

COURT EN BANC MINUTES
Tuesday, March 4, 2008, at 5:30 p.m.
Boone County Courthouse
Law Library, Second Floor

Judges Present: Gary Oxenhandler, Kevin Crane, Larry Bryson, Christine Carpenter, Leslie Schneider, Carol England, and Commissioner Sarah Miller. Judge Jodie Capshaw Asel was in court and appeared late.

Others Present: Boone County Circuit Clerk Christy Blakemore, Unit Manager Lana Brooks, ACS Supervisor Pete Bakutes, Court Marshal Les Werner, Court Administrator Kathy Lloyd, Callaway County Circuit Clerk Curtis Quick, and Assistant to the Court Administrator Joy Rushing.

1. Call to Order

The meeting was called to order by Judge Gary Oxenhandler.

2. Approval of Minutes

Judge Kevin Crane made a motion to approve the minutes of the January 15, 2008 meeting. Second: Judge Deborah Daniels. The motion passed unanimously.

3. Annual Reports on Time Standards

Court Administrator Kathy Lloyd explained that the court compares its performance with that of seven other courts of similar size (7th, 11th, 16th, 21st, 22nd, 23rd and 31st circuits) when evaluating its performance under the state's time standards. There are two standards for each type of case (circuit civil, domestic, circuit felony, associate civil, and associate criminal), 90% disposed and 98% disposed. The benchmark for the length of time to reach each standard varies by type of case. As shown on page ten of the court's packet, in 2007 the court had the highest standard in six of the ten case processing time standards. In 2006, the court was highest in seven of the ten case processing time standards. There was a general discussion of possible reasons for failing to meet the case processing standards.

Page eleven shows the percentage of case dispositions within the time standards. This percent is arrived at by dividing the number of cases disposed by the number filed. A ratio of 1, or 100%, is needed to stay current. The court is above the state average in seven of the ten categories. It is below the state average in associate criminal dispositions at the 90% (4 month) level.

Overall filings were down by 2.4% in the circuit. Almost all of this decrease was in Callaway County.

4. Redacting Identifying Information of a Victim of Sexual Assault

Boone County Circuit Clerk Christy Blakemore said that OSCA's recommendation regarding when to redact information is shown on page 14 of the court's packet pursuant to Section 556.226, RSMo. That "Tip of the Month" states that "It is OSCA's recommendation that this confidentiality requirement applies strictly to the criminal offenses – and not, for example, domestic relations cases involving domestic abuse."

Judge Deborah Daniels commented that this is the recommendation of the Supreme Court's records committee, but it may not reflect court decisions. There may be legislation proposed in this legislative session to clarify the statute. There was a general discussion of the procedure for handling after-hours petitions for orders of protection.

5. Update on Callaway County Security Committee

Court Administrator Kathy Lloyd explained that she would discuss this item and Item 6 together. The bid for the improvements to the Callaway County Courthouse came in at \$170 over the expenditure previously authorized by the court. She asked for the court's approval of the expenditure of this additional \$170. Judge Leslie Schneider made a motion to approve the additional \$170 expenditure for improvements to the Callaway County Courthouse. Second: Judge Carol England. The motion passed unanimously.

6. Grant Application – Courthouse Security Reimbursement Program (Office of State Courts Administrator)

Court Administrator Kathy Lloyd said that the Callaway County Security Committee has been working for some time toward security enhancements. Last week Court Marshal Les Werner received information from OSCA regarding a possible security grant of up to \$15,000 in each county for security enhancements. Court staff has prepared an application for this funding for each county. The Callaway County Security Committee has reviewed the information and recommended that the county make application for the funding. The Callaway County Commission has also approved the installation of the equipment for which funding is requested. If the application is approved, the installation of the equipment will change the operations in Callaway County: the panic alarm system will be expanded; access to the courthouse will be restricted to one public entrance on the north side of the courthouse, and a couple of entrances which can only be accessed by use of a card reader. The ADA access will remain the same. The door on the south side of the courthouse will be equipped with an emergency crash bar. It will be alarmed so if it is used an audible alarm will sound. Glass breakage sensors also will be installed on some of the windows of the courthouse. Bullet resistant materials will be installed on the judge's benches. The total cost of the improvements is \$15,039, so the county has agreed to pay the \$39 if the monies are awarded. Judge Christine Carpenter made a motion that the application for funding for Callaway County security improvements be approved. Second: Judge Kevin Crane. (Note: By this time, Judge Daniels and Judge Schneider had left the meeting. A quorum still existed with Judges Oxenhandler, Bryson, Crane, Carpenter, England and Asel in attendance.) The motion passed unanimously.

Staff is also recommending making a request for funding for security improvements in the Boone County Courthouse. The request includes replacing or adding sensors at the front door, the judges' door, shipping and receiving, the sally port, and a new juvenile detention entrance; two hand-held metal detectors; and closed circuit television equipment consisting of four television monitors and a controller at the security station at the front door and a television monitor in the juvenile area. The total amount of the request for Boone County is \$14,992. Judge Leslie Schneider made a motion to approve the application for security funding for the Boone County Courthouse. Second: Judge Christine Carpenter. There was a general discussion of the quality of the picture which will be delivered by the new equipment. The motion passed unanimously.

7. Courthouse Expansion Update

Court Administrator Kathy Lloyd directed the court's attention to the information in their packet starting on page 16. There is a beam signing event scheduled for March 18. Elected officials will be able to sign a beam in the new part of the building. They are also going to create a "time capsule" and department directors and officials are invited to bring small items to place in this "time capsule." There is an updated construction schedule on page 23. The construction schedule is being pushed back due to delays caused by the weather. The schedule delays will impact the dates for office moves. It will probably be the middle of June before the court can move into the new third floor. The prosecuting attorney will move into the fourth floor about the same time.

The budget information on the expansion is not very favorable. The steel was budgeted at \$453,000, but the bid was actually \$798,000. Some packages did come in under budget, but they did not come close to making up the difference. There is only \$578,000 remaining in the contingency fund, with a lot of the project still unfunded. Some of the unfunded alternates are carpeting and painting in existing courtrooms and reconfiguration of Hearing Room 2. It is hoped that there will be some savings in the cost of furniture. If there is, there may be some money available to pursue the alternates.

Adding to this situation is the fact that the sales tax revenues are also down, as shown on page 33 of the court's packet. The decrease in revenue will mean less to spend on the expansion.

The owners' cost budget for technology for the expansion was \$100,000. The consultant's estimate of the cost of the recommended technology purchases was originally \$600,000. Although there are some monies available in other areas of the court's budget, this will still come far short of the amount recommended.

8. Report on Administration of Justice Fund

Court Administrator Kathy Lloyd explained that the balance in the Administration of Justice Fund as of January 1, 2008, is \$60,617.14. Technology improvements is one of the purposes for which this fund may be used, and the fund is not currently committed for any on-going expenses. In the 2008 budget, \$25,000 was budgeted for technology, but the court would be able to spend as much as an additional \$25,000 from this fund to purchase technology as part of the courthouse expansion, and still retain a healthy fund balance. She is asking the technology consultant to come demonstrate some of the technology under consideration to the judges.

9. Report on Boone and Callaway County Law Library Funds

Assistant to the Court Administrator Joy Rushing presented the annual report on the Law Library Funds. Westlaw has visited her to discuss renewing the court's subscription to Westlaw, and they will prepare a proposal for that renewal. There was a general discussion of the services the court preferred subscribing to.

Court Administrator Kathy Lloyd stated that there were also sufficient funds in this account to allow the court to allocate up to \$25,000 from the Boone County Law Library Fund for courthouse technology.

Judge Kevin Crane made a motion to approve the allocation of \$20,000 from the Administration of Justice Fund and \$25,000 from the Boone County Law Library Fund for courthouse technology. Second: Judge Leslie Schneider. There was a general discussion of the status of the

budget for purchase of technology improvements as part of the courthouse expansion. Court Administrator Kathy Lloyd explained that some purchases of technology will be coming from other sources. Judge Gary Oxenhandler asked that the motion be amended to require that specific expenditures from the allocated funds be brought to the court en banc for its approval. Judges Crane and Schneider agreed to the amendment. There was a general discussion as to whether any formal approval was needed at this time, absent specific items being proposed for the expenditure. Judge Crane made a motion to withdraw the motion before the court. Second: Judge Schneider. The motion passed unanimously.

10. Administrative Order for Filing Fees and Costs

Assistant to the Court Administrator Joy Rushing explained that an amendment was being proposed to the Administrative Order for Filing Fees and Costs to include the \$15 law library fee on probate costs. This is allowed by statute, and staff was unable to find the reason why this fee historically had not been included on those cases. Judge Leslie Schneider made a motion to approve the proposed amendments to the Administrative Order for Filing Fees and Costs. Second: Judge Christine Carpenter. The motion passed unanimously.

11. Treo's Functions and Features

Discussion of this item was postponed until after the discussion of Item 18.

Court Administrator Kathy Lloyd explained the programming of the functions for the new Treo's. It has been programmed to show only the number of cases on a docket at first. You can then select a folder to see a listing of the cases. Staff is hoping that these Treo's will replace Patty recording the cases in the paper calendars. The information on the Treo's comes directly from JIS. Patty will sync the Treo's with JIS, so judges will need to give their Treo's to Patty on a regular basis to make sure that the information is up to date. There was a general discussion of the use of the Treo's.

After the discussion of this item the court proceeded to Item 13.

12. Pre-Sentence Work Program

Judge Kevin Crane directed the court's attention to pages 50-52 of their packet, which sets out the court's current requirements for its home detention program. Proposed amendments to this program to allow home placement at Reality House are shown in bold italics. This is really a very minor modification to the existing program to allow individuals who cannot reside at their residence during home detention to be housed at Reality House while on home detention. Court Administrator Kathy Lloyd added that Reality House is willing to serve as a residence for these individuals when it has bed space available. Judge Crane emphasized that this program does not provide for any credit for time served, since it is a home detention program. Judge Crane made a motion to approve the indicated amendments to the home detention program. Second: Judge Leslie Schneider. There was a general discussion of the capabilities of the home detention program, and of GPS monitoring. It was noted that the reference to "pre-sentence investigation" in the second numbered objective on the first page should be amended to read "Sentencing Assessment Report." The motion passed unanimously with that correction.

13. Legislative Update

Discussion of this item was postponed until after the discussion of Item 11.

Assistant to the Court Administrator Joy Rushing directed the court's attention to the materials in their packet. She included the list of bills introduced from OSCA, along with a memorandum briefly discussing some bills and trends that might be of interest to the judges. She asked the judges to contact her if they had questions regarding pending bills, or need a copy of a bill.

Judge Kevin Crane directed the court's attention to SB 767 on page 68 of their packet, dealing with the Public Defender system. One provision of that bill would be to relieve the public defender from representing individuals on probation violations.

Judge Christine Carpenter said that there has also been a bill filed that would provide that in counties where judges run for election, the race would be non-partisan. Evidently only one lawyer showed up for the hearing on the bill, and he was in support of the bill.

The court then proceeded to Item 19.

14. Community Service Work Supervised by Court Services

Court Administrator Kathy Lloyd directed the court's attention to pages 70-73 of their packets. She said that page 70 is from the Adult Court Services Annual Report. In 2003, there were 22,127 hours of community service assigned. That number dropped sharply in 2004 when the state Probation and Parole began monitoring the community service work of the individuals it supervised, and eligibility for the court's program was limited to only those persons meeting the requirements under paragraph 3 (subparagraphs a and b). In 2007, 18,152 hours of community service were ordered. This is a substantial increase and suggests that the program has been expanded beyond its intended use of being used in lieu of a fine when recommended by Adult Court Services, or when it is required by statute in lieu of a sentence.

Judge Christine Carpenter said that what may be happening is that the prosecutor's office on a charge of driving under revocation is recommending more hours of community service when the defendant has prior convictions. Court Administrator Kathy Lloyd said that when the prosecutor does this, the understanding is that they will be responsible for supervising the community service work. There was a general discussion of the increase in court-ordered community service work. Adult Court Services Supervisor Pete Bakutes stated that they will start a community service case based on the information shown on the yellow sheet which the defendant brings into their office. Since they do not have the back-up information, they are probably opening cases when they should not. Judge Gary Oxenhandler suggested that this issue be placed on the agenda for the next jail overcrowding meeting.

15. Court Costs

Court Administrator Kathy Lloyd said that this was a similar situation where the court en banc had a discussion regarding the policy of having court costs due immediately upon sentencing. It appears that actual payment on that date has dropped substantially. She is asking that a committee be appointed to study the issue and make recommendations to the court en banc. She discussed this with Presiding Judge Gene Hamilton, who had previously appointed the associate circuit judges as a committee to work with the Circuit Clerk, Adult Court Services and Court Administration regarding procedures for collection of costs, restitution and fines. It was agreed that one issue was to communicate to defense attorneys that their clients need to appear in court ready to pay the costs. Judge Gary Oxenhandler appointed Judge Asel to chair the committee, and Judge Deborah Daniels and Judge Carol England agreed to work with her on this issue.

16. Automated Phone System

Circuit Clerk Christy Blakemore said the clerk's office is looking into an automated phone answering service through CenturyTel. This would allow clerks to work with less interruption, since callers could be directed to the correct division through the system, without having a person devoted to that task. The start-up cost is minimal, so if it doesn't work out, they can quit using it. They will try to include enough information with the message so that people will know which division they need.

17. Discussion of Docket Entry

Judge Oxenhandler asked the judges to take care to write as legibly as they can. This seems to be a problem with most judges.

18. Bench Bar Dinner

Court Administrator Kathy Lloyd reminded the court that the Bench-Bar Dinner is March 11 at the Columbia Country Club at 6:00 p.m. The first part is a question and answer session with the judges. It is \$25 a person, and people must make reservations by noon, March 7.

After discussion of this item, the court discussed Item 11.

19. Other

None

20. Comments from the Public

None.

21. Next Meeting Date

April 8, 2008.

Prepared by: _____
Joy Rushing
Assistant to the Court Administrator

Submitted by: _____
Kathy Lloyd
Court Administrator

Distributed on: _____