Rakestraw should be punished for job abandonment, those arguments need to be presented to the Judicial Qualifications Commission, not this Court.

4. Chief Magistrate Callaway-Ingram also objects to Rakestraw's reinstatement because she contends that returning Rakestraw would adversely impact the efficiency of the Pike County Magistrate Court and limit her "judicial discretion." As explained below, an Associate Magistrate's four (4) year term does not end upon the resignation of the Chief Magistrate who appointed that Associate Magistrate. Thus, Rakestraw is an Associate Magistrate under the law until her four (4) year term expires. Although this Court is not unsympathetic to the Chief Magistrate's efficiency concerns and desire to exercise "discretion," matters of efficiency and discretion must yield to the law, which is clear in this case. A Chief Magistrate appointed to fill a vacancy pursuant to O.C.G.A. § 15-10-20(c) has no "discretion" with respect to retaining or replacing the Associate Magistrates appointed by her predecessor at the beginning of the predecessor's term.
5. Chief Magistrate Callaway-Ingram objects to the county's proposed payment of \$40,000.00 in attorney's fees to Rakestraw because she contends that said money should be used to pay the claims she has against Pike County in a separate action. This Court is not aware of any law or legal doctrine that allows an individual to veto the expenditure of county money merely because the individual has a pending claim against the county. If the rule were otherwise, a county could not expend any money while it had claims pending against it. This Court has no reason to believe that any judgment entered against

the county in favor of Callaway-Ingram would be any less enforceable due to the contemplated payment to Rakestraw.

LEGAL FINDINGS

1. Although it was not unreasonable for the county to fear that the resignation of Killingsworth may have caused Rakestraw's four (4) year term to expire, see O.C.G.A. § 15-10-20(d)(stating that "[t]he term of a magistrate so appointed shall run concurrently with the term of the chief magistrate by whom he was appointed"), O.C.G.A. § 15-10-20 in its entirety compels the conclusion that an associate magistrate's term does not expire upon the resignation of the chief magistrate who appointed the associate magistrate. Specifically, paragraph (a) of that statute states that "no magistrate shall be removed from office during a term of office except for cause as provided by Code Sections 15-10-24 and 15-10-25." This language sets forth the exclusive circumstances that can trigger a magistrate's removal from office and, importantly, it does not reference as one of those triggering events the resignation of the appointing chief magistrate. The language in paragraph (d) quoted above merely recognizes that the chief magistrate is not empowered to appoint a magistrate judge to a term that exceeds her own. The language does not mean--as the county feared--that the associate magistrate's ability to serve is dependent upon the continued service of the appointing chief magistrate.
2. The resignation of Killingsworth did not have any legal impact on Rakestraw's term as Magistrate.
3. There is no legal impediment to Rakestraw resuming and completing her four (4) year term that commenced on January 1, 2009, and expires on December 31, 2012.
4. Plaintiff's motion to add her permissive counterclaim is approved.

Therefore, it is hereby Ordered and Declared:

1. All past and future judicial actions of Rakestraw that post-date Killingsworth's resignation are not infirm as a result of Killingsworth's resignation;
2. Rakestraw's counter-claim is deemed filed nunc pro tunc to December 20, 2010;
3. Rakestraw shall return instanter to her Associate Magistrate position on a 20 hour a week basis with full-time benefits until her current appointment expires on December 31, 2012;
4. Upon Rakestraw's return, the Chief Magistrate of Pike County shall decide in her sole discretion how to utilize the services of Rakestraw consistent with the applicable state statutes and local ordinances.
5. Nothing in this Order shall be read as precluding Defendant's re-appointment to a new term commencing on January 1, 2013. That decision is left to the sound discretion of the Chief Magistrate of Pike County and the Superior Court Judges as outlined in O.C.G.A. § 15-10-20(d);
6. Defendant is awarded \$40,000.00 in attorney's fees; and
7. This action is dismissed with prejudice.

To ensure compliance, the Court retains complete jurisdiction to re-open this action until the end of this Court's term.

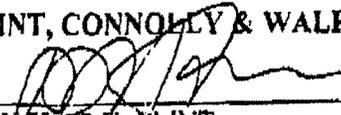
SO ORDERED this 17th day of November, 2011


Stephen E. Boswell
Senior Superior Court Judge
State of Georgia
Sitting by designation

(Consent signatures-next page)

CONSENTED TO BY:

FLINT, CONNOLLY & WALKER, LLP

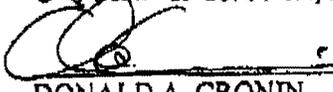


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Judicial Council of Georgia
Accountability Courts Committee Meeting Minutes
November 4, 2011

State Judicial Building
Supreme Court of Georgia Conference Room
244 Washington St., Suite 500
Atlanta, Georgia 30334
10:00 AM

Member Attendance: Judge Jeffrey Bagley (Chair), Judge Kent Lawrence (Vice Chair), Judge Jack Partain, Judge Winston Bethel, Judge Michael Boggs, Judge Jeannette Little, Judge Nancy Bills, Judge Frank Jordan, Judge Charlie Wynne, Judge Warner Kennon, Judge Amanda Williams, Judge Jason Deal, Judge Kathleen Gosselin, Mr. Stan Gunter, Mr. Steve Ferrell, Ms. Jody Overcash, Ms. Kristie Garrett, Ms. Cathy McCumber, Mr. Tracy J. BeMent, Mr. Bob Nadekow

Special Guest: Ms. Sandy Lee

Staff Attendance: Mr. Mark Williams, Ms. Tracy Powell, Ms. Patricia Gavel, Ms. Molly Perry, Mr. John Zoller

Judge Jeffrey Bagley, Accountability Courts Committee Chair, called the meeting to order at 10:00 am and began by welcoming guests and introductions from members.

Approval of Meeting Minutes

The Standing Committee requested an amendment to the June 2, 2011 meeting minutes to reflect a correction to the total amount of FY12 funds available for grant awards. The amendment was adopted, and the minutes were approved as amended.

Report from Special Council on Criminal Justice Reform

Judge Michael Boggs, serving on the Special Council on Criminal Justice Reform, gave a summary of the Council's forthcoming report. He said the council was tasked with finding fiscally responsible ways to ensure public safety while decreasing the cost of Georgia's corrections system. The council developed several legislative recommendations without unanimous approval. One recommendation suggests the Administrative Office of the Courts, (AOC) create a statewide electronic data collection system for reporting standardized outcome measures. The Judicial Council would define and mandate standards and the AOC would oversee certification and review evidence-based practices by onsite auditing. The report suggested expanding state funds by redirecting savings from certain areas to pass on to community resources that provide treatment services. They also suggested mandating county DATE funds for accountability courts and utilizing Department of Correction resources for accountability court participants.

Subcommittee Reports

Adult Drug Court Standards

Judge Kent Lawrence recommended looking at other states standards as a reference. Judge Amanda Williams made a motion to create a subcommittee to work with Mr. John Zoller, Statewide Accountability Courts Coordinator, in developing standards for adult drug courts with evidence-based practices supporting the Ten Key Components. Judge Little seconded the motion.

With much discussion about the procedure of submitting a budget from the Accountability Courts Committee for inclusion in the annual request for state funding, Judge Kathlene Gosselin recommended that Judge Bagley request a seat on the Judicial Council Budget Committee. The Committee concluded that the final budget to be

submitted to the Judicial Council Budget Committee should be viewed and approved by the Accountability Courts Committee.

Mental Health Court Subcommittee

Judge Gosselin reported that a draft of the mental health standards has been developed. She said there are very little national resources available but did find some research at the SAMSHA National GAIN Center. Judge Stephen Goss is working on a national level to help adopt mental health standards. Judge Bagley said the standards will be helpful with assessing applicants for mental health funding. Several judges spoke about their program not being labeled a mental health court but they do provide service to participants with co-occurring disorders and asked if the \$353,681 funds would be available to their program. Judge Jack Partain suggested the money should be available to any court treating these issues. Judge Jason Deal stated that some objective standards or criteria are needed to evaluate these programs. Judge Gosselin said that the subcommittee is tasked with developing criteria for Mental Health Court standards. Judge Williams agreed with Judge Deal and Judge Partain that if criteria were developed for currently operating drug courts and for mental health courts, the funding subcommittee would have the necessary tools to evaluate all applicants requesting grant funds. Judge Partain requested Judge Gosselin lead in these efforts and Judge Winston Bethel agreed to assist on this committee. Mr. Zoller said the application would be ready for disbursement by November 30, 2011 with both criteria standards added for evaluating program eligibility.

Veterans Courts

Mr. Zoller said that there would likely be legislation introduced about Veterans Courts during the upcoming session of the General Assembly. Some of their tasks are defining crimes of violence such as misdemeanor and felony participants in the same program. There is also concern that when a participant graduates will their offense automatically be expunged regardless of prior offenses. Mr. Zoller said Veterans Courts is the main topic nationally and more than likely there will be money available to fund these programs.

Judicial Leadership Symposium

Judge Jordan gave his report from attending the two and a half day symposium, stating that the key focus was on screening and assessments and Dr. Doug Marlowe gave a very good presentation addressing sentences for drug offenses. He added that there were at least eight teams interested in starting a drug court program. Judge Gosselin agreed that the conference was very beneficial for all court program teams. Mr. Zoller said that Grady Hospital, as well as a hospital in Macon, were already using the "Screening, Brief Intervention, Referral and Treatment" (SBIRT) clinical tool.

FY12 Grant Funds Report

Mr. Zoller stated that of the \$1,810,678 allocations, \$293,117 has been requested in expenditures leaving a balance of \$1,517,561. He announced that Ms. Patricia Gavel was now administering grants and all requests should be directed to her. He also stated that AOC is now tracking expenditure reports to make sure that each program is submitting reports in a timely manner, either quarterly or monthly.

FDTC/Juvenile Drug Court Conference

Mr. Zoller reported that he had received requests for additional training for family dependency treatment and juvenile drug courts. The tune-up training is scheduled for February 7-9, 2012 in Savannah, GA.

2011 Conference Planning Subcommittee Review

Mr. Zoller said that the 2011 conference cost approximately \$150,000. Overall, the conference received good ratings on planning, logistics, and food but there was a themed interest for more specific court training. Mr. Zoller suggested the committee to consider planning several targeted training conferences for each type of court. After much discussion, the committee decided to continue with the current statewide training model but to possibly provide tracks for more targeted sessions, as well as consideration for longer sessions. Judge Deal suggested Moral Reconciliation Therapy (MRT) training as a track. There were many ideas given as to conference venue, and the surrounding Atlanta area was determined as the best location providing hotel and training space to meet the needs of this conference. Mr. Zoller said that there may be approximately \$110k

available for the upcoming conference budget. Judge Bagley charged Judge Jordan to go forward with the 2012 conference planning.

Coordinators Competency Workgroup

Ms. Kristie Garrett reported the court coordinators were creating a statewide residential resource notebook to be posted on the accountability courts website and should be available February 2012. Coordinators have also created a funding subcommittee to research funding opportunities for future trainings. They are also working with Siemens drug testing to identify which new drugs are not being detected. The coordinators asked if they were responsible for providing interpreters for their program participants. Judge Bagley said that courts have to provide interpreters to participants.

Connexis and Siemens Update

Mr. Zoller stated that he had submitted a request to GCIC to receive the ORI number for current and past participants. Judge Deal suggested legislation requiring participants to sign off approval for background checks prior to entering a program and running background checks several years after graduation. Mr. Steve Ferrell stated that this would be a good opportunity for cleaning up some post-adjudication. Judge Williams said she would forward Mr. Zoller a contact person for GCIC.

Old Business

No old business was reported.

New Business

No new business was reported.

Next Meeting

The next Accountability Courts Committee meeting will be announced.

The meeting was adjourned by Chair Judge Bagley at 1:20pm.



Judicial Council of Georgia
Administrative Office of the Courts

Marla S. Moore
Director

Memorandum

To: Judicial Council of Georgia Members

From: Presiding Judge Herbert Phipps, Chair
Judicial Council Committee on Court Reporting Matters

Date: December 16, 2011

Re: Judicial Council Committee on Court Reporting Matters Report

CC: Judicial Council Committee on Court Reporting Matters
Benjamin M. Perkins, Board of Court Reporting Chair
Cynthia Clanton

The Judicial Council delegated to its Committee on Court Reporting Matters the responsibility of representing the Council on all matters relating to court reporting which includes the review of disciplinary appeals and Board rules.

This memorandum will provide you with an update on the injunction of Yvonne Law and two new matters.

Injunction Against Yvonne Law

Last December, the Committee considered evidence from the Board of Court Reporting indicating that Yvonne Law was continuing to practice as a court reporter despite the revocation of her license on January 1, 2009. The Committee authorized the Board to file a Complaint in Superior Court enjoining Ms. Law from the continued unlawful practice of court reporting.

The Attorney General's Office filed an action in the Superior Court of Bibb County on January 6, 2011, seeking a permanent injunction. Ms. Law filed an Answer and Counterclaim against the Board, as well as the Judicial Council of Georgia, the Administrative Office of the Courts, and John Doe et al. Ms. Law was seeking damages in the amount of \$1,000,000.00 to compensate her for being "destroyed financially, socially, physically and psychologically by the Defendant's actions." The Attorney

General's office responded and filed a Motion to Dismiss the Counterclaim. A Rule Nisi hearing was scheduled for April 21, 2011, and Ms. Law appeared but was unrepresented.

On July 1, 2011, Judge Edgar W. Ennis Jr. issued a permanent injunction prohibiting Ms. Law from holding herself out as a certified reporter but allowing her to practice in Juvenile Courts or federal jurisdictions. Judge Ennis also dismissed her counterclaim for damages. A copy of the order is attached for your information. Ms. Law did not appeal the Court's decision.

Appeal by Cathy Cox

On August 11, 2011, Cathy Cox appealed the Board of Court Reporting's decision that she receive Public Reprimands for her inordinate and unnecessary delays producing transcripts in two separate criminal cases, and her failure to communicate with the parties about the status of these transcripts.

In Emily Perera v. Cathy Cox (BCR File No. 2010-14), the Board found that Appellant's two year delay producing a transcript was prejudicial as Complainant Perera's attorney could not proceed with necessary motions and the appeal of her conviction. In Kevin Peoples v. Cathy Cox (BCR File No. 2010-08), the Board held that the transcript of a conviction was delayed over 3 years prejudicing Complainant Cox whose counsel was trying to appeal. Appellant also failed to communicate with Complainants or their counsel about the delayed transcripts.

In her defense, Appellant Cox offered her voluminous in-court reporting responsibilities, a computer crash, the prosecutor's delay supplying her with exhibits in the Peoples case, and the lack of "floating court reporters in her county" to provide for time off to prepare the transcripts.

Last May, the Board of Court Reporting conducted hearings on the Perera and Peoples complaints prior to ordering the Public Reprimands. The orders also included the requirement that the Appellant attend two court reporting professionalism seminars during 2011, produce a list of pending transcripts requested by parties, and provide notice to all parties requesting transcripts of the status of their transcripts. Prior to the hearings, Appellant requested that she receive a Private Reprimand for her conduct, but the Board rejected this offer of voluntary discipline as she had prior discipline for similar conduct.

The Committee on Court Reporting Matters considered the appeal and record at its meeting on September 29, 2011. It was the unanimous decision of the Committee to affirm the Board's order.

Appeal of Yvonne Murphy

Appellant Yvonne Murphy requested that the Committee on Court Reporting Matters review the Board's dismissal of her complaint against court reporter Delaine Maglioli

(BCR File No. 2011-04). Appellant alleged that Ms. Maglioli acted unprofessionally and unethically when she refused to transcribe a court hearing prior to receiving \$45.00 from the Appellant. Furthermore, the Complainant alleged that the reporter's conduct was in violation of state statute, law, rule or regulation. Appellant was concerned that the Board mischaracterized her complaint as the transmittal letter to Ms. Maglioli mistakenly referenced O.C.G.A. §15-14-33(a)(2) which prohibits making false statements to the Board. Furthermore, Appellant believed that the Board did not properly investigate her complaint as it relied on the brief response from the reporter.

The Committee on Court Reporting Matters thoroughly considered the appeal at its meeting on September 29, 2011. It was the unanimous decision of the Committee to affirm the Board's decision with the recommendation to the Board that it issue an advisory opinion on the practice by court reporters of requesting a deposit before the provision of court reporting services as it is a common practice not prohibited by the rules.

Should you have any questions about the above-listed matters, please contact Cynthia Clanton, General Counsel of the Administrative Office of the Courts.

Attachment

IN THE SUPERIOR COURT OF BIBB COUNTY
STATE OF GEORGIA

FILED
CLERK'S OFFICE
2011 JUL -1 PM 4:29

DIANNE BRANNEH, CLERK
SUPERIOR COURT OF
BIBB COUNTY GEORGIA

**BOARD OF COURT REPORTING OF
THE JUDICIAL COUNCIL OF
GEORGIA,**

Plaintiff/Counterclaim Defendant,

v.

YVONNE D. LAW,

Defendant/Counterclaim Plaintiff.

CIVIL ACTION NO.

11-CV-54636

ORDER

The above-captioned petition for Temporary Restraining Order and Temporary and Permanent Injunctive Relief was filed on January 6, 2011, by the Board of Court Reporting of the Judicial Council of Georgia ("Board"). The Board is seeking a TRO and an injunction against Defendant Law from the continued unlawful practice of court reporting under a revoked license. Ms. Law filed an Answer and Counterclaim for damages on February 11, 2011. On April 21, 2011, with notice having been given to all parties, the Court heard argument on the Board's request for injunctive relief and motion to dismiss Defendant's counterclaim from counsel for Plaintiff and from Ms. Law, who appeared *pro se*. In this Order, the Court will address both the petition for injunctive relief and the motion to dismiss a counterclaim.

Plaintiff's Petition for Injunctive Relief

The Board of Court Reporting of the Judicial Council of Georgia regulates and defines the practice of court reporting pursuant to The Georgia Court Reporting Act, O.C.G.A. §15-14-20, et seq. Under this act, all court reporters such as Defendant Law are statutorily

required to abide by the laws, rules, requirements, and regulations of the Board which includes the yearly renewal of licenses. O.C.G.A. §15-14-31, 15-14-36. The failure to meet the license renewal requirement on or before April 1 of each year results in an automatic suspension of a court reporter's license, which automatically converts to a revocation if not cured on or before December 31 of the renewal year. *Id.*; Article 9, Section B of the Rules and Regulations of the Board.

The facts developed at the hearing were that Ms. Law was issued a Georgia certified court reporter certificate on or about July 14, 1983, and has continued to engage in the practice of court reporting under said license. In 2008, Ms. Law failed to renew her license on or before the April 1 deadline, resulting in an automatic suspension. Aquaria Smith, Program Manager for the Board of Court Reporting, testified that once Ms. Law's name appeared on a list of individuals who failed to renew by April 1, 2008, she sent a notice of suspension by certified mail to the most recent address on file for Ms. Law, and said notice was returned unclaimed. After the December 31 deadline expired, and the Board did not receive a renewal application from Ms. Law, an official notice of revocation was mailed to Ms. Law by certified mail which was claimed and signed for by her. This notice advised Ms. Law of the reinstatement requirements and ordered her to cease from all verbatim reporting practices. Nevertheless, Ms. Law has continued to practice as a certified court reporter on numerous occasions following the revocation of her license.

Ms. Law's actions have demonstrated an on-going disregard for the laws, rules and regulations of the Board and have caused or are reasonably likely to cause harm to the public in that any transcript taken down and certified by Ms. Law after April 1, 2008, is not a legally "certified" transcript.

Therefore, Plaintiff's request for a Permanent Injunction is hereby **GRANTED**. Defendant Law is enjoined from holding herself out in any manner as a certified court reporter and from continuing to unlawfully practice as a certified court reporter until such time as she can affirmatively demonstrate to this Court that she has gained recertification of her license.

Following the hearing, counsel for Plaintiff submitted a supplemental brief to the Court on the following issues: (1) whether an injunction pursuant to O.C.G.A. §15-14-33 would prohibit Ms. Law from practicing in the juvenile courts; and (2) whether the Board's regulatory jurisdiction extends to the practice of court reporting in federal jurisdictions within the state, such as Robins Air Force Base.

Regarding the first issue, there is no statutory requirement that juvenile court proceedings be recorded verbatim by a certified court reporter. Instead, proceedings are to be recorded "by stenographic notes or by electronic, mechanical, or other appropriate means..." O.C.G.A. §15-11-41(b). This recording statute has been interpreted to allow the take down of proceedings by someone [or something] who is not a certified court reporter. *See, D.C. v. State of Georgia*, 145 Ga. App. 868 (1978); *B.J.L. v. State*, 173 Ga. App. 317 (1985). Thus, despite Ms. Law's revoked status, she is not prohibited from practicing in juvenile courts so long as she does not certify any transcript in any proceeding as a Certified Court Reporter ("CCR"), use the abbreviations "CCR" or hold herself out in any way so as to indicate that she is a certified court reporter.

Regarding the second issue of whether the Board's revocation could prohibit Ms. Law from practicing before a military tribunal within the State, the Board has specifically conceded that it "is not asking this Court to extend the requested injunction to the practice of

verbatim reporting as a military court reporter or on the base of such facilities.” (Plf. Supplemental Brief, 4). Nevertheless, Ms. Law shall provide a copy of this Order to the Staff Judge Advocate of every military organization to which she intends to offer her services.

Plaintiff’s Motion to Dismiss Counterclaim

Defendant Law filed a Counterclaim on February 11, 2011, naming the Board of Court Reporting (Jan. 2008-Present[sic], the Judicial Council of Georgia, the Administrative Office of the Courts and John Doe as Defendants. Ms. Law alleges that the Counterclaim Defendants “have been knowingly enforcing rules and administering rules and practices that are draconian, arbitrary, discriminatory, unjust, unfair, and overpowering.” [Counterclaim, ¶ 1]. She further alleges that her “license could have been easily cured had Plaintiff been notified ... that her renewal was not received, and that the “revocation of the Plaintiff’s license based on a renewal of 75 dollars belies common sense, was unjust, unfair and cruel.” [Counterclaim, ¶¶ 5-6]. Additionally, Ms. Law argues that she was denied her due process rights because the Counterclaim Defendants do not have rules in place for a fair hearing. [Counterclaim, ¶ 7]

Ms. Law seeks damages in the amount of \$1,000,000 based on her contention that she was deprived of her property (or her license), and that her “good name, reputation, honor and integrity have been compromised” such that she cannot operate her business or practice her profession.” [Counterclaim, ¶¶ 8-11]. For various reasons, including lack of subject matter jurisdiction by way of Defendant’s failure to comply with the Georgia Tort Claims Act (“GTCA”), the Board moves this Court to dismiss the counterclaim.

To the extent that Ms. Law’s Counterclaim asserts tort claims against the named government entities, it is barred under several provisions of the GTCA. First, Law’s Counterclaim is barred because of her failure to comply with the ante litem notice provisions

of O.C.G.A. § 50-21-26 and the service of process provisions of O.C.G.A. § 50-21-35. *See, Henderson v. Department of Transportation*, 267 Ga. 90, 90-91 (1996) (trial court's dismissal of action was affirmed where there was no service of process on the Risk Management Director of the Department of Administrative Services and no mailing of the Complaint to the Attorney General), *see also, Baskin v. Georgia Department of Corrections*, 272 Ga. App. 355 (2005). Additionally, Ms. Law's counterclaim is barred by O.C.G.A. § 9-11-13(h), which requires a court order for the addition of the Administrative Office of the Courts or the Judicial Council of Georgia as new parties to the Counterclaim. *See, Scruggs v. Palisades Acquisition XVI, LLC*, 302 Ga. App. 56 (2010).

Further, Ms. Law's counterclaim is barred because the State has not waived its sovereign immunity for the claims Law makes.¹ The GTCA preserves the State's sovereign immunity for losses resulting from licensing powers or functions pursuant to O.C.G.A. § 50-21-24(9) which provides,

The State shall have no liability for losses resulting from:

(9) Licensing powers or functions, including, but not limited to, the issuance, denial, suspension, or revocation of or the failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization.

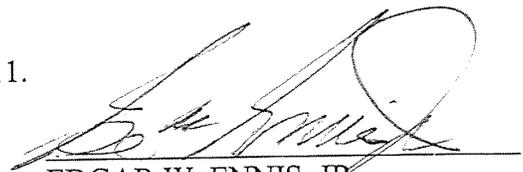
Consequently, even if the allegations in Law's counterclaim are true, this statute immunizes the State from any tort liability resulting from governmental actions involving licensure, and Ms. Law's counterclaim must be dismissed. *See, Smith v. Human Resources*, 257 Ga. App. 33 (2002).

¹ As Counterclaim Defendants rightly point out, Ms. Law's counterclaim is barred by additional exceptions to the waiver of the State's sovereign immunity in the GTCA including O.C.G.A. § 50-21-24(1), (4), (5), and (7).

Lastly, Ms. Law contends that based on the revocation of her license, she has suffered a violation of her procedural due process rights under the Fifth and Fourteenth Amendments. Assuming that Ms. Law seeks to proceed under 42 U.S.C. § 1983, a violation of said statute can only be established by a showing that (1) conduct was committed by a person acting under color of state law, and (2) such conduct deprived Plaintiff of her rights, privileges or immunities secured by the United States Constitution. *West v. Atkins*, 487 42, 48 (1988). Because the Board of Court Reporting, a state agency, is not a person, Ms. Law's counterclaim cannot stand. *See, Will v. Mich. Dep't of State Police*, 491 U.S. 58, 65 (1989). Moreover, Ms. Law fails to establish any due process violation because she has no protected liberty or property interest in the certified court reporter license. *See, Goldrush II v. City of Marietta*, 267 Ga. 683, 698 (1997) ("Those who hold licenses that expire annually act at their peril and assume the risk that their licenses might not be renewed notwithstanding they have committed their lives and their capital to building their businesses which need licenses to operate" (quotations and citations omitted)).

Based on the foregoing, it is hereby, ordered that Defendant's Counterclaim is DISMISSED.

SO ORDERED this 1 day of July, 2011.



EDGAR W. ENNIS, JR.
Judge, Superior Courts of Georgia
Macon Circuit

**Minutes of the
Judicial Workload Assessment Committee of the
Judicial Council of Georgia
President's Boardroom, 104 Marietta Street, NW, Atlanta
September 30, 2011 11:00 a.m.**

Members Present

Judge David Emerson, Chair
Judge Cynthia Becker
Judge Joe Bishop
Judge William Boyett
Judge Daniel Craig
Judge Bonnie Oliver
Judge Stephen Scarlett
Ms. Jody Overcash

Staff Present

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

Guest Present

Mr. Mark Williams

Call to Order

Judge Emerson called the meeting to order at 10:15 a.m.

Approval of Minutes

The minutes of the August 5 and August 12, 2011 meetings were approved as submitted.

Judicial Council 2011 Recommendations

Mr. Hansard reported the rankings of the circuits that qualified for additional judgeships from the August Judicial council meeting as follows:

1. Bell-Forsyth Circuit
2. Piedmont Circuit
3. Middle Circuit
4. Oconee Circuit
5. Western Circuit
6. Clayton Circuit

Ms. Overcash requested information on the remaining circuit workload analyses as well.

Death Penalty Habeas Corpus Delphi Survey

Mr. Hansard reported that the first round of the study began in September. To date there have been 26 responses with 10 remaining for follow up. Judge Emerson agreed to contact those missing via Sidebar. Mr. Hansard reported that the study should be finished by the end of October. The analysis and impact on 2011 will be reported at the next meeting.

Accountability Court Workload

Mr. Hansard reported that the data were received from 49 judges representing 28 circuits through the 2011 Superior Court Time and Motion Study. He noted the Felony Drug category heavily outweighed all other categories. All courts' data could not be used as there was not a one to one match of the court and judge data or the court was too new.

The following concerns about the study were reported:

1. The average time to disposition figure does not take into account any other type of superior court accountability court;
2. Judge time data were not available for all accountability courts;
3. Study assumes the data collection period (March 2011) was an accurate representation of an entire year of accountability court activity.
4. Some accountability court data could not be matched to judge data and some courts were so new the information was not available;
5. Participant data for accountability courts operating without state grant funds are not available at this time.

Judge Emerson observed that the average time to disposition was 108 minutes which approximates the average time to disposition used by Florida and Indiana.

Judge Craig asked about the wide variation of judge minutes and number of participants. Ms. Perry replied that this information will not be used until next year, and more information will be collected and analyzed to confirm the value.

Judge Oliver preferred that mental health court values be the same as those for drug courts.

Judge Emerson asked Ms. Overcash to report the final value to the Accountability Courts Committee. He then asked Judge Oliver to share her accountability court's case assignment process to the staff.

New Business

Ms. Perry asked whether anyone utilizes the JWAC web page for information. It was determined that it will be suspended for now.

Mr. Brady summarized the procedures, correspondence and contacts involved in the superior court caseload study and noted that there are three counties for which data have not yet been collected (Brooks, Spalding and Tift). Judge Emerson volunteered to call the courts chief judges for those circuits.

Judge Emerson plans to develop a concept and budget request for an automated criminal data collection/reporting system. Judge Craig suggested that the Prosecuting Attorneys' Council may be of assistance in that effort.

Clerk Training

Ms. Perry indicated that the Research team planned to develop case count training and would provide it as requested by judges and clerks.

Next Meeting

Mr. Hansard suggested that regular meetings be tentatively scheduled for the entire year in accordance with the Judicial Council meeting schedule.

The next meeting was planned for February/March 2012.

The meeting was adjourned at 12:45 p.m.



Judicial Council of Georgia Administrative Office of the Courts

Marla S. Moore

Director

January 5, 2012

MEMORANDUM

TO: Each Member of the Judicial Council

FROM: Marla S. Moore, Director

RE: **Approval of Proposed 2012 Calendar of Course Options for Magistrate Court and Municipal Court Judges Training (basic certification and re-certification)**

The Judicial Council is required under OCGA §§ 15-10-131(3) and 36-32-21(5) to approve curricula of the magistrate and municipal courts training councils. The 2012 curricula for both have been approved by their respective training councils and are enclosed for your review and approval.

Mr. Richard D. Reaves, Executive Director of the Institute of Continuing Judicial Education, will be in attendance at the Judicial Council meeting and will answer any questions you may have. Copies of the pertinent code sections are enclosed.

Enclosures

This article shall be known and may be cited as “The Georgia Magistrate Courts Training Council Act.”

§ 15-10-131. Definitions

As used in this article, the term:

- (1) "Certified magistrate" means a magistrate judge who has the appropriate required certificate of training issued by the council and on file with the council or a magistrate judge who is exempt from such training by subsection (d) of Code Section 15-10-137.
- (2) "Council" means the Georgia Magistrate Courts Training Council.
- (3) "School" means any school, college, university, academy, or training program approved by the council and the Judicial Council of Georgia which offers basic, in-service, advanced, specialized, or continuing judicial training or a combination thereof and includes within its meaning a combination of course curriculum, instructors, and facilities which meet the standards required by the council.

HISTORY: Code 1981, § 15-10-131, enacted by Ga. L. 1983, p. 884, § 2-1; Ga. L. 1985, p. 1416, § 1; Ga. L. 1990, p. 8, § 15.

This article shall be known and may be cited as “The Georgia Municipal Courts Training Council Act.”

§ 36-32-21. Definitions

As used in this article, the term:

- (1) "Certified municipal judge" means a municipal judge who has the appropriate required certificate of training issued by the council and on file with the council.
- (2) "Council" means the Georgia Municipal Courts Training Council.
- (3) "Municipal court" means and includes any municipal court as defined in subsection (a) of Code Section 36-32-1.
- (4) "Municipal judge" means a judge of a municipal court.
- (5) "School" means any school, college, university, academy, or training program approved by the council and the Judicial Council of Georgia which offers basic, in-service, advanced, specialized, or continuing judicial training or a combination thereof, and includes within its meaning a combination of course curriculum, instructors, and facilities which meet the standards required by the council.

HISTORY: Code 1981, § 36-32-21, enacted by Ga. L. 1990, p. 882, § 2; Ga. L. 1991, p. 326, § 1.

2012 ICJE COURSES

Magistrate Court

COURSE	SEATS	DATE	VENUE
CERTIFICATION			
40-Hr. (Criminal Law) Basics* for New, Non-Attorney Magistrates	25	Feb. 26-March 2	Georgia Center, Athens
6- Hr. Mentor Certification*	20	March 7	Georgia Center, Athens
40-Hr (Civil Law) Basics* for New, Non-Attorney Magistrates	25	Sept. 16-21	Georgia Center, Athens
RECERTIFICATION			
12-Hr. Jail Diversion* (e-Learning) No Travel!	30	April 9-27	Online (3 hrs. ONLINE each week PLUS 3 hrs. advance reading)
12-Hr. Recertification Survey & Council Meetings (April 29)	200	April 30-May 1	Macon Marriott City Center
12-Hr. Elder Abuse* (e-Learning) No Travel!	30	June 11-29	Online (3 hrs. ONLINE each week PLUS 3 hrs. advance reading)
12-Hr. Domestic Violence* (e-Learning) No Travel!	30	Aug. 6-24	Online (3 hrs. ONLINE each week PLUS 3 hrs. advance reading)
12-Hr. Recertification Survey & Council Meetings (Oct. 21)	175	Oct. 22-23	Hilton Savannah Desoto
12-Hr. Clerks & Secretaries	125	Dec. 4-5	Hilton Savannah Desoto
12-Hr. Newly Elected Chief Magistrates**	30	Dec. 17-18	Georgia Center, Athens
Council of Magistrate Court Judges			
Council Meetings are combined/blended with ICJE Recertification Courses		April 29-May 1 October 21-23	See courses above
1-Hr. MCTC Online (Pilot) Lunch & Learn Series		TBA	Request enrollment through Sharon.Reiss@gaaoc.us

* Full attendance and participation required for MCJE credit.

** Open to newly elected or appointed (within last 24 months) Chief Magistrates or the Chief Magistrate's designee.

2012 ICJE COURSES

Specialty Courses

(Open to Judges from All Classes of Court)

COURSE	SEATS	DATE	VENUE
12-Hr. Substances of Abuse*(UGA/ICJE)	60	Oct. 15-16 (T)	Georgia Center, Athens
20-Hr. Firearms Safety & Awareness*	30	Oct. 25-26	GLOCK, Inc., Smyrna
12-Hr. Spanish for Judges*	35	Nov. 2	Georgia Center, Athens

* Full attendance and participation required for MCJE credit.

NOTE: If you wish to request enrollment in the above Specialty Courses, ensure that you know the MCJE eligibility rules for your class of court as determined by each Training Council or Educational Planning Committee.

To request enrollment in the above courses, follow payment and sign up instructions for your class of court. Go to <http://icje.uga.edu>. Select *Judges & Clerks Training*. Then, select relevant class of court e.g. *Magistrate, Municipal, etc.*

2012 Courses for Municipal Court Judges

Course	Date	Location
Local Ordinances	April 12-13	Georgia Center, Athens
20 Hour Basic Certification	June 20-22	Jekyll Island Club
Municipal Law and Practice Update	June 20-22	Jekyll Island Club
Municipal Law and Practice Update	September 6-7	Georgia Center, Athens
Substances of Abuse	October 15-16	Georgia Center, Athens
Humanities—6 class hours, 6 hours reading credit	October 19	Georgia Center, Athens
Spanish for Judges-6 class hours, 6 hours practice on your own	November 2	Georgia Center, Athens

2012 Courses for Municipal Court Clerks

Course	Date	Location
16 Hour Certification for New Clerks	February 9-10	Georgia Center, Athens
8 Hour Recertification	June 1	UGA Conference Center, Tifton
16 Hour Certification for New Clerks	October 4-5	UGA Conference Center, Tifton
8 Hour Recertification	November 9	Georgia Center, Athens

**Center for Public Policy Studies, Immigration and The State Courts Initiative
Georgia Initiative Summary
Steven Weller and John A. Martin
December 8, 2011**

This report reviews the activities being undertaken for the courts of Georgia by the Immigration in the State Courts Initiative. The purpose of the initiative is to provide assistance to the courts of Georgia, both statewide and in selected counties, in addressing the impacts of Federal and state immigration law, policy, and practice on state court case processing. Where possible, we are also aligning the initiative's efforts with other on-going efforts in Georgia, including efforts directed at drug courts, the use of evidence based practices, the work of the interpreters commission, and criminal justice reform work. The project's goals include:

- Determining the potential operational, policy, and other impacts of immigration targeted state legislation on the AOC and on the various types of Georgia Courts;
- Designing best practice guidelines for the various types of Georgia Courts for processing cases involving immigrant litigants;
- Developing Georgia specific best practice guides and other tools to assist judges and court personnel when they process cases involving immigrants; and
- Designing a general long-term strategy to align and integrate immigration-focused efforts with other court and justice system reform and improvement efforts.

Initiative Activities and Findings to Date

In furtherance of those goals, we have conducted two site visits, the first on September 7-8 in Atlanta and the second on November 8-10, 2011, in Atlanta and Moultrie, coupled with follow-up conference calls. We will be conducting additional site visits in the coming year. The following are areas identified in those site visits as subjects for assistance from the Immigration and the State Courts Initiative. This is not meant as an exhaustive list but rather as a compilation of the most broadly raised themes that arose from our meetings.

The main areas of assistance that we are working to provide include:

- Assessing the potential effects of HB 87 on the Georgia state trial courts;
- Working with selected counties to develop best practices;
- Developing and providing training;
- Adapting the CPPS criminal and juvenile bench guides to Georgia statutes;
- Developing approaches to language assistance;
- Promoting collaboration with ICE;
- Develop approaches for dealing with refugee resettlement communities.

Assess the Potential Effects of HB 87 on the Georgia State Trial Courts

We are working to assist the Georgia Administrative Office of the Courts in assessing the present and potential effects of HB 87 on the types of cases filed and issues raised, overall workload, and resource needs of the six different types of trial courts in the Georgia court system.

Develop and Provide Training

Everyone we interviewed expressed a desire for more information about how Federal immigration law intersects with and can affect state court criminal, juvenile, family, and civil cases. Of particular concern are understanding:

- The possible effects of criminal convictions on the immigration status of lawful permanent residents;
- What may happen to an immigrant defendant who is granted pretrial release on bond and whether and how that should affect pretrial release decisions;
- The potential eligibility for and uses of T and U Visas and the requirements for obtaining them;
- Potential eligibility for Special Immigrant Juvenile (SIJ) status and VAWA self-petitioner status and the role of the state criminal and juvenile courts in helping immigrants meet the eligibility requirements; and
- The eligibility of immigrant offenders, victims, and families for services.

The initiative will develop and present training seminars on all of the above immigration topics, based on the bench guides that we have developed in our initiative. One aspect of the training will be to track how Federal immigration issues can affect an immigrant offender at each step in the criminal process, so that the courts, District Attorneys, and defense attorneys can properly explain to offenders and their families what is happening and what is likely to happen as the offender moves through the system.

Develop Approaches to Language Assistance

The availability of qualified interpreters is a recurring problem in the courts of Georgia. Finding interpreters is difficult. In civil cases the courts often have to make do with volunteers or friends of the litigants. In criminal cases, there aren't enough certified interpreters, and there are often no interpreters available for pretrial conferences or other non-trial activities. A major concern is assuring that criminal defendants understand what they are pleading to. At present the prosecutors have no Spanish-speaking victim advocates. The Public Defenders also have language issues.

Further, providing interpreters is just one part of assuring effective language access for immigrant litigants so they can understand what is happening to them. Often, cultural issues can impede the ability of immigrants to understand both the court process and their legal rights under state law.

The initiative will assist the courts in developing approaches to language assistance that take into account issues created by the intersection of language needs, culture, and immigration status and provide interpreter services that promote understanding.

Promote Collaboration with ICE

The interviewees reported a variety of issues that have arisen in dealing with ICE officers in connection with court cases. The courts do not know where the ICE detention centers are located and have difficulty learning where people picked up by ICE are taken. ICE sometimes picks up people and even deports them before their cases reach trial in state court. Alternatively, ICE may pick up people who are sentenced to probation rather than jail. As a result, it is difficult for the courts to know what to expect when sentencing immigrant offenders and for defense attorneys and prosecutors to determine rational pleas. Further, immigrant offenders who have been placed under an ICE hold, and their families, sometimes come to the state justice system officials, including District Attorneys, to ask for advice on what the ICE hold means and assistance in finding out what ICE is likely to do with a person, particularly in cases where the defendant is being held in state or local custody.

The initiative will assist the courts in working with ICE to develop mutually beneficial policies regarding:

- ICE presence in the courthouse;
- The use of the ICE locator system or other means for the courts to locate defendants who are in ICE custody;
- Protocols for notifying ICE of suspected unauthorized immigrants; and
- Any other policies of mutual interest.

Develop Approaches for Dealing with Refugee Resettlement Communities

There are counties in Georgia that have communities of refugees who were resettled there through NGO programs. These communities tend to bring their own cultures, including methods for resolving disputes among the members of the community, and tend to have extensive service needs that are borne by the counties. We will provide assistance these counties to:

- Determine the court-related service needs of the resettlement communities and develop effective methods for providing services;
- Identify cultural barriers to access to the courts in criminal, family, and civil matters and develop methods for reducing those barriers;
- Identify language barriers and assist in developing methods for providing effective interpretation and language access; and
- Identify indigenous dispute resolution methods within the resettlement communities that may complement the use of the courts for selected case types.

Disciplines Involved in the Project

- Superior Court judge
- Magistrate Court judge
- Municipal Court judge
- Court Administration
- Legal Services attorneys
- Immigration attorney
- Social services professionals
- Law enforcement
- State probation
- County/municipal probation
- Public Defender
- District Attorney
- Victim Witness Assistance
- Spanish interpreter
- Battered women's shelter director
- Family violence professional
- Court research staff

Next Steps

The immediate next step will be a site visit, scheduled for January 18-19, 2012, to meet with representatives from a variety of justice-related statewide professional associations to further investigate the above areas of assistance and identify how the initiative should move forward, both statewide and in selected counties. Beyond that, we will conduct further site visits and develop materials to achieve the initiative's overall goals.



Judicial Council of Georgia Administrative Office of the Courts

Marla S. Moore

Director

January 5, 2012

MEMORANDUM

TO: Each Member of the Judicial Council

FROM: Marla S. Moore, Director

RE: **Immigration and the State Courts Initiative**

The following background and site report summaries are provided as background information relating to the December 8, 2011, Georgia Initiative Summary.

IMMIGRATION AND THE STATE COURTS INITIATIVE: MEETING THE CHALLENGE

May 25, 2011

Initiative Background and Purpose

Initiated in May 2008, the multi-year Immigration and the State Courts Initiative is being conducted by the Center for Public Policy Studies (CPPS) in partnership with the State Justice Institute (SJI). CPPS is a Colorado non-profit [(501)(c)(3)] corporation established in 1985 to provide technical assistance, research and development services, and management consulting to public sector agencies. Much of its work over the past few decades has been with state and local court and justice systems.

The Immigration and the State Courts Initiative is focused on four strategic priorities:

- increasing understanding and awareness about the impacts of immigration in the state courts;
- developing and testing state and local approaches for assessing and addressing the impact of immigration in the state courts;
- enhancing state and local court capacity to improve court services affected by immigration; and
- building effective national, state, and local partnerships for addressing the impact of immigration in the state courts.

Six types of activities have been undertaken to address these four strategic priorities.

First, we are identifying the major challenges and opportunities state courts need to address when dealing with immigrants in the courts and establishing a web-based resource network.

We are interested particularly in the impacts of immigration on caseloads, court operations, resources, service delivery and overall performance. Our goal is to provide systematic, comprehensive documentation of the issues and challenges facing state courts in delivering services to immigrants.

There is a substantial body of literature that discusses immigration issues generally but not how those issues affect courts and court services. Also, while in the past there have been numerous stories from individual courts that illustrate the challenges they face in serving this population, there have not been comprehensive compilations of what those challenges are or how courts have addressed those challenges. To address this gap, we have been and will continue to gather and summarize information from numerous sources to inventory immigration issues and how those issues affect or may affect the state courts.



The types of resources we have prepared and will expand in the coming months include brief articles for the State Justice Institute monthly newsletter, longer articles for the Court Manager, Judges Journal and other publications targeting judges and court practitioners, as well as interactive-electronic bench books, step-by-step court improvement guides, and training curriculums. Further, we have established an extensive immigration and the state courts web-site directed at court and justice system practitioners. (www.centerforpublicpolicy.org) Over the coming year, we will expand the web-site's capacity to include web-based training programs, and links to immigration experts, as well as access to written resources.

Second, we are working with diverse court jurisdictions to learn first hand what challenges they face in addressing the needs of immigrant populations that use the courts and how to best address those challenges.

Within a year a total of sixteen intensive TA sites will have been involved in the project. The initial six learning sites were the Maricopa County Superior Court, the Miami-Dade County Superior Court, and The Eighth Judicial District of Minnesota, located in rural Western Minnesota, the State of Delaware Courts, and two projects for District and Circuit Courts in seven counties located in South-Eastern Michigan and the State of Michigan Courts generally. In the past year, the municipal, district, and superior courts located in Pierce County (Tacoma) Washington joined the Initiative along with the State of Washington Courts, and the Courts of the 18th District in Colorado. Recently the project has begun to work with The State of New Jersey Courts, and it is likely that courts located in Illinois will be joining the effort soon. Finally, five additional sites will be added to the project in the next year.

The learning sites have been and will continue to be selected for their known concerns about how immigration is affecting court services in their jurisdictions, the diversity of the immigrant populations they serve, and geographic location. The purpose of working with the sites is to identify the range of issues they have encountered in providing services to immigrants, what impacts those issues have had on the courts, how the courts have responded, what tools/processes they believe would help them deal with immigration issues going forward, and what actions they are going to take to respond in the future.

Typically, we conduct a minimum of four site visits to each of the new jurisdictions. The site visits are designed to accomplish the following objectives:

- gather information from a wide range of stakeholders to describe the immigration issues facing the jurisdiction, how these issues have affected (or potentially could affect) the courts, and how they have addressed each issue;
- understand the upstream and downstream effects the issues in the profile will have on the delivery of justice services and explore possible responses to each of the effects to determine how to minimize their impact on the court and what tools need to be developed to implement those responses;



-
- select priority issues the court would like to address and then work with the court to develop an action plan for addressing those issues; and
 - assist the jurisdiction to implement immediate improvements and obtain the infrastructure and resources needed to establish and sustain longer-term improvements.

Third, we have prepared two electronic, interactive bench guides, one for assisting judges across the nation address the practical implications of state court criminal case processing involving immigrants, and a second addressing the nexus of federal immigration status and family, juvenile, and dependency case processing.

The criminal bench guide draws on all of the research conducted in this project and the experiences of the judges in the pilot sites. A partial contents list of the criminal case processing and immigration bench guide includes:

- bail decisions;
- decisions regarding eligibility for and conditions of probation;
- taking guilty pleas and the effects of guilty pleas on immigration status;
- evidentiary issues, including the admissibility and uses of immigration status;
- intersections of Federal and state laws;
- the impact of foreign laws;
- confidentiality and access of governmental officials to trial information; and
- required notification to Federal officials.

The family, juvenile, and dependency case processing bench guide covers all types of family and juvenile cases that intersect with immigration law, including:

- divorce, including alimony, child support, custody, and visitation;
- domestic violence;
- civil protection orders;
- juvenile delinquency;
- dependency; and
- guardianship.

For the above case types, the bench guide include the following topics:

- immigration rights that can be affected by state court actions, including:
 - ✓ eligibility for naturalization;
 - ✓ eligibility for lawful permanent resident (LPR) status;
 - ✓ eligibility for special immigrant juvenile status (SIJS);
 - ✓ eligibility for cancellation of a removal order;
 - ✓ voluntary removal; and
 - ✓ eligibility for refugee or asylee status.



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- immigration issues that may affect a family or juvenile court decision, including:
 - ✓ effects of possible removal of a spouse/parent on decisions regarding alimony, custody, and child support;
 - ✓ effects on dependency cases of parents being held in ICE custody;
 - ✓ eligibility for benefits or services;
 - ✓ ability to work and pay alimony or child support;
 - ✓ ability to meet conditions imposed for custody in a divorce case or return of a child in a dependency case;
 - ✓ ability to meet conditions imposed in protection orders; and
 - ✓ U.S. Department of Health and Human Services requirements for unaccompanied alien children in dependency cases.

Fourth, we have prepared and are periodically updating an interactive electronic Practitioners Guide for Addressing the Impacts of Immigration in the State Courts that can be used in courts across the nation.

The Guide incorporates the practical lessons learned from the learning sites and all the other research conducted during the Initiative. The contents of the Guide are structured around a detailed assessment and improvement framework accompanied by a series of tools and resources, such as answers to frequently asked questions, summaries of lessons learned, session worksheets and extensive web-links to statutes, census data and numerous other types of information about immigration topics.

In addition, the Guidebook includes:

- a description of the size and diversity of the current legal permanent resident and undocumented immigrant populations in the U.S.;
- a summary of the role and impact of immigrants on the economy and justice system;
- an inventory of the numerous points of intersection among federal, state, and local immigration law, policy and practice; and
- discussion of how the challenges posed by immigration in the state courts test fundamental notions of justice, such as equal access, equal and consistent justice, judicial independence, and the independence of the state judiciary from the federal and state executive and legislative branches.

Fifth, we are developing and conducting courses for judges and court personnel for addressing the impacts of immigration in the state courts and establishing and coordinating a nation-wide training network.

Although we have designed the training to be flexible to meet local needs, the focus of judge training includes general information about the nexus of federal, state, and local immigration law, policy, and practice and the practical implications of these connections on criminal, family, juvenile, and dependency case processing. The court personnel course stresses understanding the scope and consequences of immigration on a trial



court and identifying and implementing improvements. The contents of the courses are built around the criminal and family bench guides and the guide for court administrators described above.

Moreover, to promote the effective use of the immigration and state courts courses by court training and support organizations across the nation we will be working with a variety of organizations – such as the National Association of Women Judges, National Council of Juvenile and Family Court Judges, the National Judicial College, the National Association for Court Management, and the National Association of State Judicial Educators – to establish an immigration component as part of their educational programs. We are also identifying potential faculty and establishing a network of faculty capable of teaching about immigration and the state courts.

Sixth, we are helping to establish and facilitate an on-going federal/state dialog to promote better collaboration between federal and state courts and justice organizations when addressing immigration issues that impact the state courts.

This dialog is especially important now as broader national immigration reform is contemplated. As noted previously, we have prepared numerous materials about the nexus of federal, state and local immigration law, policy, and practice. The topics addressed have been far reaching, encompassing everything from the connections among criminal, family, and, juvenile law and policy to the impacts of immigration on caseloads, court operations, resources, service delivery and performance measurement.

Expanding on this foundation, we intent to produce comprehensive materials that examine how the work of the state courts in cases involving immigrants could be enhanced substantially by collaborating more closely with the numerous local and state justice partners and federal organizations involved in immigration matters, including Immigration and Custom Enforcement (ICE), the Department of Housing and Human Services, the federal judiciary, the federal immigration courts, federal corrections and probation, and other U.S. Department of Justice units.

In addition, these publications will examine the items that need to be addressed as part of any comprehensive federal immigration reform effort. The focus here is on how to accommodate the needs of the state courts while serving the needs of immigrants in state courts.

CPPS Immigration and the Courts Initiative Staff

The team for the CPPS Immigration and the State Courts Initiative are John Martin, Steven Weller, David Price, Angela Lederach, and Jeffrey Yoder. In addition, Professor David Thronson is also working with the CPPS team.

John A. Martin, Ph.D. (jamartin@indra.com), is the Director of the CPPS Immigration and the State Courts Initiative. Dr. Martin, a planning, policy, and management



consultant, is recognized as an innovator in planning, management, performance measurement, and institutional development for justice and human service organizations. Over the past 38 years, he has consulted with courts, justice, and human service agencies of all types. He has conducted grant-funded research, provided technical assistance, and taught seminars about innovation and systems change, agency and inter-agency planning and management, organizational culture and change management, work process improvement, simplified litigation, alternative dispute resolution, technology applications, cross-cultural interaction, the impacts of immigration in the courts, Latino family violence, performance measurement, and executive-legislative-judicial relations. Dr. Martin also serves on a variety of editorial boards and has been a Dean with the Institute For Court Management, Executive Development Program.

Martin's current and recent projects include designing and implementing approaches for addressing the impacts of immigration in the courts, a youth service improvement initiative with the Jefferson County Colorado justice and human service systems, and planning, work process improvement, and performance measurement efforts in the Los Angeles, Maricopa County Arizona, and the Imperial County, California, Superior Courts, and with the Boulder Colorado Police Department. His writings about courts, police, corrections, and human service planning, management, and public policy have been published in handbooks, scholarly books, and dozens of magazines and journals.

Dr. Martin received a Ph.D. from the Graduate School of Public Affairs of the University of Colorado, an M.A. in Political Science, University of Colorado, a B.A. in Political Science from Fort Lewis College, Durango, Colorado, and has had extensive mediation training from CDR Associates.

Steven Weller, J.D., Ph.D. (sweller@indra.com), is the Senior Consultant to the Initiative and has more than 35 years of experience working with state courts and other justice system institutions in the United States and internationally. In the United States he has served as principal investigator or consultant on a variety of national, state, and local research and strategic planning projects aimed at improving different aspects of the justice system and developing responses to public policy problems. Dr. Weller's current and recent projects include work on alternative dispute resolution, civil case processing, alternative sanctions to incarceration, family courts, child abuse and neglect, juvenile delinquency, domestic violence, courthouse safety, and jail overcrowding. His work has also included developing approaches to help courts deal more effectively with cultural issues in family and domestic violence cases.

Weller has extensive experience both in planning and evaluating justice system organizations. He has conducted studies of justice system organization and administration, case flow analysis, caseload management and comprehensive studies of the larger justice system throughout the U.S. and internationally. He is sensitive to the complex relationships that exist among judges, court administrative staff, prosecutors, attorneys, other representatives within the larger justice system and stakeholders in the justice system's performance that are outside of that system.



Weller is a former Program Attorney at the National Judicial College, where he was responsible for directing the College's dispute resolution course and its course offerings for limited jurisdiction judges. He has served periodically on the faculty of the Judicial College. He also served as a Senior Staff Attorney at the National Center for State Courts, where he conducted extensive national-scope research on a wide range of projects involving court organization and court processes, including a national study of small claims courts. His writings on small claims courts, methods for simplifying the trial court process, alternative dispute resolution, family violence, and strategic planning have been published widely in a variety of books and journals.

Weller has a B.A. from Yale University, a J.D. from Yale Law School, and a Ph.D. in Government from Cornell University.

David A. Price, Ph.D. (DPrice@Policy-Studies.com) is the co-founder and President of the Center For Public Policy Studies with headquarters in Denver, Colorado, and a Senior Consultant with the Immigration Initiative. Dr. Price has over 32 years of research and technical assistance experience with public sector organizations, including the state courts. Dr. Price provides executive oversight to CPPS projects and directs and manages several of his own projects. The current focus of his research and consulting practice is primarily in the areas of child welfare, child support enforcement, and court program operations. He helps public sector agencies around the country assess and develop strategies for effecting improvements in the design and performance of their service delivery, and frequently makes presentations of the outcomes and implications of his research at national conferences.

Among his other professional obligations, Price is Principal Consultant at Policy Studies Inc., a company he co-founded in 1984 that primarily delivers outsourced services to states and local governments. He also sits on the Board of Directors for the Conflict Resolution Institute at the University of Denver and for a Canadian communications firm with headquarters in Vancouver, British Columbia. Dr. Price is actively involved in community affairs as President of his neighborhood association's Board of Directors.

Dr. Price received his B.A. in economics from American University in Beirut, Lebanon and a Ph.D. in international studies from the University of Denver.

Angela Lederach (alederach@gmail.com) is a Research Associate with the Immigration and the State Courts Initiative. Prior to this Initiative, she worked with international reconciliation and transitional justice efforts in the Philippines, West Africa, and Central America, and most recently with a Mayan Cultural Center development effort in Guatemala. She has also worked with a public schools and courts based restorative justice program. Angela is proficient in both Spanish and Visayan. Her writings about culture, peace building, and restorative justice have appeared in a variety of diverse publications. Angela holds a dual B.A. degree in Anthropology and International Peace Studies from the University of Notre Dame.



Jeffrey Yoder ([jyoder@gmail.com](mailto: jyoder@gmail.com)) is a Research Associate with the Immigration and the State Courts Initiative. Prior to working on the Immigration Initiative, he worked with the Mennonite Central Committee in Tucson, Arizona coordinating educational events to raise awareness about the issues facing border communities in both Mexico and the United States, and also worked with the Tucson Food Bank. Moreover, Jeffrey previously lived in Guatemala where he worked with EPIC, an international non-governmental organization, to develop a Mayan Cultural Center. Jeffrey is proficient in Spanish and holds a B.A. degree in Sociology from the University of Nebraska, Lincoln.

David B. Thronson J.D. is currently Professor of Law at the Michigan State University Law School and also serves as an attorney with the school's immigration law clinic and as an advisor to the CPPS Immigration and the State Courts Initiative. Thronson is a member of the American Immigration Lawyers Association, Clark County Sheriff's Immigration Advisory Committee, the Clinical Legal Education Association, the Nevada Immigrant Coalition, and the Southern Nevada Human Trafficking Taskforce. He has taught previously at University Of Nevada Law School, New York University School of Law, Hofstra University School of Law, and Seton Hall University School of Law. Professor Thronson also has worked as a high school teacher and administrator in New York City and in Nepal. Professor Thronson has published extensively about the connections among immigration law and policy and state court policy and practice for a variety of publications including Wake Forest Law Review, Hastings Law Journal, Evaluation and Program Planning, and the Virginia Journal of Social Policy and Law.

Professor Thronson received his J.D. from Harvard Law School, an M.A. in Mathematics Education from Columbia University, and B.S. and B.G.S. degrees in education and mathematics from the University of Kansas.

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Federal Immigration Policy and the State Courts: Essential Questions and Answers

Question: What impacts can the actions of state and local courts have on the effectiveness of Federal immigration policy?

Answers:

- √ The effectiveness of Federal policy is to a large extent dependent on local cooperation and the actions of local justice officials. This includes: (1) the ability to identify illegal aliens and lawful immigrants who might be subject to removal; (2) reporting individuals to ICE; (3) pretrial release policies of law enforcement, prosecutors, judges, and the jail; and (4) the sharing of information between local justice officials and ICE.
- √ In some areas of Federal immigration law, an individual's immigration rights are specifically based on what happens to the individual in state court. This is especially true with regard to the effects of state court criminal convictions and sentences, as Federal immigration rights are determined by state law definitions and the decisions of state court judges as to the nature of the crime, the elements of the crime, and the sentence. Federal law thus makes immigration rights dependent on the exercise of discretion by local law enforcement officers, prosecutors, and judges. In addition, the availability of T and U visas depends on the willingness of local justice officials to certify that the individual is necessary to a criminal prosecution.
- √ State court criminal judges are not as tied to strict sentencing guidelines as are federal criminal judges. State judges have the authority to consider a wide range of factors about an individual defendant in their sentencing decisions, including the threat that the offender poses to public safety, levels of culpability, restorative justice concerns, likelihood of rehabilitation, and impacts on the offender's family. Immigration rights could be one factor that a state court judge might consider significant.
- √ Even once an individual is caught up in the immigration system, much of what happens to that individual and his or her family is determined by the local justice system. This includes treatment by local probation officials, placement of children, the availability of family assistance, etc.
- √ State court records, particularly records of the details of criminal convictions, may be critical to determining an individual's immigration rights.



Question: What impacts can Federal immigration policy have on the state courts and other local justice agencies?

Answer:

- √ In the criminal arena, some of the problems that immigration issues can cause for local law enforcement, prosecution, courts, jails, and probation, include difficulties in:
 - Identifying individuals who have multiple cases under different names, particularly for flagging multiple offenders;
 - Determining when to use citation and release rather than arrest;
 - Determining eligibility and conditions for pretrial release;
 - Dealing with language issues at all stages of the court process;
 - Scheduling preliminary hearings, plea hearings, and trials;
 - Determining eligibility for probation;
 - Setting probation conditions that can be met by immigrants and illegal aliens;
 - Tracking individuals who fail to appear for trial or probation appointments due to immigration holds;
 - Finding rehabilitative services for immigrant defendants, especially services for illegal aliens; and
 - Obtaining the testimony of witnesses who are reluctant to come forward due to fears of immigration consequences.

- √ In the civil and family arenas, some of the problems that immigration issues can cause for courts, social service agencies, and treatment providers include:
 - Placing children of immigrants who are deported, both immigrant children and children who are American citizens through being born in the U.S.;
 - Providing family counseling and other treatment services for families;
 - Providing counseling and treatment services for juveniles;
 - Determining workable alimony and support;
 - Creating a record of findings in dependency cases that are sufficient to support an application for Special Immigrant Juvenile Status;
 - Setting achievable conditions for family reunification and return of children placed out of the home;
 - Providing financial assistance, food stamps, medical services, mental health services, and other types of family assistance;
 - Providing services in different languages; and
 - Providing services geared to different cultures.



Question: Why is it so difficult get accurate information on the immigrant composition of the local court caseload in a jurisdiction?

Answer:

- √ Immigration issues arise in state court cases solely as collateral issues. As a result, there is no official “immigration caseload” for state courts to include in their caseload statistics. In addition, state courts often do not know the immigration status of litigants before them, so they have no way to count even that aspect of their caseloads.

Question: What is the SJI Initiative doing to help the state courts better carry out their appropriate roles within Federal immigration policy?

- √ SJI is using its Strategic Initiatives Grants (SIG) program to expand our knowledge of the impacts of immigration on the state courts and develop appropriate responses to those impacts. Specifically, the SIG program is: (1) examining the impacts of state court actions on legal immigration status; (2) educating the state courts about federal immigration law; and (3) improving information sharing and collaboration between the state courts and federal government. In addition, an important part of the initiative is to develop methods to measure of the impact of immigration on the state courts, so that there will be meaningful data in the future. We are working to develop measures of the impacts of immigration on state court caseloads, workloads, case processing times, costs, and the quality of justice.

Question: What is the role of the pilot projects in the SIG immigration initiative?

Answers:

- √ The pilot projects provide the opportunity to investigate immigration impacts in detail and develop responses to those impacts in the selected jurisdictions. A planning team will be formed in each jurisdiction, comprised of representatives of all agencies that deal with immigration issues and directly impact the court. In addition, input from a broad range of other stakeholders will be sought. The ultimate goal of the pilot projects is to promote collaboration among the justice system agencies, local, state, and Federal, in a jurisdiction.
- √ A critical part of each pilot project will be assessing the needs and interests of a broad range of stakeholders to assist in forming effective responses to immigration issues. A variety of techniques are available for connecting with different stakeholder groups beyond those represented on the planning team. Some of the ways that input on the needs and interests of other stakeholders can be obtained include the following:
 - Surveys of court users;
 - Informal informational sharing meetings;



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- Large or medium sized group meetings;
 - Facilitated small group discussions;
 - Standing local justice committees that include justice system partners and other stakeholders;
 - Advisory committees that include justice system partners, stakeholders, and/or community leaders/members;
 - Working groups of individuals from inside and outside the courts formed to work on specific projects; and
 - Implementation teams comprised of court and external members that work together to implement specific projects or system improvements.

Question: What will be the outputs of the SIG immigration initiative pilot projects?

Answers:

- √ At the local level the projects will develop action plans and implementation strategies and begin implementing improvement efforts to address the key immigration impacts in the jurisdiction.
- √ At the national level the projects will facilitate knowledge transfer by producing detailed documentation of the work of the project to assure that: (1) a record is created to inform policy makers what was decided and why; (2) the basis for each decision is clearly set forth; and (3) an adequate history of the work of the team, in terms of both process and substance, is created for other jurisdictions undertaking similar efforts.

Question: What should be the desired outcomes of a federal-state collaborative effort on immigration policy?

Answers:

- √ The following are some of the issues that a collaborative effort between ICE and local justice agencies could address:
 - Responsibilities of and potential restrictions on local justice officials for reporting potentially deportable aliens to ICE;
 - Effect of ICE holds on jail use;
 - Required documentation for local jail officials to release a person into ICE custody;
 - ICE assistance to local justice officials to help identify people;
 - Sharing of evidence between ICE officials and local prosecutors;
 - Location of individuals in ICE custody for trial scheduling;
 - The ability of individuals under ICE holds to meet probation conditions;



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- The ability of probation to determine who is under an ICE hold for the purposes of probation supervision;
 - Information from ICE on individuals who have voluntarily agreed to leave the country;
 - Information on ICE holds from other jurisdictions; and
 - Possible access to ICE databases by local justice officials;
- √ Some of the local operational outcomes that such a collaborative effort might produce include:
- Protocols for local justice officials to determine the location and status of individuals in ICE custody who are defendants in state court or on supervised probation;
 - Protocols for reporting potentially deportable aliens to ICE; and
 - Training on ICE procedures for local justice officials.
- √ The effort could help inform a national dialog on immigration reform by:
- Systematically and comprehensively identifying all the points of intersection and interdependency and examining policy and operational implications of intersections;
 - Developing, documenting, testing, and implementing approaches to address intersections nationally, state-by-state, and locally;
 - Identifying areas of uncertainty or confusion in Federal immigration law;
 - Identify areas where the application of Federal immigration law produces unintended consequences; and
 - Identifying opportunities for reform of Federal immigration law to improve its effectiveness in achieving desired national goals.



**Center for Public Policy Studies, Immigration and The State Courts Initiative
September 7-8, 2011 Georgia Site Visit Summary
Steven Weller and John A. Martin
September 26, 2011**

This memorandum: (1) identifies possible areas for future assistance from the Immigration in the State Courts Initiative to the courts of Georgia regarding the impacts of Federal immigration law on the Georgia state courts; (2) summarizes the issues raised in meetings held on September 7-8, 2011 in Atlanta relating to each suggested area of assistance; and (3) suggests next steps.

The following are areas identified in the meetings as possible subjects for future assistance from the Immigration and the State Courts Initiative. This is not meant as an exhaustive list but rather as a compilation of the most broadly raised themes that arose from our meetings.

Assess the Potential Effects of HB 87 on the Georgia State Trial Courts

We have begun to work with Mike Cuccaro to assist the Georgia Administrative Office of the Courts in assessing the present and potential effects of HB 87 on the types of cases filed and issues raised, overall workload, and resource needs of the six different types of trial courts in the Georgia court system. Our initial approach to this assistance is described in the section on next steps at the end of this report.

Specific issues raised

Under HB 87, the police are now checking the identification of passengers in cars on some traffic stops, confiscating immigration papers, and sending them to Georgia Department of Driver Services to be checked against the Federal ICE database. Driver Services is certified under the Federal 287g program and has access to the ICE database. It is not clear how people get their papers back or how long it takes. Without papers, immigrants may have difficulty accessing court-ordered benefits or services.

Traffic offenses are criminal offenses in Georgia, and most offenders are put on probation. This level of probation is run by private probation providers, so it is important to understand how they fit into the HB 87 enforcement scheme.

Police are now also checking the identification of everyone in the home on domestic violence calls and reporting suspected unauthorized immigrants to ICE. Calling the police for a domestic violence incident may thus lead to the deportation of the victim. This practice may violate the Violence Against Women Act (VAWA), which provides protections for domestic violence victims, including the right to self-petition for legal

immigration status. The result may be an increase in U visa requests and VAWA self-petitions.

Getting people fingerprinted is becoming a priority. Some Magistrates are requiring people in traffic court cases to get fingerprinted if they weren't booked at arrest. Further, police in some counties are bringing people stopped for traffic infractions to the jail just for fingerprinting before releasing them. It is not clear how these activities might affect traffic caseloads.

There is a concern that law enforcement procedures under HB 87 may make it more difficult for crime victims to get U visas.

Work With Selected Counties To Develop Best Practices

We could provide assistance to the AOC and to the courts of selected counties in Georgia to develop policies and best practices for any or all of the following areas.

- Taking pleas, including creating uniform plea forms;
- Developing methods to assure that defendants are adequately advised of the immigration consequences of a plea;
- Developing approaches to providing language assistance;
- Determining who should be eligible for probation or specialized treatment programs and how their progress should be monitored;
- Determining when and how to use U Visas;
- Advising and sentencing juveniles;
- Determining family relationships and locating family members in child custody and dependency cases;
- Identifying and assisting juveniles who may be eligible for special immigrant juvenile status;
- Identifying and assisting abused spouses who might be eligible for VAWA self-petitioner status,
- Improving record-keeping, particularly across counties, to facilitate the ability to identify people with multiple convictions; and
- Any other immigration-related topic desired by the court system.

Specific issues raised

Judges are unsure of their legitimate role in drafting, reviewing, and advising about plea agreements.

Identifying individuals who are involved in multiple cases is difficult, especially as information is not shared across counties. Some multiple offenses, such as the fourth offense of driving without a license, can turn a misdemeanor into a felony.

There was some speculation the judges may see more requests for U Visas. Further, husbands in divorce cases have been asking judges for and being allowed to see their wife's U Visa application.

Atlanta has the highest rate of trafficking in the country, so there have been requests for T visas as well. A person may initially be smuggled in but then become a trafficking victim once in the country. Trafficking can arise in the form of prostitution, domestic servitude, drug deliveries, and forced labor. FBI approval is necessary for a T visa.

Family courts also have to be concerned with immigration issues, particularly in determining and enforcing child support orders. A non-custodial parent who is sent to jail for non-payment of child support will be fingerprinted and may subsequently end up being deported. As unauthorized immigrants tend to work for cash, determining income for support purposes can be difficult. Determining parentage may be required if the immigrant couple isn't married.

Develop and Provide Training

We could provide assistance to the Georgia courts in developing and presenting training on immigration issues for:

- All types of judges, including criminal, juvenile, family, and civil;
- Court administrative and clerical staff; and
- Other appropriate justice system staff who work with the courts.

Specific issues raised

The judges, court administrators, and court clerks lack knowledge of immigration law and how the immigration system works. Further, they don't know what they need to know. There is a need for training for both judges and court staff.

Adapt the CPPS Criminal and Juvenile Bench Guides

We could work with representatives from the courts and the bar to:

- Develop an appendix to the criminal bench guide to identify the possible immigration consequences of conviction of crimes under different sections of the Georgia Criminal Code; and

- Develop an appendix to the juvenile and family bench guide to identify eligibility requirements for different classes of immigrants for different state benefits.

Specific issues raised

Some of the people interviewed suggested that it could be worthwhile as an aid to training to add an analysis of Georgia criminal statutes to our criminal bench guide and an analysis of the availability of Georgia state benefits to our juvenile and family bench guide.

Develop Approaches to Language Assistance

We could assist the courts in developing approaches to language assistance that take into account issues created by the intersection of language needs, culture, and immigration status and provide interpreter services that promote understanding.

Specific issues raised

The need for interpreters can arise in every part of the justice system, and in Georgia any decision-maker in the justice system, including a judge, a court clerk, a service provider, etc., can require an interpreter if the person can't effectively communicate. The requirement applies to all parts of the justice system, including service provision such as domestic violence classes and ex-parte actions such as applications for restraining orders. If an interpreter isn't provided early in the process, an immigrant may compromise his or her status without realizing what has happened.

Having to use an interpreter can affect case processing time and the time required to complete a trial.

Creating understanding goes beyond mere interpretation. Understanding may be affected by an immigrant's culture, education, and experience. Further, immigrants need assistance in navigating the system, not just in translating language.

Promote Collaboration with ICE

We could assist the courts in working with ICE to develop mutually beneficial policies regarding:

- ICE presence in the courthouse;
- The use of the ICE locator system or other means for the courts to locate defendants who are in ICE custody;
- Protocols for notifying ICE of suspected unauthorized immigrants; and

- Any other policies of mutual interest.

Specific issues raised

The courts have experienced difficulties in finding people who are in ICE custody, even with the ICE locator system. ICE can move people around. Also, ICE sometimes takes people prior to a state trial, especially if a person is subject to administrative removal, such as for reentry after removal. It is rare to have someone who is in ICE custody reappear in state court.

ICE has a chief counsel, a deputy chief counsel, and eight or nine prosecutors. There appears to be no uniform policy among them.

Next Steps

We propose that the Center for Public Policy Studies staff continue to work with the steering committee formed by Georgia Judicial Branch, augmented as suggested by several of the members. The first step for the steering committee could be to distribute this document to the individuals with whom we met and solicit their thoughts as to what assistance would be most beneficial to the courts of Georgia. We could then meet with the steering committee to: (1) select the projects that look most valuable to the courts; (2) determine who should be involved in the projects selected; and (3) develop preliminary work plans for each project.

Assessment of the effects of HB 87

We have already begun to work with Mike Cuccaro on developing an approach to assessing the effects of HB 87 on the Georgia trial courts, and we propose to make that one of the first projects for this effort. The assessment will investigate the experiences of a wide range of actors who may affect the work of the courts, including judges, court administrators, prosecutors, solicitors, public defenders, law enforcement, child support enforcement, probation (public and private), Driver Services, and a range of service and treatment providers. We will focus on all of the different types of courts in Georgia and how HB 87 affects each of them.

The questions that we propose to investigate in the assessment include the following:

- How has HB 87 changed the court cases that you have to deal with?
- How has your workload changed to handle court cases because of HB 87?
- What changes have you made in your work processes, policies, and procedures in order to handle court cases because of HB 87?

- How have your staffing, training, and record-keeping needs changed in order to handle court cases because of HB 87?
- How have the outcomes of court cases been affected by HB 87?

Some of the key areas of HB 87 that we will focus on include:

- Employer sanctions;
- The crime of identity fraud;
- Harboring;
- Transporting;
- Inducing;
- Procedures for checking identity;
- Licensing of providers;
- Eligibility for benefits; and
- Checking of secure documentation.

We envision that the analysis will result in a matrix describing how each key area of HB 87 affects the questions that are the focus of our analysis.

**Center for Public Policy Studies, Immigration and The State Courts Initiative
November 8-10, 2011 Georgia Site Visit Summary
Steven Weller and John A. Martin
December 5, 2011**

This memorandum identifies possible areas for future assistance from the Immigration in the State Courts Initiative to the courts and related justice system agencies of the Second Judicial District and the courts of Georgia statewide regarding the impacts of Federal and Georgia immigration law on the Georgia state courts. Our discussion is based on issues raised in meetings held on November 8-10, 2011 in Atlanta and Moultrie and follow-up conference calls.

The following are areas identified in the meetings as possible subjects for future assistance from the Immigration and the State Courts Initiative. This is not meant as an exhaustive list but rather as a compilation of the most broadly raised themes that arose from our meetings.

The work described below is in addition to the areas of assistance identified in the meetings and interviews conducted during our September site visit, as discussed in our site visit report dated September 26, 2011. The main areas of assistance that we presented in that report included:

- Assessing the potential effects of HB 87 on the Georgia state trial courts;
- Working with selected counties to develop best practices;
- Developing and providing training;
- Adapting the CPPS criminal and juvenile bench guides to Georgia statutes;
- Developing approaches to language assistance; and
- Promoting collaboration with ICE.

The areas of assistance identified in the memorandum both build on and provide additional focus to the above areas. In particular, they provide additional insights into the training needs, areas for developing best practices, language assistance needs, and areas for improved collaboration with ICE.

Possible Areas of Assistance to the Second Judicial District

We conducted interviews in Colquitt County with a variety of justice system stakeholders in the Second Judicial District. The following are the key areas of assistance identified in those interviews.

Develop and Present Training on Federal Immigration Law for Judges and Other Justice System Personnel

Everyone we interviewed expressed a desire for more information about how Federal immigration law intersects with and can affect state court criminal, juvenile, family, and civil cases. Of particular concern are understanding:

- The possible effects of criminal convictions on the immigration status of lawful permanent residents;
- What may happen to an immigrant defendant who is granted pretrial release on bond and whether and how that should affect pretrial release decisions;
- The potential eligibility for and uses of T and U Visas and the requirements for obtaining them;
- Potential eligibility for Special Immigrant Juvenile (SIJ) status and VAWA self-petitioner status and the role of the state criminal and juvenile courts in helping immigrants meet the eligibility requirements; and
- The eligibility of immigrant offenders, victims, and families for services.

We could develop and present training seminars on all of the above immigration topics, based on the bench guides that we have developed in our initiative. One aspect of the training would be to track how Federal immigration issues can affect an immigrant offender at each step in the criminal process, so that the courts, District Attorneys, and defense attorneys can properly explain to offenders and their families what is happening and what is likely to happen as the offender moves through the system.

Develop Guidelines and a Guidebook for Providing Effective Language Access

The availability of qualified interpreters is a recurring problem in the courts of Colquitt County. Finding interpreters is difficult. In civil cases the courts often have to make do with volunteers or friends of the litigants. In criminal cases, there aren't enough certified interpreters, and there are often no interpreters available for pretrial conferences or other non-trial activities. A major concern is assuring that criminal defendants understand what they are pleading to. At present the prosecutors have no Spanish-speaking victim advocates. The Public Defenders also have language issues.

Further, providing interpreters is just one part of assuring effective language access for immigrant litigants so they can understand what is happening to them. Often, cultural issues can impede the ability of immigrants to understand both the court process and their legal rights under state law. For example,

- Legal terms and concepts used in the state courts may not have equivalents or may have different meanings in other cultures;

- Cultural conventions in the use of names may cause mistakes in identifying people; and
- Activities that are prohibited under state law may be legal in other countries, such as the acceptable age for sexual relationships.

We could assist the courts of the Second Judicial District, and particularly the Southern Judicial Circuit, to:

- Identify resources for finding and training interpreters; and
- Develop guidelines for judges and court administrative and clerical staff for improving language access for litigants to assure that litigants truly understand the process and what is happening to them.

Develop Approaches for Dealing With ICE

The interviewees reported a variety of issues that have arisen in dealing with ICE officers in connection with court cases. The courts do not know where the ICE detention centers are located and have difficulty learning where people picked up by ICE are taken. ICE sometimes picks up people and even deports them before their cases reach trial in state court. Alternatively, ICE may pick up people who are sentenced to probation rather than jail. As a result, it is difficult for the courts to know what to expect when sentencing immigrant offenders and for defense attorneys and prosecutors to determine rational pleas. Further, immigrant offenders who have been placed under an ICE hold, and their families, sometimes come to the state justice system officials, including District Attorneys, to ask for advice on what the ICE hold means and assistance in finding out what ICE is likely to do with a person, particularly in cases where the defendant is being held in state or local custody.

We could assist the courts and related justice system agencies, including prosecutors and public defenders, in developing the ability to:

- Communicate with ICE to determine what is happening with offenders;
- Advise immigrant offenders and their families what an ICE hold means and why ICE may have put a detainer on a particular individual;
- Explain the ICE process to offenders and their families;
- Identify offenders who are likely to be deported before trial;
- Provide advice to immigrant offenders on what is a rational plea in light of the potential for being taken into ICE custody;
- Locate offenders who have been taken into ICE detention; and
- Deal with ICE presence at certain venues.

Next Steps

We suggest that the AOC distribute this memo to everyone from the Second Judicial District who participated in the interviews, either in person in Moultrie or later by phone, to solicit their reactions concerning the areas of assistance we suggest in the memo. We could then reconvene the interviewees as a group to prioritize the areas of assistance they would like to pursue, identify who else might need to be involved in each area, and develop a plan for action.

Possible Areas of Statewide Assistance

The following are areas of assistance of statewide significance identified by staff members of the Georgia Administrative Office of the Courts.

Develop Approaches for Dealing With Transient Litigants

A substantial percentage of the immigrant agricultural labor force in the Southern Circuit is transient, due to the seasonal nature of the work. Laborers move from place to place after crops have been harvested in one place and other employment become available in other places. Some of these laborers may return the following year for the next growing season and harvest.

The transient population presents challenges to the courts with regard to assuring that litigants appear for court hearings and monitoring sentenced offenders who are placed on probation. As a result, judges may take transient labor status into account in sentencing, especially in determining who should be put on probation, what conditions should be imposed, and how the probation conditions should be monitored. In addition, as employment is a typical condition of probation and is discussed, probation officers may learn as part of that discussion that a person will need to move after a job ends. With the approval of the sentencing court, probation monitoring can be transferred to another probation office in the state or even to a probation office in another state through the Interstate Compact on Offender Transfers (ICOT).

Further, transients, and particularly those who are immigrants, make difficult witnesses. Fear of ICE and potential immigration consequences can affect the willingness of victims to report crimes and testify against offenders. Sometimes crime victims move away, particularly if they are migrant laborers, and refuse to return to testify against their perpetrators. Prosecutors then sometimes end up having to drop charges, even against violent offenders.

We could provide assistance to the Georgia Administrative Office of the Courts, The County and Municipal Probation Advisory Council, and the Georgia Supreme Court in

developing statewide guidelines for judges and probation officers for dealing with immigrant offenders and witnesses within the transient labor force, including guidelines for explaining ICE processes and possible protections from deportation to immigrant crime victims, in order to enhance the ability to prosecute offenders whose victims are immigrants

Develop Approaches for Dealing with Refugee Resettlement Communities

Both DeKalb and Gwinnett Counties have communities of refugees who were resettled there through NGO programs. These communities tend to bring their own cultures, including methods for resolving disputes among the members of the community, and tend to have extensive service needs that are borne by the counties. We could provide assistance these counties to:

- Determine the court-related service needs of the resettlement communities and develop effective methods for providing services;
- Identify cultural barriers to access to the courts in criminal, family, and civil matters and develop methods for reducing those barriers;
- Identify language barriers and assist in developing methods for providing effective interpretation and language access; and
- Identify indigenous dispute resolution methods within the resettlement communities that may complement the use of the courts for selected case types.

Next Steps

We will continue to collect information on these potential areas of interest in further interviews with relevant state-level associations of justice system officials, as well as investigate other concerns that people may have. This will be the focus of our next trip to Atlanta, which we have tentatively scheduled for January 18-20, 2012.



Judicial Council of Georgia Administrative Office of the Courts

Marla S. Moore

Director

January 5, 2012

MEMORANDUM

TO: Each Member of the Judicial Council

FROM: Marla S. Moore, Director

RE: **Georgia Judicial Leaders Symposium: Enhancing Court Efficiency Through Emerging Addiction Science**

Nearly 50 judges and court personnel attended the Georgia Judicial Leaders Symposium: Enhancing Court Efficiency Through Emerging Addiction Science, held on October 26-28, 2011, at the W Hotel in Atlanta.

The two-day symposia, a part of the National Judicial Leadership Systems Initiative, educated attendees on the science and treatment of addiction and how to implement improvements to the criminal justice system's response to substance abuse through the application of evidence-based practices in judicial decision-making. The NJC partnered with the Center for Health & Justice (CHJ) at TASC to develop the National Judicial Leadership Systems Initiative, which aims to educate and support a cadre of presiding and chief judges with the authority and willingness to plan and implement systemic substance use disorder interventions within their local and state justice systems. The Administrative Office of the Courts of Georgia provided local support for the symposia.



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***Georgia Judicial Leaders Symposium: Enhancing Court Efficiency Through
Emerging Addiction Science Attendees***

Lynn Baker
Chief Probation Officer
Southern Judicial Circuit

Melanie Bell, Esq.
Assistant District Attorney
Alcovy Judicial Circuit

Travis Bell
Probation Officer
Alcovy Judicial Circuit

Amy Bryant
Circuit Court Administrator
Cordele Judicial Circuit

Jared Campbell, Esq.
Assistant Public Defender
Rome Judicial Circuit

DJ Chadwick
Deputy Commander
Sheriff's Office
Blue Ridge Judicial Circuit

Robert Chasteen Jr.
Superior Court Judge
Cordele Judicial Circuit

Drew Chestnutt
Chief Probation Officer
Tifton Judicial Circuit

Tami Colston
Superior Court Judge
Rome Judicial Circuit

Stan Cooper
Director
Probation Operations, Department of
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State Team

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Superior Court Judge
Tifton Judicial Circuit

Katie Dempsey
State Representative
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Adult Drug Court Case Manager
Chattahoochee Judicial Circuit

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Public Defender
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Public Defender
Cordele Judicial Circuit

Denise Fachini, Esq.
District Attorney
Cordele Judicial Circuit

Jodi Ford
Chief Probation Officer
Blue Ridge Judicial Circuit

Travis Fretwell
Deputy Executive Director
Department of Behavioral Health &
Developmental Disabilities
State Team



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Northeastern Circuit
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Dena Huff
Coordinator, Partnership for Families,
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Arlene Ledesma
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Chattahoochee Judicial Circuit

Larry Love
Drug Court Coordinator
Chattahoochee Judicial Circuit

Todd Markle
Superior Court of Atlanta Circuit
State Team

John Mayes
Commissioner, Floyd County
Rome Judicial Circuit

Ellen McElyea
Superior Court Judge
Blue Ridge Circuit

David Miller, Esq.
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John Mobley, Esq.
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Marla Moore
Director, Administrative Office of the
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Jay Neal
State Representative
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Johnny Pilgrim
Probation Officer
Southern Judicial Circuit



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Assistant District Attorney
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Ed Tolley, Esq.
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State Team

Jennifer Torbett
Probation Officer
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Superior Court Judge
Southern Judicial Circuit

Stephan Ulm
Probation Officer Manager
Southern Judicial Circuit

Ken Wynne, Jr., Judge
Superior Court of Alcovy Circuit

John Zoller
Statewide Accountability Courts
Coordinator, Administrative Office of
the Courts
State Team

**Judicial Leadership Systems Change Initiative
State Team
Working Action Plan**

Judicial Council/Administrative Office of the Courts:

Goal: Examine the appropriateness of the SBIRT screening tool for criminal justice populations

Progress: After learning more about SBIRT, it was determined that while a successful tool in healthcare settings, this would not be an efficient tool for the criminal justice community to use.

Goal: Prepare a list of nationally provided evidence-based treatments

Progress: In progress

Goal: Reach out to circuit teams, provide support as applicable, and serve as liaison between circuit teams and state team

Progress: In progress

Goal: Identify proposed legislation on DATE funds and support their use for treatment courts

Progress: In progress

Goal: Facilitate follow-up meetings with state stakeholders to effect collaboration on all goals

Progress: Meeting held December 12 and next meeting will take place last week of January

Goal: Propose pilot programs to be funded through the legislature

Progress: Judicial Council Budget Committee reviewing proposals resulting from the recommendations included in the Special Council for Criminal Justice Reform report

Superior Court Judges:

Goal: Bring addiction science training to Superior Court Judges

Progress: The Training Committee of the Council of Superior Court Judges will take this issue up during its January meeting. It is anticipated that it can be added to the July 2012 training.

Georgia Department of Corrections (DCOR):

Goal: Examine current use of COMPAS tool and explore ways to increase information flow from DCOR to prosecutors and judges

Progress: The Office of Planning and Budget and Applied Research Services are working with DCOR to compare the addiction assessment and screening needs for Georgia's population with that of national needs. This project should result in an improved assessment tool for DCOR. DCOR will continue to use the Texas Christian University Drug Screen (TCUDS) for screening; this is an evidence-based tool. Any assessment tool used by DCOR should be used among other systems (specifically drug courts statewide).

District Attorneys:

Goal: Review list of 1st offenders going into prison to determine how many may have been eligible for diversion, if resources available

Progress: First examination of one circuit showed the majority of this population had been charged with trafficking. The search criteria will be refined to identify any persons in prison who may benefit from treatment options.

Goal: Bring addiction science training to PAC conference

Progress: As with Superior Court Judges the winter conference schedule had already been set. The summer training will be focused on the new evidence code, so no time has been identified for this training as yet.

Executive Branch:

Goal: Work with Governor's office in identifying the savings that can be realized with this method of sentencing

Progress: Tie-in to the Special Council for Criminal Justice Reform recommendations issued

Georgia General Assembly:

Goal: Support proposed pilot program by providing funding. Tie funding to use of evidence-based practices.

Progress: Legislators on State Team will assist

Goal: Examine the use of DATE funds and amend to insure use by treatment courts

Progress: In progress

Department of Behavioral Health and Development Disability/Treatment Community:

Goal: Determine where Federally Qualified Health Centers are located. Provide a list of programs statewide that utilize evidence-based treatment.

Progress: No report as yet

Other Notes from the State Team

- There is an incredible diversity of needs and resources across the state. Recommendations from this group or other groups must be tailored to the specific areas.
- Many substance abuse treatment programs by criminal justice agencies have been cut due to budget cuts over the last several years. Refunding of these programs may be one solution.
- It is important to fund existing services as well as explore new options (example: available beds at Penfield).
- Judges could ask all court-referred treatment providers to provide documentation that they use evidence-based practices (using national standards). This issue should be explored further.
- The success of Day Reporting Centers in treating addiction was noted by the State Team.



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GEORGIA JUDICIAL LEADERS SYMPOSIUM:
ENHANCING COURT EFFICIENCY THROUGH EMERGING ADDICTION SCIENCE
OCTOBER 26-28, 2011

DISCUSSION GROUP QUESTIONS

Discussion #3
Team Action Plan (continued)

Stage 2 (long term): What do you plan to do differently after three months and through next year?

Action Steps	Needs	Type of Change
Formulate plan for addressing s/a offenders:	Funding & education	Adaptive
--identify best screening/assessment tools	Reliable screening/assessment	Adaptive
--identify when & how screening/assessment should be administered	Training & personnel	Adaptive
--develop ways to best use that information	All of the above	Adaptive

NAME: Ken Wynne

Please be sure to include your name on this form and turn it in at the end of the course with your course evaluation (you do not have to attach it to your evaluation if you wish your evaluation to remain anonymous). We will follow up with you as your team leader to inquire what changes you have made.



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ENHANCING COURT EFFICIENCY THROUGH EMERGING ADDICTION SCIENCE
OCTOBER 26-28, 2011

DISCUSSION GROUP QUESTIONS

Discussion #3
Team Action Plan
Friday, October 28, 2011
10:00-11:10

What will your team do differently in the future as a result of this course? Please describe additional education you might wish to pursue; what information you will share with colleagues or criminal justice partners; what additional information you will seek in your jurisdiction and from whom; what long-term effect or changes, if any, you see yourself making as a result of this course.

To make the proposed changes, what do you have now? What additional things/resources do you need to make your changes? Below is a table to help you formulate those steps and what you need for each one. The table is broken into two timeframes, short and long, to help you think through the entire process.

Stage 1 (short term): What do you plan to do differently Monday morning and for the next three months?

Action Steps	Needs	Type of Change
To create a sense of urgency among community.	Decide on talking points – 5 minute message	Technical
<u>Start the discussion</u>		
Core group		
1. Have educational forums for families of addicts to educate and thru education change attitudes, which will ultimately demand change		
a. Go to civic groups, newspaper	Get info, stats, etc. to create sense of urgency	
b. Educated potential employers		
Community Resources		
2. Get other judges, law enforcement, legal community, city, county & state leadership on board	1 rep from each group to keep group informed	
<u>Plan the Program</u>		
1. As momentum starts to build, plan the program		
a. Choose assessment tool		
b. Choose a person to administer assessment		
i. Probation?		
ii. Private (Dr. Davis, Frank Harbin)		
iii. Already existing program (matrix)		
c. Learn about & talk to representatives from present community resources (to learn what is available)		
d. Build a committee or advisory board (people with influence & regular members of public so each part of community is represented)		
e. Now try to bring DA on board with baby steps		
i. Low risk/low need offenders – PTI		
ii. I.D. those at jail & divert them quickly		
f. Continue formulating plan by visiting & talking to other jurisdictions		
i. Start researching funding		
g. Fill in gaps		
i. Consider what to do with offenders with no family support		
ii. Parole release – how to work with these		
iii. Legal implications – 5 th /6 th Amendments		
iv. Community involvement for rewards		Technical



GEORGIA JUDICIAL LEADERS SYMPOSIUM:
 ENHANCING COURT EFFICIENCY THROUGH EMERGING ADDICTION SCIENCE
 OCTOBER 26-28, 2011

DISCUSSION GROUP QUESTIONS

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Stage 1 (short term): What do you plan to do differently Monday morning and for the next three months?

Stage 2 (long term): What do you plan to do differently after three months and through next year?

Action Steps	Needs
1. <u>Start the discussion</u> a. Have educational forums for officials, public, families of addicts b. Go to civic groups, newspapers c. Educate potential employers d. Get other judges, law enforcement, legal community, city, county & state leadership on board – 1 representative from each group to keep group informed	Educate to change attitudes – which will ultimately demand change – decide on talking points – 5 minute message
2. <u>Plan Program</u> a. Choose assessment tool b. Choose a person to administer assessment i. Probation? ii. Private (Dr. Davis, Frank Harbin) iii. Already existing program (matrix) c. Learn about & talk to representatives from present community resource (to learn about what is already available) d. Build a committee or advisory board (people with influence & regular members of the public) So each part of the community is represented e. Now try to bring D.A. on board with baby steps i. Low risk/low need offenders – PTI ii. I.D. those at jail & divert them quickly f. Continue formulating plan by visiting & talking to other jurisdiction – start researching funding g. Fill in gaps i. Consider what to do with offenders with no family support ii. Parole release – how to work with these iii. Legal implications --- 5 th and 6 th Amendments Community involvement for rewards	

NAME: Colston

Please be sure to include your name on this form and turn it in at the end of the course with your course evaluation (you do not have to attach it to your evaluation if you wish your evaluation to remain anonymous). We will follow up with you as your team leader to inquire what changes you have made.



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ENHANCING COURT EFFICIENCY THROUGH EMERGING ADDICTION SCIENCE
OCTOBER 26-28, 2011

DISCUSSION GROUP QUESTIONS

Discussion #3
Team Action Plan (continued)

Stage 2 (long term): What do you plan to do differently after three months and through next year?

Action Steps	Needs	Type of Change
Mental health & substance abuse treatment for all indicated people		Adaptive

NAME: Tunison

Please be sure to include your name on this form and turn it in at the end of the course with your course evaluation (you do not have to attach it to your evaluation if you wish your evaluation to remain anonymous). We will follow up with you as your team leader to inquire what changes you have made.



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OCTOBER 26-28, 2011

DISCUSSION GROUP QUESTIONS

Discussion #3
Team Action Plan (continued)

Stage 2 (long term): What do you plan to do differently after three months and through next year?

Action Steps	Needs	Type of Change
1. Set program parameters – target population		Adaptive
2. Implement process for proper evaluations/assessments of potential program participants (which includes mental health)		Adaptive
3. Develop budgets & obtain data to back up program success		Adaptive
4. Funding process initiated		
5. Go to county leaders		
6. Develop contacts/contracts with service providers to meet needs of targeted individuals		

NAME: Melanie Cross

Please be sure to include your name on this form and turn it in at the end of the course with your course evaluation (you do not have to attach it to your evaluation if you wish your evaluation to remain anonymous). We will follow up with you as your team leader to inquire what changes you have made.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution

In Support of Passage of *Standards for Language Access in the Courts* per ABA Resolution 117

WHEREAS, language access services have long been a priority issue for the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) through the Conferences' efforts to eliminate language barriers in the courts; and

WHEREAS, the Conferences have been the leaders in developing and expanding access to court services across the country through such activities as (1) the establishment of the Consortium for Language Access in the Courts, (2) proposing federal legislation to establish a grant program to assist state courts in enhancing and expanding court interpreter services, (3) supporting the National Center for State Courts' development of education programs for judges and court administrators, and (4) encouraging the establishment of commissions to improve access to justice; and

WHEREAS, the American Bar Association (ABA) established the Language Access Project in September 2010 to develop language access standards for courts, published proposed standards in June 2011, and will present revised standards for consideration by the ABA House of Delegates at the 2012 ABA Midyear Meeting; and

WHEREAS, the Conferences had expressed major concerns with the proposed standards, which were delineated in CCJ/COSCA Resolution 11-A-1; and

WHEREAS, the ABA, in response to these concerns, established a work group to review the concerns and work with the Conferences on the shared goal of improving language access in the courts for persons with limited English proficiency (LEP); and

WHEREAS, over the last four months representatives of the ABA, the National Center for State Courts, and the Conferences have spent considerable hours working in the spirit of cooperation and collaboration developing a revised document to include a mutually agreeable format and language for the standards; and

WHEREAS, the revised standards are aspirational and provide guidance for implementation of the standards; and

WHEREAS, as a result of these discussions, the Conferences' major concerns have been addressed in the revised standards;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support passage of the revised *Standards for Language Access in the Courts* by the ABA House of Delegates at the 2012 ABA Midyear Meeting: and

BE IT FURTHER RESOLVED that the Conferences express appreciation to the ABA, the ABA Standing Committee on Legal Aid and Indigent Defense, and the ABA Language Access Project Steering Committee for their willingness to work with the Conferences on this critical issue of access to justice and improving language access services in the courts; and

BE IT FURTHER RESOLVED that the Conferences, as a part of their continuing efforts to ensure equal access to justice for LEP individuals in courts, will convene a national summit in October 2012 in Houston, Texas to bring together chief justice-led state teams comprised of representatives from all three branches of government and the state bar to develop state specific strategies for improving access to justice for limited English proficient individuals.

Approved by the CCJ and COSCA Boards of Directors on December 8, 2011

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2. Courts should ensure that persons with limited English proficiency have meaningful access to all the services, including language access services, provided by the court. 21

2.1 Courts should promulgate, or support the promulgation of, rules that are enforceable in proceedings and binding upon staff, to implement these *Standards*.21

2.2 Courts should provide notice of the availability of language access services to all persons in a language that they understand.22

2.3 Courts should provide language access services without charge, and may assess or recoup the cost of such services only in a manner that is consistent with principles of fairness, access to justice and integrity of the judicial process, and that comports with legal requirements.25

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ABA Standards for Language Access in Courts

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9. The court system and individual courts should provide all judges, court personnel, and court-appointed professionals with training on the following: legal requirements for language access; court policies and rules; language services provider qualifications; ethics; effective techniques for working with language services providers; appropriate use of translated materials; and cultural competency.101

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10.4 The office should ensure the statewide development of resources to provide language access.115

10.5 The office should coordinate the credentialing, recruitment, and monitoring of language services providers to ensure that interpreters, bilingual staff, and translators possess adequate skills for the setting in which they will be providing services.117

10.6 The office should coordinate and facilitate the education and training of providers, judicial officers, court personnel, and the general public on the components of *Standard 9*.120



Judicial Council of Georgia Administrative Office of the Courts

Marla S. Moore

Director

January 5, 2012

MEMORANDUM

TO: Each Member of the Judicial Council

FROM: Marla S. Moore, Director

RE: **Criminal Justice Coordinating Council**

The Criminal Justice Coordinating Council met on December 13. Three new members were announced including Judge Andy Fuller who will replace Judge Chris Brasher as the Superior Courts representative.

The Criminal Justice Systems Advisory Committee (on which I also serve) met just prior to the full council to review staff recommendations for continuation grants for VAWA and SASP grant recipients; Local Law Enforcement Awards; and de-obligation of Recovery Act Byrne-JAG Awards. A memo from Mr. Robert Thornton outlines the staff's recommendations along with award tables (attached). The Committee made the following changes to the staff's proposals:

1. CJCC has traditionally not approved grants to pay for Tasers or for equipment that has not been approved as best practice. After some discussion it was determined that the Committee would reverse its policy and grant the two requests which will be used to purchase Tasers and for the first time to fund the purchase of voice stress analyzers and associated training.
2. Out of over 300 programs granted Recovery Act Byrne-JAG awards only three had failed to respond to staff's request for a plan to finish out expenditures by December 2012. However, prior to the meeting two of the programs had submitted reimbursement requests for the total amount of the award, so the committee amended the staff's recom-

mentation and voted to only de-obligate the remaining amount in the Monroe County award. The program in Monroe County will be given an opportunity to appeal the decision.

All of the Committee's recommendations were approved by the full Council.

The Victim's Compensation Committee also reported on its activities to the Council. Of particular import is the use of victim's compensation funds to pay for forensic exams in sexual assault cases made possible by legislation passed in the 2011 session. To date, 497 applications have been received, with 415 awards made, 15 denied and 67 in process. The average time of processing is 9 days and \$273,467 has been paid out. While they may pay up to \$1,000 for an exam, the average pay out is running \$658.

The Victims Services Division is very busy with outreach speaking at three conferences, conducting twenty trainings and meeting with partners and stakeholders.

The Criminal Justice Coordinating Council will be holding, by invitation only, a Local Criminal Justice Forum in each of the ten judicial administrative districts beginning in January. The first one will be held in Macon and representatives from the courts should expect to receive invitations.

VAWA Award Recommendations (12/13/2011)

Agency Name	Program Type	Allocated	Requested	Recommended Fund Amount
AOC	Court Services	\$ 74,919.00	\$ 74,919.00	\$ 74,919.00
Athens-Clarke County	Law Enforcement	\$ 36,368.00	\$ 36,368.00	\$ 36,368.00
Athens-Clarke County	Prosecution	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00
Athens-Clarke County	Law Enforcement	\$ 189,985.00	\$ 189,985.00	\$ 189,985.00
Athens-Clarke County	Court Services	\$ 67,899.00	\$ 67,899.00	\$ 67,899.00
Atlanta Victim Assistance, Inc	Victim Services	\$ 79,561.00	\$ 79,561.00	\$ 79,561.00
Berrien County Board of Commissioners	Prosecution	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00
Caminar Latino, Inc.	Victim Services	\$ 34,375.00	\$ 34,375.00	\$ 34,375.00
Catholic Charities of the Archdiocese of	Victim Services	\$ 66,280.00	\$ 66,280.00	\$ 66,280.00
Cherokee County	Prosecution	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00
Cherokee Family Violence Center	Victim Services	\$ 42,708.00	\$ 42,708.00	\$ 42,708.00
Clayton County Board of Commissioners	Prosecution	\$ 80,000.00	\$ 80,000.00	\$ 80,000.00
Community Connection of Northeast Georgia	Victim Services	\$ 15,081.00	\$ 15,081.00	\$ 15,081.00
Crisp County Board of Commissioners	Prosecution	\$ 69,944.00	\$ 69,944.00	\$ 69,944.00
Dawson	Law Enforcement	\$ 40,202.00	\$ 40,202.00	\$ 40,202.00
Decatur County Sheriff's Office	Law Enforcement	\$ 31,500.00	\$ 31,500.00	\$ 31,500.00
DeKalb County	Prosecution	\$ 50,786.00	\$ 50,786.00	\$ 50,786.00
DeKalb Rape Crisis Center	Victim Services	\$ 18,219.00	\$ 18,219.00	\$ 18,219.00
Douglas County Task Force on Family Viol	Victim Services	\$ 72,608.00	\$ 72,608.00	\$ 72,608.00
F.A.I.T.H. in Rabun County, Inc.	Victim Services	\$ 24,629.00	\$ 24,629.00	\$ 24,629.00
Family Crisis Center of (WDCC) Counties	Victim Services	\$ 35,106.00	\$ 35,106.00	\$ 35,106.00
Fayette County Board of Commissioners	Prosecution	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
Forsyth County Family Haven, Inc.	Victim Services	\$ 17,967.00	\$ 17,967.00	\$ 17,967.00
Four Points, Inc.	Victim Services	\$ 20,057.00	\$ 20,057.00	\$ 20,057.00
Georgia Coalition Against Domestic Violence	Court Services	\$ 48,561.00	\$ 48,561.00	\$ 48,561.00
Georgia Coalition Against Domestic Violence	Prosecution	\$ 129,190.00	\$ 129,190.00	\$ 129,190.00
Georgia Commission on Family Violence	Court Services	\$ 60,032.00	\$ 60,032.00	\$ 60,032.00
Georgia Legal Services Program, Inc.	Victim Services	\$ 28,249.00	\$ 28,249.00	\$ 28,249.00
Georgia Mountain Women's Center, Inc.	Law Enforcement	\$ 23,679.00	\$ 23,679.00	\$ 23,679.00
Georgia Network to End Sexual Assault	Law Enforcement	\$ 18,721.00	\$ 18,721.00	\$ 18,721.00
Georgia Network to End Sexual Assault	Victim Services	\$ 126,416.00	\$ 126,416.00	\$ 126,416.00
Georgia Public Safety Training Center	Law Enforcement Training	\$ 160,705.00	\$ 160,705.00	\$ 160,705.00
Glynn County Board of Commissioners	Prosecution	\$ 72,803.00	\$ 72,803.00	\$ 72,803.00
Grady Health System Rape Crisis Center	Victim Services	\$ 60,106.00	\$ 60,106.00	\$ 60,106.00
Gwinnett Sexual Assault Center, Inc.	Law Enforcement	\$ 62,084.00	\$ 62,084.00	\$ 62,084.00
Habersham County	Law Enforcement	\$ 50,671.00	\$ 50,671.00	\$ 50,671.00
Henry County	Law Enforcement	\$ 185,125.00	\$ 185,125.00	\$ 185,125.00
Houston County Commission	Prosecution	\$ 50,000.00	\$ 50,000.00	\$ 45,000.00 *
International Women's House, Inc.	Victim Services	\$ 57,205.00	\$ 57,205.00	\$ 57,205.00
Jewish Family and Career Services, Inc.	Victim Services	\$ 28,956.00	\$ 28,956.00	\$ 28,956.00
Lumpkin County	Law Enforcement	\$ 37,620.00	\$ 37,620.00	\$ 37,620.00
Murray County	Prosecution	\$ 49,766.00	\$ 49,766.00	\$ 49,766.00
NOA's Ark, Inc.	Victim Services	\$ 15,799.00	\$ 15,799.00	\$ 15,799.00
NOA's Ark, Inc.	Law Enforcement	\$ 82,848.00	\$ 82,848.00	\$ 82,848.00
Oconee County	Law Enforcement	\$ 141,170.00	\$ 141,170.00	\$ 141,170.00
Oconee County	Law Enforcement	\$ 78,002.00	\$ 78,002.00	\$ 78,002.00
Partnership Against Domestic Violence	Victim Services	\$ 85,000.00	\$ 85,000.00	\$ 85,000.00
Pickens County	Prosecution	\$ 40,835.00	\$ 40,835.00	\$ 40,835.00
Project Safe, Inc.	Victim Services	\$ 35,184.00	\$ 35,184.00	\$ 35,184.00
Project Safe, Inc.	Prosecution	\$ 12,569.00	\$ 12,569.00	\$ 12,569.00
Raksha, Inc.	Victim Services	\$ 58,192.00	\$ 58,192.00	\$ 58,192.00
Rape Crisis & Sexual Assault Services	Victim Services	\$ 67,103.00	\$ 67,103.00	\$ 67,103.00
Rape Response, Inc.	Victim Services	\$ 45,612.00	\$ 45,612.00	\$ 45,612.00
Refugee Family Services, Inc.	Victim Services	\$ 88,958.00	\$ 88,958.00	\$ 88,958.00
SAFE Homes of Augusta, Inc.	Victim Services	\$ 23,586.00	\$ 23,586.00	\$ 23,586.00
Satilla Regional Medical Center	Victim Services	\$ 22,973.00	\$ 22,973.00	\$ 22,973.00
Sexual Assault Center of NW GA, Inc.	Victim Services	\$ 31,781.00	\$ 31,781.00	\$ 31,781.00
Support in Abusive Family Emergencies	Law Enforcement	\$ 35,000.00	\$ 35,000.00	\$ 35,000.00
Support in Abusive Family Emergencies	Victim Services	\$ 12,149.00	\$ 12,149.00	\$ 12,149.00
Tapestri, Inc.	Court Services	\$ 40,317.00	\$ 40,317.00	\$ 40,317.00
Tapestri, Inc.	Law Enforcement	\$ 15,435.00	\$ 15,435.00	\$ 15,435.00

* Denotes agncies that were late submitting their continuation application due November 4, 2011. Per Council policy, a 10% reduction has been made to their award.

Agency Name	Program Type	Allocated	Requested	Recommended Fund Amount
Tapestri, Inc.	Victim Services	\$ 65,453.00	\$ 65,453.00	\$ 65,453.00
The Lily Pad SANE Center, Inc.	Victim Services	\$ 43,848.00	\$ 43,848.00	\$ 43,848.00
The Southern Crescent Sexual Assault Center	Victim Services	\$ 62,110.00	\$ 62,110.00	\$ 62,110.00
Tifton Judicial Circuit Shelter, Inc.	Victim Services	\$ 52,751.00	\$ 52,751.00	\$ 52,751.00
Union Mission, Inc.	Victim Services	\$ 40,784.00	\$ 40,784.00	\$ 40,784.00

* Denotes agencies that were late submitting their continuation application due November 4, 2011. Per Council policy, a 10% reduction has been made to their award.

2011-12 LLES (Local Law Enforcement Services) Application Review

Step 1: Review applications for eligibility under the FBI's UCR data submission requirement.

These applicants did not submit UCR data and therefore ineligible to receive a 2011-12 LLES grant

Agency	County	Request	Project
Unified Government of Webster County	Webster	\$10,000	Offset the cost hiring a full-time Deputy Sheriff
City of Uvalda	Montgomery	\$ 6,539	Police vehicle computer

Step 2: Review applications for the missing attachments and correct signatures of authorized officials on all required attached documents.

These applications had either two and/or all of the required documents (Grant Application Cover Sheet, Federal Assurances, Designation of Grant Officials, Audit Requirements, Disclosure of Lobbying, Civil Rights Contact, Certifications, and Budget Detail Worksheet) signed by the incorrect authorized officials and therefore were ineligible to receive a 2011-12 LLES grant

Agency	County	Request	Project
City of Adairsville	Bartow	\$10,000	Tasers
Town of Alto	Banks	\$10,000	Digital video cameras in police vehicles
Dade County	Dade	\$10,000	Radar units and portable alcohol detection devices for officers
City of Franklin	Heard	\$10,000	Video surveillance equipment in (3) locations within the City
Oconee County	Oconee	\$10,000	Tactical body armor for crime suppression efforts
City of Peachtree City	Fayette	\$10,000	Anti-theft devices for golf carts
City of Pooler	Chatham	\$10,000	Mobile rapid fingerprint identification system
City of West Point	Troup	\$10,000	Tasers
City of Woodbury	Meriweather	\$10,000	Radios and radio tower equipment

Step 3: Review applications to ensure timely submission by the deadline

These applications were received in the office after the stated deadline of November 28, 2011 at 5 PM and were therefore ineligible to receive a 2011-12 LLES grant.

Agency	County	Request	Project
City of Barnesville	Lamar	\$10,000	Police Vehicle
Harris County	Harris	\$10,000	Live Scan System

Step 4: Review applications to ensure applicants are eligible to receive LLES funding.

These applications were eligible to receive direct local awards through Byrne JAG and were thus ineligible to receive a 2011-12 LLES grant.

Agency	County	Request	Project
City of Acworth	Cobb	\$10,000	Upgrade security measures within police department
Gwinnett County	Gwinnett	\$10,000	VIEVU Wearable Video Camera Program

Step 5: Review applications to ensure applicants included required narrative information as directed by RFP

These applications failed to complete the required narrative information as required and did not give any and/or enough information to make a determination of need. While not strict with the requirements, these applicants submitted no narrative and/or included only 1 page of information failing to answer pertinent and required information and are thus ineligible to receive a 2011-12 LLES grant.

Agency	County	Request	Project
City of Collins	Tattnall	\$10,000	Equipment and supplies
McDuffie County	McDuffie	\$10,000	Automatic License Plate Recognition Technology

Step 4: Determination of Eligible Applications

The following applications were submitted prior to the deadline, submitted required 2009 UCR data. These applications were specific to a project that will ultimately reduce crime and/or supported their local criminal justice system initiatives. Budgets were thoroughly reviewed to ensure all requests were allowable and would be compliant with guidelines and state standards and requirements, especially as it related to new equipment and technology.

Agency	County	Request	Project	Recommendation
City of Adel	Cook	\$10,000	Digital In-car Video Camera System	\$10,000
City of Alma	Bacon	\$9,754	Mobile Computer Hardware	\$9,754
City of Alpharetta	Fulton	\$10,000	Public Safety Surveillance Equipment within the city	\$10,000
City of Byron	Peach	\$9,925	Forensic equipment to process evidentiary items & scenes	\$9,925
City of Calhoun	Gordon	\$10,000	Computer Equipment	\$10,000
City of Colquitt	Miller	\$10,000	Mobile Alcohol Awareness Prevention Program	\$10,000
City of Conyers	Rockdale	\$10,000	Equip police vehicles with push & PIT bumpers	\$10,000
City of Doraville	Dekalb	\$10,000	Computer equipment	\$10,000
City of Donalson	Seminole	\$10,000	Radio Communication Equipment	\$10,000
City of Eatonton	Putnam	\$10,000	Mobile Communications Equipment	\$10,000
City of Elberton	Elbert	\$10,000	Mobile Data Terminal Replacement Unit	\$10,000
Fannin County	Fannin	\$8,234	Computer Equipment	\$8,234
Gilmer County*	Gilmer	\$10,000	Tasers	\$0*
Glascocock County	Glascocock	\$10,000	Police Vehicle	\$10,000
City of Glenville	Tattnall	\$10,000	Live Scan Equipment	\$10,000
Habersham County	Habersham	\$9,000	In-Car Watchguard Camera System	\$9,000
Haralson County	Haralson	\$9,000	In-Car Watchguard Camera System	\$9,000
City of Hiram	Paulding	\$10,000	Automatic License Plate Recognition Technology	\$10,000
City of Jesup	Wayne	\$9,954	Speed Detection/Radar Equipment	\$9,954
Jones County	Jones	\$10,000	Speed Detection/Radar Equipment	\$10,000
City of Lilburn	Gwinnett	\$9,390	Computer Equipment/Rifles	\$9,390

City of Lumpkin	Stewart	\$10,000	In-Car Computer Equipment	\$10,000
McIntosh County**	McIntosh	\$10,000	Computer Equipment	\$5,990
City of McRae	Telfair	\$10,000	Computer Equipment/Cameras/Radars	\$10,000
City of Milledgeville	Baldwin	\$10,000	Computer Equipment	\$10,000
City of Nashville	Berrien	\$10,000	Equipment/Supplies	\$10,000
City of Porterdale	Newton	\$10,000	Computer Equipment	\$10,000
City of Quitman	Brooks	\$10,000	Radio Equipment	\$10,000
City of Soperton	Truetlen	\$10,000	Computer Equipment	\$10,000
City of Sylvester***	Worth	\$8,159	Voice Stress Analyzer and Training	\$0
Taliaferro County	Taliaferro	\$10,000	Police Vehicle	\$10,000
Town of Tallulah Falls	Rabun	\$10,000	Police Vehicle	\$10,000
City of Toccoa	Stevens	\$7,306	Speed Detection Equipment	\$7,306
Wilkinson County	Wilkinson	\$10,000	Automatic License Plate Recognition Technology	\$10,000
City of Willacoochee	Atkinson	\$9,197	Computer Equipment	\$9,197
TOTAL				\$317,750

Notes:

* Removed \$10,000 (tasers)

* *Removed \$4,010 (voice stress analyzer and training)

***Removed \$8,159 (voice stress analyzer and training)

Council of Probate Court Judges

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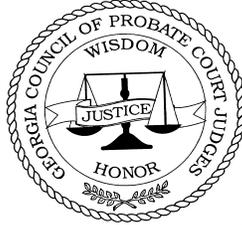
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Report to the Judicial Council of Georgia January 2012

The following report is a summary of current initiatives by the Council of Probate Court Judges:

Legislation

The Council of Probate Court Judges (CPCJ) approved its CY2012 legislative initiatives at its fall Business Meeting held October 11, 2011. The initiatives are as follows:

- a. **HB 231 - Mental Health Addictive Disease Community Recovery Act** - Currently in the House Health & Human Services Committee.
Provides community alternatives to institutional care utilizing evidence based recovery model practices so that persons with mental illnesses are afforded the opportunity to live, work, and recover in their home communities.
- b. **O.C.G.A § Title 29 Updates & Guardianship**
Grants the authorization to conduct national background checks on potential guardians
- c. **O.C.G.A § Title 19 marriage ceremony fee & amendment of probate fee schedule**

The proposed initiatives were provided to the Judicial Council Standing Committee on Policy at the meeting held December 13th.

Mentor Program, New Judges' Orientation, and Accreditation Program

The CPCJ explored numerous avenues to strengthen its existing Mentor Program and has instituted a structure akin to that adopted by the Council of Magistrate Court Judges. In addition, the New Judges orientation program is being revamped to improve the delivery of instruction in November, 2012. Finally, the Training Council is moving forward with an accreditation program for all probate judges. The program, which is a joint venture with CPCJ, the Institute of Constitutional Judicial Education (ICJE) and the Carl Vinson Institute of Government, will require completion of 72 hours of training; will be mandated and is set to commence in the spring of 2012.

Weapons Carry Licenses

With the passage of SB308/Act 643 of the 2009-2010 Georgia General Assembly, CPCJ was charged with creating specifications for and working with the Department of Administrative Services (DOAS) to procure equipment and supplies necessary to produce and issue new, secure and uniquely identifiable weapons carry licenses through the probate courts. Working with DOAS and the AOC, the Council issued an RFP for vendors to respond; the information-gathering and evaluation process was conducted and The Police & Sheriffs Press, Inc. (PSP, Inc.) was awarded the contract to provide the cards as a service to the Council. Since being selected a formal design of the license has been adopted by the Council. Furthermore, policies for implementation and uniform procedures for the issuance of the new Weapons Carry Licenses have been adopted.

Additionally, *PSP, Inc.* has conducted regional training sessions on the software usage for probate court personnel and is currently in the implementation stage with the probate courts. Per the statute, the new licenses are to be implemented January 1, 2012.

Scheduled Continuing Judicial Education

The Council is scheduled to hold its annual Spring Seminar April 17-20, 2012 in Athens, Georgia conducted through the Institute of Constitutional Judicial Education (ICJE). The training session will include both accreditation and probate specific courses. CPCJ will also hold its Executive, Business and Training Council meetings during the spring seminar.

Next Meeting Date

The next meeting is tentatively scheduled for February, 2012, in conjunction with the Winter Conference of the County Officials Association of Georgia (COAG) in Atlanta, Georgia.

TB/lzm



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**Report to the Judicial Council of Georgia
January 2012**

Among the current initiatives and projects of the Council of Municipal Court Judges are:

Benchbook

The 2011 edition has been posted at <http://georgiacourts.org/councils/municipal/> in the Behind the Bench section of the Council of Municipal Court Judges' Website. All nine of the existing chapters were updated with new laws and cases through fall 2011, in addition to the inclusion of four new chapters on Evidence, Probable Cause and Searches/Seizures, Collecting Delinquent Fines and the Uniform Municipal Court Rules.

Caseload Reports/Reporting

In a continued effort to gain a truer sense of the workload of the municipal courts in Georgia, the Council of Municipal Court Judges has made the collection of case count one of its top priorities. To date municipal courts are at 88% reporting. The Council is set to continue supporting the Administrative Office of the Courts (AOC) efforts to obtain this data.

Along these same lines, the Council has been diligently working with the Georgia Municipal Association's (GMA) General Counsel, Government Relations and Training Divisions to ensure the knowledge and submission of Fees and Fines to the Superior Court Clerks Authority is being properly handled.

1st Appearance Video

In an effort to increase constituent awareness of procedures in municipal courts, the Council agreed to develop an informational video to be used in communicating the functions and processes of the Municipal Court. The production of *Arraignment Day at Municipal Courts* is now complete thru the generosity of Gwinnett County Government Communications Division. The video shall be placed on the Council's website and distributed to each court, upon request, for use to support and enhance the understanding of the judicial process and legal rights of defendants as explained by the Judicial Officer of the Court.

Legislation

The Council approved its 2012 Legislative agenda at its October Executive Committee meeting. The initiatives are as follows:

- a. **O.C.G.A § 36-32-1**
Allows the Chief Judge of any court exercising municipal court jurisdiction to recommend, to the local governing body, a schedule of fees to assist the court in its operation and budget. If the local governing body fails to approve or disapprove the fee schedule within 30 days, the fee schedule shall become effective immediately.
- b. **O.C.G.A §§ 36-32-11 and 36-32-27**
Amends the statute to specify all judges exercising municipal court jurisdiction be required to complete mandatory training.
- c. **O.C.G.A § 15-18-5**
Authorizes courts of limited jurisdiction the power to employ prosecuting attorneys; provided, however, that the decision be vested solely in the governing authority of the county or city served by the court.

The proposed initiatives were vetted at the Judicial Council Standing Committee Policy meeting held December 13th with Policy Committee members agreeing to recommend that the Judicial Council support these legislative items.

IT Strategic Planning Session

In an effort to assure continued complement of the Business Plan of the CMuniCJ, key members are set to conduct an IT Strategic Planning Session in mid February 2012. With the plan being outdated, participants will re-examine strategic goals, assess our progress in implementing them and set new goals for accomplishing those parts of the plan which have not been implemented.

Uniform Rules

The CMuniCJ approved the addition of Rule 28 Courtroom Attire to the Georgia Uniform Municipal Court Rules at the annual business meeting held in June. The Supreme Court of Georgia approved the amendment by Order, December 8, 2011. The Rules will be updated to reflect the change, which became effective immediately.

Next Meeting

The Municipal Judges Training Council and Executive Committee are scheduled to meet January 13, 2012, at the State Bar of Georgia.

RO/lzm