

HAPPENINGS IN FLINT AND GENESEE COUNTY

Brandon Morgan is the Director of the Flint & Genesee Convention and Visitors Bureau. Hearsay wishes to thank Brandon for this article and the wealth of information about the com-

munity.

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The Flint & Genesee Convention and Visitors Bureau (CVB) promotes Flint and Genesee County as an appeal-

ing destination for visitors and investors. Through its strategic efforts, more people around the state and nation are learning that Flint & Genesee has evolved to

meet the demands of a competitive, 21st century metropolitan region.

The CVB supports the area's tourism needs, including, motor coach tours, conventions, sport activities, reunions, government and





association meetings and individual tourism. Its experienced staff provides knowledgeable, unbiased advice and performs many tasks that are very helpful to individuals and groups.

Genesee County continued to see growth in tourism in 2017. Event planners are choosing Flint & Genesee as a great destination for conferences, corporate events, sporting events, meetings and leisure activities. In 2017, 90 groups booked events through the CVB and helped tourism generate an economic impact of \$133 million. The growth trend for hotel occupancy, average daily rate, market demand and overall revenue has grown over the past three years and is expected to continue in 2018.

The CVB also held signature events and campaigns that showcased the region to a broad range of influencers, visitors and residents, including:

• Be a Tourist in Your Home Town: More than 1,100 people experienced Flint through the annual Be a Tourist event, which is a 5 percent increase over 2016. For \$1, participants received a day pass to more than 30 venues, such as attractions, historic sites,

cultural center institutions and more. This event is happening on Saturday July 14, from 10 a.m. to 4 p.m.

• 'Our Flint Is...' Ad Campaign: This destination marketing campaign highlights the many things

that makes Flint & Genesee proud. "Our Flint is..." showed audiences that our region is Vibrant, Brilliant, Playful and Seasoned. The campaign reached nearly 3 million view-

ers through traditional and digital media. Ads ran in local newspapers and publications throughout

Genesee

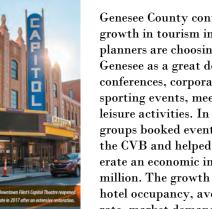
County, the state and Ontario, Canada. A 30-second commercial ran on PBS, YouTube, Facebook and Instagram.-bm

Click **HERE** for the 2018 Visitors Guide & Community Pro-

(photos with permission)



(continued on page 6)





THE CHIEF SPEAKS

As the Chief Judge, I am involved on a nearly daily basis with issues related to the inmate population of the Genesee County Jail. You may wonder why this is true. Let me explain.

The local jail has a rated design capacity of 580 inmates. This does not include those detainees who are located in holding cells, awaiting processing. It also does not include sentenced inmates who are lodged in other facilities around the state because of temporary state funds that make that placement possible.

There is a statute in Michigan referred to as the Jail Emergency Overcrowding Act (MCL801.51 et seq). The law requires the Sheriff to declare a state of emergency when the jail population exceeds 580 inmates for 7 continuous days.

After that declaration other

statutory provisions come into crime or not a high risk play, if the census is not reduced.

A daily jail population count is taken at midnight every day



by sheriff personnel. By the next morning, the information is made available to the courts. There is a notation as to how many consecutive days in excess of 580 inmates the count represents.

The Chief Judge of the Circuit Court, at some point, is responsible for making release decisions based on whether the involved offense is a high risk

crime. These are difficult decisions.

Public safety is an overriding concern that must be weighed against the mandates of the Act.

At the present time, a high percentage of the jail population is awaiting disposition on a felony offense. The cases may be pending in district or circuit court.

You may recall that Judge David Newblatt was recently added to the Circuit Court Criminal-Civil Division to bring the total judges in the division to 6. This was done, in part, to enhance the number of judges available to preside over criminal trials.

I want to thank all of the judges, both district and circuit, for their ongoing cooperation regarding reasonable

strategies to reduce the jail population. It remains a critical issue and likely will be for the foreseeable future.

Sheriff Robert J. Pickell has met with me and the Circuit **Court Criminal Division Judges** many times about jail management. The Sheriff runs a 24/7 operation with little control over inmate length of stay.

I want to thank Sheriff Pickell and his staff for the job that they do each day. In particular Deputy Annie Bueche, Jail Population Management, and Captain Jason Gould, Jail Administrator, have been outstanding in their support to the Courts.

I would be remiss if I did not also thank Lt. Matt Rule, Lt. Tom Zak and all of the sheriff personnel who provide court security to the judges, staff and public. -cjrby

THE 4TH OF JULY

-LESSER KNOWN AND RELATED FACTS-



Congress made Independence Day an official unpaid holiday for federal employees in 1870. It was not until 1938 that it was changed by Congress to a paid federal holiday.



The Declaration of Independence was signed by 56 men from 13 colonies. Ben Franklin was the oldest the age of 70. Thomas Jefferson, the lead drafter, was 33.



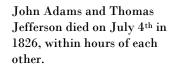
The only two signers to later serve as President were John Adams and Thomas Jefferson.



The stars in the original flag were in a circle so that all of the colonies would appear equal.



The first Independence Day celebration was in Philadelphia on July 8, 1776. This was the first day that the Declaration of Independence was read in public and the Liberty Bell rung.





Ben Franklin wanted the turkey to be the national bird. Adams and Jefferson overruled him and recommended the bald eagle.



Every 4th of July, the Liberty Bell is tapped (not rung) 13 times in honor of the original colonies.





Yankee Doodle was a prerevolutionary song originally sung by British military officers to mock the disheveled "Yankees" with whom they served during the French and Indian War.

The Yankee deportment was not up to the British standards. "Stuck and feather in his cap and called it macaroni" was a mocking comment about the lack of uniforms, wigs and style. -bam

COURT ADMINISTRATOR CORNER

I want to take this opportunity place that assigns a second to acknowledge the work of the attorney to any capital case. Genesee County Defender Program attorneys.

In Genesee County, the Defender Program is responsible for the assignment of counsel on felony cases when the district judge or magistrate determines that the defendant is financially unable to retain counsel.

The roster is made up of attorneys who volunteer for the work and agree to accept cases, comply with annual continuing provide mentoring to another legal education requirements and get paid considerably less than their services are worth. At the present time there are 70 attorneys on the court appointed felony list.

An "enhanced second chair project" was recently put in This was developed to ramp up the number of attorneys with sufficient trial experience to be able to join the capital case roster. Attorneys may opt out of the enhanced second chair project, but should then not expect to be considered for the more serious cases that often result in trial.

The response to the enhanced second chair project has been very positive. Lead trial counsel is able to have assistance, attorney and determine how best that a second attorney can be part of the defense team.

The capital case roster of attorneys is a relatively small subset of the Defender Program. All of the attorneys are in pri-

vate practice, with other demands on their professional time. The role of the court appointed criminal defense attorney, in my opinion, is often underappreciated.



Clients may complain that a particular motion was not filed, when the motion is not appropriate to file. The attorney tries to explain the law and the client To those of you who underconcludes that the attorney is not working for them. The case does not proceed to preliminary

examination or trial on the date scheduled, perhaps for good reason. The defense attorneys often get blamed. Some of the attorneys reading this article will identify with these remarks.

There is hope that when the legislature finalizes the funding for implementation of the Michigan Indigent Defense Act standards, that at least some additional funding can be set aside to increase the attorney fees that are paid for the attorneys who have continued year after year to fight the good fight and insure that the rights of the accused are zealously protected.

stand at your core, the essence of what I am trying to say, I salute you. -bam

- A jury trial comparison of recent years is below. This year, there is a dramatic increase in the number of capital felony cases (FC case types) tried this year in relation to the two previous years. In addition, in 2018, the corresponding number of jurors summoned to report is expected to exceed 6,000. This is a 30% increase from the previous two calendar years.
- The circuit, probate and district courts must report their outstanding receivables in July of each year to SCAO. This

mandatory report is related to financial assessments on criminal and civil cases. Who is owed money (victims, state, local), total outstanding amounts and collection rates are included.

- Congratulations to Judge F. Kay Behm for receiving the 2018 Brian Barkey Outstanding Community Service Award of the Genesee County Bar Association. She was recognized for her work with Big Brothers Big Sisters of Flint and the Food Bank of Eastern Michigan. She is a
- member of the Board of Directors for both organizations.
- In October 2018 the circuit, probate and district courts will again participate in a week long customer satisfaction survey. The survey is designed to measure service, efficiency and fairness. All Michigan courts are required to conduct a survey every other year.
- The current Buckham Gallery exhibit, "Natural Magic" includes the art work of three attorneys: Sueellen Parker, Shelley Spivack and Ken Randall (Midland FOC).



Jury Trial Comparison	FC Capital Felony Cases	FH Felony Cases	Civil	Total
2016	22	6	13	41
2017	22	13	13	48
2018				
through 6-30-18	20	8	4	32

COURTHOUSE DISPLAY CASES GET ADOPTED



You may have noticed that the two vintage display cases on the 2nd floor have new life. This is thanks to Doreen Fulcher, Elections Supervisor, Office of the Clerk-Register for Genesee County.

Doreen contacted me a few weeks ago about the possibility of adopting the cases, providing interesting and rotating content. The court will still share display space and collaborate with Doreen as we go forward. As many of you know, Doreen was formerly assigned to the Court Records Division (aka legal division). She has a great appreciation for the work of the court, along with her current focus on all things election related.

One of her first questions was whether there was a formal schedule for cleaning the cases of which she needed to be aware. The answer was no, but that sounded like a good idea. It was all uphill from there.

Some of the current contents are on loan from the Genesee County Parks and Recreation, as they celebrate their ----50th year of operations. Other contents are patriotic.

We can't thank Doreen enough for her work. It really is a nice upgrade to our surroundings. Many members of the public pass by the display cases and now have more of a reason to pause and take note. –bam







EMPLOYEE SPOTLIGHT



Left to Right: Emma Gray, Rebecca Gillette, Michelle Bolthouse, De'Shiona Johnson, Nicole Johnson, Lisa Velard, Steven Alvarado

Emma Gray was hired by the Circuit Court in April of 2018 as a part-time employee. She works in the legal division of the County Clerk. Emma graduated Montrose High School and attends U of M-Flint where she is majoring in social work.

Rebecca Gillette joined Circuit Court as the ADR Clerk on June 4th. She is married with one child and resides in Fenton. Becky previously worked as a program clerk in the Friend of the Court.

Michelle Bolthouse began
working as the Law Library
Paralegal/ADA Coordinator
on April 3rd. She previously
worked in the Office of Corporation Counsel as a paralegal . She also has experience
with private practice law
firms and interned with Legal Aid & Defender Association in Pontiac. She resides in

Linden with her husband and two children.

De'Shiona Johnson is the new compliance manager for the Genesee County Drug Court. She has two associate degrees from Mott Community College and a bachelor's degree in Criminal Justice from Ferris State University. Prior to her role with the county, De'Shiona worked with the City of Flint Police Department as a police terminal operator. She is thankful for her position with the Genesee County Drug Court because she is able to give back to her community and help others.

Nicole Johnson began her role at Probate Court on June 11th as deputy register. She graduated from U of M-Flint in 2013 and comes to us with experience as a legal assistant with private law firms.

Lisa Velard joined Judge F. Kay Behm on May 21st as a judicial advisory assistant. Lisa graduated from University of Michigan for undergraduate studies and law school. Lisa worked from home doing contract work for the Michigan Court of Appeals while raising her

gram clerk on June 4th. Amanda is originally from Hale, Michigan and currently lives in Clio. Amanda worked at an automobile dealership before coming to the Friend of the Court.

Lynetta Warren joined the Friend of the Court as a program clerk on May 30th. Lynetta is a



Above: Amanda Hendrix, Lynetta Warren, Lois Miller, Brittany Jeffe

children. Prior experience includes clerking for Judge Andre R. Borrello at the Saginaw Circuit Court. Lisa resides in Grand Blanc.

Steven Alvarado was hired by the Circuit Court in April of 2018 as a part-time employee. He works in the legal division of the County Clerk. Steven graduated from Kearsley High School and attends Mott Community College where he is majoring in photography.

Amanda Hendrix joined the Friend of the Court as a pro-

native of Flint and worked for the City of Flint Police Department before joining the Friend of the Court.

Lois Miller started as a program clerk with the Friend of the Court on April 23rd. She is currently assigned in the customer service area.

Brittany Jeffe started as a program clerk with the Friend of the Court on June 4th. Brittany is originally from California, but currently lives in Fenton. Before joining the Friend of the Court, Brittany worked at a financial institution in Fenton. –mo

PAGE 6 FORMS, FORMS, ALL TYPES OF FORMS

One of the most common questions I get from attorneys and clients is about what forms are required by the FOC and why. It can be confusing, but there really is a reason for each of the forms. This guide is intended to help practitioners and FOC clients know which form to use and why it is important.

Verified Statement – Per MCR 3.206(B), any cases involving a minor or a request for support must include a verified statement, served on the FOC at the

beginning of the case. The verified statement has confidential information that will only be in the FOC file. This will become more important as we move towards e-filing.

1201D – This is a form requesting IV-D services. This form is extremely important for two reasons. First, the form helps federal funding to enforce the case. Second, it allows for multiple enforcement tools that are not available without a request for IV-D services. If the FOC does not have a 1201D, the FOC case may need to be closed

per MCR 3.208. This is best submitted to the FOC when the first support order is entered.

Opting Out of FOC Services – Per MCR 3.208, the FOC is required to open a FOC case on all domestic relations actions, unless the parties opt out of FOC services. To opt out of FOC services, the parties must obtain an Order Exempting from FOC services and submit a UCSO for No FOC Services. The two orders reference each other and work in tandem; one cannot exist without the other. Each of these forms may

seem connected or similar, but each plays an important role in starting up cases.

All of these forms are available on the Genesee County Friend of the Court website. If you ever have issues with forms or figuring out which form to use you can always reach us at 810.257.3300 or feel free to reach out directly to me. –tm



HAPPENINGS IN FLINT AND GENESEE COUNTY (CONT'D) JULY COMMUNITY EVENTS

Flint: 1-31	From Lens to Eye to Hand: Photorealism 1969 to Today exhibit at Flint Institute of Arts – flintarts.org Small Worlds exhibit at Flint Institute of Arts – flintarts.org Dinosaurs Unearthed by Sloan Museum at Courtland Center – sloanlongway.org Crossroads Village & Huckleberry Railroad – geneseecountyparks.org
4	Flint's $4^{ m th}$ Festival – flinttown.info
6	First Fridays at Longway Planetarium – sloanlongway.org
9-13	Tunes at Noon Festival in Downtown Flint – geneseefun.com
10	Coloring Party with Flint Handmade at Tenacity Brewing – flinthandmade.org
13	Movies Under the Stars "Despicable Me 3" at Flint City Hall, back lawn – geneseefun.com Second Friday ARTWALK in Downtown Flint – geneseefun.com
13-15	Our Lady of Lebanon Mid-East Festival – MidEastFestival.com The Flint Community Players presents the children's show "Charlotte's Web" – flintcommunityplayers.com
14	Flint's Be a Tourist in Your Home Town – flintandgenesee.org Flint's Alley Fest – friendsofthealley.org Genesee County Gospel Festival in Downtown Flint – geneseecountygospelfest.com
16-20	Tunes at Noon Festival in Downtown Flint – geneseefun.com
18	3^{rd} Annual Downtown Throwdown at the Flint Farmers' Market – flinttown.info
20	Michigan's Storytellers Festival at the Flint Public Library – fpl.info
21	Historic House Tours at Stockton Center at Spring Grove Museum – stocktoncenter.weebly.com/
23-27	Tunes at Noon Festival in Downtown Flint – geneseefun.com
26	Monthly JAZZNITE in Downtown Flint – geneseefun.com
26-29	37^{th} Annual Flint Jazz Festival – geneseefun.com
28	Movies Under the Stars "The Game Plan" at Atwood Stadium – geneseefun.com
30-31	Tunes at Noon Festival in Downtown Flint – geneseefun.com
<u>Clio:</u> 4	Clio Family Fun Day – clio.govoffice.com
Davison: 7	Art, Music and Food Fair – davisondda.org
Fenton:	Fenton Freedom Festival – fentonchamber.org
12-29	$Fenton\ Village\ Players\ presents\ Lionel\ Bart's\ "Oliver"\ to\ the\ Fenton\ Village\ Playhouse-fenton the atre. org$

Warrior Dash at E.A. Cummings Event Center – warriordash.com

EX POST FACTO LAWS-PARTS 1 & 2



67th District Court Judge Mark C. McCabe writes "Ask the Judge" for the Tri-County Times.

The ex post facto laws series appeared in the May 8th and May 15th (2018) editions.

PART I

It has often been said that we are a nation of laws. There is no question that this has been true since our country was founded and we are all required to obey the law. When we don't there are typically consequences to pay.

In the area of criminal law, we are all charged with knowing the law and, as the old saying goes, "ignorance of the law is no excuse." Every year the legislature enacts nw laws and it is critical to ensure that these laws are all constitutionally sound.

One of the most important rules that must be followed is the constitutional prohibition against "ex post facto laws."

Ex post facto is a Latin phrase which means "from a thing done afterword." Another meaning is "after the fact."

Under clauses of both the United States and Michigan Constitutions ex post facto laws are prohibited. The

rationale behind this is to assure that legislative acts give fair warning of their effect and permit individuals to rely on their meaning until explicitly changed and to restrict governmental power by restraining arbitrary and potentially vindictive legislation.

Two critical elements must be present for a criminal law to be considered ex post facto: it must be retrospective (applying to events occurring before its enactment) and it must disadvantage the offender affected by it.

The Michigan Supreme Court has identified four circumstances under which a state statute violates the Ex Post Facto Clause by:

Making punishable that which was not

- Making an act a more serious criminal offense
- Increasing the punishment
- Allowing the prosecution to convict on less evidence

Two recent examples of courts reviewing whether a statute violated the Ex Post Facto Clause are the federal court decision in Hill v Snyder issued April 9, 2018 and the May 4, 2018 Michigan Court of Appeals decision in People v Wiley.

Both cases involve the question of whether a 2014 Michigan statute violates the Ex Post Facto Clause by denying good time credit, special good time credit, disciplinary credits or other credits to so called "juvenile lifers" who have been resentenced under two United States Supreme Court cases.

PART II

On June 24, 2012, the United States Supreme Court ruled in Miller v Alabama that it was unconstitutional to have a mandatory sentence of life in prison without the possibility of parole for juveniles who have been convicted of murder.

In 2016, the Court determined in Montgomery v Louisiana that Miller was to be applied retroactively to all similarly situated juvenile defendants.

Between the decisions in Miller and Montgomery, there were various actions taken by individual states to address a myriad of questions including the possibility of Miller being made retroactive

In Michigan a statute was enacted in 2014, which addressed what the law would be if this happened.

It included a procedure for the Court to resentence all affected defendants to either the same non-parolable life sentence or to a parolable sentence of 60 years maximum with the minimum term being not less than 25 years or more than 40 years.

Another part of the statute stated that a resentenced defendant "...shall not receive any good time credits, special good time credits, disciplinary credits, or any other credits that reduce the defendant's minimum or maximum sentence."

When Montgomery was decided, this statute became the law and defendants are now gradually being resentenced. They have been nicknamed "juvenile lifers."

Questions were raised as to the constitutionality of the "no credit" provision as, before the statute became effective, some defendants were allowed by statute to earn good time and disciplinary credits because their crimes had been committed before April 1, 1987 when good time was abolished or Dec. 15, 1998 when disciplinary credits were also abolished.

On April 9, 2018 the United States District Court for the Eastern District of Michigan held in Hill v Snyder that this statute was unconstitutional as being a violation of the Ex Post Facto Clause of the United States Constitution as it retroactively took away a right that eligible juvenile lifers had.

On May 4, 2018, the Michigan Court of Appeals in People v Wiley made the same ruling but added that the statute also violated the Ex Post Facto Clause of Michigan's Constitution. Appeals are possible and this may not be the final word on this issue. We will all have to wait and see. mcm

COURT TECHNOLOGY UPDATES

As all of you know, all businesses must keep abreast of technology, even businesses that are not strictly a technology company. Below is a listing of recent projects and ongoing initiatives that the tech team have been working on.

Large Scale Monitors: The monitors in the 3rd floor historical courtrooms (Judges Bell, Neithercut & Yuille) are being upgraded in size. This will be done in partnership with SCAO as part of their videoconferencing installation project. The 80 inch screens will replace the existing 50 inch screen and provide a much larger screen display. This installation will be wireless, minimizing tripping hazards.

ELMOs: In addition, we recently purchased 2 document cameras, known as ELMOs. They are able to magnify and project images so that they can be simultaneously viewed by the judge, attorneys, jurors and spectators. Also included is a wireless touch pad that allows a party to annotate or mark a document, photograph or other type of image.

Docket Displays: The docket displays throughout the courts have been enhanced and upgraded in conjunction with SCAO. This solution provides visitors with easy access to case information, location and times of court proceedings. There are 4 centrally located displays in the Genesee County Courthouse and 12 displays at the McCree Building. Two displays were added in the Genesee County Jail. This also resulted in a modest saving from a 3rd party docket display vendor.

Digital Recording Systems: There are 20 digital recording systems in the circuit, probate and D67-5 courtrooms from a vendor known as JAVS (Justice Audio Visual Systems). These are sophisticated systems that include microphones and cameras to capture audio and video signals. The management and retention of the proceedings is automated for quality control and preservation. Docket and case information is scheduled to be uploaded automatically into each

courtroom or hearing room.

In addition, a backup or

duplicate of each proceeding is scheduled each evening. Every day the proceedings are reviewed to verify that a bonafide recording has been made.

Proceedings since 2009 are maintained on a local inhouse server and available for court staff to review.

The proceedings from 2003 – 2009 are only available on an off site server. A redundant backup of all the proceedings is maintained offsite for disaster recovery purposes.

Jury Playback Requests: It Is not uncommon for a deliberating jury to request a playback of recorded evidence. This is a task that must be done with precision so that only the requested portion of testimony or evidence is presented. Bench conferences are not to be taken into consideration and are removed from jury playback. There are two playback computers with monitors on mobile carts. They can play recorded evidence in the format it was created.

Copier replacement: The inventory of county copiers

are being replaced with newer models. These are also MFPs, multi-function printers, meaning that they print, fax and scan. The new machines have the ability to scan in color.

City Lockup Video: Over the past few months the city lockup experienced video conferencing connectivity issues. These include network/bandwidth problems, long delays and choppy audio. With the assistance of Sarah Santini, 67th District Court Administrator, the video conference system was moved to a dedicated Comcast connection that to date has eliminated the problems.

Tech Talk: There will be 2 tech talk sessions in July. One will be a tune up for judicial advisory assistants on the courtroom recording systems. The other will be for court staff on the 2018 scanning project of criminal and civil filings. –rg





STUDENT CLERKS

Two student clerk positions have been added in the Clerk's Office, Legal Division. The positions are circuit court employees, located in and under the supervision of the Clerk's Office.

The purpose of adding these student clerk positions was to begin scanning in all new 2018 criminal and civil filings to get a head start with the future e-filing. Domestic cases have been scanned since 2009.

All new filings have the official court file in hard copy format and an electronic version.

Once new cases are closed, the electronic file will become the official closed file. This will eliminate additional hard copy storage costs and make the electronic file contents accessible to multiple users.

These positions are part-time and require the student to be enrolled in a local college or university.

They began in April of 2018 and have already scanned in all new 2018 civil and criminal files for Judges Yuille, Bell, Newblatt, Farah and Latchana.

They are currently working on 2018 Judge Fullerton files and will then finish up with the cases assigned to Judge Neithercut.

The student clerks will continue to scan in all 2018 documents that come in through the mail and over the counter until effling begins.—cg

CASE EVALUATOR HAS BIRTHDAY CELEBRATION

IN THE MIDDLE OF A CASE EVALUATION (READ ON!)

June 7, 2018 was scheduled to be a regular day of case evaluation in the law library. But, it was not to be. The case evaluator panel for the day was Mike Perillo, Christopher Scott and Brian Barkey.

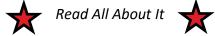
One of the case evaluators had a birthday that day. The same case evaluator has a sister who presides on the 5th floor of the Courthouse.

The sister wanted to bust in on case evaluation, bring a birthday cake and a singer dressed up like a tiger to serenade her brother with birthday wishes. She really did it!

Happy birthday once again to Attorney Brian Barkey and kudos to his sister, Judge Jennie Barkey for pulling it off.









Hearsay is now available on the Circuit Court website www.7thCircuitCourt.com/hearsay-newsletter

We want to hear from you! Send us an email letting us know what you would like to see in the newsletter and feedback on the current edition. You can also submit ideas and information about activity in your department. hearsay@7thcircuitcourt.com