GEORGIA LAW REGARDING WARRANTLESS ARRESTS

"An arrest for a crime may be made by a law enforcement officer either under a warrant or without a warrant
– if the offense is committed in such officer's presence or within such officer's immediate knowledge
– if the offender is endeavoring to escape
– if the officer has probable cause to believe that an act of family violence, as defined in Code Section 19-3-1, has been committed
– if the officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult ... [definition of vulnerable adult]
– or for other cause if there is likely to be a failure of justice for want of a judicial officer to issue a warrant." OGC 17-4-20 (a)

"In every case of an arrest without a warrant, the person arresting shall, without delay, convey the offender before the most convenient judicial officer authorized to receive an affidavit and issue a warrant as provided in Code Section 17-4-40. No such imprisonment shall be legal beyond a reasonable time allowed for this purpose; and any person who is not brought before such judicial officer within 48 hours of arrest shall be released." OCG 17-4-62.

"Any judge of a superior, city, state or magistrate court or any municipal officer clothed by law with the powers of a magistrate may issue a warrant for the arrest of any offender against the penal laws, based on probable cause either on the judge's or officer's own knowledge or on the information of others given to the judge or officer under oath." OGC 17-4-40(a)

"Arrest warrant applications heard by video conference shall be conducted in a manner to ensure that the judge conducting the hearing has visual and audible contact with all affiants and witnesses giving testimony." OGC 17-4-47(b)

French v State, 107 S.E.2d 890, 893 (Ga. App. 1959) (an arresting officer who violates OCG 17-4-62 may be liable in damages for false arrest and imprisonment).

***Piedmont Hotel Co. v. Henderson*, 72 S.E. 51, 9 Ga.App. 672** (1911) ("Whoever arrests or imprisons a person without a warrant is guilty of a tort, unless he can justify under some of the exceptions in which arrest and imprisonment without a warrant are permitted by law; and the burden of proving the existence of the facts raising the exception is upon the person making the arrest or inflicting the imprisonment. ... A man who seises the property or arrests the person of another by legal process, or other equivalent authority conferred upon him by law, can only justify himself by a strict compliance with the requirements of such process or authority. If he fails to execute or return the process as thereby required, he may not, perhaps, in the strictest sense be said to become a trespasser ab initio, but he is often called such, for his whole justification fails, and he stands as if he had never had any authority to take the property, and therefore appears to have been a trespasser from the beginning. ... The same rule holds good in the case of an officer who, after arresting a person on criminal process, omits to perform the duty required by the law, of taking him before a court. Hence it is immaterial to inquire whether the officer could have arrested without a warrant if he had thereafter obeyed the provisions of Pen. Code 1910, § 922, [the predecessor statute of OCG 17-4-62] for his legally ascertained disobedience of this law relates back so as to make the arrest in any event illegal." Id. at 56)

Garmon v Lumpkin County, Georgia, 878 F.2d 1406 (11th Cir. 1989) (sheriff may be held liable for obtaining arrest warrant from magistrate based on affidavit only; magistrate should not accept without question "mere conclusion that the person whose arrest is sought has committed a crime".)

Devier v State, 323 S.E.2d 150, 157 (Ga. 1984) (arrest warrant affidavit insufficient basis for finding of probable cause)