

1

---

---

---

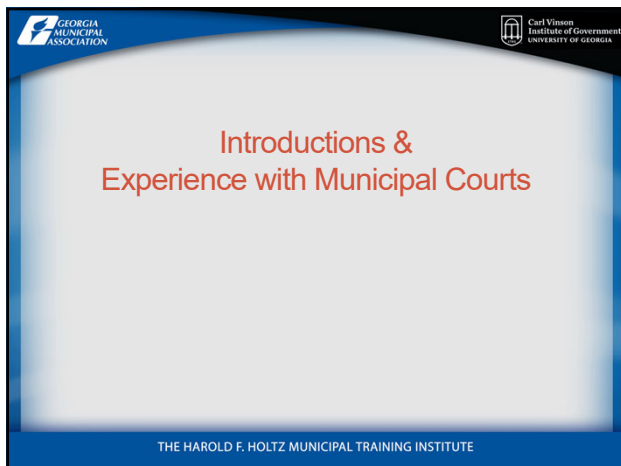
---

---

---

---

---



2

---

---

---

---

---

---

---

---



3

---

---

---

---

---

---

---

---

**FERGUSON, MISSOURI 2014**

- August 9, 2014 – fatal shooting of unarmed 18-year-old African-American, Michael Brown, by Darren Wilson, a white policeman with FPD.
- Protests, looting, vandalism, violent clashes with police.
- Department of Justice investigation and report.
  - Revenue generation focus of Police Department and Municipal Court created deep distrust of police, major threat to public safety
  - Municipal courts stoked the rage

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

4

---

---

---

---

---


---

---

---

**POLICE WROTE TICKETS TO GENERATE \$**

- City budgeted for sizeable increases in municipal fines and fees each year.
- “City officials routinely urge Chief Jackson to generate more revenue through enforcement.”
- “Finance Director wrote to the City Manager: “Court fees are anticipated to rise about 7.5%. I did ask the Chief if he thought the PD could deliver 10% increase. He indicated they could try.”



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

5

---

---

---

---

---

---

---

---

**COURT COMPELLED PAYMENT, NO ALTERNATIVES**

- “The municipal court does not act as a neutral arbiter of the law or a check on unlawful police conduct.
- Instead, the court primarily uses its judicial authority as the means **to compel the payment of fines and fees** that advance the City's interests.”



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

6

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government UNIVERSITY OF GEORGIA

## Not Just the Ferguson Municipal Court

**The New York Times**

*A Surreptitious Courtroom Video Prompts Changes in a Georgia Town*

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

7

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government UNIVERSITY OF GEORGIA

## Not Just the Ferguson Municipal Court

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

8

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government UNIVERSITY OF GEORGIA

## Doraville Litigation

- Curbed, "How the municipal court money machine burdens city residents" 6/5/2019
- Lawsuit describes a "reign of terror" in Doraville where "special code enforcement officers would prowls the streets with iPads, ready to document the slightest infraction. Citations were given to people who had left coolers on their carports or bikes in the front yard."
- Lawsuit alleged Doraville "violated due process by 'using its law enforcement and municipal court system for revenue generation.'"

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

9

---

---

---



---

---

---

---

---

## Doraville Litigation

- Federal court ruled for city in December, 2020 - "I'm disappointed in today's ruling but looking forward to continuing the fight on appeal," Bruckner said in the release. "It was a hopeful sign that the judge called out, in his written decision, how an overreliance on fines and fees distorts the justice system and creates faulty incentives." AJC
- Now on appeal – 3 years of litigation so far!
- <https://www.ajc.com/news/federal-judge-rules-doravilles-fines-fees-were-not-illegal/BK3CWOPK5VAFFPFAYNMQIVGSBQ/>

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

10

---

---

---



---

---

---

---

---

## Post-Ferguson Litigation and Legislation

- Litigation - ACLU, Equal Justice Under Law, Southern Poverty Law Center teamed up with large law firms and forced court changes nationwide.
- Championed by Governor Nathan Deal, GA Council on Criminal Justice Reform recommendations led to laws that change municipal court practices, but courts are slow to change.
- See GMA Publication and Self-Assessment

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

11

---

---

---



---

---

---

---

---

## PROMOTING JUSTICE

City Officials play an important role, but do NOT make or influence individual judicial actions

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

12

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

## PROTECTING CITY ASSETS

Civil rights organizations are **OBSERVING** courts; social media and news outlets are **REPORTING** on poor practices; **BRAND DAMAGE** is a major risk

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

13

---

---

---

---

---

---

---

---


GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

**If judge or court clerk violates law . . .  
CITY will be sued.**

• <https://blog.schr.org/>





THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

14

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

**"The Municipal Court is the only exposure many of Georgia's citizens have to the judicial system."**

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

15

---

---

---

---

---

---

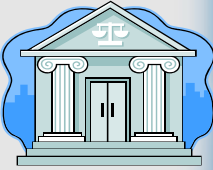
---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Municipal Courts in Georgia

- 537 municipalities; 380 municipal court judges
- A fair, well-run court is essential for citizens' trust in law enforcement and the city itself
- **Better not to have a court than to have one that violates laws and diminishes trust**



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

16

---

---

---

---

---

---

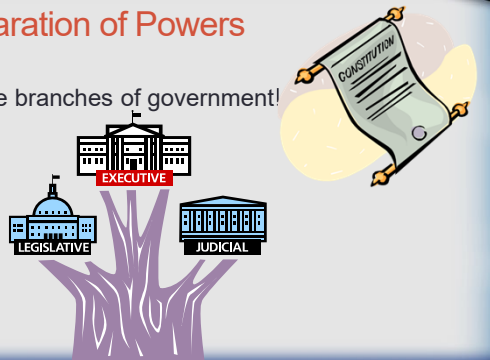
---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Separation of Powers

- Three branches of government!



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

17

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Independence of Municipal Courts

- Municipal courts are INDEPENDENT of mayor, council and police department
- Independence is essential to FAIRNESS and perception of FAIRNESS



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

18

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Independence of Municipal Courts

- Prove independence!
- Signage, communications, attire
- Job descriptions of court staff, organization charts
- Budget
- Judge's contract

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

19

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Judicial Emergency Order

- Applies to "court facilities"
- Requires published safety guidelines
- Shared facilities must comply with Judicial Emergency Order's higher safety standards
  - City hall where municipal court clerk works, takes payments etc.
- To reduce burden on city, now is a good time to re-think location of court and clearly document court facilities.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

20

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Funding for municipal court

- Municipal court is funded solely by the city.
- Grants may be available for accountability courts, drug courts, homeless courts
- **DO NOT BUDGET FROM PROJECTED COURT REVENUE!**



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

21

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

### Cities with 10% or more of general revenue from court fines and fees

**Small Towns, Large Fine Revenues**  
Counting identified approximately 500 cities, towns and counties reporting fines accounting for percent of general fund revenues. They were most prevalent throughout rural parts of the South.

Each dot represents a jurisdiction where fines and forfeitures accounted for more than 10 percent of general fund revenues in the most recent fiscal year.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

22

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

### Independence of Municipal Courts

Judge's term must be at least one year from the date of appointment, and the term shall be set forth in charter, ordinance or contract. Judge may only be removed mid-term for certain reasons and in accordance with process set forth in law.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

23

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

### City attorney should NOT be the municipal court judge for the same city.

- Who writes and/or reviews your city ordinances?
- Who rules on validity of such ordinances?
- What about conflicts?

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

24

---

---

---

---

---

---

---

---



GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

## Ethics of the Judge



- Don't discuss specific cases with your judge!
- Judge cannot give legal advice

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

25

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

## Ethics of the Judge

- Judicial Canon of Ethics
  - Rules describing permitted and prohibited behavior
  - Judges must follow the law
  - Covers all court personnel



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

26

---

---

---

---

---

---

---

---

GEORGIA MUNICIPAL ASSOCIATION

Carl Vinson Institute of Government  
UNIVERSITY OF GEORGIA

## Training for Municipal Court Judges



- Mandatory Training!
  - 20 hours for new judges
  - 12 hours for other judges
- City must pay!

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

27

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Oversight of the Judge

- Judicial Qualification Commission



JQC reviews complaints, disciplines judges, and issues opinions

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

28

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Oversight of the Judge

- “Someone ought to tell the city to straighten out their court” (11<sup>th</sup> Circuit Court of Appeals, 3/21/2019 oral argument)
- City can choose not to renew contract
- See sample Affirmation Statements

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

29

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Relationship Between Court and City's Governing Authority

- Grounds for termination of the judge mid-contract term:
  - Willful misconduct in office
  - Willful and persistent failure to perform duties
  - Habitual intemperance
  - Conduct prejudicial to the administration of justice which brings the judicial office into disrepute
  - Disability seriously interfering with the performance of duties, which is or is likely to become, of a permanent character

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

30

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Relationship Between Court and City's Governing Authority

- 2022 law
  - Clarifies the process for removal
  - States that judge may be represented by counsel
  - Entitles judge to subpoena witnesses and documents
  - Requires recording
  - Assigns city the burden of proof – must be a preponderance of evidence that removal is warranted

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

31

---

---

---

---

---


---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Relationship Between Court and City's Governing Authority



- Judge is an employee or independent contractor of the city
- City must pay for judge's annual training
- Contract should identify court responsibilities and clarify which ones are to be fulfilled by the judge; get City Attorney review!

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

32

---

---

---

---

---

---

---

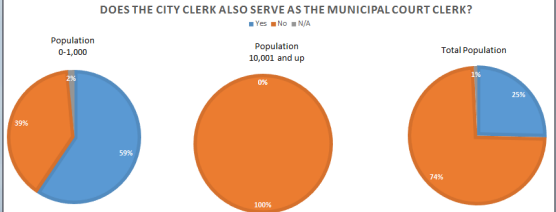
---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Municipal Court Clerk

- Most important employee for administration of your court

DOES THE CITY CLERK ALSO SERVE AS THE MUNICIPAL COURT CLERK?



Population	Yes	No	N/A
Population 0-1,000	26%	33%	59%
Population 10,001 and up	0%	100%	0%
Total Population	13%	25%	74%

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

33

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Municipal Court Clerk

- Clerk has Significant Responsibilities
  - Reports
  - Entry of disposition
  - Collecting fine amounts
  - Responding to open records requests
  - Setting calendars
  - Communicating with the public about the court

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

34

---

---

---

---

---

---

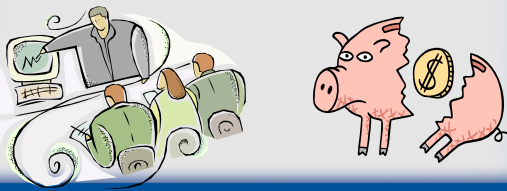
---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Municipal Court Clerk

- Is your court budget high enough?
- What happens with a case backlog?
- Who supervises the clerk?



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

35

---

---

---

---

---

---


---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Municipal Court Clerks Code of Ethics

- Responsibility of many administrative tasks
- Liaison between citizenry and court
- Managing court
- Court procedures



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

36

---

---

---

---

---

---


---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Training for Municipal Court Clerks

- State law makes this mandatory.
  - 16 hours for new clerks
  - 8 hours for other clerks
- City Pays Costs!



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

37

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Jurisdiction of Municipal Court

- State traffic offenses, State (non-traffic) offenses when jurisdiction granted by the General Assembly.
- Municipal ordinance cases (civil or criminal)

**TRAFFIC LAWS**





NOISE  
ORDINANCE  
ENFORCED

**SCHOOL**



BY ORDINANCE

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

38

---

---

---

---

---

---


---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Traffic Offenses

- “Uniform Rules of the Road” can be enforced as state law or adopted by city ordinance.



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

39

---

---

---

---

---

---


---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Non-traffic State Offenses

- Littering
- Shoplifting < \$500
- Marijuana possession < 1 oz., drug related objects
- Operating vehicle without insurance or emissions
- Furnishing alcohol to underage persons
- Criminal trespass



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

40

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Ordinance Offenses

- These are usually criminal offenses, but can be quasi-criminal or civil in nature.



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

41

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Home Rule Ordinance Adoption

- Limits maximum punishment.
- Prevents municipal courts from handling cases it legally cannot



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

42

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

### Alleged Violation of Law, What Next?

- Uniform Traffic Citation
- Uniform Misdemeanor Citation
  - Increasing Use of Citations was a CJRC recommendation
- Show up for Court as directed or pay fine (if permitted by court)



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

43

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

### Alleged Violation of Law, What Next?

- If No Citation, What happens next depends on City's bail policy/practice
- Calhoun – revised its bond schedule after lawsuit, and its new schedule was approved by 11<sup>th</sup> Circuit
- Atlanta – Mayor Keisha Lance Bottoms eliminated money bail
- Cities may combine these approaches

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

44

---

---

---

---

---

---


---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

### Bond Schedule + 48 Hour Release

- Taken to Detention Center
  - Pay Bond Per the Standard Bond Schedule immediately and leave OR
  - Detained and First Appearance hearing for judge to set bond amount is scheduled (must take place within 48 hours of detainment)
  - Release after 48 hours w/o hearing
- Requires RAPID hearings by judges



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

45

---

---

---

---

---

---

---

---

**Signature Bond Only Schedule**

- Taken to Detention Center
  - No standard list of bond amounts
  - If charge is on list of "signature bond" offenses, released on own recognizance
  - If not, detained and officer schedules first appearance hearing for judge to set bond amount (must take place within 48 hours of detainment if no warrant, or within 72 hours if warrant or released)



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

46

---

---

---

---

---

---

---

---

**Constitutional Issues with Bail**

- Purpose of Bail – to ensure return to court + protect public safety
- Lots of horror stories, bad press
- Release on Recognizance can reduce exposure
- Focus of GA Criminal Justice Reform

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

47

---

---

---

---

---

---

---

---

**Constitutional Issues with Bail**

- Calhoun case
- Standing Bond/Bail Order
- 11<sup>th</sup> Circuit – City can be liable under Section 1983 if it acquiesces in unconstitutional bail practices of municipal court and police department
- Bail schedule ok if first appearance hearing to set bail based on financial considerations within 48 hours

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

48

---

---

---

---

---

---

---

---



**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Sentencing Power of the Court



- Court can sentence in a number of ways:
  - Fines
  - Probation
  - Community Service
  - Incarceration
- But also have authority to use pretrial diversion

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

49

---

---

---

---

---


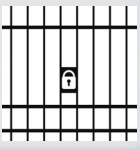
---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Punishment limits

- State misdemeanor offenses typically up to \$1,000 fine or 1 year in prison.
- Ordinance offenses – up to \$1,000 fine and 6 months incarceration unless charter provides lesser punishment.
- Charter may impose limits unless state overrides.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

50

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Fines are Punishment, not Revenue



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

51

---

---

---

---

---

---

---

---

**Financial Hardship Determination for Fines and Fees**

- Due process and equal protection of the law under the U.S. and Georgia Constitutions require determination of ability to pay fines and fees
- Must reduce, waive, or convert to community service if "Reasonable probability that defendant will be unable to satisfy financial obligations for two or more consecutive months"
- Presumptions - See checklist and Bench Card

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

52

---

---

---

---

---

---

---

---

**Community Service**

- List of approved agencies
- Procedure for obtaining confirmation
- Who is supervising and making sure complete?
- Will probation company monitor?






THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

53

---

---

---

---

---

---

---

---

**Fines**

- Maximum fine is set forth in the ordinance or statute.
- Fine add-on amounts required by state law.
- Partial payment of fine? State law requires payment of add-ons per priority list.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

54

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Fine Add-On Priority List

1. Peace Officer Annuity and Benefit Fund
2. Clerks' Retirement Fund (CRF)
3. Probate Judges' Retirement Fund (PRF)
4. Sheriffs' Retirement Fund (SRF)
5. Brain and Spinal Injury Trust Fund (BSITF)
6. **County Governing Authority (COUNTY)**
7. Jail Construction and Staffing (JAIL)
8. Peace Officer, Prosecutor and Indigent Defense Fund (POPIDF -A)
9. Peace Officer, Prosecutor and Indigent Defense Fund (POPIDF -B)
10. Local Victim Assistance Program (LVAP)
11. Law Library (LL)
12. Georgia Crime Victims Emergency Fund (CVEF)
13. Drug Abuse Treatment and Education Fund (DATE)
14. Safe Harbor Fund (SHF)
15. Crime Lab Fee (CLF)
16. Indigent Defense Application Fee (IDAF)
17. Driver Education and Training Fund (DETF)

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

55

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Can we create our own fine add-ons?

- The law does not expressly forbid such practice.
- Most likely not allowed.



- Some courts have sought and obtained local legislation to allow technology fees.

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

56

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Collecting the Fines

- Tax intercept
- Probation
- Debt collector companies
- Robocalls and other reminders
- **THINK ABOUT THE CITY BRAND!**

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

57

---

---

---

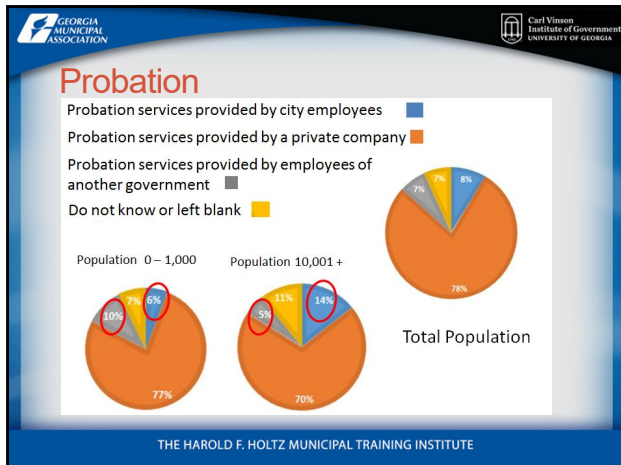
---

---

---

---

---



58

---

---

---

---

---

---

---

---

**Requirements of Probation Providers**

- Comply with laws, comply with rules of Department of Community Supervision's Adult Misdemeanor Probation Oversight Division and cooperated in its audits
- See publication for sample contract
- Settlement agreements for debtors' prison cases often include terminating private probation

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

59

---

---

---

---

---

---

---

---

**Behavior Monitoring**

- Probation involves behavior monitoring, and can involve tracking and testing

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

60

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

### Taking of Liberty and Labor – Risks to City Assets and Brand

- Cost of incarceration (includes medical expenses of defendant while incarcerated)
- Costs of injuries during forced work
- Illegal use of threat of incarceration for failure to pay fines
- Terrible stories
- Bad press and class actions, attorneys' fees
- Burdensome settlement agreements

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

61

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

### Taking of Property - Risks

- Pay or Stay debtor prison cases
- It takes time to conduct financial hardship reviews
- Failure to conduct them and properly waive fees or offer alternatives can lead to lawsuits and bad press

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

62

---

---

---

---

---


---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

### Defendant's Rights – Same for all Courts



- It doesn't matter how much money is available, or the size of the court, or how often the court meets
- The same constitutional rights apply
- Must factor rights into the cost/benefit analysis of having a court at all

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

63

---

---

---

---

---

---


---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Right to Counsel

- Defendants are entitled to representation by their own attorney.
  - The prosecutor is **NOT** the attorney for the defendant
  - The judge is **NOT** the attorney for the defendant
  - The clerk is **NOT** the attorney for the defendant
  - None of the above can give the defendant legal advice
- The CITY must provide and pay for an attorney to represent an indigent defendant – “public defender”



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

64

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Right to Counsel

- Court must provide free public defender upon determination of indigence
  - Can't “punt” to another court if the defendant is indigent
- If defendant is indigent and public defender is not at the court, judge must release the defendant on their own recognizance (without supervision or bail) and reschedule

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

65

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Trials in Municipal Court

- No Jury Trials!
- Only Bench Trials!



- Requests for a jury trial **MUST** be bound over

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

66

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Right to a Jury Trial

- Right to jury trial for all state misdemeanors!
- State law grants right beyond the right granted by federal constitution



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

67

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Right to a Jury Trial



- BUT.....right to jury trial does NOT exist for ordinance offenses in Georgia!

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

68

---

---

---

---

---

---

---

---

**GEORGIA MUNICIPAL ASSOCIATION** **Carl Vinson Institute of Government UNIVERSITY OF GEORGIA**

## Interpreters

- City must pay for certified interpreters
- Interpreters must be available
- See checklist and bench card



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

69

---

---

---

---

---

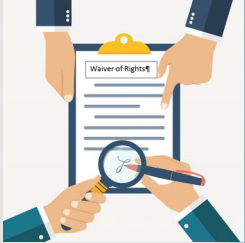
---

---

---

**Waiving Rights**

- How do defendants waive their rights?
- Waivers must be made, willingly and knowingly on the record!
- Must be done for each defendant individually!



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

70

---

---

---

---

---


---

---

---

**Limitations of Municipal Court**

- Can only punish defendants of municipal court
- What happens if the case is tied to a felony charge?



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

71

---

---

---

---

---

---

---

---

**Cases which are Bound Over**

- What are the ramifications of when a case is bound over to another court?



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

72

---

---

---

---

---

---


---

---



**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Prosecuting Attorneys



- Not required, but very helpful
- Can be city attorney
- Must submit ordinance or resolution with name to Pros. Attorneys' Council within 30 days

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

73

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Pre-Trial Intervention and Diversion Program (a form of Training)

- Must be run by prosecuting attorney
- Must have rules for eligibility
- Must have procedures for administration
- Offense is not reported to insurance
- No conviction
- May charge program administration fees up to \$1,000, which are not subject to fine add-ons and go directly to the city
- Fees may be waived for good cause [note – finding of significant financial hardship or indigency may require waiver]

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

74

---

---

---

---

---

---

---

---

**Georgia Municipal Association** **Carl Vinson Institute of Government**  
UNIVERSITY OF GEORGIA

## Records of Proceedings

- Best practice – audio record all court sessions; often a requirement of settlements
- Recording is required for proceedings at which defendants enter pleas
- Recordings are open records!

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

75

---

---

---

---

---


---

---

---

**APPEALS**

- Appeals are based on the record from the municipal court.
- What happens if the municipal court record is insufficient?



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

76

---

---

---

---

---

---

---

---

**A Word from Municipal Judges . . .**

- **Budget appropriately** for basic resources needed to run efficient court in compliance with laws **(80%)**
- **Convey to court staff, probation service providers and police officers that compliance with laws is essential** to maintaining the city's "brand" and preventing lawsuits. **(58%)**
- **Increase indigent defense budget (50%)**

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

77

---

---

---

---

---

---

---

---



THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

78

---

---

---



---

---

---

---

---



### For More Information

Alison Earles	Rusi Patel
Senior Associate General Counsel	General Counsel
<a href="mailto:aearles@gacities.com">aearles@gacities.com</a>	<a href="mailto:rpatel@gacities.com">rpatel@gacities.com</a>
678-651-1028	678-686-6210

THE HAROLD F. HOLTZ MUNICIPAL TRAINING INSTITUTE

---

---

---

---

---

---

---