

COURT EN BANC MINUTES
Tuesday, February 10, 2009, at 5:00 p.m.
Boone County Courthouse
4th Floor Training Room

Judges Present: Gene Hamilton, Kevin Crane, Larry Bryson, Jodie Capshaw Asel, Carol England, Christine Carpenter, Deborah Daniels, Leslie Schneider, and Commissioner Sara Miller.

Others Present: Boone County Circuit Clerk Christy Blakemore, Unit Manager Lana Brooks, Court Administrator Kathy Lloyd and Assistant to the Court Administrator Joy Rushing.

1. Call to Order

The meeting was called to order by Presiding Judge Gene Hamilton.

2. Approval of Minutes

Judge Cary Augustine made a motion to approve the minutes of the January 13, 2009, meeting as presented. Second: Judge Christine Carpenter. The motion passed unanimously.

3. Docket Changes

Judge Gene Hamilton explained that the Docket Schedule was being amended to show a 10:00 a.m. Monday docket for public defender not-in-custody cases in his division in weeks 1, 2 and 4, instead of 10:30. His 9:00 a.m. dockets have been ending by 10:00 a.m. and this schedule change will allow him to more efficiently use his courtroom time. The schedule has also been changed to show Judge Daniels' domestic violence dockets at 9:30 a.m. on Tuesdays and 9:00 a.m. on Wednesdays. The Callaway schedule has been changed to show Judge Oxenhandler's civil docket on Monday of week 1 beginning at 1:30 p.m., to allow him sufficient time to complete his morning criminal docket. The settlement conference docket in Callaway County has been moved back to the 1st Tuesday at 9:00 a.m. in Division II.

Judge Carpenter requested that the docket schedule for her division be changed to show that every Wednesday at 9:30 a.m. she has Drug Court Team staffing, and every Thursday at 9:30 a.m. she has Reintegration Court Team staffing. Judge Cary Augustine made a motion to approve the amended schedule, including the changes requested by Judge Carpenter. Second: Judge Kevin Crane. The motion passed unanimously.

4. Bond Form and Bond Returnable Dates

A. *Bond Returnable Dates.* Court Administrator Kathy Lloyd explained that the court's packet included a memorandum dated February 5, 2009, from Assistant to the Court Administrator Joy Rushing setting out the discussion at the jail overcrowding meeting regarding the bond returnable dates. The memorandum

states that the consensus of the group was that the bond returnable date should be extended to 30 days, except for domestic violence cases, which should be 10-14 days. This should be for all offenses, not just felonies. Judge Kevin Crane added that no bonds will be held, except for felony drug cases, as set out on the bond form. The bond form needs to be changed to set out that the bond can be continued on felony drug cases at the discretion of the court for up to 6 months. There was a discussion of whether there was a need to specifically define what charges would be considered domestic violence cases for purposes of the 10-14 day schedule. Judge Deborah Daniels made a motion to adopt the proposal set out in the February 5, 2009, memorandum, with the following changes: (1) the word “felonies” should be deleted from the first line of the second paragraph, and replaced with the term “all offenses”; (2) the term “domestic violence assaults” in the second paragraph should be replaced with the term “domestic violence cases” in both sentences; and, (3) the last sentence of the second paragraph should be deleted. Judge Kevin Crane asked that a sentence be added to the end of the third paragraph stating: “No other bond shall be held past its return date.” Judge Daniels accepted this amendment to her motion. Second: Judge Kevin Crane. The motion passed on the following vote:

Yes: Judges Kevin Crane, Larry Bryson, Jodie Capshaw Asel, Carol England, Christine Carpenter, and Deborah Daniels.

No: Judge Leslie Schneider.

Judge Schneider indicated that she had voted no because she believed that the original recommendation was to review the experience with the 10 to 14-day domestic violence return date in three months.

- B. *Bond Form.* Judge Jodie Capshaw Asel made a motion to approve the amended bond form as it appears in the court’s packet. The amendments are to delete the term 3rd after the term Domestic Assault in paragraph 4a, and to add the following paragraph: “THE DEFENDANT AND SURETY FURTHER UNDERSTAND that, in the case of a felony arrest involving controlled substances, the court may continue the return date on this bond once for a period not to exceed six months and that during that time the bond and all obligations will remain in full force and effect.” Second: Judge Christine Carpenter. Judge Deborah Daniels recommended that the words “charges of” before Domestic Assault be changed to “arrests for.” The word “charge” in the new paragraph be changed to “arrest,” and in the second paragraph the term “charged with” be replaced by the term “arrested for.” Judges Asel and Crane accepted these amendments to the motion. The motion passed unanimously.

5. **Weekend Community Service Work Program**

Court Administrator Kathy Lloyd stated that the court has received funding for a Saturday and Sunday Community Service Work Program in 2009, to be used primarily for Alternative Sentencing clients and DUR/DUS cases. The program would be used in conjunction with home detention, in lieu of the 48-hour incarceration. The first Saturday of the program was this past Saturday, when two individuals moved the books from the

judge's chambers next to the Ceremonial Courtroom back to the Law Library. The program will focus on work to benefit the court, such as moving, grounds clean-up, planting, etc. The workers will be supervised by the program assistants in Alternative Sentencing.

Judge Carpenter said she has some concerns about the security of the program assistants and of the courthouse if there is no court marshal present on days the community service workers are in the courthouse. Court Administrator Kathy Lloyd responded that there is no funding in the budget for security, and noted that the individuals who would be doing the CSW are generally completing CSW in the community without any supervision. There was a general discussion of this issue.

Judge Larry Bryson expressed concern about a separate program being used by the Sheriff's Department called Service on Sentence. He said that the court had never approved credit against time served for work and education outside the jail. There was a general discussion of this issue. It was the consensus of the judges that they do not approve credit against a sentence for work outside the jail.

6. Domestic Relations Resolution Fund Grant Application

Assistant to the Court Administrator Joy Rushing explained that the Office of the State Courts Administrator had sent out a request for proposals for funding from the Domestic Relations Resolution Fund for new court projects dealing with issues of domestic violence. Staff is considering requesting funds under two sections of the RFP.

- A. *Supervised Access and Exchange.* The memorandum on page 13 of the court's packet discusses this possible proposal. The Juvenile Office has obtained two proposals for a supervised visitation program, one from Rainbow House and one from Boys and Girls Town of Missouri. Rainbow House is proposing a supervised visitation program with an educational component, which would focus on children from 6 to 12 years of age. The proposal from Boys and Girls Town of Missouri is for a more standard supervised visitation arrangement. Court Administrator Kathy Lloyd indicated that it appears that the Juvenile Office is recommending proceeding to request funding for the proposal from Boys and Girls Town of Missouri. Rainbow House is already offering their program, and individual judges can recommend that program on a case-by-case basis.
- B. *Domestic Violence Programs.* Included with the court's packet is a draft proposal for funding for legal services to individuals involved in court cases related to a domestic relations case involving domestic violence. This proposal is for funding for part of the salary of the Project Director's salary for the Mid-Missouri Access to Justice Project.

7. Vacant Juvenile Office Attorney Position

Court Administrator Kathy Lloyd explained that Ellen Haynes, attorney for the Juvenile Officer, resigned about a week ago. This means that there is just one attorney to serve both counties. The state has a hiring freeze, so the court is currently unable to hire a

replacement for her. The court has written a letter to the Circuit Court Budget Committee requesting an exemption from the freeze for this position, and the committee has stayed action on the request until their March 6 meeting. There is an attorney available who is willing to contract to provide services to the court on an hourly basis. The issue is where the funds would come from to pay a contract attorney. Last year there was about \$16,000 of unspent funds in the Juvenile Office budget. This money is usually used for sex offender evaluations and classes, such as anger management class. One option would be to use this money for a contract attorney. Another alternative is to look at the Administration of Justice Fund. This is the money from the time payment fees, which is not county money. The fund in Boone County currently has \$56,000, and in Callaway County, \$16,000. Callaway also has a similar fund as the Juvenile Office in Boone, which could be used to pay a contract attorney. Right now, we don't know how long the court will be unable to fill the position. Judge Deborah Daniels made a motion that any decision be tabled until after the March 6 meeting of the Circuit Court Budget Committee. Second: Judge Jodie Capshaw Asel. The motion passed unanimously.

8. Guardian Ad Litem Fees for Probate

Judge Deborah Daniels explained that Boone County currently requires that parties in probate guardianship proceedings are required to post \$100 for the guardian ad litem fee. In the time she has been hearing these cases, she has yet to see a guardian ad litem fee as low as \$100. In Callaway County, a \$250 deposit is required. Judge Daniels made a motion that the required deposit for a guardian ad litem in probate cases in Boone County be increased to \$250. Second: Judge Leslie Schneider. There was a general discussion of the manner in which the order for costs should be collected. Judge Daniels amended her motion to state that under Section B of the Order for Costs, a statement be added: "Guardian ad litem in probate cases, \$250. For all other cases, \$100." Judge Schneider accepted the amendment. The motion passed unanimously.

9. Video Conferencing in 3 West Court Room

Court Administrator Kathy Lloyd stated that Progressive Electronics will be in the courthouse Thursday evening to install the quad-screen recording capability for the Polycom system in the new courtroom. Judge Oxenhandler said that he will probably not need the courtroom after lunch. The system only records audio, but not video.

10. Use of Law Library Fund for Counsel Chambers

Court Administrator Kathy Lloyd said that the Counsel Chambers in 2 south is just about finished. They are at the point where they can hang the photographs. They would like to reframe some of the photos. In the past, the Boone County Bar Association has paid for the furnishings in the Counsel Chambers. The court is providing two desks, which are the old desks of the Callaway judges. The cost to reframe the photos would be \$175-\$200. She wanted to know whether the court should pay this cost, or whether she should ask the Boone County Bar Association to do this. Judge Gary Oxenhandler made a motion for the court to pay the cost of the framing. Second: Judge Jodie Capshaw Asel. The motion passed unanimously.

11. Felony Conviction and Juror Questionnaire

Court Administrator Kathy Lloyd explained that Assistant to the Court Administrator had looked into the question of whether an individual who had been convicted of a felony could serve on a jury. There are two state statutes addressing the issue. Section 561.026 states that a person convicted of a felony is “forever disqualified from serving as a juror.” Section 494.425 states that a person convicted of a felony is disqualified from juror service “unless such person has been restored to his civil rights. . . .” Staff is recommending that question 13 of the juror questionnaire regarding restoration of a felon’s civil rights be deleted from the questionnaire for both counties. Judge Gary Oxenhandler made a motion to delete the wording from the questionnaires. Second: Judge Leslie Schneider. There was a general discussion of the issue. Judge Crane called the question. The motion passed with the following vote:

Yes	Judges Kevin Crane, Larry Bryson, Jodie Capshaw Asel, Carol England, Christine Carpenter, and Leslie Schneider
No	Judge Deborah Daniels

Judge Jodie Capshaw Asel suggested staff contact State Senator Kurt Schaefer regarding this conflict in the statutes.

12. Request from Callaway Commission for Court to Share in Cost of Fire and Burglar Alarm System as 2009 Expenditure

Court Administrator Kathy Lloyd said that she had contacted Callaway County regarding using unexpended 2008 funds to pay the cost of the fire and burglar alarm system improvements because those costs were incurred in 2009. The court can pay their share of this cost from either the Callaway Law Library Fund, or the Callaway Administration of Justice Fund. Judge Cary Augustine made a motion that the \$6,800 cost be paid out of the Law Library fund. Second: Judge Carol England. The motion passed unanimously.

13. Courthouse Expansion Update

A. Open House upon Substantial Completion

Court Administrator is seeking input from the court regarding the type of event the court would like to have as an open house for the courthouse renovations, and some possible dates. There was a general discussion of this matter. Some ideas put forth were Law Day and Juror Appreciation Day.

Law Library. The law library has been restored to its original size. There are some more shelves in the judge’s chambers next to the Ceremonial Courtroom. There are a number of books currently in storage. These are books that are out of date, or series of books which have not been kept current. The question is whether these books should be disposed of, or moved back into the library when the shelving is returned. It was the consensus of the court that the shelves be moved back into the Law Library, but not the

books. It was further suggested that no books be placed on the top shelves of the bookcases, due to the difficulty of reaching those shelves.

Additional Improvements. There are still several areas of improvement which have not been done as part of the courthouse expansion because they were waiting to see whether there was enough funding for the work. These areas include the carpet in the entry area to the judges' offices, Hearing Room 1, the jury deliberation room behind 2 West, the judge's office next to the Ceremonial Courtroom, and Joy's office. If all of these areas were done, the total cost would be \$14,869. This could be reduced to about \$10,000 by not doing Hearing Room 1, and the judge's office next to the Ceremonial Courtroom. It was the consensus of the court to pursue all of these improvements.

Judge Crane asked that the hallway area going to the judges' parking lot be cleared of the items being stored there.

Court Administrator Kathy Lloyd added that the clerks would be moving from the third floor to the first floor on Monday.

14. Bench Bar Dinner

Judge Gene Hamilton announced that the bench bar dinner would be on Wednesday, March 11 at Old Hawthorne, beginning at 5:00 pm. He will be having lunch with Mal Mayse, President of the Boone County Bar Association, and Bob Sterner, President of the Callaway County Bar Association, to discuss the program for the event. It was the general consensus of the judges that there be no formal program; that it be purely a social event.

15. Other

Judge Kevin Crane said that he found two cases in Callaway that had speedy trial requests, but no stamp on either the file or the docket sheet indicating that a speedy trial request had been made. The cases were both old, and it made him uneasy that there was no notice on the outside of the file. Judge Hamilton responded that he would ask Callaway County Circuit Clerk Curtis Quick to have his office stamp the files when a speedy trial request is filed.

Judge Christine Carpenter said she had been contacted by Reality House about a new treatment modality they will be trying which is not drug and alcohol based. She will be using it for Alternative Sentencing cases. She recommends that they be asked to make a short presentation to the court en banc so the judges are aware of the program and its availability for their cases.

16. Comments From the Public

Boone County Circuit Clerk Christy Blakemore asked when the new form and schedule for bonds takes effect. Judge Cary Augustine made a motion that the effective date of the new form and schedule be March 1. Second: Judge Carol England. The motion passed

unanimously. Judge Kevin Crane added that the court never had any authority to hold bonds, so that change should be effective immediately.

Boone County Circuit Clerk Christy Blakemore let the court know that she lost an employee in her criminal division, and, since there is a state freeze on hiring, she cannot replace that employee right now. This may affect the operations of that division. Judge Hamilton added that there also will be several vacancies in the Public Defender's office.

Boone County Circuit Clerk Christy Blakemore said that she had talked to Lee Volkmer with The Shelter, and they are going to continue to assist those individuals who are in need of an emergency order of protection.

17. Next Meeting Date

March 10, 2009, @ 5:00 p.m. in Boone County.

Prepared by: _____
Joy Rushing
Assistant to the Court Administrator

Submitted by: _____ Distributed on: _____
Kathy Lloyd
Court Administrator