

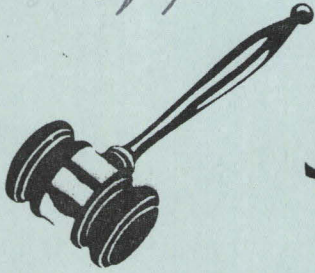
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JUDICIAL NEWSLETTER

AUGUST 1990

SOUTH CAROLINA MAGISTRATES AND MUNICIPAL JUDGES

W. J. JOHNSON, JR.
EXECUTIVE DIRECTOR

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

JEANNE R. HERTZOG
JUDICIAL TRAINING COORDINATOR

Message From the Training Coordinator

This issue of the newsletter contains all Academy training dates and topics for the remainder of 1990. We were pleased to be able to present classes in Myrtle Beach and Greenville in July, and thank the individuals who assisted with scheduling the classes and making the classroom space available. We hope to schedule some classes at different locations in the State again next year. About 60% of the judges who returned the Judicial Training Survey indicated that they would be interested in attending training in their area of the State.

Other training survey results are being considered. *Traffic Laws* was the topic most requested and had already been scheduled. The next most requested topic was *Criminal Domestic Violence and Orders of Protection*. That class has been scheduled for November. The next three most requested topics were:

**SENTENCING, RESTITUTION, PAYMENT OF
FINES AND FEES**

**FRAUDULENT CHECKS AND CRIMES
RELATING TO FRAUD**

**ETHICAL CONSIDERATIONS RELATING TO
JUDICIAL CONDUCT AND THE COURTS.**

You will see on the 1990 Training Calendar that two of these topics have also been scheduled in 1990. There were many requests that we repeat some of the topics taught from June 1989 - April 1990. The three most requested topics to be repeated were:

FROM THE JUDGE'S PERSPECTIVE: DUI

JURY SELECTION AND TRIAL PROCEDURES

**VERDICTS, JUDGMENTS AND APPEALS
PROCEDURES.**

We will try to plan accordingly. All judges who completed and returned the survey forms are thanked for their time and interest.

DATA PROCESSING REQUIREMENTS ACADEMY SPONSORED TRAINING

Beginning in July 1990, all judges and others attending training provided by the S.C. Criminal Justice Academy will need to complete a form that will be used by the Academy's data processing division to compile information relating to course content, location, and participants. It will only require that you place one check mark in the appropriate section. Please be certain to pick up one of these forms when you sign in and leave the completed form with us so that our statistical information will be accurate.

Attorneys who plan to claim their attendance at Academy sponsored Judicial Training classes for CLE hours are reminded to fill out an additional form (Uniform Certificate of Attendance). We send a copy of the Uniform Certificate of Attendance to the Commission on Continuing Lawyer Competence so they will have a record of your attendance.

ORIENTATION SCHOOL

We were pleased to have the following judges at the Academy for the Orientation School held June 18 - 22, 1990:

MAGISTRATES

June H. Davis	McCormick Co.
G. O. Fallaw, Jr.	Aiken Co.
James M. Lynch	Florence Co.
Robert L. McElveen	Florence Co.
Kimberly B. McKnight	Florence Co.
George M. Shealy	Lexington Co.
Julian M. Williams	Aiken Co.

MUNICIPAL JUDGES

Peter A. Constantine	Colleton Co.
Levone Graves	Marion Co.
GwenDolyn Hall	Marion Co.
Mordecai C. Johnson	Florence Co.
Patsye B. Mays	Kershaw Co.
Ralph C. Peters	Colleton Co.
Patricia L. Soares	Colleton Co.

APOLOGIES

The incorrect dates were listed in the May Newsletter for the October 1990 classes. Those classes will be held on October 25 and October 26. We apologize also for the delay in publishing the Guide for Magistrates 1990. Many judges have called to ask about the Guide and we regret that it is unavailable at the present time.

S.C. LAW: AN UPDATE

A summary of selected new laws is provided for your benefit. For additional information, refer to 1990 Acts and Joint Resolutions of the General Assembly of the State of South Carolina. Information concerning the status of a bill can be obtained by calling Legislative Information Systems in Columbia at 734-2060 or 1-800-922-1539.

Approved January 31, 1990

Section 56-1-30 was amended by adding to the licensing requirement exemptions a provision that a citizen of France who is at least 18 years of age, employed in South Carolina, and has a valid French driver's license may drive in this State for four years.

Approved January 31, 1990

Section 17-21-85 was added authorizing a circuit court judge to order that jury selection in a criminal case be conducted in another county when the judge determines that an unbiased jury cannot be selected in the county in which the defendant was indicted. After considering the logistical and expense elements, the jury may be transported to the county in which the indictment was returned for the duration of the trial.

Approved February 20, 1990

Section 34-11-75 was added so as to provide a civil remedy for the drawing and uttering of a fraudulent check, draft, or other written order. A person who draws, makes, utters, or issues and delivers to another such an instrument and fails to pay the same amount in cash to the payee

within 30 days following written demand, is liable to the payee for the amount owing on the check and for damages of the lesser of \$500 or three times the amount owing on the check. The court or jury may waive all or part of the treble damages upon a finding that the defendant's failure to satisfy the dishonored check was due to the defendant's recent discharge from employment, personal or family illness, or personal or family catastrophic loss. The presiding judge may award the prevailing party, as part of the court costs payable, a reasonable attorney's fee to the attorney representing the prevailing party in the action. (These civil remedies are in addition to criminal penalties already provided for by law.)

Approved February 27, 1990

Section 36-9-319 was amended relating to the sale of secured property without the written consent of the secured party. This section applies when the person selling the property has knowledge or notice of the security interest. If the value of the property is less than \$2,500, the offense is triable in magistrate's court. Otherwise, the offense is triable in the court of general sessions.

Approved April 24, 1990

Section 14-7-845 and Section 22-2-85 were added to allow a student selected for jury service to request and receive postponement to a date that does not conflict with the school term.

Approved April 25, 1990

Section 20-7-780 was amended to allow the Department of Youth Services to provide certain information to the victim of a violent crime when the victim requests such information and provides for fingerprinting of juveniles in certain circumstances and regulates the filing, transmittal, and destruction of such fingerprint records.

Approved April 25, 1990

Section 56-5-3885 was added making it unlawful for a person to operate a motor vehicle which has affixed to any part of it any sticker, decal, emblem, or other device containing obscene or indecent words, photographs, or depictions visible to members of the public not occupying the vehicle. Upon conviction, the person is guilty of a misdemeanor and must be punished by a fine not exceeding \$200.

Approved May 29, 1990

Section 14-25-170 was added to provide that jurors for municipal courts, at the discretion of the municipal governing body, may be drawn and summoned by computer in the manner the Supreme Court by order directs.

Approved May 30, 1990

Section 29-15-90 was amended relating to the lien of a laundry, dyer, dry cleaner, or other establishment engaged in the cleaning,

dyeing or alteration of personal property and revised the requirements for disposal of personal property when it is not called for within a certain time period and charges paid in full. Disposal of property is also provided for when personal property has been stored at similar establishments or retail stores.

Approved June 12, 1990

Safe Schools Act of 1990. Increases the penalties for carrying weapons on school property (§16-23-430); enacts the "School Crime Reporting Act"; provides that the State Board of Education shall develop by regulation a Model Safe Schools Checklist; Amends §16-3-1040 to extend the provision to threatening the life, person, or family of a teacher or principal of an elementary or secondary school; allows for a minor 15 years of age or older charged with a violation of §16-23-430(1) or §44-53-445 to be bound over as an adult; amends §44-53-445 to make it a separate offense to sell, distribute, purchase, manufacture or unlawfully possess with intent to distribute controlled substances in, on, or within a radius of one-half mile of the grounds of a school (including a public or private college or university) or a public playground or park.

Approved June 24, 1990

Section 56-1-1030 was amended relating to the revocation of the driver's license of an habitual offender so as to provide for appeals of a revocation to the appropriate magistrate's court. Section 56-1-1090 was amended to change the reference to "court" to "magistrate" and to provide that a

petition or court order is not required for the restoration of driving privileges. Section 56-1-745 was added to provide for the driver's license suspension and other punishment of a person convicted of a controlled substance violation and for a special restricted driver's license. Section 56-1-1320 was amended relating to a provisional driver's license so as to provide for the section to apply to a person who had a South Carolina driver's license at the time of the offense referenced in the section. Sections 56-1-746 and 56-1-747 were added to provide for the driver's license suspension and other punishment for offenses relating to possession, sale, and consumption of beer, wine, and alcoholic liquors.

Approved June 25, 1990

Section 34-11-90 was amended to require SLED to keep a non-public record of an expunged first offense Fraudulent Check violation to insure that no one take advantage of expungement more than once.

Approved June 25, 1990

Omnibus Drug Act defines "ice" and "crank," amends various provisions of Chapter 53 of Title 44; and adds to the list of aggravating circumstances for the death penalty (Section 16-3-20) "the murder was committed while in the commission of drug trafficking as defined in Section 44-53-370(e), 44-53-375(B), 44-53-440, or 44-53-445" and "the murder of a family member of an official listed in subitems (5) and (7)* above with the intent to impede or retaliate against the official"; and provides, among other provisions, for the suspension of the driver's

license of a person convicted of a controlled substance violation.

* Among those listed are "judicial officer, former judicial officer, solicitor, former solicitor, or other officer of the court."

Approved June 25, 1990

Section 20-7-340 was amended to increase from \$1,000 to \$5,000 maximum liability of a parent or guardian for malicious injury to property by a minor under age 18.

Approved June 25, 1990

Section 56-7-70 was amended to provide for a law enforcement officer to present a law enforcement badge or other appropriate identification to the driver immediately upon approaching the driver for a violation of the motor vehicle laws. Section 16-9-320 was amended relating

to opposing, resisting, and assaulting a law enforcement officer to limit the offense to service or arrest by one whom the person knows or reasonably should know is a law enforcement officer. Section 4-9-145 was added authorizing county police. Sections 23-7-40 and 23-7-50 were amended to expand the authority of special state constables. Section 56-5-935 was added authorizing the U.S. Department of Energy to place and maintain traffic control devices in Aiken, Allendale, and Barnwell Counties on lands acquired by the U.S. Government.

Approved June 25, 1990

Section 56-7-15 was added to provide that a uniform traffic ticket under Section 56-7-10 may be used to arrest a person for an offense committed in the presence of a law enforcement officer if the punishment is within the jurisdiction of magistrate's court and municipal court.

S.C. CRIMINAL JUSTICE ACADEMY
JUDICIAL TRAINING CALENDAR

<u>August 31:</u>	(F)	Traffic Laws
<u>September 27 or 28:</u>	(Th, F)	Fraudulent Checks and Crimes Relating to Fraud
<u>October 25 and 26:</u>	(Th, F)	Two Day Judicial Training Conference for Magistrates Only
<u>November 28 or 30:</u>	(W, F)	Criminal Domestic Violence and Orders of Protection
<u>December 11 or 13:</u>	(T, Th)	Ethical Considerations Relating to Judicial Conduct and the Courts

ADDITIONAL INFORMATION ON CLASSES:

Traffic Laws will present information relating to more commonly charged traffic violations with emphasis on hazardous moving violations. The class will include the Safety Belt Law, Child Restraint Law, Railroad Crossing and School Bus Related Violations, Use of Headlights in Conjunction with Windshield Wipers, Speeding and other traffic laws. This is the same class that was taught in Myrtle Beach and Greenville in July.

Fraudulent Checks and Crimes Relating to Fraud in September, will discuss civil and criminal aspects of fraudulent checks, including a discussion of recent changes in the law. Also discussed will be Financial Transaction Card Fraud, Breach of Trust with Fraudulent Intent, Obtaining Goods under False Pretenses, Forgery, and related issues.

Judicial Training Conference for Magistrates will be a two-day school relating to the trial of civil cases. Judges may register to attend one or both days. However, due to the interrelationship of the topics, attendance on both days is recommended. Thursday will include a discussion of service of process, the statute of limitations, and the Rules of Civil Procedure. Friday will involve a civil mock trial beginning with a discussion of filing the action and service of process, through the trial of the case, and concluding with a discussion of the steps to be taken by the magistrate if the case is appealed.

Criminal Domestic Violence and Orders of Protection will consist of a morning session presented by Sistercare that will include information relating to the law and emotional and psychological issues relating to abuse. The afternoon session will be taught by William C. Smith and will further discuss legal issues and the role of the magistrate and municipal court judge when confronted with domestic violence crimes and requests for orders of protection. (Sistercare has received a grant from the Junior League to enable them to present training on this topic for summary court judges.)

Ethical Considerations Relating to Judicial Conduct and the Courts will discuss the Standards of Judicial Conduct as they relate to summary court judges and legal disputes. Part of the class will consist of group discussions, allowing judges to apply the standards to some hypothetical situations.

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY
JUDICIAL TRAINING
REGISTRATION FORM

Information for registrants: All classes begin promptly at 9:00 a.m. unless otherwise noted. Registration forms that are mailed to us should be regarded as accepted and confirmed. When a duplicate class is offered (same material taught on two separate dates), list your preferred date in the space below. To register for a two-day conference format class, list one or both dates below depending on your planned attendance.

PLEASE TYPE OR PRINT:

NAME: _____

ADDRESS: _____
 (street) (city) (state) (zip)

COUNTY: _____ PHONE: _____

MAGISTRATE MUNICIPAL JUDGE OTHER

Please register me for attendance at the following Voluntary School(s) for Magistrates and Municipal Judges:

<u>TOPIC</u>	<u>DATE</u>
_____	_____
_____	_____
_____	_____
_____	_____

If classroom space is filled on the date you indicated above, are you able to attend on the alternate date?

Yes No

You will be notified if you are scheduled for the alternate date.

MAIL TO: Judicial Training Division
S.C. Criminal Justice Academy
5407 Broad River Road
Columbia, South Carolina 29210

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