



## GEORGIA DEPARTMENT OF LAW

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### UNOFFICIAL OPINION

The Honorable Nels S.D. Peterson  
Chief Justice, Supreme Court of Georgia  
Nathan Deal Judicial Center  
330 Capitol Ave SE, 1<sup>st</sup> Floor, Suite 1100  
Atlanta, GA 30312

Re: The Georgia Supreme Court has the legal authority to employ POST-certified law enforcement officers to fill the security-related positions of Director of Judicial Protective Services and Deputy. That authority is grounded in the Court's inherent authority and the constitutional separation of powers doctrine and bolstered by the Court's statutory authority to employ a peace officer as Sheriff and the General Assembly's appropriation of funds for the positions at issue.

Dear Chief Justice Peterson:

You have asked whether the Georgia Supreme Court may employ POST-certified law enforcement officers to fill two security positions – a Director of Judicial Protective Services and a Deputy. The General Assembly has funded both positions but has not expressly authorized the positions to be filled by certified peace officers. For the reasons that follow, I conclude that the legal authority to do so exists and is grounded in the Court's inherent authority and the separation of powers doctrine and bolstered by the Court's express statutory authority to employ a peace officer as Sheriff and the legislature's appropriation of funds for the positions.

Georgia courts have long possessed inherent authority beyond those powers specifically granted by statute. *See, e.g., Johnson v. State*, 177 Ga. 881, 882 (1933) (acknowledging the broad and comprehensive powers granted to state superior courts by statute and that the courts also "possesses inherent powers not specifically granted"); *Lovett v. Sandersville R. Co.*, 199 Ga. 238, 239 (1945) ("That the courts possess certain inherent powers is a proposition which, so far as we know, has never been questioned."); *Evans v. State*, 69 Ga. App. 178, 179 (1943) (constitutional courts have inherent authority to fine and punish contempt that is "not limited by the [Georgia] Code"). *See also Carpenter v. State*, 250 Ga. 177, 177 (1982) (recognizing that some inherent powers belong exclusively to the Supreme Court by virtue of its role as the state's highest court and its constitutional authority). That authority includes the power to take steps necessary for a court to perform its constitutional functions. *See, e.g., Evans*, 69 Ga. App. at 179. More specifically, it "includes the authority to perform any function reasonably necessary to effectuate

[the court's] jurisdiction, improve the administration of justice, and protect the judiciary as an independent department of the government.” *Wallace v. Wallace*, 225 Ga. 102, 111, cert. denied, 396 U.S. 939 (1969).

Security is among those necessary functions. *See, e.g., In re Judicial Qualifications Comm’n Formal Advisory Opinion No. 239*, 300 Ga. 291, 302 (2016) (“[T]he court also is charged with ‘adopting and maintaining reasonable measures to provide security, at the exterior of courthouses and as needed for specific interior areas or courtrooms.’”) (quoting *State v. Brown*, 293 Ga. 493, 497 (2013) (Nahmias, J., concurring)); *Weldon v. State*, 297 Ga. 537, 540-41 (2015) (recognizing a court’s authority to implement security measures); *Brashier v. State*, 299 Ga. App. 107, 108 (2009) (“... [I]t is also well established that the use of extraordinary measures to prevent dangerous or disruptive behavior which threatens the conduct of a fair and safe trial is within the discretion of the trial court.”) (citation and punctuation omitted). Maintaining order and providing security for judges, litigants, and staff is indispensable to the performance of the Court’s functions. And it has long been recognized that “the inherent power of the courts should never be impaired or destroyed to such an extent that they can not exercise a power necessary to their proper functioning.” *Evans*, 69 Ga. App. at 179.

The General Assembly has codified much of this authority. O.C.G.A. § 15-1-3 provides that the general powers of every court include, inter alia, the power:

- (1) To preserve and enforce order in its immediate presence and, as near thereto as is necessary, to prevent interruption, disturbance, or hindrance to its proceedings; ... [and]
- (4) To control, in the furtherance of justice, the conduct of its officers and all other persons connected with a judicial proceeding before it, in every matter appertaining thereto; ...

O.C.G.A. § 15-1-3 (1), (4). And with respect to the Supreme Court in particular, the legislature stated explicitly that its enumeration of the Court’s powers “shall not be interpreted to abrogate the inherent power of the [Supreme C]ourt.” O.C.G.A. § 15-2-8 (7) (setting forth an additional, specific preservation of the Supreme Court’s inherent power).

The Attorney General’s Office previously read O.C.G.A. § 15-1-3 (1) and (4) in the context of courtroom security as consistent with “the concept that the judiciary has inherent authority to control conduct in courtrooms, including security.” Op. Att’y Gen. 2017-5. It concluded that notwithstanding the General Assembly’s authorization for active law enforcement officers to carry weapons into courthouse buildings, *see* O.C.G.A. § 16-11-30(c.1), “a judge of the court may, in the exercise of his or her constitutional, statutory and inherent authority, determine whether those same law enforcement officers may carry weapons into a courtroom.” Op. Att’y Gen. 2017-5.

The separation of powers doctrine, from which the courts’ inherent power flows, provides additional support. *In re Oliver*, 261 Ga. 850, 851 (1992) (“The inherent power of the courts is a principle arising from the doctrine of separation and equality of the branches of government.”) (citing *Grimsley v. Twiggs County*, 249 GA. 632, 634 (1982)). The Georgia Constitution provides

that the “legislative, judicial, and executive powers shall forever remain separate and distinct; and no person discharging the duties of one shall at the same time exercise the functions of either of the others except as herein provided.” Ga. Const., Art. I, Sec. II, Par. III (1983). As the Supreme Court has observed, “when the constitution declares that the legislative, judicial, and executive powers shall forever remain separate and distinct [], it thereby invests those officials charged with the duty of administering justice according to law with all necessary authority to efficiently and completely discharge those duties the performance of which is by the constitution committed to the judiciary, and to maintain the dignity and independence of the courts.” *Lovett*, 199 Ga. at 239. The doctrine bolsters the notion that an explicit legislative grant of authority is not needed for the Supreme Court to take steps required to implement and maintain security measures necessary to carry out its constitutional duties. *Wallace*, 225 Ga. at 110 (“Inherent power arises from the fact of the court’s creation or from the fact that it is a court. It is essential to its being and dignity and does not require an express grant to confer it.”) (internal quotation and citation omitted).

The doctrine and the judiciary’s related inherent powers also distinguish this situation from those in which the General Assembly has expressly authorized certain executive agency officials to employ peace officers. *See, e.g.*, O.C.G.A. § 16-15-4 (Attorney General); O.C.G.A. § 45-12-216 (a) (Inspector General); O.C.G.A. § 27-1-16 (a) (Commissioner of Department of Natural Resources); O.C.G.A. § 20-3-72 (state university officials). Unlike executive agencies, whose powers are largely statutory, the Supreme Court exercises the judicial power vested directly by the Georgia Constitution. *See Rep. Nat’l Comm. v. Eternal Vigilance Action, Inc.*, 321 Ga. 771, 795 (2025) (“Because an agency is ‘a mere creature of ... statute, brought into being by the legislature[,]’ it has ‘no inherent powers’ and ‘no lawful right to act except as directed by law.’” (quoting *New Amsterdam Cas. Co. v. McFarley*, 191 Ga. 334, 335-336 (1940))). It follows that the Supreme Court, exercising inherent authority over its own administration and security, does not require an analogous statutory grant before employing two certified peace officers to provide protective services for the Court’s premises.<sup>1</sup> The General Assembly’s explicit grant of authority to certain executive agencies to employ peace officers does not give rise to an inference that it intended to withhold it here.

Finally, the legislature has not been silent as to this Court’s security. The General Assembly has long recognized that adequate security is indispensable to the Court’s ability to discharge its constitutional responsibilities. That recognition is reflected generally in O.C.G.A. § 15-1-3, and more specifically in O.C.G.A. §§ 15-2-20 and 15-2-22, the latter of which provides for the appointment by the Justices of a sheriff to serve as an officer of the Supreme Court. The same legislative recognition is reflected in the legislature’s appropriation of funds for the two security positions at issue.

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<sup>1</sup> While the Attorney General is a constitutional officer, he does not occupy the same position as the judiciary, which is an independent and co-equal branch of government and derives a substantial amount of its authority from the Constitution and its inherent powers.

Given the above, it is my unofficial opinion that the Georgia Supreme Court has the legal authority to employ POST-certified law enforcement officers to fill the security-related positions of Director of Judicial Protective Services and Deputy.<sup>2</sup>

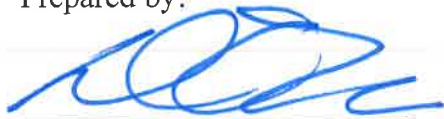
Issued this 17<sup>th</sup> day of August, 2026

Sincerely,



CHRISTOPHER M. CARR  
Attorney General

Prepared by:



Deborah Nolan Gore  
Senior Assistant Attorney General

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<sup>2</sup> This opinion addresses the authority of the Supreme Court of Georgia, as the State's highest court, to employ certified peace officers in two security positions specifically funded by the General Assembly. Whether another court may exercise similar authority would depend on the nature of the court, the constitutional and statutory responsibilities assigned to it, the position and funding at issue, and the particular facts and circumstances presented.