PODCAST NOTES-D.O.C. EPISODE

*Stan-There is a real chance this episode will run longer than we want if we include both the “10 questions” section with the “Video Conferencing” section. So we may record these as two different episodes. It is just a matter of recording and how we do it on our end. It really will not change anything from your perspective.*

* Welcome everyone to another session of The Good Judge-Ment Podcast
* Today we have a special guest and a topic I have wanted to cover since we began the podcast
* 10 (-ish) Burning Questions for the Georgia Department of Corrections (“D.O.C.”)
* Mr. Stan Cooper is with us and he has had an amazing career of service with the State of Georgia
* Stan—welcome to the podcast!
* Let’s tell our listeners a little about your background with the D.O.C. (your current title) and your previous service with probation.
	+ You sure do work a bunch for a man who is supposedly retired!
* Stan, some of our listeners are not completely familiar with the Department of Corrections so let’s talk for a moment about the D.O.C. in general
	+ How many prisons do we have in Georgia?
	+ Are any of those facilities run by a “private prison service?”
	+ What are the different levels of supervision and what is different about those different levels?
	+ We have understood that every inmate first goes to Jackson for diagnostics. Is that correct? Both women and men? Is there an average length of stay for an inmate going through the diagnostic process?
	+ How do you determine where (which facility) an inmate will be assigned to serve his/her sentence?
		- Does proximity to the inmate’s home figure into that analysis?
	+ How many inmates are currently in custody? Number of men vs. number of women? (there are stats available on D.O.C.’s website)
	+ Judges are encouraged to consider alternatives to prison during sentencing. We realize that the Department of Community Supervision (current name of probation and parole) (I think?) maintains some facilities such as detention centers. Does the D.O.C. oversee anything other than “pure” prisons?
* So Stan, we polled some of our judges and asked them to identify for us some questions that we would love to ask the Department of Corrections
* And we got lots of responses
* But I have tried to condense our responses down to our top 10 list of questions
	+ (It might be a few more before we are done.)
* Question
	+ Frequently, defendants being sentenced ask the judge to include in the sentencing order a “recommendation” that the defendant finish his/her sentence in a transition facility. We are told that if the judge puts that recommendation in the sentence that it will impact a defendant’s ability to be allowed to go to a transition facility. So let’s first describe to the listeners exactly what a transitional center is and what it does.
		- What sort of factors figure into the Department’s decision as to whether a particular inmate will be allowed to participate in transitional housing?
		- Are there transitional facilities across the state or only in certain locations?
		- Does a judge’s recommendation of a transitional center matter when the D.O.C. is considering whether to allow the defendant to participate in the program?
* Question
	+ A couple of our judges wants to know if there are GED, literacy or vocational programs at each facility. One judge worded the question as what programs are offered to an inmate that we might consider “rehabilitative” instead of merely “punitive?”
		- Inmates occasionally request that the judge include in the written sentence a “recommendation” that he/she be enrolled in RSAT. Now I think I understand that there is a “probation RSAT” and a “prison RSAT.”
			* First, is that correct?
			* Second, does it matter if the judge recommends an inmate to RSAT?
			* Do all inmates get “screened” for RSAT during their initial diagnostics?
* Question
	+ Several judges were interested in discussing mental health treatment and housing for inmates.
		- Do you have any statistics as to how many inmates are currently in the system that have diagnosed mental health conditions?
		- Does the D.O.C. have the ability to offer treatment (something more than providing medication) to inmates with diagnosed mental health conditions?
		- Are inmates with diagnosed mental health conditions housed in general population or is there a separate facility for those inmates?
		- When an inmate is released, we have always heard they get some small amount of money and a bus ticket. I am not sure whether that is true but with inmates with mental health conditions, do they leave prison with any medication that will bridge them until they can see a mental health professional?
* Question
	+ Judges across the state issue Court Production Orders and we are going to discuss those in more detail in a moment. A few judges had questions about CPO’s.
		- When an inmate is brought back to the local facility, do they all have to go back through Jackson (either coming or going), regardless of which facility they are housed in?
		- Does the inmate who is the subject of the CPO lose their place in a class, in RSAT or in any mental health treatment program because of the inmates absence due to the CPO?
* Question
	+ Stan, one of our judges wanted to ask a question that the judge acknowledged might be a bit “touchy.” But we will ask it anyway.
		- Does the D.O.C. “overlook” a certain amount of illegal drug usage in order to maintain a sense of order in the prisons?
		- In a similar vein, we have had cases where inmates had the ability to use cell phones that allowed them to get on the internet while they were in prison. Is there not a way for prisons to “jam” or otherwise block cell phone signals so that inmates would not be able to use cell phones while they are serving their sentences?
* Question
	+ We have all heard “rumors” and gossip about how much (or how little) confinement time a defendant must receive before the D.O.C. will/will not come and get a defendant from a local jail.
		- Is there a true answer or policy on that?
		- Does the severity of the offense impact that time?
* Let’s turn for a minute to the topic of video conferencing. Several judges had questions about the video hearings project.
	+ For those who are not aware, the Augusta Circuit participated in a couple of pilot projects that we are very proud of.
	+ We started with an attorney phone call program which the D.O.C. accommodated.
		- The Public Defender and Conflict Counsel make an appointment with the D.O.C. to speak with an inmate on a specific date and time
			* We were not getting any real answers to how the defendant wanted to proceed with pending cases unless the lawyer spent the day in the car going to see this one defendant in prison.
			* But we had to make sure that the phone that was on our end was secure and had features such as three-way calling disabled
		- Once the lawyer is confirmed as being the attorney of record for a particular defendant, the lawyer schedules the appointment and uses a verified phone to initiate the call. The inmate is put on the phone in a secure but isolated location where they can have a true attorney/client communication that was not recorded and the prison officials could not overhear what was said in the call
	+ The phone program has worked wonders on our pending cases and has also helped reduce the number of CPO’s we had to issue, thereby reducing the number of transports that had to be made. And we can seek some real announcements at a calendar call.
	+ While that phone program was being instituted, the D.O.C. also worked to establish a video conferencing program where the court could conduct hearings such as arraignments via computer
	+ We looked at U.S.C.R. 9.2 and determined that we could conduct arraignments via video conferencing. That’s where we started.
	+ I do not remember the first day we conducted video hearings but we have grown exponentially since then
		- Cobb Circuit now on board and have hearings scheduled.
	+ I now also conduct my motions for new trial via video conference. I have sentenced a case via video as well.
	+ The mechanics of how we do it from the court’s perspective is as follows:
		- When a normal arraignment calendar is called, if a defendant is in the custody of the D.O.C., that arraignment is continued and reset to a video arraignment day
		- We then contact the D.O.C. with our request to have a defendant appear via video. We schedule dozens at a single time.
		- We send a copy of the indictment and a “plea sheet” to the D.O.C. with our initial request
		- The D.O.C. determines which facility currently houses the defendant and we set a calendar based upon each facility that has an inmate on our video arraignment calendar
		- On the day of the calendar call, our folks in the courthouse initiate the video conference and each facility “joins the call” via video
		- When everyone is ready, the recording is started and the public defender makes an announcement to all of the inmates as to what is happening. Private retained counsel have received notice of the hearing and they are also present. When they are done, I come onto the bench.
		- I have a script that I read and then I start with the first D.O.C. facility on my calendar and call cases one-by-one until all of the cases are arraigned.
		- We specifically only allow the inmates to plead “not guilty” to preserve all of their rights.
		- The “plea sheet” is signed electronically and emailed back to the court for filing.
* Stan, from the perspective of the D.O.C., let’s talk statistics for a moment
	+ How many CPO’s does the Department receive in a given year (on average)?
	+ Do you have any way to estimate costs of CPO’s?
	+ Let’s talk about the impact that the Augusta project has had on CPO’s just during the brief time we have been conducting arraignments via video conferencing…
	+ How many judicial circuits are currently “up and running?”
	+ One of our judges asked how to get started with the program and what they need to do to become a part of the program. Can you talk a little about that process?
	+ Another judge asked if you have the video capability at all of Georgia’s prisons….
	+ What happens if the particular facility does not have capability or an equipment malfunction on the date of the hearing?
	+ *Stan-talk some about the Commissioner’s commitment to the program and the Governor as well.*
		- U.S.C.R. 9.2
			* (A) The following matters may be conducted by video-conference:
			* 1. Determination of indigence and appointment of counsel;
			* 2. Hearings on appearance and appeal bonds;
			* 3. Initial appearance hearings;
			* 4. Probable cause hearings;
			* 5. Applications for arrest warrants;
			* 6. Applications for search warrants;
			* 7. Arraignment or waiver of arraignment;
			* 8. Pretrial diversion and post-sentencing compliance hearings;
			* 9. Entry of pleas in criminal cases;
			* 10. Impositions of sentences upon pleas of guilty or *nolo contendere*;
			* 11. Probation revocation hearings in felony cases in which the probationer admits the violation and in all misdemeanor cases;
			* 12. Post-sentencing proceedings in criminal cases;
			* 13. Acceptance of special pleas of insanity (incompetency to stand trial);
			* 14. Situations involving inmates with highly sensitive medical problems or who pose a high security risk; and
			* 15. Testimony of youthful witnesses;
			* 16. *Ex-parte* applications for Temporary Protective Orders under the Family Violence Act and the Stalking Statute;
			* 17. Appearances of interpreters;
			* Notwithstanding any other provisions of this rule, a judge may order a defendant's personal appearance in court for any hearing.
			* (B) Confidential Attorney-Client Communication. Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law. In all criminal proceedings, the defendant and defense counsel shall be provided with a private means of communications when in different locations.
			* (C) Witnesses. In any pending matter, a witness may testify via video conference. Any party desiring to call a witness by video conference shall file a notice of intention to present testimony by video conference at least thirty (30) days prior to the date scheduled for such testimony. Any other party may file an objection to the testimony of a witness by video conference within ten (10) days of the filing of the notice of intention. In civil matters, the discretion to allow testimony via video conference shall rest with the trial judge. In any criminal matter, a timely objection shall be sustained; however, such objection shall act as a motion for continuance and a waiver of any speedy trial demand.
			* (D) Recording of Hearings. A record of any proceedings conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, upon the consent of all parties, that portion of the proceedings conducted by video conference may be recorded by an audio-visual recording system and such recording shall be part of the record of the case and transmitted to courts of appeal as if part of a transcript.
			* (E) Technical Standards. Any video-conferencing system utilized under this rule must conform to the following minimum requirements:
				+ 1. All participants must be able to see, hear, and communicate with each other simultaneously;
				+ 2. All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method;
				+ 3. Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications; and
				+ 4. The location from which the trial judge is presiding shall be accessible to the public to the same extent as such proceeding would if not conducted by video conference. The court shall accommodate any request by interested parties to observe the entire proceeding.