

**DEKALB COUNTY GRAND JURY PRESENTMENTS
SEPTEMBER - OCTOBER TERM, 2015**

TO THE HONORABLE JUDGES:

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LINDA W. HUNTER
MARK ANTHONY SCOTT
TANGELA BARRIE

Of the Superior Court of DeKalb County, Georgia, Stone Mountain Judicial Circuit
This Grand Jury, sworn in by the **Honorable Courtney Johnson** in the DeKalb Superior Court on **September 8, 2015** respectfully submits the following presentments.

INDICTMENTS

This Grand Jury was presented with (306) cases during the **September-October 2015** term. Of these cases (303) True Bills and (3) No Bills were returned. An additional (193) cases proceeded by Accusation.

REQUEST FOR PUBLICATION

Pursuant to the O.C.G.A. § 15-12-80, we the presently constituted Grand Jury recommend to the **Honorable Courtney Johnson** that these general presentments be published in whole in the County Legal Organ.

Orientation

The orientation session led by Nicole Marchand Golden, Chief Assistant District Attorney, was helpful as we learned about the types of charges that could be presented. Presentations on human trafficking, drug/weapons, and domestic abuse were useful in building a foundation of knowledge.

We feel there still needs to be more clarification on probable cause along with examples of cases that may or may not have probable cause to eliminate some deliberations where people were focusing more on guilt or innocence. Orientation should also be more instructive on what the grand jury should consider and not consider in determining probable cause to help keep the group focused on the task at hand. It is also recommended that the ADA repeat these instructions throughout the term as a reminder.

There should be a time for jurors to introduce themselves to each other during the orientation session.

A more detailed explanation of the purpose and process of conducting inspections should be provided. The inspection process is confusing to most jurors, until it is actually underway, some examples of previous inspections and respective recommendations should be included in the orientation.

We recommend that guns and controlled substances training be more focused to make it more specific to the types of substances and weapons more commonly found in DeKalb county cases.

General Observations

The professionalism of the District Attorney's office was largely exemplary. ADAs should introduce themselves and describe their areas of focus within the DAs office when making their first presentation to the grand jury. It would also be advantageous to seek more uniformity in presenting charges for similar types of cases. Charges presented in the indictments varied significantly depending on the specific ADA preparing the case.

Witnesses, including District Attorney's Investigators, DeKalb County police officers and detectives were on the whole very professional in their testimony. We applaud the services of these civil servants. For less tenured witnesses, we recommend training in presentation skills before testifying to the grand jury. Clear presentation from witnesses is extremely valuable as it reduces the need for clarification questions, thus making the process more efficient.

We strongly recommend that more effort be made in referring to defendants as “defendant” or by using their last name, avoiding all classification with negative terms or labels. Identifying the defendants by race, ethnicity or sexual preference, only when such details are relevant to the evidence presented. Presenting just the facts of the case, without name calling and labeling, further supports the grand jury’s efforts to remain objective.

For complicated cases, such as, but not limited to RICO cases, it would be helpful to have a organizational chart of names, relationships and timeline of events. It was confusing to hear about multiple defendants and their alleged roles in the case. Having a visual aid to assist in connecting details to persons would be helpful in understanding such cases.

We recommend that an additional “Do Not Enter” light be installed just outside the jury room entrance. The only light available to jurors outside the room is in the break room. This would help with communication of room status. In addition, a “door open light” in the break room would also be useful.

It is essential that the grand jury room have a plentiful supply of batteries for the microphone. It is challenging for all jurors to hear some witnesses without the use of the microphone. In the event that the microphone continues to be unreliable, an improved sound system should be considered.

We also observed the lack of video surveillance in the non-restricted sections of the parking structure, and some jurors expressed concern for their safety. We recommend equipping the parking structure with video surveillance and additional police presence for increased safety of the jurors and courthouse personnel.

We recommend that the daily payment to grand jurors be increased to at least minimum wage for one 8-hour day of work (\$58/day at \$7.25/hour) to more fairly replace lost wages and mitigate the severe financial hardship on those in non-salaried positions.

Probate Court Review

Judge Jeryl Rosh presented a report on the probate court to the grand jury on September 29, 2015. Judge Rosh explained the duties of the court, which include matters related to wills, estates, guardianships, marriage licenses and firearm permits. Judge Rosh is dedicated to her position as judge of the probate court, but she is very frustrated about two main areas: the computer system and physical space issues in the marriage permit/firearms licensing area. The grand jury decided that a visit to the Probate Court would be helpful in understanding these issues. A sub-group of 4 jurors visited the probate court and validates her concerns with these issues.

Computer System: In February 2015, the probate court was switched from a mainframe system to the current system, known as Agile, with little consultation from the probate court users. The decision to change was due to the high cost of the annual service fee on the outdated mainframe system. Agile was presented by the software vendor as an “easy solution.” However, Agile is a system for civil and criminal courts, and it had never been implemented in a probate court before. As Agile is not designed for probate court, it is lacking in many needed features including document generation. Probate court generates multiple documents per case, and without this software functionality, clerks are forced to use Microsoft Word to generate forms that a quality system would automatically create. In addition, there is no web access feature with Agile, and in fact the only public access is at a kiosk in the probate court office which is confusing and difficult to use. Clerks cannot print out of Agile, so customers sometimes take phone pictures of information from the Agile computer screen in order to obtain documentation of such information. In addition, clerks are forced to re-type data as the information does not transfer or auto-populate other areas within the system. Finally, security access in Agile is “all or nothing,” thereby causing clerks to be given more user rights than they should have within the probate court system.

The problems with Agile are also causing the probate court to fall behind on workload, and important areas are being neglected like citing delinquent guardianship filings. Judge Rosh said in her 30 years in DeKalb probate court, they have “never been so inefficient.” This computer system potentially puts the probate court at risk for errors and delays to customer requests, and it needs to be replaced as soon as possible.

The county IT department is developing a proposal to purchase a software system called Odyssey by Tyler Technologies. Judge Rosh and Caroline Freeman, probate court staff attorney, think that it is the best program available for probate courts. It is well used in Fulton and other metro counties, and it offers public access, document generation, and auto-population of forms from initial entry screens. The decision to purchase this product must be approved by the county commission. This jury recommends approval of this purchase and a prompt implementation and training period.

Physical space issue: The room for marriage licenses and firearm permits is confusing and small. There is a plan in motion for redesigning the space to make it more user-friendly and adding a 4th clerk stall to handle volume. A neighboring break room is being considered for expansion of the space. Directional signage in the space needs to be clearer. Marriage license forms need to be accessible before entering the room, as they are tucked in a corner that is hard to reach. A waiting line ticketing system would help with managing crowds in this space.

Jury Management Process

This grand jury summoned the office of jury management for an explanation of the jury selection process. On October 15, 2015, Judge Tangela Barrie, Chief Judge of Superior Court, and Dawn Childress, Jury Manager, reported to the grand jury. Specific concerns were the consequences for no-shows for jury summons, the process used to select jurors, and the length of time that a juror is exempt from serving again.

Although 125 citizens were sent grand jury summons for this session, only 33 responded to the summons. The exact numbers also occurred in the July-August 2015 term. DeKalb

County needs to establish an administrative system and enforce set penalties for a citizen who fails to respond to a grand jury summons. We do not believe that the decision to simply increase the number of citizens summoned should be the first alternative to increase the number of available jurors. The court should make a concerted effort to increase percentage of jurors that comply with the grand jury summons, instead of simply shifting the burden to the few that actually present themselves ready to serve. In addition, this grand jury believes that some improvements to the summons letter could provide some incentive to enhance participation including the allowance for three absences and including a link to the “frequently asked questions” section of the grand jury website.

DeKalb County should encourage the State of Georgia to investigate the “algorithm” that is supposedly randomly selecting jurors as it appears to have a bias towards selecting the same citizens multiple times creating an unequal distribution on a small number of citizens who serve jury duty multiple times while many never serve.

Databases of DMV and voter registration files are merged to create the juror pool. The process for eliminating duplicate records is inefficient and could be improved. A review of the database should be conducted annually, upon receipt of the new database file, to ensure that duplicate names are proactively removed from the system. This will preserve the “random” nature of the selection and the equal probability of selection.

DeKalb County should strongly consider increasing the time period in which grand jurors are excused from serving grand jury duty service again. Two months of service places an enormous burden on citizens. Exclusion from grand jury duty service for five years would be more reasonable than the 18 months that is currently in force. In addition, actual time served should be a consideration in the exemption time for all jurors. Jurors that comply with a summons, but are not selected should not be subject to the same exclusionary period as jurors that serve for multiple weeks.

It is also imperative to note that under the current juror selection process, if a juror is summoned and does not appear, the system automatically excludes them from future jury

pools for 18 months. This loophole should be corrected immediately, as the system is not only enabling bad behavior but actually rewarding it.

Officer-Involved Shootings

The grand jury conducted a civil inspection of five officer-involved shootings during this session. All jurors present at the presentments attended a mandatory force science training seminar. The training was comprehensive but could be made more efficient. The speaker was knowledgeable, credible and a good presenter. However, quite a bit of time was spent on extraneous information such as “selling” the institute and explaining how papers are published. His examples often wandered and were not necessarily relevant to the information. In total the information was valuable for instructing on listening to officer-involved shooting cases but could be streamlined to the most pertinent points with relevant examples, reducing it to two-three hours in length rather than six hours.

The grand jury recommends that family members present during officer-involved shooting cases be informed when disturbing images or videos will be shown.

The grand jury recommends evaluating the need for additional training for DKPD related to approaching and handling mentally impaired individuals. We recommend that 911 operators are trained and encouraged to obtain all possible relevant details that can aide the officer in handling mentally impaired individuals. We also recommend considering incorporating a re-certification or field probationary process for officers returning to field duty after more than 18 months of administrative duty.

The review of officer-involved shooting cases should be more clearly explained to the grand jurors. The explanations led many to believe that we would be hearing cases for indictment, not hearing cases to provide a recommendation in this presentment.

Here are our recommendations on the five officer-involved shootings presented during this session:

- We heard evidence of the fatal officer-involved shooting of Anthony Hill, docket # D0249852 involving Officer R. Olsen of the DeKalb County Police Department. We were unable to reach a consensus on recommending indictment, because there were contradictions and inconsistencies in the testimonies presented. Therefore, we recommend that **further investigation be conducted to aid in the decision to pursue this case** by the DA.


In regards to further investigation suggested on docket # D0249852, the grand jury recommends:

- 1) Obtaining a follow-up interview from Officer Anderson, first on scene after the officer-involved shooting.
- 2) Conducting a second, more thorough interview to clarify Officer Olsen's account of events from the GBI interview.

- We heard evidence of the fatal officer-involved shooting of Eddie Ball Jr. and Ivy Shumake, docket # D0250152 involving Officers T.J. Luong, D.J. Perry, J.L. Lewis, N.C. Colliver, and E. Espinoza of the DeKalb County Police Department. We recommend that the DA **not** pursue an indictment against the officers involved in this shooting.
- We heard evidence of the fatal officer-involved shooting of Kevin Davis, docket # D0248503 involving Officer J.R. Pitts of the DeKalb County Police Department. We recommend that the DA **not** pursue an indictment against the officer involved in this shooting.
- We heard evidence of the fatal officer-involved shooting of Royce Flournoy, docket # D0244974 involving Officer L.A. Davis of the DeKalb County Police Department. We recommend that the DA **not** pursue an indictment against the officer involved in this shooting.

- We heard evidence of the fatal officer-involved shooting of Austin Leake, docket # D0249242 involving Officers J. White and J. Spruill of the DeKalb County Police Department. We recommend that the DA **not** pursue an indictment against the officer involved in this shooting.


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CLERK OF SUPERIOR COURT
DEKALB COUNTY GA

ORDER

The within and forgoing presentments have been filed in open Court,

IT IS HEREBY ORDERED that said presentment be filed and published, as requested, in the County Legal Organ.

SO ORDERED this 29TH day of OCTOBER, 2015.


MICHAEL E. HANCOCK, SENIOR JUDGE

ON BEHALF OF JUDGE COURTNEY JOHNSON

DEKALB SUPERIOR COURT
STONE MOUNTAIN JUDICIAL CIRCUIT

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CLERK OF SUPERIOR COURT
DEKALB COUNTY, GA

ACKNOWLEDGED:



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DISTRICT ATTORNEY