

**COURT EN BANC MINUTES**  
**Tuesday, February 15, 2011, at 5:00 p.m.**  
**Boone County Courthouse**  
**Law Library**

**Judges Present:** Judges Gary Oxenhandler, Larry Bryson, Kevin Crane, Christine Carpenter, Robert Sterner, Carol England, Deborah Daniels, Leslie Schneider, Jodie Capshaw Asel, and Commissioner Sara Miller.

**Others Present:** Boone County Circuit Clerk Christy Blakemore, Callaway County Circuit Clerk Judy Groner, Public Defender Tony Manansala, Adult Court Services Supervisor Pete Bakutes, Court Administrator Kathy Lloyd and Assistant to the Court Administrator Mary Epping.

**1. Call to Order/Welcome**

The meeting was called to order at 5:00 p.m. by Judge Gary Oxenhandler.

**2. Introduction of All Guests**

The guests shown under "Others Present" introduced themselves.

**3. Approval of the January 11, 2011 Meeting Minutes**

Judge Robert Sterner made a motion that the minutes of the January 11, 2011, meeting be approved. Second: Judge Leslie Schneider. The motion passed unanimously.

**4. Destruction of Records – Circuit Court – Boone & Callaway County**

Assistant to the Court Administrator Mary Epping explained the Boone County Circuit Clerk's Office asked to destroy, by shredding, the documents set out on pages 8-11; and the Callaway County Circuit Clerk's Office asked to destroy, by shredding, the documents set out on pages 12 and 13 of the court's packet. Judge Gary Oxenhandler asked whether the mental health records were microfilmed. Callaway County Circuit Clerk Judy Groner said the mental health records to be destroyed are involuntary commitments and do not need to be microfilmed since the docket index is maintained permanently.

Judge Leslie Schneider made a motion to approve the destruction of the files. Second: Judge Christine Carpenter. The motion passed unanimously.

*Judge Deborah Daniels entered the meeting at 5:05 p.m.*

**5. Update on Status of OnTrack Admissions**

Judge Christine Carpenter announced the funds for the OnTrack program have not been released. Adrian will attend a meeting next week with a representative from the Department of Corrections and OSCA to try to get the funds so they may start accepting new people into the program.

**6. Adult Court Services Probation Services**

Judge Gary Oxenhandler said he sent a letter to the judges about the number of defendants with

probation supervised by Adult Court Services. He wanted to bring the issue to the court's attention because ACS cannot keep up with the number of supervised defendants. ACS Supervisor Pete Bakutes said the number of defendants on ACS supervised probation rose from 209 in January 2010, to 427 in January 2011, as reflected on pages 14-16 of the court's packet. Pete said 43 percent of those supervised are not on the list of offenses that ACS should be supervising. One reason he is concerned is because one of the officers will be out on maternity leave. Judge Kevin Crane asked why ACS is supervising a defendant if the charge is not on the list of offenses ACS should supervise? Pete said if in a plea the prosecutor suggests ACS supervision in the terms of the sentence and the judge signs off on it, then that is what gets entered. Judge Crane asked whether the judge is alerted by ACS that ACS cannot supervise that person. Judge Christine Carpenter requested a breakdown of the probation cases that do not fit within ACS parameters. There was a discussion about defendants with DWIs charged as a 1st (but with a prior), and felony domestic assaults pled to peace disturbance with MEND.

Judge Oxenhandler asked Pete what ACS would need to do to meet the current demand and whether additional staff would help. Judge Carpenter asked whether ACS were rotating defendants off when they met the conditions of their probation. Pete said yes, but they have more new cases than cases being closed. For example in December ACS had 71 cases opened and 27 closed. Judge Carpenter said she has not changed when she assigns ACS, so there may be more cases. Court Administrator Kathy Lloyd said the alternative to ACS supervision is unsupervised probation and that puts pressure on the prosecutor. Judge Carpenter asked if the options were to change the rule or to let defendants go unsupervised. Judge Leslie Schneider said the court can still order a show cause date to check on the defendant, or leave it to the prosecutors to check on the defendant's compliance. Judge Daniels said the prosecutors do not have the resources to check on compliance. There was a conversation about private probation and making defendants pay for probation. Judge Daniels said Cape Girardeau has defendants pay for probation. Judge Oxenhandler asked Judge Daniels to obtain a copy of their rule to determine what they charge.

Judge Oxenhandler said this topic would be on the next month's agenda with a detailed report from Pete about the numbers from each divisions and possible alternatives such as more staff in his office.

*Pete Bakutes left the meeting at 5:26 p.m.*

## **7. Administrative Order 4-00 - Modification**

Judge Leslie Schneider explained Administrative Order 4-00 (guidelines and procedures regarding independent adoptions), on pages 17 and 18 of the court's packet was amended to track the changes to local court rules pertaining to adoption. She said biological moms want their babies to be placed with adoptive parents upon release from the hospital and not with a neutral foster home which was the common practice. Commissioner Sara Miller said Missouri statutes provide for placement by the biological parents and the court cannot require foster home placement. Judge Kevin Crane made a motion to adopt the amendments to the order. Second: Judge Carpenter.

*Judge Larry Bryson stepped out of the meeting 5:30 p.m.*

Before the vote occurred, there was a discussion about the informed consent of where the baby would be placed. The motion passed unanimously. Court Administrator Kathy Lloyd said the local rule changes adopted by the court in December would be in effect 60 days after the adoption of the rule, the 60 days had passed, and this order was immediately in effect.

**8. Administrative order 01-11**

Judge Gary Oxenhandler directed the court to pages 19 and 20 of the court’s packet to Administrative Order 01-11 (bond and summons returnable schedule).

*Judge Bryson returned to the meeting 5:34 p.m.*

The order incorporated the language adopted in the January Court en Banc meeting. Judge Oxenhandler also directed the court to the bond form on page 21. Judge Oxenhandler was concerned the bond form did not have all of the language contained in the administrative order. Judge Deborah Daniels added that the bond form says “charged with and convicted of” but leaves out the circumstance where a defendant was arrested but charges were not yet filed. Judge Kevin Crane asked whether the court could add “or arrested” to the bond form. Court Administrator Kathy Lloyd said our bond form is the 13<sup>th</sup> Circuit’s adaptation of the OSCA approved bond form. She talked to Nancy Griggs and Cathy Zacharias at OSCA and they said if the Criminal Rules Committee wants to submit something to the State Judicial Records Committee for the April meeting, that committee could approve any changes to state approved forms. Judge Daniels said this change was discussed previously by the Criminal Rules Committee, but that language did not pass. There was a discussion about the impact and the ability to amend the local bond form, about surety bonds, and about the fifth line on the bond form under “**THE DEFENDANT UNDERSTANDS**” where it discusses felony arrests involving controlled substances. Judge Robert Sterner asked whether other counties allow pre-charge bonds? Judge Daniels understood the Supreme Court rules indicate because it is an accommodation to the defendant the court may allow pre-charge bonds, but the Supreme Court never reconciled what that meant for the bond forms or surety bonds. Judge Crane moved to add “arrested for/” to the bond form. Second: Judge Larry Bryson. The motion passed unanimously.

Boone County Circuit Clerk Christy Blakemore said she would need to let the jail know as they have the forms.

Judge Oxenhandler said the change to the bond form should be made now, but to put the item back on the agenda to discuss additional changes to line 5.

**9. Status of Review of Local Court Rule 33 by BCBA Civil Rules Committee**

Judge Gary Oxenhandler said the Boone County Bar Association is looking at Local Court Rule 33.

*Judge Carol England stepped out of the meeting at 5:45 p.m.*

**10. Callaway County Courthouse Improvements**

**A. Hearing Room Update**

Court Administrator Kathy Lloyd said furniture was ordered for the new hearing room and should be set up in a few weeks. Steve Smith will be moving the FTR system from the jury room to the hearing room.

**B. Sound System Update**

Judge Gary Oxenhandler said the sound system should be fully installed the following week and will be a wireless system with two lavalier microphones.

### **C. Wireless Installation Update**

Kathy said OSCA and Information Technology Supervisor Steve Smith identified locations to put the wireless routers – probably under the benches in the courtrooms – to cover the whole courthouse. The public wireless, for use by attorneys, will tie-in to the county’s Internet. The wiring is scheduled for early April when the judges are at the associate judges’ conference.

#### **11. Appointment of Female Republican to Callaway County Board of Jail Visitors**

Judge Robert Sterner passed this item to the next month indicating he had someone in mind but needed to contact the individual to see if she would serve.

#### **12. Order Appointing Judge Sterner to Callaway Jury Commission Board**

Judge Gary Oxenhandler announced he appointed Judge Robert Sterner to the Callaway Jury Commission Board. He thanked Judge Sterner for serving.

*Judge Carol England returned to the meeting at 5:50 p.m.*

#### **13. Annual Time Standards Report**

Court Administrator Kathy Lloyd went over the FY2010 data (ending June 2010) and explained where the 13<sup>th</sup> Circuit was compared to the Supreme Court time standards of case processing. She said we are now in the 200,000+ population level and are compared with 7 other counties. Kathy had a power point comparing the counties and circuits by case type.

*Judge Jodie Asel entered the meeting at 5:54 p.m.*

Kathy said the 13<sup>th</sup> Circuit was the highest in five of the 10 categories of case processing, but below the state average for circuit civil – the state average is 88 percent in 24 months, but we are at 83 percent in 24 months. The 13<sup>th</sup> Circuit was above the state average in almost every other category. Kathy said the disposition to filing ratio (the ratio comparing cases filed to cases disposed) is ideally a “1” or higher and the 13<sup>th</sup> Circuit improved its ratios in general civil, domestic relations, small claims, misdemeanors and traffic cases; but probate, felony, and felony preliminary hearings were all down from the previous year. She reported while filings have generally gone down, the circuit felony filings have gone up significantly, which might be affecting the jail population.

#### **14. Interpreter Protocols/Guidelines**

Assistant to the Court Administrator Mary Epping said she would be working with Christie Murray in the Boone County Clerk’s Office on the Interpreter Protocol and guidelines. She wanted to meet with Christie to ensure the new protocol integrated the current procedure for an in-person interpreter and meets the proper certification standards. Mary explained the state has two contracts for phone interpreters: one OSCA will pay for in criminal cases, and a second one that is less expensive. The court can set up its own contracts with both companies. She plans to train the appropriate people after writing the protocols. Court Administrator Kathy Lloyd said she hopes this will save a lot of time and money, especially on misdemeanor cases.

**15. Bench/Bar Meeting**

Judge Gary Oxenhandler reminded the court the bench/bar meeting is to take place at the County Club of Missouri on April 13. He said it would be informal without a formal dinner or meeting.

**16. Mail Service “Junk Mail” Request**

Court Administrator Kathy Lloyd said the county offered to stop junk (paper) mail. Susan Tatters will be putting out an envelope for staff to put any junk mail to send to the county.

**17. Other**

Court Administrator Kathy Lloyd reminded everyone that since the facility maintenance crews were working in the morning, to please turn off their lights at the end of the day.

Boone County Circuit Clerk Christy Blakemore said that warrants requested over the weekend are not entered into MULES until law enforcement has a case number. The warrant is not going to have a case number assigned until the next business day which on Friday after 5 p.m., means Monday.

**18. Comments from the Public**

Callaway County Clerk Judy Groner thanked everyone for their help.

**19. Next Meeting Date**

The next meeting will be March 15, 2011, at the Boone County Courthouse. (It was later decided the meeting would be held at the Callaway County Courthouse.)

Prepared by: Mary Epping  
Mary Epping  
Assistant to the Court Administrator

Submitted by: \_\_\_\_\_  
Kathy Lloyd  
Court Administrator

Distributed on: \_\_\_\_\_