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THE MAGISTRATE COURT AND ITS RELATIONSHIP WITH OTHER COUNTY OFFICES

Prepared and Presented by:

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Chief Magistrates Specialty Course

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THE MAGISTRATE COURT
AND
ITS RELATIONSHIP WITH OTHER COUNTY OFFICES

1. Superior Court

- a. Determines number of Magistrates - §15-10-20(a)
- b. Approves appointment of Magistrates - §15-10-20(d),(e)
- c. Fills vacancy in office of Chief Magistrate - §15-10-20(e)
- d. Has some supervisory powers - §15-6-8(4)(A)
- e. Has no general authority over budget. Darden v Ravan, 232 Ga. 756 (1974)

2. County Commission

- a. Fixes compensation of:
 - (1) Constables - §15-10-100(a)
 - (2) Clerks - § 15-10-105(b),(c) and (d)
 - (3) Other Court personnel - §15-10-106(d)
 - (4) Magistrates - § 15-10-23(g)
- b. Has no authority to establish work regulation for County Officer and employees. Mobley v Polk County, 242 Ga. 798 (1979)
- c. The budget and accounts of County officers are subject to authority of County Commission reviewable only for abuse of discretion. Bd of Com's of Randolph Co. v. Wilson, 260 Ga. 422 (1990)
- d. Employees of Magistrate Court are not "County Employees?"
 - (1) General Rule is that employees of Constitutional County officers are not employees of the Board of Commissioners of the County. See Britt v Jefferson County, 925 F.Supp. 786 (SD GA 1996) (relating to deputy sheriff).
 - (2) County cannot compel elected official to bring employees under the County Merit System. Gwinnett County v. Yates, 265 Ga 504 (1995). See §36-1-21(b)
 - (3) Once election to bring employees under civil service system is made, removal of employees can only be made in the manner provided by the system. Wayne Co. v. Herrin, 210 Ga. App. 747 (1993).
 - (4) County Home Rule does not extend to action affecting any court or the personnel thereof. Ga Const Art. 9 § 2, Para. I(c)(7).

3. Sheriff

If no Constable, performs duty of Constable - §15-10-100(b)

4. Superior Court Clerk/State Court Clerk

May serve as Magistrate Court Clerk - §15-10-105(b)

5. County Attorney

- a. Represents Board of Commissioners
- b. Represents County Officers when not in conflict with representation of Board of Commissioners
- c. Compare Gwinnett Co. v. Yates, 265 Ga 504 (1995) with Stephenson v. Bd of Com'rs of Cobb Co., 261 Ga 399 (1991)

6. Probate Court

- a. May serve as Chief Magistrate pursuant to local legislation - §15-10-20(g)
- b. May provide and receive judicial assistance - §15-1-9.1

7. Law Library Committee §36-15-1 *et. seq.*

8. ADR Committee §15-23-1 *et. seq.*

9. Victim Assistance/District Attorney's Office §15-21-130 *et. seq.*

10. Inherent Power of the Court

- a. Grimsley v. Twiggs County, 249 Ga. 632 (1982). Courts have the inherent power to determine and compel payment of reasonable and unnecessary sums of money to carry out its mandated responsibilities, and its powers and duties to administer justice.
- b. O.C.G.A. §15-6-24 acknowledges inherent power of Superior Court.
- c. Court in Grimsley held that for mandamus action to lie the following findings must be made by clear and convincing evidence:
 - (1) A compelling need essential to the orderly administration of the court, and
 - (2) Abuse of authority by funding agency in refusing payment.
- d. In Re Inquiry concerning a Judge, 265 Ga. 226 (1995)
 - (1) Reliance on "inherent power" is inappropriate where specific remedy exists.
 - (2) Where mandamus would be the proper remedy, obtaining felony arrest warrants against the County Commissioners for threatening to reduce salary and making a lengthy public statement detailing dispute with the Commission and the Sheriff were sufficient grounds for removal of the Judge.