

THE
GREATER BIRMINGHAM
CRIMINAL DEFENSE LAWYERS ASSOCIATION

P.O. BOX 370282

BIRMINGHAM, ALABAMA 35237

TELEPHONE (205) 252-4959

SENTINEL SCOOP - JULY-AUGUST 1994

The Newsletter of the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

DISTRICT COURT APPEAL BONDS: WHAT'S GOING ON??!!

It appears the Bail Reform Act has once again reared its ugly head in the form of Appeal Bonds from District to Circuit Court. It appears (at least from the Clerk's office point of view) that upon a finding of guilt on a misdemeanor in District Court that the sureties are released and a consolidated bond is not sufficient to secure a defendant's appearance on an appeal de novo to Circuit court. Apparently this decision is based on a memorandum from Mr. Gilmore the Director of AOC. It is our understanding that one District judge is now recognizing defendants on bond when this situation arises. We are attempting to find out the other judges respective position on this matter. However, it now appears a Consolidated Appearance Bond (the kind of with specifically enumerated release conditions) must be made on appeals from District court so be forewarned. We will keep the membership posted as matters develop.

SEPTEMBER MEMBERSHIP MEETING:

The Board of Directors will soon announce a General Membership Meeting for September. Notification will be by mail and in the SENTINEL SCOOP. Please make plans to attend.

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3/28/94

JULY, 1993

SENTINEL SCOOP

Helpful Information From the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

Probation Revocation Policy: It is the new policy that when a probationer is indicted for a new offense the judge assigned the new case will have jurisdiction over the revocation to the extent that if probation is to be maintained then judge on the new case will contact the judge who granted the original probation for "consultation". If probation is to be revoked then the judge who granted the original probation will not be contacted.

BE AWARE:

Some members have experienced difficulties in obtaining autopsy reports from the Coroner's office. There have been instances where the Coroner's office has been told not to release the report until the police give the OK despite the report being complete! Isn't the Coroner's office an independent agency??!! If any problems like this occur again please contact any member of the Board of Directors.

One member has reported the Coroner's office has stopped testing for marijuana in the blood of homicide victims. This was thought to be standard procedure? Be sure to check such reports in the future. A specific request for testing may become necessary.

One member has reported that one Assistant U.S. Attorney has related to a Magistrate that their office does not recognize the standard "Request for Disclosure" form regarding a request for Jencks material as an actual request under 18 U.S.C. §3500. If this is true, this portion of the Disclosure form is useless and will not protect you.

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Coming soon: THE SENTINEL

AUGUST, 1993

SENTINEL SCOOP

Helpful Information From the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

Fugitive From Justice
NO COMPENSATION FOR F.F.J. APPOINTMENTS: Based on an Attorney General's opinion the State Comptroller's office is refusing to pay attorneys appointed to represent indigents in F.F.J. cases. The GBCDLA is working with the judges in Jefferson County in an effort to resolve the problem. It is our understanding that Judge Cahill will issue an Order to the State Comptroller to pay any voucher submitted for representation of an F.F.J. indigent. Also the Birmingham Bar is taking an active role. We will keep everyone posted as to further developments.

JUDGE JOHNSON DECLARES BAIL REFORM LAW UNCONSTITUTIONAL: On July 8, 1993 Judge O.L. "Pete" Johnson ruled several portions of Act No. 93-677 of the Bail Reform Act unconstitutional. (Any member wishing a copy of Judge Johnson's order should contact John A. Lentine). It is our understanding the State is appealing Judge Johnson's ruling and GBCDLA President Tommy Nail is representing the indigent client. Any member interested in assisting Tommy in researching and preparing the brief should contact him. Any member interested in writing an amicus brief please contact any GBCDLA officer. Good Luck Tommy!!

NACDLA SEEKS SUPPORT FOR HYDE BILL: Attached to the SCOOP is a copy of a Notice received from the NACDL requesting lawyers write their respective representatives and senators in support of the Hyde bill which is designed to amend the oppressive federal forfeiture law. GBCDLA encourages any interested members to write.

UPCOMING MEETING: In conjunction with the Social Committee the next GBCDLA general membership meeting is being planned for late September at the Birmingham Dog Track! We hope for a large turn out!

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SENTINEL SCOOP - SEPTEMBER 1993
Helpful Information From the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

TASC EXPANSION: TASC has expanded its services with the Supervised Pretrial Release Services known as TASC-SPRS. This release program is designed to deal with the court systems concern for community safety and risk factors that would otherwise prevent a defendant's return to court. TASC-SPRS is offering services in Birmingham and Bessemer. The contact personnel in Birmingham are Julie Richard or Terri Wilkinson at 934-7430 or 934-7431 in Bessemer contact Paul Cleveland or Kharybah Williams at 424-4587 or 424-3688.

ADDITIONAL INFORMATION FOR BONDS: In an effort to ensure collection on bond forfeitures in Jefferson County the judges are requesting that additional information be included on bonds. In the case of an OR bond the defendant's place of employment should be included as part of the bond information while on property bonds the parcel identification number of the property should be included. Please be aware of these additions the next time you seek a bond approval.

News from the Court of Criminal Appeals

OVERHEAD EXPENSES CAN BE INCLUDED IN APPOINTED CASES: In May v. State, CR-92-350, 9/3/93 ____ So.2d ____ (Ala.Cr.App. 1993) the Court of Appeals reversed lawyer Jim May's contempt conviction regarding his refusal to proceed with a retrial of indigent client when the trial court refused to grant a motion for prior approval of expenses above and beyond the statutory cap pursuant to §15-12-21. The Court of Criminal Appeals held with prior approval of a court an attorney can claim office overhead expenses. Further, the Court urged the Alabama Supreme Court to grant certiorari and reconsider the constitutionality of the statutory cap of \$1000.00 which the Court deemed "certainly unreasonable".

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SENTINEL SCOOP - OCTOBER 1993**Helpful Information From the GBCDLA**

News from Jefferson County Circuit Court- Birmingham Division

CONSENSUS OF JEFFERSON COUNTY INDIGENT DEFENSE COMMISSION IN FAVOR OF INCREASE OF HOURLY RATES IN INDIGENT CASES: During the September meeting of the Jefferson County Indigent Defense Commission the members (now including GBCDLA president Tommy Nail) discussed the ramifications of Court of Criminal Appeals decision regarding the inclusion of office overhead expenses by court appointed attorneys. The consensus of the members was the hourly rate for court appointed attorneys should be raised rather than lawyers and judges attempting to deal with what portion of such office expenses should be included.

News from the U.S. DISTRICT COURT-NORTHERN DIST. OF ALABAMA

U.S. ATTORNEY'S OFFICE DOES NOT RECOGNIZE PRE-PRINTED DISCOVERY REQUEST AS NOTICE FOR JENCKS ACT MATERIAL: In response to a letter from a President-elect Al Bowen to then U.S. Attorney Jack Selden concerning the U.S. Attorney's Office policy regarding the pre-printed discovery form that specifically refers to Jencks act material, the Chief of the Criminal Division Herbert Henry advised our association by letter that the U.S. Attorney's Office does not consider a specific request on the form as compliance with the statute. Therefore, if a lawyer wishes Jencks act material a specific must be made after direct examination of a government witness unless a prosecutor unilaterally decides to provide such material earlier. A letter from the Association will be sent to Judge Pointer regarding this matter.

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SENTINEL SCOOP - NOVEMBER 1993

The Newsletter of the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

AVAILABILITY OF PRESENTENCE REPORTS: From now on the Probation Officer will make available the presentence reports prior to Probation and Y.O. hearings in District and Circuit courts. Also the Probation Office has been given the authority to fax these reports to lawyers upon request. Otherwise PSR should be available on thursday afternoons in each court.

Y.O. HEARINGS: The District and Circuit court judges have agreed to make Y.O. determination hearings in chambers if requested to do so in cases were Y.O. status is a close call. Judge Hughes has stated that from now on he will hold such hearings on Thursday afternoons.

NOTICE FOR LAWYERS ON CAPITAL CASES: The District and Circuit court judges have requested the B'ham Bar and GBCDLA to compile a list of all lawyers with 5 years or more criminal defense experience who are willing to take capital cases so that they will have a larger pool to when making appointments in capital cases. A joint letter from the B'ham Bar and GBCDLA will be sent out soon to all lawyers in our respective organizations in the hopes a list will be compiled by late December.

DUI ORDERS: Judge Hard has requested Judge Johnson to pass along a form order to the other District and Circuit court judges regarding the requirement of DUI probationers to attend victim impact sessions in the hopes of curtailing drunk driving repeat offenders. Be prepared for such requirements on DUI pleas or convictions that result in probation.

RECOUPMENT FROM INDIGENTS: Judge Hard will be reviewing methods by which the District and Circuit courts can recoup court costs, etc., from indigents in the hopes to put more money back in the indigent defense system in Jefferson county. No set or uniform method has been determined. GBCDLA will keep the members abreast of any changes regarding this matter.

UPCOMING MEETING: A general membership meeting has been set for DECEMBER 6, 1993 AT 5:30 P.M. at the Holiday Inn-Redmont Hotel in the Senate Room.

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SENTINEL SCOOP - JANUARY 1994**The Newsletter of the GBCDLA**

REMEMBERING CONNIE: It is with a heavy heart that we say good-bye to our Executive Vice-President Connie W. Parson. Connie was a fine person, lawyer and friend and his untimely death has diminished each one of us. While, the writer takes some solace in the fact that Connie is at well deserved peace in a much better place, the loss of his smile, wit, and very presence in our lives is immeasurable. Fortunately, we can all carry our personal memories of Connie and what he stood for with us as a living memorial to the man and lawyer we all knew and respected.

News from Jefferson County Circuit Court- Birmingham Division

NOTICE FOR MORE LAWYERS FOR CAPITAL APPOINTMENT LIST: Back in November the membership was advised that the District and Circuit court judges have requested the B'ham Bar and GBCDLA to compile a list of all lawyers with 5 years or more criminal defense experience who are willing to take capital cases so that they will have a larger pool to when making appointments in capital cases. As of this time a preliminary list of approximately 30 lawyers has been prepared and distributed to the judges, however, this yet is far from complete. If you are willing to handle capital trials and/or appeals, please contact John A. Lentine at #328-1365 so your name can be added to the list.

News from the State Legislature

ALABAMA BAIL REFORM ACT EFFECTIVE DATE POSTPONED:

According to Acts 1992, 1st Ex. Sess., No. 93-901, § 1, provide that the Alabama Bail Reform Act of 1993 (§15-13-100 through 15-13-164) shall become effective on July 1, 1994. As was previously reported Judge Johnson declared certain portions of the act unconstitutional and other judges throughout the State have followed suit. Those cases are presently on appeal, however in the meantime, the Act is not currently in effect.

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SENTINEL SCOOP - FEBRUARY 1994

The Newsletter of the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

PRETRIAL SERVICES PROGRAM TERMINATED: In September of last year the SCOOP took great pleasure in announcing that TASC had expanded its services with the Supervised Pretrial Release Services known as TASC-SPRS. Unfortunately, due to budget cuts and the failure to allocate the necessary funds the program has been discontinued effective this month in the Birmingham division. Although it appears the Bessemer division will still be operational.

News from the State Legislature

PROPOSED LEGISLATION TO INCREASE FEES FOR APPOINTED ATTORNEYS:

There have been two bill introduced in the State Senate this year of particular interest to the membership. Senate bill 13 would raise the fees paid to court appointed lawyers to \$30 per hour out-of-court time and \$60 in-court time with an elimination of the \$1,000.00 cap. The other bill would permit contract counsel be paid for the representation of indigent defendants. The status of these bills will be updated for the membership's information.

TAX NOTICE TO MEMBERS OF THE GBCDLA: Pursuant to the 1993 Revenue Reconciliation Act will cause a portion of the Greater Birmingham Criminal Defense Lawyers Association dues to be non-deductible to you because the GBCDLA engages in legislative lobbying on behalf of its members for fiscal year 1992, 0% of your dues will not be deductible as a business expense. If you have any questions regarding the tax ramifications of this Act, please contact the GBCDLA treasurer, Virginia A. Vinson.

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SENTINEL SCOOP - MARCH 1994

The Newsletter of the GBCDLA

MEMBERSHIP MEETING & NOMINATIONS FOR OFFICERS:

A general membership meeting of the GBCDLA will be held on Thursday, April 21, 1994 at 5:30 p.m. at the Redmont-Holiday Inn. This is an extremely important meeting because nominations for new officers for the Association will taken during the meeting. Nominations will only be accepted at the meeting so it is essential that we have a strong turn out. Also the voting procedure for the June elections will be discussed and formalized.

DUES FOR FISCAL YEAR 1994:

This is just a reminder that membership dues for fiscal year 1994 will be due on or before June 1, 1994. Remember, to vote in the upcoming election you must have paid your dues to be considered a member in good standing.

MEMBERSHIP DRIVE:

There are still some attorneys who practice criminal defense in the Greater Birmingham area who have not yet joined our Association. We encourage all attorneys who practice criminal defense to join us and have your voice heard. If you need more information about the Association please contact any of the current officers: Tommy Nail, Al Bowen, Virginia Vinson or John Lentine, for more information. We look forward to having you become apart of a large and active group.

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SENTINEL SCOOP - APRIL 1994

The Newsletter of the GBCDLA

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News from Jefferson County Circuit Court- Birmingham Division

ULTRA VIOLET IMAGING: Thanks to John Cole for alerting the Association to a new forensic test which has been put to use by the Birmingham Division of the Dept. of Forensic Science - Ultra Violet Imaging. Apparently the test is used to identify wound patterns from a body using alternate light (Lumi Lite) illumination and ultraviolet illumination with subsequent photographing of the results. This testing has already been severely criticized and banned from a trial in Mississippi. The trial court noted the techniques were of little value, scientifically unproven and not yet validated or accepted by other experts. If you wish more information please contact John L. Cole or John A. Lentine.

PRETRIAL SERVICES REINSTATED: Thankfully the powers that be had enough since to reestablished funding for the pretrial release program. If you have a client in jail and wish to see if he or she is eligible contacts in Birmingham are Julie Richard or Jim Gay, Jr. at 934-7430 or 934-7431 in Bessemer contact Paul Cleveland or Kharybah Williams at 424-4587 or 424-3688.

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SENTINEL SCOOP - MAY 1994

The Newsletter of the GBCDLA

MEMBERSHIP MEETING & NOMINATIONS ELECTIONS OF OFFICERS:

*** REMINDER *** A general membership meeting of the GBCDLA was held on Thursday, April 21, 1994 at 5:30 p.m. at the Redmont-Holiday Inn. As President-Elect, Al Bowen will assume the presidency on June 2nd and nominations were made for the remaining Officers to serve next year. The following members were nominated:

- 1.) President-Elect: Doug Jones and Virginia Vinson
- 2.) Exec. Vice-President: Clyde Jones and John A. Lentine
- 3.) Secretary: John Robbins
- 4.) Treasurer: Don Colee

Ballots for the election will be sent to each member. The ballot must be filled out, sealed, signed and mailed back in the self-addressed envelope to the Association. Ballots will remain sealed until the June 2nd meeting at the Redmont Hotel at 5:30 p.m. where and when they will be opened and counted.

*** All ballots must be received before the meeting, no hand in ballots will be received or counted at the meeting. Also membership dues for 1993-94 must have been paid before June 2nd or the ballot will not be accepted.

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SENTINEL SCOOP - JUNE 1994

The Newsletter of the GBCDLA

ELECTIONS OF OFFICERS:

A general membership meeting of the GBCDLA was held on Thursday, June 2, 1994 at 5:30 p.m. at the Redmont-Holiday Inn. President-Elect, Al Bowen assumed the presidency of the Association and the 53 ballots were opened and counted. The following is a list of the Association's Officers for 1994-95.

President - Al Bowen

President-Elect - Virginia Vinson

Executive Vice-President - John Lentine

Secretary - John Robbins

Treasurer - Don Colee

Immediate Past President - Tommy Nail

News from Jefferson County Circuit Court- Birmingham Division

PLEA AGREEMENTS IN DISTRICT COURT: In response to the Associations concern with the plea agreement used in Judge O.L. Johnson's court the form agreement was discontinued. However, David Barber has written our Association with a newly proposed form agreement. The proposed form is currently being reviewed by the Board of Directors and will be discussed at the next Judge's meeting.

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SENTINEL SCOOP - FEBRUARY 1994

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3/9/94 - need to know

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October 4, 1993

10/7/93

Dear Members:

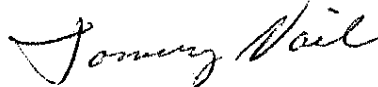
In an effort to keep the membership current on our activity during this year, we would like to give you a status report of our organization and a brief description of our accomplishments since we were organized.

1. We currently have 94 members.
2. The balance in our treasury is \$4,378,34.
3. At least two officers are present at the monthly judge's meetings and during the past months we have been an active voice in your rights as criminal defense attorneys.
4. Our President Tommy Nail and Secretary John Lentine represented us in Montgomery before the Bail Bond Reform Commission and voiced our concerns over the legislation.
5. Representatives will soon be before the Alabama Supreme Court on the Proposed Rules of Evidence. (If you have any specific concerns regarding the rules please let us know in writing as soon as possible.)
6. We have become affiliated with the National Association of Criminal Defense Lawyers.
7. Several of our members have been appointed to the NACDL Regional Strike Force.
8. A CLE seminar has been scheduled for December, which will carry 4 hours of credit. Look for more details soon.
9. Began publication of **The Sentinel Scoop** in July. A copy of the October issue of the Scoop is enclosed. Due to the cost of postage it is not feasible to mail the Scoop each month. Copies are available each month in the Criminal Justice Center, 4th Floor Lawyer's Lounge. The Scoop is an effort to keep our members aware of current law, courthouse policy, and other information that will aid in the practice of criminal law.
10. See the enclosed flyer for information on our next meeting.

The Officers and Executive Committee of the GBCDLA feel that we have made an impact at the courthouse during the few months we have been organized. However, we need the participation of every member if we are to be a truly strong group. We realize that everyone is busy with their practices and personal lives, but if you are on a committee please make every effort to attend your meetings and be an active participant.

If any member has suggestions or criticism of the group please write to the above P.O. Box and let the officers know how you feel. The better we work together, the more productive our organization will be.

Very truly yours,

A handwritten signature in cursive script that reads "Tommy Nail".

Tommy Nail, President

THE
GREATER BIRMINGHAM
CRIMINAL DEFENSE LAWYERS ASSOCIATION

P.O. BOX 370282

BIRMINGHAM, ALABAMA 35237

TELEPHONE (205) 252-4959

SENTINEL SCOOP - SEPTEMBER 1993
Helpful Information From the GBCDLA

News from Jefferson County Circuit Court- Birmingham Division

TASC EXPANSION: TASC has expanded its services with the Supervised Pretrial Release Services known as TASC-SPRS. This release program is designed to deal with the court systems concern for community safety and risk factors that would otherwise prevent a defendant's return to court. TASC-SPRS is offering services in Birmingham and Bessemer. The contact personnel in Birmingham are Julie Richard or Terri Wilkinson at 934-7430 or 934-7431 in Bessemer contact Paul Cleveland or Kharybah Williams at 424-4587 or 424-3688.

ADDITIONAL INFORMATION FOR BONDS: In an effort to ensure collection on bond forfeitures in Jefferson County the judges are requesting that additional information be included on bonds. In the case of an OR bond the defendant's place of employment should be included as part of the bond information while on property bonds the parcel identification number of the property should be included. Please be aware of these additions the next time you seek a bond approval.

News from the Court of Criminal Appeals

OVERHEAD EXPENSES CAN BE INCLUDED IN APPOINTED CASES: In May v. State, CR-92-350, 9/3/93 So.2d ____ (Ala.Cr.App. 1993) the Court of Appeals reversed lawyer Jim May's contempt conviction regarding his refusal to proceed with a retrial of indigent client when the trial court refused to grant a motion for prior approval of expenses above and beyond the statutory cap pursuant to \$15-12-21. The Court of Criminal Appeals held with prior approval of a court an attorney can claim office overhead expenses. Further, the Court urged the Alabama Supreme Court to grant certiorari and reconsider the constitutionality of the statutory cap of \$1000.00 which the Court deemed "certainly unreasonable".

UPCOMING MEETING: In conjunction with the Social Committee the next GBCDLA general membership meeting is being planned for October! We hope for a large turn out!

The **SENTINEL SCOOP** is meant to provide to GBCDLA members information on various topics of interest that impact on the handling of criminal cases in our area. For the SCOOP to work we need your input. If you encounter something the GBCDLA needs to be aware of please send a note to the GBCDLA, P.O. Box or call Virginia Vinson (#252-4959) or John A. Lentine (#328-1365). Don't limit comments to Jefferson County. We need information regarding all areas! Look for the future SCOOPS in the 4th floor Lawyer's Lounge, and to be distributed at GBCDLA meetings.

GREATER BIRMINGHAM CRIMINAL DEFENSE LAWYERS ASSOCIATION

F A L L B A S H

October 14, 1993

5:00-7:30 p.m.

at

Z Y D E C O ' S

on the patio
2001 15th Avenue South

KEG BEER AND LIGHT SNACKS PROVIDED

Happy Hour Prices

\$2.00 for mixed drinks
\$1.50 for wine
\$1.50 for bottled beer

L I V E M U S I C

****Prospective Members Welcomed****

For more information call:
Scott Boudreaux - 591-6767