

THE ALABAMA MUNICIPAL JOURNAL

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Beyond Our Imagination: The Aftermath of Hurricane Katrina



While traveling through Bayou La Batre on Friday, September 2, 2005, Steve Wells, AMIC president, snapped this picture of residents waiting in line for water and ice being distributed at the local high school. "It must have been six or seven miles long – and that was at 7:30 in the morning!" Wells, who was enroute to Pascagoula, Mississippi, to deliver supplies to his brother said. Fortunately, his brother and family were fine, although their home flooded and most of the contents were destroyed.

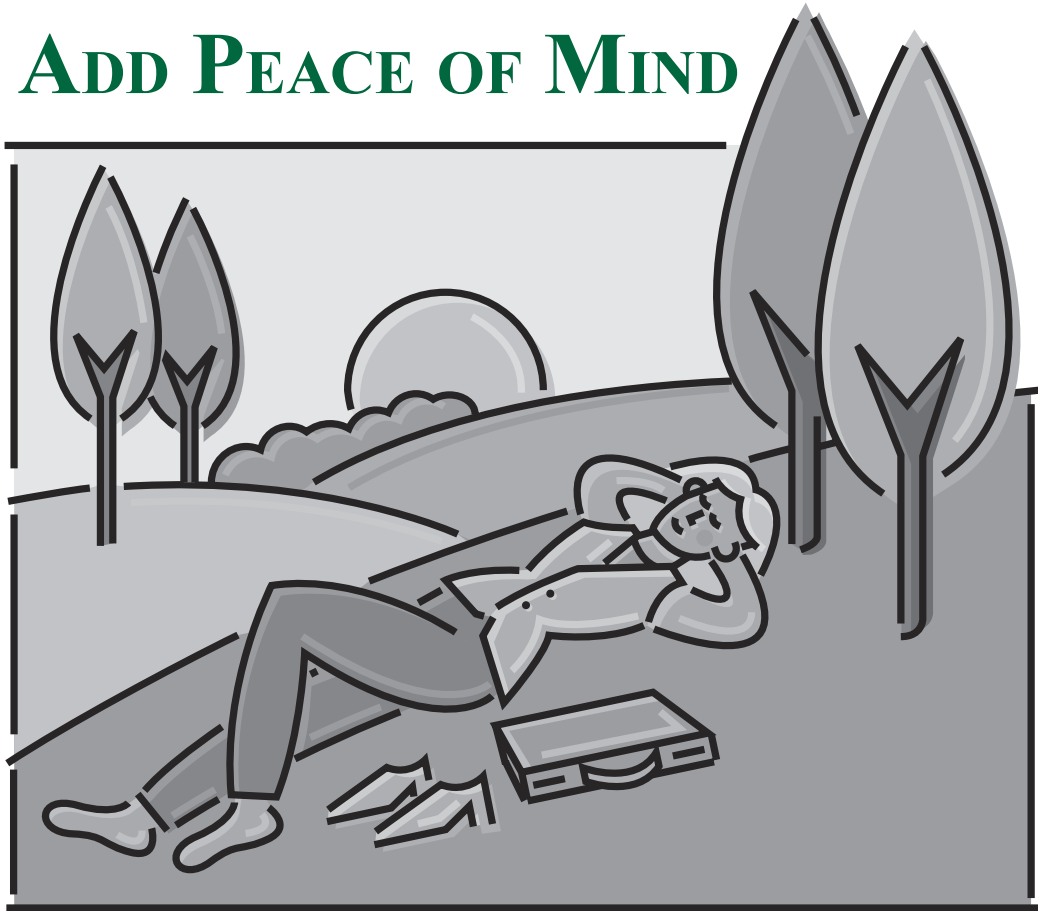
Inside:

- **Alabama First Responders Aid Neighboring States**
- **League Compiling Emergency/Disaster Management Kits for Municipal Officials**
- **Magistrates and the Duties of Impartiality**

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Contents

<i>Alabama First Responders Aid Neighboring States</i>	4
<i>President's Report</i>	5
Neighbors in Need	
<i>Vendor Profile</i>	5
AlaTax, Inc.	
<i>League Compiling Emergency/Disaster Management Kits for Municipal Officials</i>	6
<i>Municipal Overview</i>	7
Federal Government Provides Needed Social Services to Hurricane Katrina Victims	
<i>Vendor Profile</i>	8
Municipal Code Corporation & MCC Innovations	
<i>Environmental Outlook</i>	11
U.S., Canada Join to Cut Freight Industry Emissions and Save Fuel	
<i>The Legal Viewpoint</i>	13
Magistrates and the Duty of Impartiality	
<i>Legal Notes</i>	15
<i>Federal Legislative and Regulatory Issues</i>	17
<i>Hurricane Katrina Prompts Renewed Call for Improved Emergency Communication</i>	21
<i>Benefits of ACCMA Membership</i>	25

Alabama First Responders Aid Neighboring States

By: Niko Corley, Communications Coordinator, ALM

When Hurricane Katrina made landfall on August 29th, she ravaged the Louisiana, Mississippi and Alabama coastlines, stripping residents of personal property and some of their very lives. One-hundred-fifty mile per hour winds ripped away siding and structure, wiping away lifetimes of hard work and creating a living hell for those left behind to sift through the rubble.

But Katrina did more than turn people's lives inside out, she exposed disturbing weakness in vital infrastructures as cracks in emergency management systems gave way and crumbled under her strain, much like the breached levees of New Orleans, with catastrophic results.

What could and should have been done to prepare for Katrina and who is at fault for that inaction will no doubt be debated for some time. With so many playing the hurricane blame game, it's refreshing to find one group that isn't pointing any fingers; except, maybe, in the direction they can head in next to help more hurricane victims.

First responders- firefighters mainly, but also other emergency personnel- head into disaster areas

to perform rescue missions and clear debris so help and supplies can get to those in need. As their name implies, they are the initial wave of relief in a disaster; other assistance efforts can't begin until their job is done.

In Alabama, the state's mutual aid system (AMAS) provides cities with an army of emergency response personnel should a disaster beyond the local entity's management capability strike. If first responders are the backbone of emergency and disaster management in Alabama, AMAS fleshes out the skeleton, adding strength through the number of qualified personnel it can supply.

By chance, even though coastal areas of the state were affected, Alabama was spared the brunt of Katrina, which hit Louisiana and Mississippi the hardest. Randy Taylor, Autauga County EMA director, says Alabama's disaster preparedness and emergency management programs stack up well against those in other states.

"I'm a little biased, but Alabama is the best," Taylor said. "We're prepared, with plans in place and well trained and qualified personnel."

Taylor added had Alabama been hit as hard as Louisiana and Mississippi, he doesn't think the devastation would have been as drastic due to statewide preparedness.

"Yeah, I think we would have come out better; we've had a lot of experience, and we [utilize] the mutual aid system," Taylor said.

AMAS helps make Alabama's emergency management

response capacity extremely high, so much so the state may loan its first responders, through FEMA agreements, to other states during emergency situations, as it did during Katrina.

Chief Stanley Gann of Prattville was on one of the three 14-man rescue teams his fire department sent to Mobile and later Gulfport and Waveland, MS. He says AMAS may be the best thing to ever happen to Alabama as far as disaster management.

"My first responsibility is to the city of Prattville, but if something happens here it is nice to know I can call upon other departments to help me if need be," Gann said.

As the southernmost swift water rescue-capable department

in Alabama, Prattville was sent to Mobile when Katrina hit to rescue people in flooded areas. The department's team didn't perform any rescue operations in the city, as flood waters receded much quicker than in Louisiana and Mississippi, and team members thought they were soon headed home. They had heard Mississippi was in dire need of assistance, but without a federal tracking number from FEMA, Alabama teams couldn't be dispatched there.

"Mobile said 'OK we don't need you now', so we packed up," Gann said, "but the state troopers caught us at Atmore, and we turned around and headed back."

The department had been issued a tracking number and was sent to Gulfport and then to Waveland, MS. Fire Lt. Spencer Williamson says Prattville's rescue teams were among the first to enter the state. The farther west they went, he says, the worse the destruction became. He recalls driving on Interstate 10 and seeing how Katrina had scattered debris everywhere.



Lieutenants Spencer Williamson and Josh Brown have 27 years of experience between them with the Prattville Fire Department. They both serve on the swift water and heavy rescue teams.

continued page 24



The President's Report

Bobby Hayes
Mayor of Pelham

Neighbors in Need

I know we are all pleased Alabama escaped the full force of Hurricane Katrina that Mississippi and Louisiana experienced; however, we did have some severe damage along our coast. This storm could easily have changed direction and devastated much more of Alabama. Good fortune has placed us in a position to help the residents of our neighboring states, and I am so proud to see the people of our state freely open their hearts and homes to those affected by this hurricane.

Our state and its cities have aided not only Alabamians but people in Mississippi and Louisiana as well, with police, fire and search and rescue teams. As I write this, our city has five teams of firemen serving in different locations in the affected areas.

Organizations and individuals in the great state of Alabama have contributed their time and money to help the victims of Hurricane Katrina. We currently have 77 evacuee families living in Pelham with more on the way. The Shelby County School System has taken in 200 children from evacuee families in an effort to help return them to as normal a life as is possible at this time. These families will continue to need our support in the coming months. As the holidays approach, we need to be thankful for what we have and share with those less fortunate.

As municipal leaders, we must be prepared to respond immediately should a disaster hit our communities. Every city needs a disaster management plan and should review it, in advance, with the personnel who will be executing it. We should not wait until an event strikes us to take action. I am sure we all have such a plan, but the tragic, recent events of the Gulf Coast region should remind us of the need to reevaluate these plans to be better prepared for disasters and emergencies.

By the time you read this publication, committee days will have come and gone. On behalf of the League, I wish to thank those who volunteered to serve on committees, and I hope all of you, particularly new members of League committees, found the meetings to be informative. I encourage you to continue to be active participants in League affairs, as this helps our League continue to serve the citizens of this state in a positive manner.

Every year, Alabama has a strong showing at the National League of Cities Conference. This year, we will be in Charlotte, NC, December 6-10. I hope many of you will attend, so that our communities and Alabama can continue to be well represented at the national level. The annual conference is a unique opportunity to sit in on excellent workshops and meetings, as well as network with other municipal officials throughout the United States. ■

Vendor Profile

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League Compiling Emergency/Disaster Management Kit for Municipal Officials

By: Niko Corley, Communications Coordinator, ALM

Hurricane Katrina wreaked havoc on the Gulf Coast, leaving hundreds of thousands dead, injured or homeless. Looking back, many wonder what could and should have been done to prevent such catastrophic loss of life and property. The answer, if there is one, is: preparation, preparation, preparation.

The League is compiling an emergency/disaster management kit to assist municipal officials in preparing for and dealing with emergencies and disasters, both natural and manmade. Hurricane readiness along the state's coastline is just one of the many areas of emergency and disaster management this kit will address.

Alabama's varying geographic regions, from the rolling foothills of the Appalachians to the roaring surf of the coastal plain, give rise to a number of potential natural disasters. Add to these the possible disasters that people can produce and municipalities need to be ready for anything.

The League's emergency/disaster management kit will

address as many potential natural and manmade disasters as are foreseeable and relevant to Alabama's municipalities. It will be a one-stop source for information regarding emergency and disaster preparation, management and cleanup, and will also contain information to assist municipalities in securing state and federal aid before and after an emergency or disaster.

The theme of this project, as stated above, is preparation; the more municipalities do to prepare for potential emergencies and disasters the less catch-up they will have to play when an emergency or disaster occurs. The kit will be updated and supplemented periodically by the League. The goal is to distribute the kit in CD format sometime during the first quarter of 2006. Municipalities are *strongly* encouraged to print the material and distribute the information to the appropriate employees.

Preparation now prevents problems later. ■



*The best thing
about the future is that
it only comes one day at a time.*

— Abraham Lincoln

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

Federal Government Provides Needed Social Services to Hurricane Katrina Victims

The Alabama League of Municipalities extends its best wishes to all of those municipalities and citizens affected by Hurricane Katrina. The National League of Cities and your League has worked closely with the Alabama Department of Emergency Management and the Governor's office to coordinate offers of assistance from cities across the nation. As Katrina relief efforts continue throughout the Gulf Coast, it has become clear that many thousands of residents in the area are in need of vital social services. Federal agencies have been responding to this need at a rapid pace.

The President has granted special "evacuee" status to persons affected by Katrina that will allow them to easily access services including Medicaid, Temporary Assistance to Needy Families (TANF) and Head Start. States will be given the flexibility needed to enroll evacuees in social services without requiring official documents such as tax returns and proof of residency. The Departments of Health and Human Services (HHS), Education, Labor (DOL) and Agriculture (USDA) have all reacted to the Katrina tragedy by implementing emergency policy changes and providing waivers and flexibility to states working with evacuees. Services are detailed below.

"For those persons with evacuee status, we are stripping away many of the eligibility and enrollment requirements normally needed to apply for federal benefits," HHS Secretary Mike Leavitt said. "No one who has been a victim of this disaster should be prevented from getting the benefits they need because of red tape."

The U.S. Department of Labor is providing assistance to individuals impacted by Hurricane Katrina. "We are focused on getting income assistance to displaced workers as quickly as possible," said Secretary of Labor Elaine L. Chao.

Department of Health and Human Services

Medicare, Medicaid and SCHIP (State Children's Health Insurance Program)

Eligible states will be granted section 1115 demonstrations to provide temporary eligibility for these health care services. The Center for Medicare Services (CMS) has provided states the flexibility to waive normal documentation requirements to verify applicants' Medicaid and SCHIP status. CMS requires host states to provide evacuees with a simplified application. Host states will provide their own Medicaid and SCHIP benefit package to evacuees. The Bush Administration will work with Congress to provide financial support to states providing Medicaid and SCHIP coverage to evacuees in their states. CMS has assigned staff to work with all states that are hosting evacuees to provide speedy access to Medicaid and SCHIP benefits for Katrina victims relocated to their states.

Temporary Assistance to Needy Families (TANF)

The Administration has adopted emergency rules for states affected by Katrina. Documentation waivers have been put into effect for individuals with special evacuee status applying for TANF benefits. Current law makes available additional TANF funds for states experiencing emergency needs.

Head Start

HHS is providing \$15 million in emergency funding to assist Head Start and Early Head Start grantees providing services to children dislocated by Katrina. This amount will allow Head Start programs to provide services to evacuee families over the next 30 days. For more information please visit the HHS website at www.hhs.gov/katrina/index.html

Department of Education

Waivers and Modifications

The U.S. Department of Education is considering promptly requests for waivers under the waiver authority in the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001, including, among other things, waivers of maintenance-of-effort requirements.

Highly Qualified Teacher Requirements

The Department will work with affected states and school districts to determine what flexibility will be needed in affected areas with regard to highly qualified teacher requirements, while ensuring that students are receiving appropriate

continued next page

instruction. The Department will work with districts on situations such as displaced teachers working in another state.

Reallocation of Funds

The Department will work with states and school districts that want to transfer or reallocate Federal funds between districts, when a particular district or districts are unable to use funds they previously received. This could include the transfer of funds to districts in other states that are serving displaced students. Districts receiving additional funds under certain programs will need to ensure that program services are provided on an equitable basis to eligible students who, due to the hurricane, have transferred into private schools in their district.

Supplemental Appropriations

The Department is working closely with the Office of Management and Budget as the President prepares further supplemental requests for relief to ensure that schools have the resources they need to provide high-quality education for these students. For more information please visit the Department of Education's website

Department of Labor

Katrina Recovery Job Connection

DOL has established this service to assist workers dislocated by Katrina. Individuals looking for work, either in LA, MS or AL, or in new locations, can connect to employers looking to hire them. This service will also support the hiring associated with critical clean-up efforts in the impacted areas. For more information please visit DOL's National Contact Center or call: 1-866-4-USA-DOL (1-866-487-2365)

National Emergency Grants

Impacted states can apply for NEG funds that can be used to temporarily employ dislocated workers. These funds can be used to employ workers on projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims. For more information on how to apply please visit the Department of Labor website.

Disaster Unemployment Assistance

The Department of Labor is working with state and local governments in disaster areas and relief sites to issue disaster unemployment assistance for self-employed and newly employed who may not be eligible for unemployment insurance. Individuals who qualify for regular unemployment insurance from their state, do not qualify for this program.

For information on how to file a claim please call:

Alabama residents, call 1-866-234-5382

Louisiana residents, call 1-866-783-5567

Mississippi residents, call 1-866-783-5567

Texas residents, call 1-800-818-7811

Department of Agriculture/ Food and Nutrition Service Food Stamps

The Food Stamp Program is implementing a new, one-month policy for certifying evacuees who have left states impacted by Katrina. All states and the District of Columbia must comply with this policy for the month of September, 2005. The policy provides a one-month food stamp benefit for any evacuee household, based simply on evacuee status. The household must have lived in Alabama, Louisiana or Mississippi on August, 29, 2005. Register for Disaster Assistance by calling 1-800-621-FEMA (3362) or TTY 1-800-462-7585 for the speech and hearing impaired. ■

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ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran
Director, Intergovernmental Relations

U.S., Canada Join to Cut Freight Industry Emissions and Save Fuel

A new U.S.-Canada partnership could save up to 440 million gallons of fuel and prevent an estimated 5 million tons of carbon dioxide (a greenhouse gas) from entering the atmosphere each year. To reach these goals, EPA and Natural Resources Canada (NRCan) will coordinate voluntary cross-border projects with the freight industry focusing on idle reduction, deployment of clean technologies and driver training and awareness.

EPA Acting Assistant Administrator Bill Wehrum and NRCan Acting Deputy Minister Dr. Nawal Camel signed the memorandum of understanding at a freight facility near the Ambassador Bridge Border Crossing in Michigan. Thirteen million truck border crossings occur between Canada and the United States each year, 3.3 million of which take place over the Ambassador Bridge.

The collaboration brings together the complementary strengths of EPA's SmartWay Transport Partnership and NRCan's FleetSmart. SmartWay emphasizes the deployment of innovative technologies while FleetSmart specializes in driver education and training. Additional information is available at: www.epa.gov/smartway. More information can be found at: <http://oee.nrcan.gc.ca/transportation/fleetSMART.cfm>.

Study Finds State Green Industry One of Alabama's Largest

According to an Auburn University economic study, Alabama's green industry (nursery and greenhouse, turf grass, sod, lawn and landscaping operations and retail businesses selling plant materials and products) is one of the largest "cash crops" in the state, contributing \$1.9 billion annually to Alabama's economy and providing approximately 31,000 jobs. Here are some of the study's findings:

* Alabama has 767 nurseries and greenhouses contributing \$306 million to the economy and employing 4,319 workers;

* Alabama's 69 turf grass and sod operations employ 1,030 workers and represent \$99 million in total output impact;

* The lawn and landscape sector, which includes 1,029 state-licensed operators provides a \$645 million impact and provides more than 8,500 jobs;

* Alabama has some 727 retail plant establishments which employ approximately 7,000 people and make an \$855 million economic impact.

Governor Riley Initiates Nuisance Species Task Force

On June 2, Gov. Bob Riley issued an executive order establishing the Alabama Aquatic Nuisance Species Task Force. Led by the Alabama Department of Conservation and Natural Resources Wildlife and Freshwater Fisheries Division and supported by groups like the Mobile Bay National Estuary Program (NEP), the task force will address the invasion and introduction of nonnative species into the state, identified as one of the five greatest threats to our marine environment. One of the group's primary tasks will be the development of a plan for managing nonnatives.

To learn more about this problem which, according to Cornell University estimates, will cost more than \$138 billion annually to combat within the U.S., contact the Mobile Bay NEP at (251) 431-6409.

continued next page

Auburn Solar Car Finishes 4th in North American Solar Challenge

This past August, Auburn University's "Sol of Auburn" solar car wrapped up the North American Solar Challenge in Calgary, Alberta, Canada, finishing fourth in the "stock" class and placing 12th overall.

The "Sol of Auburn", organized by a team of faculty and undergraduate students in the College of Engineering at Auburn University, took part in the 2,500-mile race that drew solar car teams from across the country. The group's race diary and project photographs can be seen on the Internet at: www.eng.auburn.edu/organizations/SOA/.

To learn more about the 2005 North American Solar Challenge visit: <http://www.americansolarchallenge.org>.

Longleaf Alliance Wins Prestigious Award

Earlier this year, the Longleaf Alliance (LLA), established by Auburn University's Dean Gjerstad and Rhett Johnson a decade ago, was awarded the prestigious Centennial Congress Award in recognition of the group's leadership and dedication to restoring the South's longleaf pine forests and the many plant and animal species dependent on that habitat.

The accomplishments are notable. Since 1995, the LLA has organized and conducted nearly 600 workshops in 15 states; approximately 600 million longleaf pine seedlings have been sold and planted on about 1 million acres, a seven-fold increase over 1984 seedling plantings; and the Alliance has received more than 40 research and outreach grants totaling more than \$2.4 million since 1995.

To learn more about this nationally recognized organization and the restoration work it is performing in Alabama and the Southeast, visit their website at: www.longleafalliance.org/. ■



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THE LEGAL VIEWPOINT

By Ken Smith
Deputy Director/Chief Counsel

Magistrates and the Duty of Impartiality

A fundamental principle of the American judicial system is an accused person's right to be heard by an impartial decision-maker.

According to the constitutional guarantee of due process, the person judging the accused – a judge, magistrate or someone responsible for determining guilt or innocence – must not have a personal interest in the case. Personal feelings and concerns should have no bearing on the outcome of a criminal case. This article examines the duty of judicial impartiality and the unique problem magistrates face.

Canons of Judicial Ethics

Alabama has a strong history of support for the independence of the judiciary. The first Code of Legal Ethics in the United States was formulated and adopted by the Alabama State Bar Association in 1887. This code was later adopted by other states, and finally by the American Bar Association in 1908.

The present Canons of Judicial Ethics require judges and their support staff – which includes magistrates and court clerks – to act in a manner that promotes public confidence in the courts. In fact, Canon 1 states “a judge should uphold the integrity and independence of the judiciary.” This canon recognizes an independent and honorable judiciary “is indispensable to justice in our society.”

Canon 2 requires the judge “avoid impropriety and the appearance of impropriety in all his activities.” This canon demands judges avoid any conduct prejudicial to the administration of justice or which brings the judicial office into disrepute. The committee comments to this canon make it clear a judge will be the subject of constant scrutiny and therefore must avoid engaging in any activity having a negative impact on the reputation of the court. The comment states, “Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges.”

Canon 3 governs the impartiality of judges, providing that “the judicial activities of a judge take precedence over his other activities.” The canon goes on to prohibit partisan influence on judges and requires they be patient, courteous and dignified toward litigants, according them the full right under the law to be heard. This canon also restricts public comment by judges on matters which are before his or her court.

Canon 3 also controls when judges must refuse to hear a case. Essentially, any bias or financial interest – on the part of the judge or his or her family – requires recusal. Additionally, a judge is disqualified if he or she served as a lawyer or with a lawyer in the case or if he or she is a material witness. This canon further requires a judge to refuse to hear a matter where he or she, his or her spouse, any person within the fourth degree of kinship to them or the spouse of anyone within the fourth degree of kinship, is named as a party or represents a party in the case. This refusal must also extend to cases in which the judge knows an individual has an interest or is a material witness.

Canon 3 does allow the parties to consent to let the judge hear the case, regardless of the judge's interest. This consent must be given in writing, signed and made a part of the record.

Canon 5 requires a judge to minimize extra-judicial activities to avoid any conflict with judicial duties and responsibilities. The judge may engage in outside activities only if they “do not detract from the dignity of his office or interfere with the performance of his judicial duties.”

A special exception is created for part time judges. Most municipal judges fall into this category. Part time judges – those who serve on a continual basis but who are permitted to engage in other activities – are not required to comply with Canon 5D, E, F and G, and Canon 6C. These canons

continued next page

govern the financial activities of a judge and require the filing of an annual financial disclosure statement.

The Duty of Impartiality

Court officers must maintain a balance between the interests of the state and those of the accused. There must not even be an appearance that the decision-maker is not able to maintain a balance. While this may eliminate some judges who have no actual prejudice, “due process of law requires no less.” *Taylor v. Hayes*, 418 U.S. 488 (1973).

It is easy to recognize the potential for abuse when the decision-maker has a direct, pecuniary interest in finding the accused guilty. For instance, if a justice of the peace receives a fee for each conviction but receives nothing for finding defendants innocent, it is clear that remuneration – or the loss of it – might color his or her decision.

It is perhaps more difficult to see a problem when the decision-maker accrues no financial benefit. However, due process embraces more than just the decision-maker’s pocketbook. A person accused of a crime is presumed innocent. The prosecution carries the burden of proving the defendant guilty beyond a reasonable doubt. Any conflict which causes a decision-maker to tilt the scales of justice in favor of the prosecution violates due process.

The Fourteenth Amendment to the United States Constitution guarantees no person shall be “deprived of life, liberty or property without due process of law.” This amendment also applies to state and local governments.

The due process clause accords both procedural and substantive protection from invalid government action. Substantive due process assures individuals that in order to deprive them of life, liberty or property, governmental action must be reasonable, not arbitrary or capricious, and bear a real and substantial relation to a legitimate governmental purpose. The procedural component of due process generally relates to the process by which a government deprives someone of life, liberty or property. Procedural due process challenges generally target whether a person was given adequate notice and a meaningful hearing opportunity.

To satisfy these constitutional requirements, a judicial decision-maker must be detached from law enforcement functions. He or she cannot be controlled or directed by members of the police department or the prosecutor. When a request for a search warrant is presented, for example, a magistrate must determine probable cause exists to justify issuing the warrant or must deny the request. Due process guarantees that liberty and property interests of the accused are protected by requiring a fair hearing before an untainted decision-maker.

The Florida Court of Appeals discussed the duty of impartiality in *State v. Steele*, 348 So. 2d 398 (Fla. 3rd D.C.A. 1977). The court held that every litigant is entitled

to nothing less than the “cold neutrality of an impartial judge.” Courts must scrupulously guard this right and refrain from any action which brings neutrality into question. The court stated that under no circumstances should a judge whose impartiality is in question try a case. Judges have a duty to recuse themselves if for any reason they cannot be impartial. *State v. Washington*, 83 Wis. 2d 808, 266 N.W. 2d 597 (1978).

Personal Financial Interest in the Outcome

In *Tumey v. Ohio*, 273 U.S. 510 (1926), the defendant was convicted by the mayor of the village of North College Hill, OH, for unlawful possession of alcoholic beverages. The mayor ordered the defendant be imprisoned until the fine and costs were paid.

Under state law and city ordinance, the mayor received \$12 for each conviction. He received nothing for finding defendants innocent.

The United States Supreme Court held that it violates due process to subject a defendant to the rulings of a judge with a direct, substantial, pecuniary interest in reaching a conclusion against him or her. Although \$12 was not a substantial amount of money, the court stated that “every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear and true between the State and the accused denies the latter of due process.”

This same issue has arisen in several Alabama cases. In *Bennett v. Cottingham*, 290 F. Supp. 759 (N.D. Ala. 1968), and *Callahan v. Sanders*, 339 F. Supp. 814 (M.D. AL 1971), justices of the peace received a fee for each traffic conviction and nothing if they found the defendant not guilty. The courts held that this practice violated due process.

Detachment from Law Enforcement Activities

The need to keep court operations separate from police functions was discussed by the United States Supreme Court in *Shadwick v. City of Tampa*, 407 U.S. 345 (1972). In *Shadwick*, the defendant was arrested for impaired driving on a warrant issued by a municipal court clerk. The defendant argued the warrant was not valid because court clerks do not qualify as judicial officers under the Fourth Amendment. Instead, because court clerks were members of the civil service and were appointed by the city clerk and had no specific tenure in office, they lacked the institutional independence associated with the judiciary.

The court disagreed and affirmed the conviction. The court found there was no showing of partiality or affiliation with prosecutors or police, nor was there any connection

continued page 18



Legal Notes

By Lorelei A. Lein
Staff Attorney

COURT DECISIONS

Tort Liability: An injured pedestrian’s mailing of a notice of claim against a city does not constitute “filing” a claim with the city clerk for purposes of the requirement that a tort claim against a city be filed within six months of the date of injury. *Perry v. City of Birmingham*, 906 So.2d 174 (Ala. 2005).

Alcoholic Beverages: Section 17-15-1 of the Code of Alabama 1975, which confers standing on qualified electors to challenge certain elections, does not confer standing on a qualified elector to challenge a local option election on the sale of alcoholic beverages. *Cedar Bluff v. Citizens Caring for Children*, 904 So.2d 1253 (Ala. 2004).

DECISIONS FROM OTHER JURISDICTIONS

Americans with Disabilities Act: An employee who is merely regarded as disabled is entitled to the same reasonable accommodation as employees with actual disabilities under the Americans with Disabilities Act. *D’Angelo v. ConAgra Foods Inc.*, – F.3d –, 2005 WL 2072131 (11th Cir. 2005).

First Amendment: A city’s display of a privately donated Ten Commandments monument in the corner of a public park located 10 blocks from city hall is a passive acknowledgement of the roles of God and religion in our nation’s history and thus does not violate the establishment clause of the First Amendment to the United States Constitution. *ACLU Nebraska Foundation v. Plattsmouth*, 419 F.3d 772 (8th Cir. 2005) *en banc*.

First Amendment: A municipal ordinance imposing a 30-day notice requirement to obtain a permit for an “organized group having a common purpose or goal, proceeding along

a public street or other public right-of-way” is not narrowly tailored to advance the city’s interests in providing for the traffic and crowd control, property maintenance, and protection of the public welfare, given the overly expansive notice period and the application of the ordinance to small groups. The effect of the ordinance limits free expression by imposing strict liability for any violation and thus facially violates the First Amendment to the United States Constitution. *American-Arab Anti-Discrimination Committee v. Dearborn*, 418 F.3d 600 (6th Cir. 2005).

ATTORNEY GENERAL OPINIONS

Streets and Roads: Absent local legislation, a county commission cannot construct or maintain school bus turnarounds or school bus parking pads on private property unless the sites have been dedicated to the county for a public use, accepted by the county, and a benefit received by the county. 2005-176.

Notary Public: There are no procedures in the Code of Alabama for filing a complaint against a notary public for charging excessive fees. 2005-175.

Housing: A municipality may adopt an ordinance vesting the powers of police officers in employees of its housing authority who have been designated by the authority as housing authority police. Housing authority police officers would have the same authority in the rest of the municipality as municipal police officers, but their primary duty would be the enforcement of the law on housing authority property. 2005-177. NOTE: This opinion specifically relates to an ordinance adopted by the City of Eufaula.

Constables: Although the powers of constables are limited by the statutory authority given to them, a police chief may

continued page 23

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Federal Legislative and Regulatory Issues

Mary Ellen Wyatt Harrison
Staff Attorney

Katrina Grants Available

TGCI is making available 100 full-tuition scholarships to nonprofit and government agencies providing relief, reconstruction and emergency services in the areas affected by Hurricane Katrina. Agency representatives may apply to attend any TGCI Grantsmanship Training Program free of charge. Agencies working in public health, law enforcement, housing support, family services, pollution abatement and related fields are encouraged to take advantage of this scholarship opportunity. Applicants must complete the brief online application at: <http://www.tgci.com/training/tuitionRegScholarships.asp>, indicating the location and dates of their preferred program along with a brief explanation of the services their agency is providing to hurricane victims.

COPS program awards \$92.7 Million to Help First Responders Communicate

The Community Oriented Policing Services (COPS) of the U.S. Department of Justice awarded \$92.7 million to 26 law enforcement agencies for developing interoperable communications networks enabling emergency service personnel to communicate directly during disasters or other times of crisis.

The grants were awarded under the Interoperable Communications Technology Grant Program, which increases the number of interoperable communications systems used nationally by law enforcement, fire service and emergency medical service agencies in the same metropolitan area. Each city is required to match 25 percent of their grant, up to \$6 million.

COPS invited the primary jurisdiction from the three largest metropolitan statistical areas (MSA) in each state and territory and the 50 largest MSAs in the country to apply for the grant. Over 91 jurisdictions applied and 26 are being awarded grants.

Congratulations to Mobile, which was awarded a three-million-dollar grant under the Interoperable Communications Grant Program.

Grants Available for Museums

The Conservation Assessment Program (CAP) is granting assistance to museums interested in having their collections assessed for conservation or living-condition purposes.

CAP provides eligible museums with assessments of the following: conditions, policies and procedures relating to and affecting collections care, including storage and exhibition; museum environment; fabrication and condition of the structures housing collections; museum staffing and training; and policies and procedures concerning the collections use.

The program is designed to serve museums whose collections and physical plant can be assessed in a two-day period. Professional conservators provide the assessments, spending two days conducting an on-site survey and then writing a prioritized recommendations report.

Any public, nonprofit museum open at least 90 days a year and having one or more full-time paid or volunteer staff members is eligible. Museums eligible for the program include: aquariums; arboreta, botanical gardens and nature centers; art museums/centers; children's museums; historic houses and sites; science, history and natural history museums; science technology centers and planetariums; specialized museums; and zoos.

The program offers a maximum of two assessors per grant. Institutions with living collections can be provided a zoologist, botanist or horticulturalist as a collections assessor. If the institution possesses a historic structure (a building more than 50 years old), it is possible to get an architectural assessor. Heritage Preservation has a list of approved CAP assessors and will match institutions with several assessors from which they may choose.

Program costs are comprised of assessment fees and travel and on-site expenses (including lodging and meals). Assessment costs are generally estimated at \$3,650 for one assessor and \$7,150 for two. CAP grant amounts range

continued page 20

with law enforcement activities that might distort the independent judgment of the clerks. The court was also influenced by the fact that the clerks were assigned to, and supervised by, the municipal court judge and the police or prosecutor.

Magistrates

Amendment 328, Section 6.01(b), Alabama Constitution, 1901, mandates the creation of judicial officers with authority to issue warrants and vests those officers with judicial powers incidental to their purposes. Sections 12-14-50 through 12-14-52, Code of Alabama, 1975, carry this mandate into effect, creating a municipal court administrative agency under the direct control of a magistrate.

Rule 18, Alabama Rules of Judicial Administration, provides for the appointment of municipal magistrates. This rule requires all magistrates to remain neutral and detached from all law enforcement activities. The comment to Rule 18 states “no person who is affiliated with the prosecution or the police, assigned to police or connected with law

enforcement activities should be considered for appointment as a magistrate.”

It is important to note the court system could not operate as efficiently without magistrates. Magistrates help ensure expeditious adjudication of ordinance violations and the issuance of warrants by handling many of the court’s administrative functions. The functions and powers of a magistrate are similar to those of a municipal judge. A magistrate’s powers include issuing arrest warrants, granting bail in minor prosecutions, taking guilty pleas in minor cases where a schedule of fines has been provided and accounting for the moneys received by the court. While magistrates do not have to be attorneys, they must be knowledgeable about the law and legal procedures.

Magistrates are subject to the same due process requirements as judges. Their decisions – whether to issue warrants or set bond or any other use of power – must be free from personal prejudice and interest. Like judges, they must always be aware of the duty to balance the interests of the prosecutor and the accused and to ensuring the accused’s rights are fully protected by avoiding even the

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appearance of allowing outside forces to influence their decisions.

But magistrates also face a unique problem. In many municipalities, magistrates have been part of the police department for years. Yet, in order to protect due process, magistrates cannot be supervised by the police department. Instead, they must serve under the municipal court. Only by remaining detached can a magistrate ensure the accused has a fair opportunity to have his or her side of the case heard. Also, municipalities assigning magistrates to police departments face the probable added costs of retrying cases in addition to the costs of the original trial.

The key to protecting due process is giving chief importance to the facts of the case at hand and avoiding anything that might influence the magistrate's independent determination of guilt or innocence. If a magistrate's supervisor is a police chief or prosecutor, the possibility of unpleasant working conditions or even being fired for ruling against the police might influence the magistrate's decisions. Another danger to having a magistrate work under the police or prosecution instead of independently is the possibility of the magistrate not giving the accused the benefit of the doubt and considering him or her guilty unless he or she proves himself or herself innocent. Magistrates, like judges, must not favor the prosecution over the defendant. *U.S. v. Gower*, 447 F. 2d 187, cert. denied, 404 U.S. 850 (1971).

This is not always an easy task. In Opinion 90-00251, the attorney general was asked if anything prohibited appointing the wife of the chief of police as the municipal court clerk. The attorney general ruled that no general laws prohibited this appointment. However, the attorney general pointed out that prior to making the appointment, to ensure impartiality and detachment, the city should strongly consider the clerk's possible affiliation with the prosecution and police, the possibility of police supervision and her connection with law enforcement activities. Many times this will be difficult to determine and it may be better to appoint someone with no potential conflicts to the position.

A city which has contracted with the county to provide dispatching services cannot use its municipal court magistrate as the dispatcher because magistrates must maintain neutrality and detachment from law enforcement activities. 2002-150.

In *State v. Frazier*, 778 So.2d 254 (Ala. Crim. App. 2000), the allegation was made that a part-time municipal judge who issued a search warrant was not neutral and detached, and therefore, evidence discovered pursuant to the warrant should be excluded. The defendant argued the judge was not neutral or detached from law enforcement because he also served as an assistant district attorney. The

court disagreed, ruling that "as long as the magistrate was not otherwise involved in the investigation or prosecution of the particular case, he was not disqualified to act as a neutral and detached magistrate simply because of his position as an assistant district attorney or a county attorney." Because he would not be involved in this particular case if it came before the district attorney's office for prosecution, issuing the search warrant was not improper.

Problems Caused by Unfair Trials

No conviction will be affirmed where the decision-maker was not impartial. In *State v. Steele, supra*, the prosecution argued it was harmless error for the judge to sit in judgment because the evidence of guilt was overwhelming. The court rejected this argument, stating that "any argument based on the sufficiency of the evidence 'presupposes that an impartial judge evaluated the evidence at trial level and found against the party appealing the judgment.'" Evidence permitted by a biased judge might have been ruled inadmissible by an impartial judge. There is also the possibility of damage awards under Section 1983 to consider. This section prohibits a municipality from having a policy or custom that deprives anyone of their constitutional or federal statutory rights. *Callahan v. Sanders*, cited above, permitted maintaining an action under Section 1983 where the decision-maker was not impartial. Although the court in *Callahan* did not permit a damage award, it left open the door to such awards as well as the awarding of attorneys' fees.

Satisfying the constitutional requirements of due process through the impartiality of the judge and magistrate is not always easy. Protecting the integrity of the judicial system demands no less than vigilance on the part of judicial officials against any potential influences on their decisions. This means more than just refusing bribes, it means working to ensure that justice is served. This requires avoiding any and all improper influences on judicial decisions and remaining neutral until all the facts are in to avoid even the appearance of impropriety. ■

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from \$3,080 to \$6,540, depending on the number of assessors and the institution's budget. Museums being assessed are expected to cover a portion of the costs – generally, between \$400 and \$950.

CAP applications for FY 2006 will be mailed Oct. 7, 2005, to museums on CAP's mailing list. Applications are available from the Heritage Preservation at: <http://www.heritagepreservation.org>, and will be accepted on a first-come, first-served basis until Dec. 1, 2005. To be added to the CAP mailing list, institutions should contact Heritage Preservation. Applicants are recommended to request a sample application for review preparation purposes. More information and the sample application are available from the Heritage Preservation at: www.heritagepreservation.org/programs/capover.htm. Institutions may only participate in the program once every seven years. Heritage Preservation recommends taking the following steps to maximize CAP grant effectiveness:

- Determine, specifically, why a CAP grant would be beneficial and allot enough time to complete the application accurately and thoroughly;
- Develop a clear, concise mission statement approved by the board of directors;
- Develop a collections management policy and know the location and quantity of objects in your collections;
- Determine whether collections and sites can be accurately surveyed in two days- if collections and sites are too large for this, consider a general conservation survey through the Conservation Project Support Grants administered by the Institute of Museum and Library Services, (202) 606-8539 or: <http://www.imls.gov>, (deadline is Oct. 1);
- Engage the board and encourage members to be active participants in the process, as their support will be key to implementing CAP assessment recommendations.

For more information on the Conservation Assessment Program, contact Heritage Preservation, (202) 233-0800, or by e-mail at: kmmarks@heritagepreservation.org.

Dental Health Support

Federal funds are now available to encourage minority and disadvantaged students to pursue careers in dentistry and other health fields. Through the Pathways to Health Professions program, the Health Resources and Services Administration (HRSA) plans to distribute grants of \$50,000 to \$100,000 to nonprofit community-based groups, Indian tribes, tribal organizations, health and educational professional organizations and academic institutions. HRSA hopes to expose kindergarten through twelfth grade students

to health professions in innovative, nontraditional ways, and to prepare high school and college students for careers in these fields. Requests for Pathways to Health Professions funds are due Oct. 3, 2005, but applicants in areas affected by Hurricane Katrina have until Nov. 30 to submit their proposals. More information on this opportunity is available at: <http://www.hrsa.gov/grants/preview/default.htm>, or from Jeanean Willis at (301) 443-4494, or by e-mail at: jwillis@hrsa.gov.

ADA Dental Grants Available

The American Dental Association Foundation has approximately \$150,000 available for innovation promotion in the American dental education system. Nonprofit organizations and dental schools in the United States and its territories are eligible for grants of up to \$25,000 for support of existing projects and those still in the planning stages, the goal being to promote a stronger, more dynamic dental education system. ADA Foundation grants are for projects supporting at least one of the following:

- New teacher training modules;
- New faculty practice models;
- Incentives or recognition programs for teachers in dental schools;
- Reformed school business and curriculum structures;
- Innovative faculty recruitment or retention programs;
- Reformed school business infrastructures enhancing delivery of care;
- Resource pooling among dental schools or other institutions; and
- Addressing financial problems of renewed capital for schools and high student indebtedness.

Fund requests must address how the innovative project or program would enhance the delivery of dental education; demonstrate why the project meets a critical need in dental education; address how the project would enhance or complement existing programs; and describe any challenges currently inhibiting the applicant from implementing the innovative projects, and identify the resources needed to overcome those challenges.

continued page 22

Hurricane Katrina Prompts Renewed Call for Improved Emergency Communication

by Véronique Pluioise-Fenton, *Nation's Cities Weekly*

Several representatives and senators cajoled Congress to encourage action on longstanding legislation to clear the frequency for use for emergency public safety communication in the wake of the communications problems experienced during Hurricane Katrina and its devastating aftermath.

NLC supports legislation that would clear spectrum for use by first responders. Representatives Curt Weldon (R-Pa.) and Jane Harman (D-Calif.) were joined by Rep. Sheila Jackson Lee (D-Texas) to ask the House leadership to bring to the floor for consideration the Homeland Emergency Response Operations Act (HERO), H.R. 1646. Senate Majority Leader Bill Frist (R-Tenn.) called the emergency communications failures he observed in the Gulf Coast region “absurd.”

“Clearly, a major problem I saw firsthand was communications,” said Frist. Representative Bart Stupak (D-Mich.), a former police officer, said the communication problems in the Gulf Coast region regarding the stranded public and the public safety response to looting “highlights the need to make a commitment to interoperability.” Stupak is the sponsor of H.R. 1323, which would authorize funding to bolster public safety communication systems. Senator John McCain (R-Ariz.), the author of the “Spectrum Availability for Emergency-Response and Law Enforcement to Improve Vital Emergency Services Act” (SAVE LIVES Act) — which would set a firm deadline by which the federal government must give public safety agencies the broadcast frequencies Congress set aside for them — said he is looking into the communication breakdowns in the affected Gulf Coast region.

House Energy and Commerce Committee Chairman Joe Barton (R-Texas) has promised to introduce legislation that would set a firm date for the release of the radio frequencies and to push for such a date during the consideration of the budget reconciliation in Congress. Barton’s effort to expedite passage of his bill last June was stalled by House Republican leadership. Senator Ted Stevens (R-Alaska), chairman of the Commerce Committee, opposes legislative action regarding the clearing of the frequencies until after the Senate reviews the failure of governmental response to Hurricane Katrina. “We are not going to get involved in any kind of legislation that’s not related to this disaster until we have enough put in place to recover from it,” Stevens said.

The HERO Act

In 1997, Congress passed legislation that called for television broadcasters to leave the dedicated radio spectrum that was set aside for public safety communication. The HERO bill would sim-

ply fulfill Congress’ promise by mandating that the broadcasters indeed transfer out of the set-aside frequencies by December 31, 2006. This portion of spectrum within the 700 MHz band, which is currently allocated to television broadcasters for analog broadcast channels, is to be vacated by broadcasters upon their transition to digital broadcast channels.

Weldon opened a press conference on the issue held last week by remarking that in his 19 years in Congress and after visiting countless national disasters sites, “communications among first responders at all levels of government remains the number one problem.” Weldon observed that it was not until the fourth day after Katrina hit the Gulf states were firefighters, police and emergency personnel in New Orleans able to communicate with each other, albeit on only one channel.

Early reports point to the fact that the communications systems in Mississippi and Louisiana failed because emergency backup supply failed and communications towers collapsed. Responding to questions that the failures of emergency communication was not related to the frequency issue, Weldon and the first-responders present at the conference clarified that even when portable systems were finally allowed to set up there were not enough channels to allow first responders to communicate with each other.

“The lack of communication capabilities among federal, state and local responders forced everyone to be creative,” said Fairfax County, Va., Captain Joe Narum, who just returned from the devastation in Hancock, Harrison and Jackson counties in Mississippi.

“There is a recurring and massive problem with emergency communication in this country,” said Weldon, who referred to a 1996 Public Safety Wireless Advisory Committee report that called for Congress to set aside dedicated frequencies solely for the use of public safety. Ironically, the date called for Congress to provide for this transition was September 11, 2001. Harman, who serves as the ranking member on the House Select Committee on Intelligence, explained that the interference in the radio frequencies that first responders rely on was a problem in the 1993 bombing of the World Trade Center, and the terrorist attacks on the Oklahoma federal building in 1995 and the 2001 attack on the Twin Towers. “It is a huge embarrassment that Congress has not kept its promise that it made almost 10 years ago.”

Representative Shelia Jackson Lee (D-Texas) described the effect of Katrina as “a collapse of communication, not first responders.” She called for the quick adoption of the HERO Act to

continued next page

avert another catastrophic emergency communication failure. Harlin McEwen, chairman of the Communications and Technology Committee for the International Association of Chiefs of Police, emphasized that “emergency communication is an issue in the daily lives of police and firefighters, not just in times of natural disasters and acts of terrorism.” Chief McEwen underscored the need for training and exercises to take into consideration the impact of a compromised communication system.

NLC and the Need for Improved Emergency Communications

NLC is asking local officials to call on Congress to pass the SAVE Lives Act and the HERO Act. NLC has lobbied Congress for the cleared spectrum for public safety use based on its policy adopted after the Oklahoma bombing. NLC policy specifically states: “The federal government must allocate sufficient telecommunications spectrum to cities for public safety use in order to enhance inter-operable communications among public safety and service agencies, and to ensure the ability of local governments to meet their responsibilities for public safety and emergency services. The federal government must also involve cities as it develops standards for the delivery of emergency information on cable systems.”

Since the bombing of the Oklahoma City Murrah Federal Building in 1995, NLC has advocated for improved emergency communications systems. In 1997, NLC coordinated with key Senate leaders and then-U.S. Attorney General Janet Reno to obtain new wireless telecommunications capacity exclusively for state and local public safety. Also that year, NLC supported the Balanced Budget Act of 1997’s requirement that the FCC reallocate 24 megahertz of spectrum in the upper portion of the 700 MHz band (channels 60-69) for public safety use.

In 1998, NLC co-authored with the Department of Justice a guidebook entitled, “Public Safety and Radio Spectrum Guide” to help city leaders enhance their public safety communications capacity. The following year, NLC highlighted the need for continued legislative and regulatory action to clear the radio spectrum for public safety communication needs when Oklahoma City Councilwoman Ann Simank testified before the House Subcommittee on Oversight, Investigations, and Emergency Management. As a representative of NLC’s Public Safety and Crime Prevention Committee, Simank described the chaotic scene of the Oklahoma bombing site.

“That morning we learned firsthand the extreme importance of interoperable voice communications. Under the best of circumstances, when terrorism or natural disasters strike, you are working in chaos. But when you can’t communicate, your hands are tied,” Simank said in 1999.

Two years later, the tragic events of September 11, 2001, and the shortcomings of the public safety communication systems that day served as a sharp reminder of the words of Simank’s

testimony. The 9/11 Commission’s Final Report specifically stated that the inability of these first responders to talk with each other and their commanders resulted in a loss of life on that fateful day. The 9/11 Commission also identified the need for more spectrum as crucial to assist police, fire fighters and emergency responders in communicating during an emergency such as a terrorist attack or a hurricane. In January 2005, the NLC’s advisory committee identified the need for clearing the spectrum for emergency communication as a legislative priority.

Federal Legislative Issues

continued from page 20

Additional proposal guidelines are available online at: www.adafoundation.org/prof/resources/pubs/adanews/adanewsarticle.asp?articleid=1532. Fund requests are due Nov. 1, 2005. For more information, contact Lisa Barron at (312) 440-2547, ext. 4639, or by e-mail at: barronl@ada.org.

New Voting Act Guide

The Election Assistance Commission published the *Voluntary Voting System Guidelines* to help states comply with the Help America Vote Act (HAVA) of 2002. The act established and authorized funds to aid states in meeting federal requirements for provisional voting, voting information, statewide voter registration lists, identification requirements for first-time registrants, administrative complaint procedures and updated voting equipment. State and local elections officials may use the new guidelines to determine if their voting systems provide the basic usability, accessibility and security capabilities mandated under the act. Among other things, the guide includes performance requirements for:

- Accessibility;
- Voting system software distribution;
- System setup validation;
- The use of wireless communications; and
- Paper documentation.

The commission does not hold these guidelines as the only standards by which voting equipment and systems can be tested. States may heed all, part or none of these criteria. They may also choose to adopt stricter measures. Copies of the Voluntary Voting System Guidelines are available online at: www.eac.gov. ■

not prohibit a constable from performing his or her duties within the constable's jurisdiction, even where the jurisdiction of the police and the jurisdiction of the constable overlap. 2005-178.

Police: The Alabama Criminal Justice Information Center ("ACJIC") is the proper authority authorized to disseminate information regarding a person's criminal background history to authorized personnel and criminal justice agencies. Criminal penalties are prescribed for the misappropriation of ACJIC information. A sheriff should disseminate information obtained from ACJIC only to those entities that have an originating agency identifier (ORI) code number. 2005-178.

Conflicts of Interest: A city may enter into an agreement, which involves the mayor's son as a real estate broker, provided the mayor does not reside in the same household as his son, is not financially dependent on his son, and does not participate in the discussion or vote on whether or not to enter into the agreement. 2005-181.

Fire Department: The following persons may enter into any school to inspect and enforce state fire prevention and protection laws: the State Fire Marshal; employees of the State Fire Marshal's office; the chiefs of police and fire departments; the mayor, if there is no fire department; the

sheriff; and those persons acting under the authority of these officials as assistants to the fire marshal. 2005-183.

Elections: Under Section 17-1-7(d) of the Code of Alabama 1975, a public employee must take a leave of absence from the date he or she files qualifying papers to run for office. Before the leave of absence begins, the employee may engage in political activities while the employee is on approved leave, off duty, and on personal time, before or after work, and on holidays. 2005-187.

Ad Valorem Taxes: Amendment 382 of the Constitution of Alabama of 1901, relating to taxes for school districts, does not allow for a vote in only a part of a school district, nor does it allow for any tax levied pursuant to it to apply to a only a portion of the school district. 2005-189,

Competitive Bid Law: A contract proposed by a city for engineering and professional management services is exempt from the competitive bid law if the non-professional services included in the contract are incidental to and integrated with the professional services. 2005-192.

Competitive Bid Law: The three-year limitation on public contracts for the purchase of personal property or contractual services, found in Section 41-16-57(e) of the Code of Alabama 1975, applies only to contracts that are competitively bid. 2005-192.

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“I-10 is about 10 miles from the beach...you could see where the trash had floated up next to the interstate,” Williamson said. “They told us the eye wall actually came through at Waveland.”

The swift water team slowly made their way through Waveland, through debris, downed trees and displaced houses and trailers. As waters receded, the team was reassigned to house-to-house searches on dry land but not before rescuing a stranded family of three by boat. As they got closer to the beach however, they began finding people who weren’t so lucky.



Trees toppled by Katrina downed power lines as they fell, increasing the danger to first responders.



Members of Prattville’s swift water rescue team search for survivors in Mississippi and witness Katrina’s haphazard deposition of debris. Notice the boat resting on top of the house in this picture.



When storm surge and flood waters receded in Mississippi after after Katrina hit, knee-deep mud remained in some coastal areas, making travel slow and work difficult for rescue teams.

“About a mile off the beach, all these one story houses, they was 10 feet under water from the roof, and these people that stayed in them, that’s where we started finding dead bodies,” Williamson said. “There ain’t no telling how many people didn’t get out.”

The department’s rescue teams were later dispatched to Louisiana but the orders were overturned and the teams headed home. Gann says his teams were briefed on the situation in Mississippi, but were not prepared to see the mayhem, death and destruction caused by Hurricane Katrina, much of which, he feels, could have been avoided with better disaster management programs.

Through a restructuring of Alabama’s emergency response system in the mid-1990s, Gann says the state is “light years ahead of where it was 10 years ago.” He believes departments in Louisiana and Mississippi don’t know what their resources are or how to activate them, placing them at the stage Alabama’s departments were in a decade ago.

“Alabama has predetermined resources, [we know] where they are and how to deploy them; there is a time factor involved with this,” Gann said.

As an AMAS member, the Prattville Fire Department was dispatched to Brewton, AL, after Hurricane Ivan hit last September. Brewton Fire Chief Lawrence Weaver speaks highly of the work Gann’s departments did in helping his own firefighters get the city back on its feet immediately after the storm. Weaver is pleased with how AMAS works, adding he won’t forget the service to his city.

“We will do our best to repay the favor,” Weaver said. “If Prattville ever needs us, we will be there.” ■

Benefits of ACCMA Membership

By: Donald L. Mims

Shortly after becoming administrator for the Montgomery County Commission seven years ago, I learned about the Alabama City County Management Association and the benefits it awarded to its members in local governments. I soon joined the organization to help strengthen my knowledge and abilities as a county leader.

The ACCMA provided me with opportunities to learn from other individuals in similar leadership positions. Membership in the ACCMA consists of local government administrators, managers, clerks, department heads and their assistants. It also includes city and county elected or appointed officials, including mayors, council members, probate judges, commission chairpersons and commissioners as well as current members of the Alabama League of Municipalities, the Association of County Commissions of Alabama and the International City/County Management Association.

Having such a large network of leaders in cities and counties around the state continues to prove invaluable as I face new challenges each day. The ability to exchange ideas, expertise and experiences with these men and women in similar leadership roles, is one of the greatest benefits of membership in the ACCMA.

Networking is not the only benefit, though. The ACCMA is committed to supporting professional development through

various learning opportunities. Semiannually, the ACCMA sponsors conferences that provide excellent educational programs tailored to enhance our management skills. We have the opportunity to receive training from national speakers and experts. For many years, the summer conference has been held in the Gulf Shores/Orange Beach area. The winter conference is in a different location each year, allowing us to view other local governments and learn from their successes. In the recent past, we have visited Huntsville, Opelika and Prattville. Our next conference is slated for **January 11-12, 2006**, at the Renaissance Ross Bridge Golf Resort and Spa in Hoover. Another membership benefit is easy access to ACCMA information at www.accma-online.org. The website lists association data, conference details, membership information, related news, an interactive bulletin board and government-related links.

The ACCMA's core beliefs include professionalism, ethics, integrity, education and camaraderie. All of these beliefs come together to form an organization is committed to advancing professional management in Alabama's city and county governments. As a former ACCMA president, I strongly encourage you to join and see how these benefits will enhance your ability to be an effective leader. ■



Rachel was 4 when she learned to tie a shoe.

Rachel is just a child, but there are days when she has to act like a grown-up. Her mom has multiple sclerosis, a chronic, disabling disease of the central nervous system, which means that sometimes even the simplest tasks are virtually impossible to do.

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