

## MAGISTRATE COURT OF TOOMBS COUNTY THE WARRANT PROCESS

The issuance of a criminal warrant is a serious matter. The Court does not lightly consider the arrest and incarceration of an individual. Both the Constitution of the United States and Georgia require that the Court have probable cause (a reasonable belief) that the accused committed a crime against the laws of this State in order to issue an arrest warrant.

### Georgia Constitution: Article One, Section One, Paragraph XIII, Searches, seizures and warrants.

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue except upon probable cause supported by oath or affirmation particularly describing the place or places to be searched and the persons or things to be seized."

Arrest warrants are not issued to "teach someone a lesson" or to "get him away from me", or to collect a debt or to resolve a disputed business deal or to settle property claims resulting from a broken business or romantic relationship. Arrest warrants are issued because someone committed a criminal act that justifies arrest and incarceration!

In order to obtain an arrest warrant, an applicant first needs a police report. It is possible that upon the reporting of the matter to the police, the police may proceed with the investigation and arrest of the accused. If the police will not prosecute, then the applicant may apply to the Magistrate Court for the issuance of an arrest warrant. A \$20 application fee is charged when the application is accepted.

If the judge issues a warrant, the applicant will have to sign the warrant as the prosecutor. By signing the warrant, the applicant is stating that the information given to obtain the warrant is true and correct. If that information turns out not to be true and correct, then the applicant may be charged with false swearing or perjury.

As part of the warrant, the court may place the accused on special conditions of bond or "pre-trial release." Those conditions will be explained to the applicant at the time the warrant is issued. Later, should the applicant believe that the accused has violated a condition of bond, the applicant should contact the court for further instructions. Generally, a police report will be required in order to have the accused arrested on a violation of a conditional bond.

After the arrest of the accused, the case may be placed on a commitment calendar which is a court calendar day where the court, for the first time, has the opportunity to hear from the accused. That hearing is at the request of the accused not the applicant/prosecutor. At that hearing, the applicant/prosecutor has to again show the court "probable cause" for the prosecution of the accused. The accused will have an opportunity to question the applicant/prosecutor and/or testify on his/her own behalf. Any witness or documentary evidence must be presented at that time to be considered by the court as to whether probable cause exists. The court will make a decision about whether the case should go forward for further prosecution. The court has rules of conduct which must be observed by all parties.