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WEB RESOURCES

National Center for State Courts, Continuity of Court Operations: Steps for COOP Planning

(2007, updated 2010)

www.ncsconline.org/coop

Since its publication in 2007, the National Center for State Courts' manual on continuity of court operations has been used by many jurisdictions to create a continuity of operations plan. Project staff recently reviewed and updated, as necessary, all hyperlinks in the 2007 online version of this useful publication. In addition, newer publications of relevance, such as the *Federal Continuity Directive 1* (Dept. of Homeland Security, 2008) are now referred to and linked in the document.

The online version of this manual is particularly convenient because of the hyperlinks to key resources on every topic. The manual is carefully structured to help courts plan for continuity in the face of various possible emergency events, including ones that come without warning. The manual takes you step by step through the planning process, the elements of a useful continuity plan, how to complete a plan, and how to maintain and practice a continuity plan once it has been prepared. Worksheets guide you through topics like how to determine what are essential functions, how to set up alternate work sites, how to handle communications, and how to inventory vital records. In addition, there are templates for continuity plans to get you started.

CHARLES GARDNER GEYH, JUDICIAL DISQUALIFICATION: AN ANALYSIS OF FEDERAL LAW (2d ed. 2010).

[http://www.fjc.gov/public/pdf.nsf/lookup/judicialdq.pdf/\\$file/judicialdq.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/judicialdq.pdf/$file/judicialdq.pdf)

Over the past decade, Indiana law professor Charles Gardner Geyh has emerged as one of the leading scholars on judicial ethics; he served as the Reporter

for the American Bar Association's most recent 2007 version of the Model Code of Judicial Conduct. His latest work is a comprehensive review of the caselaw on judicial disqualification in federal courts. And this comprehensive, 113-page review is available on the Internet.

To be sure, there are some differences between the Code of Judicial Conduct adopted in most states and the federal statutes on disqualification. But there are far more similarities than differences, and federal cases may well be persuasive when, as often happens, there are no on-point precedents in your state.

For example, 28 U.S.C. § 455(b)(1) provides for disqualification when a judge "has a personal bias or prejudice concerning a party," and so does Rule 2.11(A)(1) of the 2007 Model Code of Judicial Conduct. Similarly, both 28 U.S.C. § 455 (a) and Rule 2.11(A) of the current Model Code provide that a judge shall disqualify himself or herself when the judge's "impartiality might reasonably be questioned." As we all know, there's room for interpretation about what those words mean in specific situations. Professor Geyh devotes about 30 pages to an analysis of the cases on disqualification under this standard. In doing so, he provides both a useful framework for analysis and review of all of the relevant federal caselaw.



NEW BOOKS

PETER J. HENNING, ANDREW TASLITZ, MARGARET L. PARIS, CYNTHIA E. JONES, & ELLEN S. PODGOR, *MASTERING CRIMINAL PROCEDURE, VOLUME 1: THE INVESTIGATIVE STAGE*. Carolina Academic Press, 2010. 376 pp. \$32.00.

Both trial and appellate judges have a difficult job handling criminal cases. For many judges, they are the bulk of the docket, and judges become familiar with a great many of the legal rules applicable to the cases. But the factual circumstances of these cases can be as varied as

the human imagination, which makes the application of these rules frequently a tricky proposition.

Faced with these questions in an area encountered regularly, it can be helpful from time to time to step back so as to make sure that you don't lose sight of the forest when noting all the trees in your path. To do this, judges should periodically review some authoritative reference work that reviews all of the United States Supreme Court cases that set the framework for consideration of issues that arise under the Fourth, Fifth, and Sixth Amendments. Five law-school professors have joined to provide an excellent new book that does a great job providing that framework for analysis.

The book is written with law-school students in mind, but that doesn't lessen its utility for judges. For Fourth Amendment issues, for example, there are separate chapters for searches of people and for searches of cars, a chapter devoted specifically to electronic surveillance, and a chapter devoted to figuring out the proper remedy for a Fourth Amendment violation. Each chapter would be helpful to judges in making sure that the problem the judge is considering on a specific case is properly placed in the context of Supreme Court decisions and a reasonable analytical framework.

Similar coverage is provided for issues arising under the Fifth and Sixth Amendments, including separate chapters on the *Miranda* rule, due-process voluntariness, and the Sixth Amendment right to counsel. There also are helpful chapters on the issues involved in entrapment defenses and in eyewitness identifications.

Other separate chapters cover how to decide whether the Fourth Amendment applies at all; the rules about when a warrant is required, what's needed to get one, and how a warrant must be executed; the rules applicable to administrative and special-needs searches; consent searches; exigent circumstance; and plain view.

The authors are working on a second volume covering the adjudicatory stage from bail to jail, including post-conviction remedies.