

December 20, 2004

Dear Municipal Official:

I am writing to advise you that sweeping changes in the law will require many cities to take swift action to preserve municipal courts. A series of decisions coming from the United States Supreme Court and the Georgia Supreme Court as well as recent state legislative actions have impacted the way that municipal courts must operate—from providing indigent defense to accounting for fine revenue. Some of these new rules have come with specific deadlines. House Bill 1 EX, which enacted a new surcharge in all courts to fund indigent defense in superior and juvenile court, also mandates that municipal courts have an indigent defense system in place by January 1, 2005. Courts that fail to meet this deadline will forfeit the ability to sentence anyone to a period of incarceration or probation. Many courts have taken the necessary steps to guarantee defendants their right to counsel and they are to be commended, but some have not done so or merely bind over cases with counsel requests to state courts. Already, proposals are being circulated at the state level to decriminalize certain offenses heard in municipal court that could make it very difficult to enforce payment of traffic fines. Frankly, if more cities do not respond to the changing legal and political environment quickly, it may very well mean the end of municipal court throughout the state. The loss of municipal courts would leave cities powerless to enforce their ordinances, including many environmental and quality of life related provisions, cause city police to spend more time appearing in county courtrooms and ultimately affect the ability of cities to keep their streets safe through traffic enforcement.

Other mandates have begun to require changes and modernization of municipal courts. New rules for the collection and reporting of fine add-ons collected in municipal court have placed new administrative burdens on municipal court staff. Additionally, by virtue of a federal Department of Transportation mandate, the Georgia Department of Motor Vehicles will soon be requiring that all traffic convictions from municipal courts be reported electronically.

All of these changes make it essential that cities review the operation of their municipal court to insure that the services and resources in those courts meet the legal and practical requirements of running a court in the 21<sup>st</sup> century. GMA urges that city officials pay particular attention to the following:

- ⇒ whether the court is meeting its constitutional obligation to provide indigent defense and translators when necessary;
- ⇒ whether the technology utilized needs to be upgraded to handle the modern reporting and accountability issues;
- ⇒ whether court personnel have been adequately trained and separated from the police department; and
- ⇒ whether court records are being adequately maintained.

GMA will continue advocating strongly for the preservation of municipal courts. However, it must be understood that GMA can do little to relieve cities of obligations created by the federal Constitution. Further, in order for GMA to be able to make an effective case for city courts, it must be able to show the legislature and others that cities have adequately taken care of their own house and provided the basic services and infrastructure that all courts must provide.

I therefore urge all city officials to take a look at their municipal court to insure that defendants are being afforded their rights and that staff has been given adequate training, equipment, and resources. To assist in this effort, GMA plans to publish a “best practices” guide and to hold concurrent sessions on the modernization of municipal court around convention time next year once we know the scope of any new state legislation. In the meantime, the GMA website will continue to be updated with helpful information concerning municipal court issues.

Municipal courts are an integral part of the day-to-day operations of city government, helping serve as an independent body for the processing of traffic offenses and municipal ordinance violations. I am confident that city leaders around the state will take the necessary steps to modernize municipal courts.

Sincerely,

Jim Higdon  
Executive Director

JH:TB  
C: City Attorneys,  
Georgia Council of Municipal Court Judges,  
Georgia Association of Chiefs of Police