



STATE OF ALABAMA
ADMINISTRATIVE OFFICE OF COURTS
817 South Court Street
Montgomery, Alabama 36130

ALABAMA COURT NEWS

Newsletter of the Alabama Judicial System

April, 1986

Criminals Pay Up in Dale County

The Dale County Clerk's office keeps a copy of an editorial which appeared in the **Montgomery Advertiser** in 1985 in their office. The editorial reads, in part:

"It soon became clear that no single office was taking the responsibility for seeing that criminals paid fines..."

Circuit Clerk Bettye Garrett says, "They could have been writing about us, and we didn't even know it."

But that is no longer the case, according to Presiding Circuit Judge Ben McLaughlin. "At one time, everyone thought someone else was following up on collections. Now, however, our clerk's office has devised a collection procedure that works well for us, and with the cooperation of the district attorney and the probation officer, we have been most successful in collecting monies due the court," said McLaughlin.



McLaughlin

Figures indicate that Judge McLaughlin is correct--their system does work.

(See **Dale Co.**, page 2)

Interagency Conference On Youth Scheduled For June

On June 25-27, approximately 400 juvenile court judges, probation officers, pensions and security and mental health staff, and educators are scheduled to meet in Montgomery for the first Interagency Conference on Youth.

Plans for the conference were first announced last Spring by Chief Justice C. C. Torbert, Jr., following a meeting with juvenile court judges and officials of the Department of Pensions and Security, the Department

of Mental Health and Mental Retardation, the State Department of Education, the Department of Youth Services, and the Alabama Law Enforcement Planning Agency.

"The Interagency Conference is a means to forge a new, cooperative partnership and improve coordination between departments and agencies involved in providing services to the youth of Alabama," said Chief Justice Torbert.

(See **Youth**, page 3)

Child Support Committee Appointed

Chief Justice C. C. Torbert, Jr., recently appointed a 21-member Child Support Enforcement Committee to review and analyze the changes mandated by the 1984 Congressional Amendments to the Social Security Act's Child Support Enforcement Title.

"The Amendments to the Child Support Enforcement Title directly affect judges, district attorneys and special prosecutors, clerks and registers, and Department of Pensions and Security personnel," said Torbert.

"It is, therefore, essential that representatives from

each of these groups participate on a committee which is charged with the responsibility of developing a coordinated and effective approach to these changes," Torbert said.

Presiding Circuit Judge Clatus K. Junkin, 24th Judicial Circuit,

Fayette, Alabama, was appointed by the Chief Justice to chair the committee. Judge Junkin was recently



Junkin

named the "1985-86 Judge (See **Child Support**, page 6)

Dale Co.

(Continued from Page 1)

In 1983, total costs and fines collected in Dale County circuit criminal cases were \$39,593.33. 1984 showed an increase in collections of \$12,754.34, for a total of \$52,347.67. And with the advent of the new collections procedure in 1985, collections of \$75,669.93 were reported by the clerk's office.

When adjudicated case files are returned to the circuit clerk's office, a card is completed on each defendant, showing his case number, name, address, and the total amount owed. The charges assessed by the judge are itemized on the card and the date payment is ordered to be made is shown.

"This card is compatible with our pegboard system and is easily updated when funds are received," said Mary Bludsworth, head bookkeeper in the clerk's office, who was instrumental in developing the card system.

Mary maintains a tickler file by date payments are due. The tickler file is checked each day to determine if monies to be paid on that particular day are received in the clerk's office.

Each action taken to effect collection of costs and fine is noted on the defendant's individual card and the tickler file is updated to show any change in due date.

If a defendant fails to

pay on the date due, the clerk's office prepares an Order for the judge's signature, notifying the defendant of his failure to pay and ordering him to pay by a given date. The Order advises the defendant that if he fails to comply, a warrant will be issued for his arrest.

Should the defendant again fail to pay by the date shown on the Order, the clerk's office prepares an Order to Serve for the judge's signature and a warrant is then served on the defendant by the Sheriff's office. The defendant may, at the time the warrant is served, be brought to the clerk's office and pay the fine or, if he refuses to do so, he is brought before the judge. The judge may extend the due date or work out a payment plan. This action is then noted on the card file and the tickler file is updated. The collection process repeats itself until the amount assessed is collected.

If a defendant has been sentenced to probation,



Pictured (l-r) are: Bettye B. Garrett, Circuit Clerk; Mary Bludsworth, Deputy Clerk; Merilyn Campbell, Carol Goodson, Brunise Bryan, Valerie Scott and Debra Nicholson.

the probation officer monitors the clerk's records to see if he is paying. If all efforts by the clerk's office to collect fail, the probation officer prepares an Order from the judge for revocation of probation. A copy is sent to the clerk's office so that this action may be noted on the defendant's card.

"We intend for fines and costs assessed by the court to be paid," said Mc-Lauchlin. "We want defendants to know that they will be held accountable for payment of fines and court costs."

One Step Juror Summoning Requests

Courts using the one-step juror summoning system are requested to follow the procedure listed below in order to prevent unnecessary delays in the receipt of their venire.

Six to six and one-half weeks prior to a term of court, mail both copies of your request to the Admini-

strative Office of Courts, 817 South Court Street, Montgomery, AL 36130-0101, ATTN: Carolyn Overman. The pink copy will be dated and returned to you to acknowledge receipt.

If you have any questions regarding one-step summoning or need assistance, call Ms. Overman at 1-800-392-8077.

Youth

(Continued from Page 1)

"For years, juvenile services have been hampered by the lack of adequate funding," said Torbert. "While the prospects for additional funding for juvenile services appear dim, we believe we can improve juvenile services by working together to make more effective use of the resources we have," Torbert said.

"Improving juvenile services through better coordination and cooperation is the theme of the Interagency Conference," said Circuit Judge John W. Davis of Montgomery, who chairs the Juvenile Conference Planning Subcommittee.

"For the past nine months, juvenile judges and representatives of all the agencies have worked closely together identifying areas where better coordination is needed, planning the programs, and selecting speakers," said Davis. "I believe we have succeeded in developing a conference that will address timely, important issues which are of meaningful interest to all participants."

"This will be an action-oriented conference," Davis said. **"We want to show juvenile judges and other officials what can be done, using existing resources, to improve juvenile services in their communities."**

At the conference, participants will have the opportunity to meet with judges and officials from other

Jury Duty Like Lesson in Civics

*The following are excerpts from a story by Cathie Wilbourne relating her first-hand experience when called for jury duty. Cathie writes for the **Eufaula Tribune.***

I was called to do my civic duty this week, and an interesting experience it was. I was summoned to report for jury duty for the Third Judicial Circuit Court of Barbour County.

Judge Jack Wallace presides over the Circuit Court of

Barbour County. His manner toward his prospective jurors is gentle and friendly, and he explains each step of the process to the uninitiated participants. He almost seems to be conducting a living civics lesson as he goes through the steps of selecting the grand jury and petit



Wallace

areas who have established effective, cooperative programs in their communities.

Programs to be presented include: the North Carolina "Community Residential Program" which serves emotionally disturbed, borderline retarded, and low-functioning children; Maine's "Multi-Agency Family Preservation Services" which serves the out-of-control, acting-out, delinquent or pre-delinquent children;

juries for the cases coming up this session.

The only business of the day was selecting juries. The names of all qualified prospective jurors were placed "in the hat" . . . or since, as the judge explained, no one wears a hat any more, they were placed in the lid of a cardboard box. Eighteen names were drawn for the grand jury, which will convene Monday.

The grand jury members were excused, and the rest of us waited to see whether our names would be chosen. Judge Wallace asked the jury pool pertinent questions:

"Are you related by blood or by marriage to the defendant? To the plaintiff? Are you related by blood or marriage to the lawyer for either party? Has either lawyer done legal work for you in the past (not a basis for excuse)? Is either lawyer representing you

(See **Civics**, Page 4)

the Virginia Beach, Virginia, "Community-based Treatment for Sexually Abused Children"; and the Dallas County, Alabama, "Circle of Pain" which serves abused and neglected children.

Chief District Judge Gilbert Burnett of Wilmington, North Carolina, will also make a presentation on the use of interagency-committees in developing coordinated treatment programs for youths before the juvenile court.

Civics

(Continued from Page 3)

at the present time (grounds for excuse)?"

Afterward, he asked lawyers for each side whether they had any special questions to ask the prospective jurors. Preston Clayton Jr., received an appreciative laugh when he asked, "Have any of you had an unfortunate experience in City Court while I was the judge, and would you hold it against me?"

Twenty-four names were drawn for each case. The lawyers had the opportunity to strike 10 of these names, and the remaining 14 comprised the jury of 12 plus two alternates. As Judge Wallace explained, no one would know during the trial who were the alternates. "If you know you're probably not going to be called on to decide, you might start thinking about going fishing instead of paying close attention to the testimony," he noted. Only when the courtroom proceedings are complete and the jury retires to the jury room are the alternates identified and excused.

After each jury was selected, the members were told when to report for the case and sent back into the jury pool. Their names were returned to the hat for the next round of selection. Some people were placed on more than one jury, and some of us were placed on none.

I was one of the 15 or so persons who were not chosen to hear a case.

Smitherman Appointed Judge

Jefferson County deputy district attorney Carole Smitherman has been appointed a municipal judge on the Birmingham Municipal Court.

A Birmingham native and mother of three children, she has served in the district attorney's office as a law clerk and later as assistant district attorney, during which time she helped to create the victim witness assistance program.



Smitherman

In addition to her work in the judicial system, Smitherman also serves as a law professor at the Miles Law School, where she received her law degree.

"My family includes teachers and I think there's

nothing greater that a lawyer can do than to impart knowledge," said Smitherman. "I grew up knowing education was important. That's why I go every chance I get to speak to youth groups. Maybe it will be an example for someone," she said.

Judge Smitherman grew up in Birmingham during the 1960's and was inspired by the death of her friend Denise McNair, in the Sixteenth Street Baptist Church bombing, "to work to be all that I could hope to be." She believes in developing perseverance, talent, and temperament. Her husband, Roger, is a basketball coach and Dean of Students at Southern Junior College and a law student at Miles Law School.

The first black woman to be named to the Birmingham Municipal Court, Judge Smitherman was installed on February 13, 1986.

I'm somewhat sorry I don't get to go back! I feel that I'm doing my civic duty by serving on a jury.

Most of the prospective jurors seemed to feel the same way. I heard little grumbling about the time-consuming nature of the process, and the inevitable delays involved in making the arrangements. And, as Judge Wallace explained, this new system of selecting all juries on the same day eliminates more wasted time than it causes. This way, all the jurors know when they are to report,

and they can make arrangements to be there. They were also given a telephone number to call the night before their case was due, to see whether it was for some reason removed from the docket.

My brief stint of jury duty was an interesting way to spend a day. I wish students in American history or government classes could have been present to hear Judge Wallace's explanations of the procedures and see firsthand some of the workings of the judicial system which guards our freedom.

Out-of-State Travel Curtailed

Administrative Director of Courts Allen L. Tapley has announced that effective immediately, no reimbursement for out-of-state travel will be approved for officials or employees of the Alabama Judicial System.

This is in support of Governor Wallace's memorandum of February 24, 1986, to all state agencies restricting out-of-state travel to only those occasions absolutely necessary and essential to the operation of state government.

In light of the funding situation, this reinforces the position established at the beginning of the 1985-86 fiscal year to curtail out-of-state judicial education.

PMD Benefits Changed

The State Employees' Insurance Board recently announced a new benefit for State employees covered under the Blue Cross/Blue Shield Preferred Medical Doctor program (PMD).

When employees choose a PMD for their health services, they will only make a \$5.00 co-payment (not the 20% formerly required under the PMD program). The doctor then has the responsibility for filing for reimbursement.

This benefit applies to doctor's office visits and consultations, hospital emergency room visits, and emergency visits to free standing

Guidelines for State Employee Participation in Political Activities

With the upcoming elections, the Administrative Office of Courts has received several inquiries regarding employees' rights to participate in the election process. In response to the inquiries, the following information is provided for your information and guidance.

On May 14, 1985, the Attorney General, in response to an inquiry from the Administrative Director of Courts, determined that a state employee is not necessarily required to be on a leave of absence when seeking public office. As such, an employee may continue to hold down his state job as long as the political activities conducted by the employee are done on his personal time, i.e., not on state work time.

Additionally, the Attorney General noted that §17-1-7(a)(3), Code of Alabama 1975, guarantees state employees the right to participate in city, county, and state political activities to the same extent as any other citizen of the state, including endorsing candidates and contributing to campaigns of their choosing, as long as such employee complies with §36-26-38.

clinics and is in addition to the services covered at 100% such as accident, outpatient surgery, lab, and diagnostic tests.

If you have any questions

The Attorney General further noted that §17-1-7(a)(4) allows persons employed by the State to join political clubs, organizations, and political parties and that Subsection (a)(5) allows persons employed by the State to publicly support issues, circulate petitions and contribute freely to political candidates. However, the Attorney General also noted that subsections (b) and (c) set out certain limitations including prohibitions against using official authority or positions to influence votes and a specific prohibition against the use of state funds, property, or time for any political activities. In §17-1-7(c) the following prohibition is found:

. . . Any person who is in the employment of the State of Alabama must be on approved leave to engage in such political action or such person must be on personal time before or after work and on holidays . . .

Subsection (c) also goes on to provide that solicitations by supervisory employees from subordinate employees and coercion to assist in political activities are forbidden.

about this program or any services covered under the Employees' Health or Dental Insurance Plans, contact Joe Matisak at the Administrative Office of Courts, 1-800-392-8077, ext. 226.

Jury Commission Figures Compiled

Jury commission expenses for the last seven fiscal years have been compiled by this office. This period encompasses the years prior to computerized jury systems and those years during implementation and beyond.

Statewide jury commission expenses totalled \$358,612.02 in FY 1979 but have experienced a sixty-two percent (62%) reduction and totalled only \$135,820.87 in FY 1985. Ninety-five percent (95%) of these savings have been achieved collectively in the counties presently using the one-step qualification and summoning procedure.

Spring Courses To Be Held At Law Center In Tuscaloosa

Spring judicial courses for circuit and district judges will be held at the Law Center on the University of Alabama campus in Tuscaloosa, April 29-May 1, 1986.

While this is the first conference for all state judges to be scheduled at the Law Center, it is not the first time the judges have convened in that facili-

ty. In September, 1979, Hurricane Frederick forced the group to evacuate Farrah Hall when winds knocked out the power and to take refuge in the Law Center.

The spring courses will provide an opportunity for in-depth studies of specific areas of the law.

(See *Spring Courses*, Page 8)

Sixty-three counties are presently utilizing a computerized jury process; forty-eight use one-step summoning; and fifteen use two-step qualification and summoning. If your court is interested in using one of these processes

for the first time or is using the two-step system and would like to try one-step, contact Hunter Slaton or Carolyn Overman of the Court Assistance Division at the Administrative Office of Courts.

Child Support

(Continued from Page 1)

of the Year" by the Alabama Child Support Association for his concern and leadership in the child support field in the 24th Judicial Circuit.

Chief Justice Torbert specifically charged the committee with studying and making recommendations in the following areas:

- Child support jurisdiction and venue;
- Expedited processes (quasi-judicial and administrative);
- District attorney involvement in custody and visitation issues in IV-D cases;
- Child support guidelines.

Chief Justice Torbert appointed the following

officials and personnel as members of the Child Support Enforcement Committee: Judge Robert L. Hodges, 38th Judicial Circuit; Judge P. B. McLaughlin, Jr., 33rd Judicial Circuit; District Judge Eddie D. Hardaway, Jr., Sumter County; District Judge R. Allen Crow, Calhoun County; District Judge David Bibb, Morgan County; Circuit Clerk Ann W. Tate, Crenshaw County; Circuit Clerk Billy D. Harbin, Madison County; Ms. Carol Kiker, Russell County Register; Ms. Barbara Swift, Calhoun County Register; Mr. Sam DiPiazza, Jefferson County Child Support Supervisor; Mr. Joseph M. Carlton, Jr., Office of Prosecution Services; Mr. Joel M. Folmar, Pike County District Attorney; Mr. Robert L. Rumsey,

Talladega County District Attorney; Mr. William G. Werdehoff, Madison County District Attorney's Office; Mr. Gordon F. Bailey, Jr., Special Prosecutor; and the following representatives from the Department of Pensions and Security: Mr. Paul J. Vincent, Director, Office of Child Support Enforcement; Ms. Lois Brasfield, Division of Legal Services; Ms. Susan Crowson, Program Supervisor, Mobile County; Mr. Wallace Bush, County Director, Butler County.

**REMEMBER TO
FILE YOUR
ETHICS COMMISSION
REPORT
BY APRIL 30, 1986**

Reporting Crimes to Police

Of the estimated 37,115,000 crimes that took place in 1983, only 35 percent or 12,880,000 were reported to the police, according to a National Crime Survey released by the Bureau of Justice Statistics.

The likelihood that a crime will be reported to the police is strongly related to the seriousness of the crime.

Specific crimes **most likely** to be reported were motor vehicle theft (69%) and aggravated assault (58%). Those crimes **least likely** to be reported were household larceny (25%), personal larceny without contact (26%), and pocket picking (29%).

These figures are based on interviews conducted twice a year with approximately 128,000 persons, ages 12 and older, in 60,000 households. Some key findings on the reporting of crimes to the police include:

Completed crimes are more likely to be reported than attempted crimes.

The crime is more likely to be reported when the victim sustains an injury.

The proportion of crimes reported to police increases as the value of property theft and damage goes up.

An interesting aspect of the survey is a look

Judicial Secretaries Meet in Birmingham

Seventy appellate, circuit and district judges' secretaries were in attendance at the Mid-Winter Conference held in the Holiday Inn Medical Center, Birmingham, on February 27th. Featured guest speakers included Ms. Nancy Conn, President of the Jefferson County Chapter of VOCAL, Dr. Charles Warth, Ms. Cheryl Hawkins, and Justice Janie L. Shores.



(L to r) DeLisa McLeroy, President; Associate Justice Janie L. Shores; and Ruth Raines, 1st Vice President, Circuit Judges Secretaries Association.

at the characteristics of the victims of crime who are most likely to report a crime to the police.

Sex - When women are victims of a violent crime, the police are more likely to be contacted than when men are the victims.

Race - Overall, the race of the victim makes little difference in whether the police are informed of a crime.

Age - Teenagers are less likely than any other age

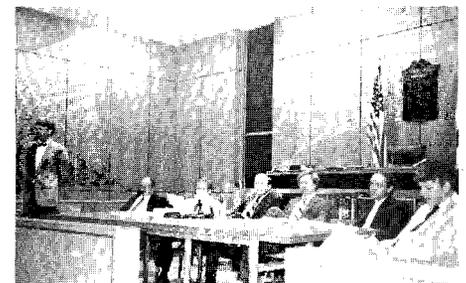
group to report a crime of violence or personal theft.

Income - Family income makes little difference to the proportion of crimes reported to police.

Education - Violent crime victims with little education have a lower proportion of their crimes reported to police. However, there appears to be no relationship between education and the reporting rate for household larcenies or motor vehicle theft.

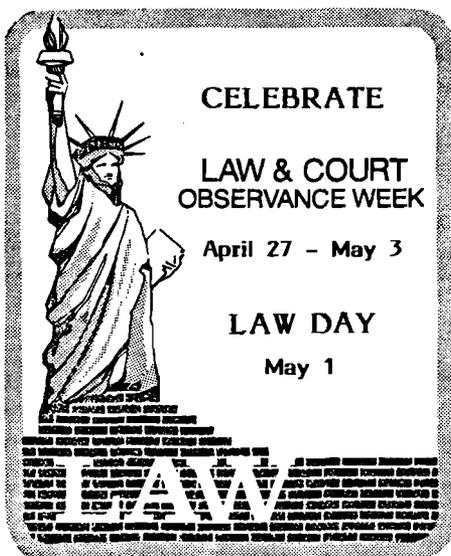
Legal Education Seminar Held

The judges of the 15th Judicial Circuit (Montgomery County) presented a 2.3 hour Continuing Legal Education Seminar on "Circuit Court Practice" on March 18, 1986, in conjunction with the Montgomery County Bar Association. The presentations and panel discussion served both as an educational experience and as a forum for exchange of ideas on how the bench and



(L to r) Attorney Shapard D. Ashley; Circuit Judges Joseph D. Phelps, William R. Gordon, Richard H. Dorough, John W. Davis, III, Henry M. Kennedy, and H. Randall Thomas.

bar can work together to improve court operations.



Spring Courses

(Continued from Page 6)

Among the distinguished guest speakers who will participate on the program is James B. Zimmerman, Retired Trial and Appellate Judge, Dallas, Texas, who will present Managing Delay.

Judge Zimmerman, along with John C. Godbold, Chief

Did You Know?

Enacted in 1215, the Magna Carta is one of the earliest written guarantees of protection from the arbitrary exercise of power by government. The Confirmatio Cartarum of 1297 secured the enforcement of the Magna Carta by declaring void any laws that were enacted contrary to Magna Carta. The Star Chamber was a special court administered by the rulers of England, rather than the judiciary, which

Judge, 11th U. S. Circuit Court of Appeals; Joseph D. Phelps, Circuit Judge, 15th Judicial Circuit; and Hunter Slaton, Director, Court Assistance, Administrative Office of Courts, will participate in a panel discussion of Case Management Techniques and Procedures.

had ultimate powers and often superceded the law of the land. The abolition of the "court" in 1641 established a system of justice that separated the courts from the rulers.

McKelvey Honored

Circuit Judge Anne Farrell McKelvey was recently honored by the Selma Jaycees as the Outstanding Young Woman for Dallas County.



McKelvey

Judge McKelvey became the first woman circuit judge to serve in the 4th Judicial Circuit when she was appointed in August, 1985, to fill the unexpired term of Judge Edgar Russell, Jr., who retired.



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