

**COURT OF APPEALS OF GEORGIA  
BANC MEETING**

Tuesday, January 16, 2001  
Third Floor Conference Room  
10:00 a.m.

**A G E N D A**

- |       |   |                                     |
|-------|---|-------------------------------------|
| I.    | Call Meeting to Order                     | Chief Judge G. Alan Blackburn       |
| II.   | Approval of Minutes                       | Chief Judge G. Alan Blackburn       |
| III.  | Report of Legislative Committee           | Presiding Judge Marion T. Pope, Jr. |
| IV.   | Emergency Motion Judge Equipment          | Bud Tirey                           |
| V.    | Oral Argument                             | Chief Judge G. Alan Blackburn       |
|       | A.. Digital Clock in the Courtroom        |                                     |
|       | B. Audio Taping Oral Arguments            |                                     |
| VI.   | Recording Banc Meetings for Absent Judges | Chief Judge G. Alan Blackburn       |
| VII.  | Court Planning Session                    | Chief Judge G. Alan Blackburn       |
| VIII. | <b>OLD BUSINESS</b>                       |                                     |
| IX.   | <b>NEW BUSINESS</b>                       |                                     |
| X.    | Adjournment                               |                                     |



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Time Lag

**Date:** January 10, 2001

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Check into the time lag between dismissals of cases which generates the \$80.00 and the follow-up letter from clerk's office under my signatures. Specifically A01A0901. Green v. Shaw in which the order dismissing it went out on January 8 and before the attorney could send in the \$80.00 filing fee got a done letter which went out on January 9.



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Banc Meeting Discussion Items

**Date:** January 12, 2001

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For the Banc Meeting to discuss with the judges.

- 1) If they want to make public their e-mail addresses
- 2) Flower Fund Report
- 3) Oral Argument Report for January and February
- 4) Taping oral arguments in every case
- 5) Digital clock for the courtroom for oral arguments



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** January Banc Meeting

**Date:** January 12, 2001

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At the Banc Meeting we might want to discuss having the Court's docket on the INTERNET on a view only status.



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Remind the Staff

**Date:** November 14, 2000

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Remind the staff about we do not accept letters and no one should make any comments about whether oral argument will or will not be granted, rescheduling or what not.



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Banc Meeting

**Date:** November 8, 2000

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I need to contact Jan Kelley about the November 28<sup>th</sup> Banc Meeting and the pay increase for the interns from \$3,000 to \$5,000 and to make sure that is a correct figure and to make sure she realizes that she will be on the Banc Meeting Agenda with Chief Judge Johnson.

MINUTES OF THE BANC MEETING  
OF THE COURT OF APPEALS OF GEORGIA

March 21, 2000

The March Banc Meeting of the Court of Appeals of Georgia was held in the Third Floor Conference Room on Tuesday, March 21, 2000, at 10:00 a.m. Those present were:

Chief Judge Edward H. Johnson  
Presiding Judge William LeRoy McMurray, Jr.  
Presiding Judge Marion T. Pope, Jr.  
Presiding Judge Gary B. Andrews  
Presiding Judge G. Alan Blackburn  
Judge J.D. Smith  
Judge John H. Ruffin, Jr.  
Judge Frank M. Eldridge  
Judge Anne E. Barnes  
Judge John J. Ellington  
Judge Herbert E. Phipps  
Mr. Bill Martin, Clerk/Court Administrator

Those absent were:

Judge M. Yvette Miller

I. CALL TO ORDER:

Chief Judge Johnson called the meeting to order at 10:00 a.m.

II. APPROVAL OF MINUTES:

Chief Judge Johnson asked if there was a motion to approve the Minutes of the November 16, 1999 Banc Meeting. Presiding Judge McMurray moved the approval of the Minutes, which was seconded by Judge Phipps. The motion passed unanimously.

III. OLD BUSINESS:

Chief Judge Johnson called upon Mr. Martin for the changes to the IOM regarding Special Concurrences and the Emergency Motion Judge. Mr. Martin stated he had circulated the IOM section on Special Concurrences which was discussed at the November Banc Meeting. Presiding Judge Blackburn offered an amendment to the section on Special Concurrences. After a general discussion, Judge Eldridge moved the question. The motion was seconded by Presiding Judge Pope. Chief Judge Johnson called for a vote on the amendment which failed with Presiding Judge Blackburn voting in favor of the amendment.

Chief Judge Johnson then called on a vote for the language on Special Concurrences presented to the earlier Banc Meeting. The measure passed with Presiding Judge Andrews and Presiding Judge Blackburn voting against the motion.

Chief Judge Johnson called upon Judge Smith for a report of the Committee to study the Emergency Motion Judge IOM section. Judge Smith stated it was the purpose of the Committee to change the Court's policy as little as possible, but also to provide a policy which would recognize the importance of the emergency motion judge being available, or having someone available, and recognizing the importance of a timely deposition of emergency motions. After a general discussion, Judge Smith moved to adopt the substitute language provided by the Committee. The motion was seconded by Presiding Judge Pope and passed unanimously. Chief Judge Johnson thanked the Committee for its excellent work on the Emergency Motion section.

Presiding Judge Blackburn suggested the clerk might want to meet with some of the experienced staff attorneys on the Court who dealt with Emergency Motions in the past and set up a video or protocol for training staff attorneys to recognize and deal with true emergency motions.

#### IV. NEW BUSINESS:

1. Chief Judge Johnson called upon Presiding Judge Blackburn for his report on applications. Presiding Judge Blackburn suggested the Court may wish to assign applications randomly by the Court's computerized docketing system as opposed to having applications go back to the judge who granted the application. Presiding Judge Blackburn said that since Central Staff does most of the work on applications, there is not a loss of judicial effort in a judge's office by not sending the application back to the judge's office who granted it. After a brief discussion, Presiding Judge Pope moved to have granted applications go on the wheel. The motion was seconded by Judge Smith and passed with Presiding Judge Andrews voting against the motion.

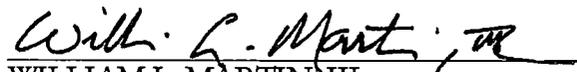
Chief Judge Johnson recognized Mr. Martin regarding the Court's policy on records sealed by the trial courts. Mr. Martin stated it has always been his understanding since he had been at the court that records in this court, even though sealed in the trial court, were available for viewing and inspection by the public. Mr. Martin stated a recent case came to the Court which caused him to ask the Court for a definitive statement on the Court's policy and some guidance regarding sealed records. After a general discussion regarding the different nuances of the issue, Chief Judge Johnson appointed a Committee to study the issue and report back to the next Banc Meeting. He appointed Judge Eldridge as Chair of the Committee, Judge Ruffin and Judge Phipps as members. He appointed Mr. Martin as ex officio member.

Mr. Martin asked the Court for permission for the clerk's office to do the ministerial function of changing the date on certified mail filings when attorneys produce the requisite receipts stamped by the United States Postal Service with the mailing date. After a brief discussion, Judge Eldridge moved the clerk's office handle that ministerial function and bring to the Court any situations which may give cause for concern. The motion was seconded by Judge Phipps and passed unanimously.

Judge Ellington asked that Judge Miller's absence from the Banc Meeting be excused. Judge Ellington reported she is attending the Public Trust and Policy Meeting in Kansas City, Missouri, representing this Court and is on Court business. Chief Judge Johnson stated her absence was certainly excused.

There being no further business, and upon hearing a motion to adjourn by Presiding Judge McMurray, Chief Judge Johnson adjourned the meeting at 10:40 a.m.

Respectfully submitted,

  
WILLIAM L. MARTIN, III  
Clerk/Court Administrator  
Court of Appeals of Georgia

Minutes approved by the Court  
En Banc on the \_\_\_\_\_ day of \_\_\_\_\_, 2000



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Banc Meeting

**Date:** March 9, 2000

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Check OCGA §50-15-3 relative to expediting appeals.



# Court of Appeals

## Memorandum

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**To:** Self

**From:** William L. Martin, III

**Subject:** Banc Meeting Discussion Items

**Date:** February 15, 2000

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To add to the items to be discussed at the next Banc Meeting, the possibility of amending the Statute regarding the information on the Notice of Appeal to require the attorneys to list related cases which may be in the Court or coming to the Court under a particular appeal.



# Court of Appeals

## Memorandum

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To: Chief Judge Edward H. Johnson  
*WORK*

From: William L. Martin, III

Subject: Court Car for the Chief Judge

Date: January 31, 2000

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In light of the January 19 memorandum from Bill Tomlinson, Director of Office of Planning and Budget, regarding the subject of the Governor's review of the state's policies and practices concerning the use of state financed motor vehicles for all state agencies, I have reviewed the history of the use of a car by the chief judge of this Court. I have attached a copy of Mr. Tomlinson's memorandum (Exhibit A) which puts a moratorium on all state agencies' acquisition of vehicles, except those for full-time law enforcement purposes. In researching this issue, I have spoken with Kaye Carter who was the fiscal officer of this Court for several years.

The first reference in the Court Minutes regarding a car for the chief judge comes in the June 30, 1981 Minutes for the Banc Meeting. I have attached a copy of the Minutes as Exhibit B. It is my understanding that then Chief Justice Nichols received a state car and a driver (a state patrolman) because of certain threats Chief Justice Nichols had received. The Minutes of June 30, 1981, state that "the purpose of the automobile shall be for the security of the Chief Judge and other Court business". I am not sure how the use of a state car for the chief judge promotes security without a trained security officer.

Other references to the use of a state car by the chief judge are found in the Minutes of March 22, 1994; April 14, 1994 and August 27, 1996. The specific parts of the Minutes are attached as Exhibits C, D and E, respectively.

Memorandum to Chief Judge Edward H. Johnson

January 31, 2000

Page 2

The Minutes of March 22, 1994 stated the Banc would study and review the proposed policies relative to a car for the chief judge. The Minutes of April 1994 stated the Clerk/Court Administrator and Fiscal Officer were directed to make inquiries as to how the Supreme Court gets a state patrolman to drive for the chief justice and how the Court pays for that service. Finally, the Minutes of August 27, 1996 represent the last discussion in the Minutes about a car for the chief judge. Judge Andrews stated the policy of the Court had been to provide a car for the chief judge, but that not all chief judges had opted to get a car. However, he stated he wished to utilize that prerogative with a modest mid-sized car. Judge Johnson made a motion for the Court to end the use of a car for the chief judge but the motion died for lack of a second.

As stated earlier, the first chief judge to utilize a court car was Chief Judge J. Kelley Quillian who was chief judge from 1981-1982. I am not sure when Chief Justice Nichols first got a court car in the Supreme Court, but he served as chief justice from 1975-1980. I assume he got the car toward the latter part of his service.

After Judge Quillian, Judge Arnold Shulman who served as chief judge in 1983, and Judge William LeRoy McMurray, Jr. who served as chief judge in 1984, both had the use of the car which Judge Quillian had used. Both Judge Shulman and Judge McMurray used the car infrequently. Kaye was not sure, but she thinks the Court either had a four-year lease or had purchased the car.

When Judge Harold R. Banke became chief judge, the Court leased a car for his use in 1985-1986. According to Kaye, Judge A. W. Birdsong, Jr. who was chief judge in 1987-1988, did not want a court car, but at the urging of the other judges who wanted the option for a court car, went ahead and leased a car. Kaye said he drove the car infrequently, and the car was utilized mostly by Kaye and Judge Marion T. Pope, Jr. Kaye said Judge Birdsong offered the car as a pool car for the entire Court. She said when the Court turned the car in after the lease, it had only about 6,500 miles on it.

Memorandum to Chief Judge Edward H. Johnson

January 31, 2000

Page 3

After Judge Birdsong, neither Judge George H. Carley nor Judge John W. Sognier opted to get a car during their terms as chief judge.

When Judge Marion T. Pope, Jr. became chief judge, he leased the Buick Park Avenue which he later purchased after the lease. The lease payments on this car was around \$700.00 per month. The exact figures can most likely be looked up by Jan Kelley. Chief Judge Dorothy Toth Beasley opted not to have a court car, but Judge Gary Andrews did utilize a court car in 1997-1998.

Kaye said it has always been the unwritten policy of the Court in utilizing a car for the chief judge to buy "American".

Of course, you decided not to get a car for your term as chief judge. However, based upon the Court's action in 1981 and the most recent discussion in the Minutes of August 1996, the Court's policy is for the chief judge to have a car during the chief judge's term as chief judge, paid for by the Court, if the chief judge so desires. All of this predates the recent policy announcement of the Governor via Mr. Tomlinson's memorandum. The memorandum also states that the moratorium is effective immediately and will remain in effect until mid-Summer of 2000 when a report on the administrative practices related to motor vehicles is due. I assume that this report will come out in conjunction with the next fiscal year.

I checked with Sherie Welch regarding the car and driver utilized by the chief justice of the Supreme Court. Sherie told me that the Supreme Court contracted with the Department of Public Safety for a car and driver. The contract for this service is \$4,500.00 per month.

The Department of Administrative Services has a vehicle motor pool which consists of approximately 150 six passenger cars. The fiscal office has a credit card which is used to charge a car. To access a DOAS motor pool vehicle, you must call ahead for a reservation. When you actually pick up the car, you take the Court credit card and the Court



## OFFICE OF PLANNING AND BUDGET

ROY E. BARNES  
GOVERNOR

January 19, 2000

WILLIAM M. TOMLINSON  
DIRECTOR

### MEMORANDUM

To: Agency Heads and Fiscal Managers

From: Bill Tomlinson, Director *BT*  
Office of Planning and Budget

Dana R. Russell, Commissioner *DR*  
Department of Administrative Services

Subject: Motor Vehicles

As you know, the Governor has initiated a comprehensive review of the state's financial and administrative processes. The review will include an evaluation of the state's current policies and practices surrounding motor vehicle procurement and usage.

In anticipation of changes to those policies and practices, the Governor has directed us to place a moratorium on the purchase of motor vehicles. This moratorium is effective immediately and will remain in effect until mid-summer of 2000 when the report on administrative practices related to motor vehicles is due.

The moratorium includes all state agencies and all vehicles except those vehicles used full time for law enforcement purposes. The Office of Planning and Budget will also evaluate and approve individual exceptions from the moratorium for the purchase of base model vehicles to replace vehicles with over 100,000 miles.

Please direct any questions or comments that you might have regarding this moratorium to Mr. Chuck Freedman at (404) 656-6510.

/cf

cc: Bobby Kahn  
Chuck Freedman  
Hugh Farley

EXHIBIT A

OFFICE: (404) 656-3820

AN EQUAL OPPORTUNITY EMPLOYER  
270 WASHINGTON ST., S.W. • ATLANTA, GEORGIA 30334-8500

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JAN 21 2000

OFFICE OF  
PLANNING & BUDGET

FAX: (404) 656-7198

Memorandum to Chief Judge Edward H. Johnson  
January 31, 2000  
Page 4

will be billed at a rate of \$12.00 per day and .22 cents per mile. There is no charge for gas. Each DOAS motor pool vehicle has a credit card in the glove compartment which may be used for the purchase of gas at major stations or at state fuel depots around the state. There is a map to the state fuel depots in the glove compartment. All DOAS motor pool vehicles are non-smoking vehicles.

The DOAS motor pool is located at 204 Butler Street, across the street from the twin towers.

Should a judge use his or her personal car on court or state business, state travel regulations provide for a reimbursement of .25 cents per mile, and reimbursement for miscellaneous expenses such as parking and tolls. To claim reimbursement, a travel expense statement must be completed by and signed by the individual and turned over to the fiscal office. Under certain circumstances the state travel regulation provide for prepayment of travel expenses. However, the Court's travel policy found at XIII of the Internal Operations Manual, which policy was instituted after the series of television reports done by Dale Russell on the Court of Appeals travel, provides only for travel reimbursement. However, I believe the Court will prepay airline tickets and conference and seminar registration.

I hope this is the information you were seeking. If you have any questions or if I need to do any further research into the matter, please do not hesitate to contact me.

Thank you.

/ld

MINUTES OF BANC MEETING OF  
COURT OF APPEALS OF GEORGIA  
June 30, 1981

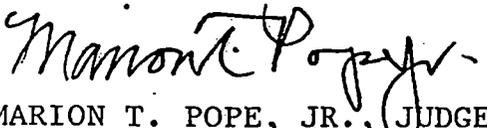
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The meeting of the whole court was called to order by Chief Judge Quillian and the following action of the court was ordered transcribed in the minutes:

Upon motion unanimously adopted, the court authorized the Chief Judge to lease an automobile for the use of the Chief Judge or his designate. The purpose of the automobile shall be for the security of the Chief Judge and other court business.

There being no further business to be discussed, the meeting was adjourned.

Respectfully submitted,

  
MARION T. POPE, JR., JUDGE

*BANC Minutes March 22, 1994*

resoundly and resolutely rejected. He stated that Bobby Chasteen was unopposed for President-Elect but there was a contested election for Secretary involving Linda A. Klein and Stan G. Brading, Jr.

11. Ms. Carter presented to the Court the monthly expense report for February for Fiscal 1994, as well as year-to-date totals for personal services and other budget categories.

12. Chief Judge Pope presented some proposed travel policies in draft form for discussion purposes only. The Chief Judge stated that he, the Fiscal Officer and Clerk/Court Administrator had tried to come up with every type of travel that the Court had experienced over the years and to address that travel in the policies. Chief Judge Pope first stated that he had included in the Banc notebook, in addition to the proposed policies for discussion purposes, the Code Section on reimbursement for Court travel as well as the current travel policy for Judges in the IOM. In addition to the Court travel policy, Chief Judge Pope stated that the Court might wish to address the policy of the leased vehicle for the Chief Judge.

After a general discussion regarding the travel policies and Court automobile policy, the Banc decided to study and review the proposed policies and to discuss the matter at the next Banc meeting.

13. Ms. Carter then gave the report for the Fiscal Year 1995 Budget which begins July 1, 1994. The total State funds

*Banc Minutes April 14, 1994*

an appropriate records retention schedule for the Court of Appeals. According to Ms. Manis, after the Court adopts such a records retention schedule, the Archives will have to accept our records for storage at the Records Center.

6. The Appellate Settlement Conference Report and Appellate Settlement Conference Budget were presented to the Court by Chief Judge Pope. Thereafter, discussion ensued as to the outstanding costs of the program and the Clerk/Court Administrator was directed to consult with Ms. Perry Walinski, Settlement Conference Clerk, regarding collecting past due costs and as a possible solution to the non-payment of costs by requiring an up-front cost deposit.

The Court also discussed the implementation of the fast track appeal system and asked the Fiscal Officer to prepare a budget for a fast track appeal program.

7. The Court tabled a discussion of the Court's travel policy until a special called banc meeting for the specific purpose of discussing the travel policy and updating the IOM. Judge Andrews stated that there were significant changes in the IOM, one of which would be the travel policy. He felt that the Court would be better served to discuss the matter at a separate meeting. The motion was carried.

The Clerk/Court Administrator and Fiscal Officer were directed to make inquiries as to how the Supreme Court gets a State Patrolman to drive for the Chief Justice. Specifically, does the

Court pay for that or is that supplied to the Court by the Department of Public Safety?

8. Ms. Carter presented to the Court the expense report for the end of March, fiscal year 1994. Additionally, Ms. Carter handed out to the banc members copies of the Westlaw and Lexis cost reports. Ms. Carter reported that costs of Westlaw and Lexis were running about \$4,000 per month.

A discussion was had then as to the increased use and awareness of staff attorneys for Georgia Law on Disk as well as some computer enhancements for Shepard's and Shepard's Express. The Court is spending \$14,000 per year on Shepard's. Shepard's Express on CD Rom can be obtained for a cost of \$1,300 per year and if shared with the Supreme Court, \$650 per year.

Judge Andrews made a motion which was seconded that Bud Tirey, in concert with Chief Judge Pope and Mr. Martin, develop and conduct a survey of what uses are being made of what legal research services with an eye toward making sure everyone has adequate research tools but is conscious of the costs associated with them.

9. The Chief Judge reported that the Court of Appeals had paid \$3,154 for tuition to the University of Virginia Masters Program. This is the same amount that is being charged per Judge for two Justices of the Supreme Court.

#### NEW BUSINESS

10. Chief Judge Pope referred the Banc's attention to the tab 11 and the resume of Mr. Tom Greene, a press specialist. The Court

after. While this requirement does not directly affect the Judicial Branch, there is a good likelihood that the legislature will be in a conservative, cost-cutting mode.

5. SPACE REPORT: Judge Andrews reported the Supreme Court, which had earlier indicated it wanted the available space on the third floor of the Washington Street Building, now has indicated it wants the space on the fourth floor. Judge Andrews said he would discuss this matter with Presiding Justice Fletcher. Ms. Carter reported that the Office of Planning and Budget cannot move until after the first of the year since they are in the process of dealing with budgets for the upcoming legislative session. All moves to the Washington Street Building are predicated upon OPB's exit from the building. Ms. Carter stated within a few weeks the Court should get official notice that the Court will have space in the Washington Street Building.

6. CAR FOR THE CHIEF JUDGE. Judge Andrews stated it is the policy of the Court to provide a car for the Chief Judge. Historically, not all Chief Judges have opted to get a car, however, he stated he wished to utilize that prerogative with a modest mid-sized car. After a brief discussion, Judge Johnson made a motion for the Court to end the use of a car for the Chief Judge. The motion died for lack of a second.

7. TECHNOLOGY REPORT: Mr. Tirey entered the meeting at 10:50 a.m. Mr. Tirey reported he had obtained a binder on a

Minutes dated June 30, 1981  
Chief Judge J. Kelley Quillian

"Upon motion unanimously adopted, the Court authorized the Chief Judge to lease an automobile for the use of the Chief Judge or his designated. The purpose of the automobile shall be for the security of the Chief Judge and other Court business."

Submitted by Judge Marion T. Pope, Jr.



Minutes dated March 22, 1994  
Chief Judge Marion T. Pope, Jr.

12. "...In addition to the Court travel policy, Chief Judge Pope stated that the Court might wish to address the policy of the leased vehicle for the Chief Judge.

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Submitted by William L. Martin, III



Minutes dated April 14, 1994  
Chief Judge Marion T. Pope, Jr.

Old Business

7. The Clerk/Court Administrator and Fiscal Officer were directed to make inquiries as to how the Supreme Court gets a State Patrolman to drive for the Chief Justice. Specifically, does the Court pay for that or is that supplied to the Court by the Department of Public Safety?

Submitted by William L. Martin, III



Minutes dated August 27, 1996  
Chief Judge Dorothy Beasley

6. Car for the Chief Judge. Judge Andrews stated it is the policy of the Court to provide a car for the Chief Judge. Historically, not all chief judges have opted to get a car, however, he stated he wished to utilize that prerogative with a modest mid-sized car. After a brief discussion, Judge Johnson made a motion for the Court to end the use of a car for the Chief Judge. The motion died for lack of a second.

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## OFFICE OF PLANNING AND BUDGET

ROY E. BARNES  
GOVERNOR

January 19, 2000

WILLIAM M. TOMLINSON  
DIRECTOR

### MEMORANDUM

To: Agency Heads and Fiscal Managers

From: Bill Tomlinson, Director *BT*  
Office of Planning and Budget

Dana R. Russell, Commissioner *DR*  
Department of Administrative Services

Subject: Motor Vehicles

As you know, the Governor has initiated a comprehensive review of the state's financial and administrative processes. The review will include an evaluation of the state's current policies and practices surrounding motor vehicle procurement and usage.

In anticipation of changes to those policies and practices, the Governor has directed us to place a moratorium on the purchase of motor vehicles. This moratorium is effective immediately and will remain in effect until mid-summer of 2000 when the report on administrative practices related to motor vehicles is due.

The moratorium includes all state agencies and all vehicles except those vehicles used full time for law enforcement purposes. The Office of Planning and Budget will also evaluate and approve individual exceptions from the moratorium for the purchase of base model vehicles to replace vehicles with over 100,000 miles.

Please direct any questions or comments that you might have regarding this moratorium to Mr. Chuck Freedman at (404) 656-6510.

/cf

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# OFFICE OF PLANNING AND BUDGET

WILLIAM M. TOMLINSON  
DIRECTOR

ROY E. BARNES  
GOVERNOR

January 19, 2000

## MEMORANDUM

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01/25/00 13:00