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The Sentinel

NEWS FROM THE COURTHOUSE

SEPTEMBER JUDGES' MEETING

On Tuesday September 9, 1997, the regular monthly meeting of the criminal court judges' meeting was held in Judge Garrett's courtroom. As always, the GBCDLA had representatives present at this meeting. The meeting covered some general topics, including an update on the "Break the Cycle Program" and the contract negotiations between Jefferson County and Judge Dan Reynolds. It appears that Judge Reynolds will be used in some sort of a supernumerary position to assist the other judges in Administrative work and in trying cases. There is no timetable in place as of yet to know when Judge Reynolds will begin to handle cases. The GBCDLA will keep the membership posted with any new developments in this regard.

An area of great concern for the GBCDLA was the disclosure that there are now *117 pending capital cases in the Birmingham Division of Jefferson County!* While the judges spoke of overcrowded dockets and the DA's office complained of having their "hands tied" and being "legally forced" to make capital charges because of the various additions to the Alabama capital statute, the GBCDLA voiced a major concern that all but silenced the room: where are we going to find defense lawyers for all these cases?

A conservative estimate is that at least 100 or more of these cases will require the appointment of counsel. Because the routine is now to appoint a first and second chair for the defense, this means that *at least 200 criminal defense lawyers will need to be found to represent these capital defendants.* Once again the question: where are these lawyers

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to be found? Another conservative estimate is that there probably aren't 30 lawyers in this geographic area qualified either by specific training and/or experience to handle first chair in capital cases. Of that number, many lawyers with the most experience are already carrying more than their weight in pending capital cases and/or they are so burned out from handling these cases they've quit taking capital appointments.

What the GBCDLA is trying to explain to the judges is that we are quickly coming to a major crisis in indigent capital representation in this county. This issue will be addressed again in the October meeting and the membership will be updated in the next edition of **THE SENTINEL**.

Meanwhile, as always, any issues, questions and/or suggestions any GBCDLA member wishes to be brought to the Attention of the judges, please contact any of the GBCDLA officers and/or board members or write **THE SENTINEL** at P.O. Box 370282, Birmingham AL 35203.

INDIGENT DEFENSE UPDATE

LEGISLATIVE NEWS:

A valiant attempt was made during the recent special session to raise the hourly rate and compensation caps for indigent defense. House Bill 22, sponsored by Demetrius Newton, passed the House in a 52-10 vote. The bill made its way to the Governmental Affairs Committee of the Senate where it passed again. Unfortunately, before the bill could be brought to floor for a final vote, the special session ended with passage of the budget. Despite the failure of the bill to pass in this special session (primarily because of time constraints), odds of success are much higher for the bill to pass at the next legislative session than ever before! This year was the first time such a bill has met with majority support in the Alabama legislature.

The GBCDLA will be working closely with the ACDLA to help rally support for this bill in the next regular session. If all goes well in the legislature and with the Governor's office, compensation for the representation of indigent criminal defendants will receive its first raise in 16 years!

NEWS FROM AOC & THE COMPTROLLER'S OFFICE:

If you have not received the news from the Comptroller's office in their new memorandum to indigent defense counsel, be advised that the State has revised the Attorney Fee Declaration Forms for indigent cases. The new form #C-62A requires more details and information than the old form. The new form has triplicate carbon copies each in a different color corresponding to whom they are to be sent. The old one page forms are no longer to be used. The new forms can be picked up at the Court Administrator's Office on the first floor of the courthouse. If you receive the memorandum from the Comptroller notifying you that AOC will only accept these new original forms, don't panic. The Court Administrator's Office is keeping supplies of these new forms so you won't have to print your own.

The GBCDLA recommends its members contact either AOC and/or the Comptroller's office to request the instruction sheet and county code sheet for completing these new forms. Copies of these

sheets have been distributed to the GBCDLA's board of directors and will be made available to the membership at the next general membership meeting.

PRYOR CALLS FOR SPECIAL SESSION ON CRIME

In the grand tradition of Jimmy Evans and Jeff Sessions, Attorney General Bill Pryor has asked Governor James to call another special session this year exclusively to deal with his crime bill package. Its not really fair to call the package General Pryor's because, in fact, much of it is the leftovers of Session's package, which failed miserably. Once again, General Pryor wants to eliminate direct appeals of capital cases to the Court of Criminal Appeals; eliminate bonds for those who wish to appeal; and create a truth-in-sentencing package to supersede the habitual offender act.

Like his predecessor, Pryor appears more a politician than the State's highest law enforcement officer. He spends much of his time traveling the country expounding on the necessity for one circuit court judge to keep the ten commandments hanging from his courtroom wall, rather than dealing with a besieged and beleaguered criminal justice system. Pryor, like Sessions, fails to grasp the realities of the criminal justice system, one such being that before you put everyone in jail, you need things like prisons, guards, money etc. Unfortunately for Alabama, Pryor in his zeal to be recognized as Attorney General and not Chip Douglas, hasn't recognized that Alabama cannot economically cope with these quasi-federal reforms to the criminal justice system. Its truly ironic that Pryor, for all his nauseating grandstanding against the encroachment of the federal government into States' rights, would have Alabama nearly mirror the federal criminal justice system. Come on Billy, go to Starbucks, order a quadra expresso and wake the hell up!!

Try something new, like write a package to revise the habitual offender act so that non-violent offenders don't have to spend the rest of their lives in jail for property crimes. Create more bootcamps for young offenders. Delete, don't expand, subsections to the capital statute. Try some original thought rather than rehashing the same political

garbage that sounds good, but will do nothing to help the criminal justice system in this State.

The GBCDLA will continue to update the membership on any new developments as to the legislature special session on crime as things develop.

MENTOR PROGRAM IN PLANNING STAGE

The Board of Directors of the GBCDLA is currently working on the creation of a "mentor program" for the GBCDLA members who have recently passed the bar or have been practicing for only a year. The idea is to sponsor two CLE type programs concentrating on representation at the District and Circuit Court levels. These programs will concentrate on the "how to's" involved in preliminary hearings, motion hearings, trials and sentencing. Also, panels of GBCDLA members with years of experience in the trenches will try to answer questions regarding issues in these various courts.

It is further planned that a group of experienced GBCDLA members (many of whom have already volunteered) will act as mentors to newer criminal defense lawyers who may need some assistance in their practice.

The Board of Directors hopes to have some specifics on the "mentor program" by the time of the next general membership meeting.

OCTOBER MARKS CHANGES IN ALABAMA'S DUI LAW

The GBCDLA reminds its membership that, commencing on October 1st, there will be some new twists to the DUI law. One of the newest additions was the lowering of the BAC for those under 21 to .02. The changes to the DUI law now include that *all DUI priors no matter how old* can be used for enhancement purposes on third and fourth time DUIs. The GBCDLA strongly urges its membership to review the provisions of Section 32-51-191 in light of the changes to the DUI law.

HELLO, I MUST BE GOING.

For the last four years the GBCDLA has tried as best it could to put out a worthwhile, informative, and helpful newsletter to its membership. **THE SENTINEL** was designed to apprise the GBCDLA's membership of not only what its leadership was doing, but with information designed to assist in the everyday practice of criminal defense in the greater Birmingham area. I am hopeful that the membership has found that **THE SENTINEL** has lived up to its purpose. For better or for worse, the job of writing the newsletter has remained grounded with one person for the last four years, and that person believes it's time for a change.

One of the underlying goals for this Association was an active but changing leadership. The idea was that a constant influx of new blood in leadership positions would keep the vitality of the Association high. However, despite the changes in leadership, there has been no change in the manner in which we disseminate information. The major difficulty with the newsletter is the lack of contributory work by either the leadership or the general membership. Everyone seems more than willing to read the newsletter; however, when asked to contribute articles, editorials, and other information, everyone runs for cover.

Because of the utter lack of contributory work, the burden shifts to one person to decide what's important or entertaining enough to print. Add to that the burden of trying to come up with a new edition every month, and you'll begin to see why your Editor has all but burned out.

I have thoroughly enjoyed writing this newsletter over the last four years. It's been a pleasure and an honor to help my brothers and sisters in arms in our constant struggle to survive in the criminal justice system. However, if this Association really wishes to excel, we must be prepared to turn the reigns of all facets of the Association over to those willing to pick up the banner and carry on.

So, as of September 1997, I am turning over the reigns of **THE SENTINEL** to the Board of Directors of the GBCDLA to do with it as they will. I certainly hope for the good of the GBCDLA that someone will step up and assume the responsibility of this very worthwhile endeavor know as **THE SENTINEL**.