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For Immediate Release

Indigent Defense Commission Proposes Changes in Court Procedures and Traffic Laws

Atlanta, September 21, 2004: Steps should be taken to improve court procedures in misdemeanor cases and to explore alternatives to imprisonment to enforce traffic laws, the Chief Justice's Commission on Indigent Defense has concluded. Its report and recommendations, released today, could have consequences for all county and local courts.

"Study of the issue of indigent defense has been a long process, but the Supreme Court is pleased with the Commission's thorough examination in its final report. My thanks go to the Commission for its diligent work," said Chief Justice Norman S. Fletcher.

The Commission's report follows a 2002 U.S. Supreme Court ruling in the case of *Alabama v. Shelton*. This ruling held that a person who receives a suspended or probated sentence that could lead to imprisonment has a constitutional right to be represented by a lawyer. Because a large number of traffic and other misdemeanor cases conclude with a suspended sentence of imprisonment, this ruling has a major impact on the lower-level trial courts that handle such cases: State Courts, Municipal Courts, Probate Courts, and Magistrate Courts.

The Commission asked The Spangenberg Group, a nationally recognized consulting firm, to study the effects of this ruling in Georgia, and also received expert testimony at several public hearings. The Spangenberg study found that in many courts across Georgia the Supreme Court's ruling was not being correctly implemented. Some courts simply continued to give suspended sentences of imprisonment to indigent defendants without providing free legal representation. Another problem was failure to explain the risks of going forward without a lawyer.

“It is important that defendants fully understand the possible collateral consequences of a conviction of even a seemingly minor offense, consequences that might well surprise a person who has not been advised by a lawyer,” the report states. For example, a guilty plea to a speeding offense in some circumstances can cause automatic suspension of a driver’s license, which in turn can lead to loss of employment.

In addition, the Spangenberg study raised concerns that attempts by some courts to obtain “waivers” of the right to counsel from defendants were erroneous. The Commission’s report recommends steps to assure that Uniform Court Rules in State and Magistrate Courts are consistently followed and further recommends that Municipal Courts and Probate Courts adopt similar rules as a condition of continuing to exercise the power to imprison.

The Commission’s report notes that Georgia’s penalties for traffic offenses appear to be by far the harshest in the nation. In Georgia first time speeding offenders can be sentenced to up to 12 months in jail whereas in most states such an offense is treated as a civil infraction or is punished only by a fine. The Commission recommends that local courts be given the option to handle some traffic offenses as civil infractions or through a pretrial diversion program. The Report also recommends that the state Department of Motor Vehicle Safety be authorized to withhold renewal of drivers’ licenses and license plates until unpaid traffic fines are paid.

The Supreme Court of Georgia established the 26-member Commission on Indigent Defense in December, 2000. The Commission released its first report in December 2002. The studies by The Spangenberg Group involved site visits and interviews with judges and court personnel in 19 Georgia counties that represent approximately 45% of the state’s population: Baldwin, Bibb, Bulloch, Chatham, Clayton, Cobb, DeKalb, Dodge, Dougherty, Floyd, Fulton, Habersham, Hall, Houston, Lowndes, McDuffie, Richmond, Spalding and Toombs.

The Administrative Office of the Courts of Georgia (AOC), a state agency, provides support services to the judiciary for the efficient operation of the courts. Copies of all Commission’s reports are available on the AOC’s website, <http://www.georgiacourts.org/aoc/press/idc/idc.html>.