

COURT EN BANC MINUTES
Tuesday, April 14, 2009, at 5:00 p.m.
Boone County Courthouse
Law Library

Judges Present: Judges Gene Hamilton, Larry Bryson, Cary Augustine, Leslie Schneider, Carol England, Kevin Crane, Jodie Capshaw Asel, Christine Carpenter, and Commissioner Sara Miller. Judges Deborah Daniels and Gary Oxenhandler arrived late because they were delayed in court.

Others Present: Public Defender Tony Manansala, Assistant Public Defender Paul Hood, Callaway County Prosecutor Robert Sterner, Unit Manager Lana Brooks, Assistant Boone County Prosecutor Steve Gunn, Columbia Missourian Reporter Asia Jones, Court Administrator Kathy Lloyd, and Assistant to the Court Administrator Joy Rushing. Circuit Clerk Christy Blakemore arrived late.

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 as presented. Second: Judge Kevin Crane. The motion passed unanimously.

3. Domestic Violence Court in Callaway county

Discussion of Item 3 was deferred until the arrival of Judge Daniels from court.

Bob Sterner, Callaway County Prosecutor, let the court know that his office would be applying for stimulus funds for a domestic violence court which would be based on the drug court model. It would be a one-year post-plea program, and they would expect about one person a week to come into the program. The program would handle only misdemeanor cases. They would contract with the Family Counseling Center for the batterers' intervention program. CARDV (Coalition Against Rape and Domestic Violence) is supportive of this program. Court Administrator Kathy Lloyd indicated that the court would be involved by designating one of Judge England's dockets every other week to the program. There was a general discussion of the program, including whether the coordinator would be a court or prosecutor employee, and whether the program would be a deferred prosecution program.

Judge Cary Augustine made a motion to support the program as presented, with Judge England assigned to the dockets. Second: Judge Leslie Schneider. Judge Gary Oxenhandler suggested amending the motion to delete the reference to Division 6, and merely stating that it would not be Judge Augustine. Judges Augustine and Schneider accepted the amendment. The motion passed unanimously.

4. Public Defender's Request for Public Defender Dockets in Divisions V, IX and XI

Discussion of Item 4 was deferred until the arrival of Judge Daniels from court.

Court Administrator Kathy Lloyd stated that in follow-up to the court's discussion last month, she had met with Patty Alexander, and Patty had talked to the Associate Circuit judges, regarding changes to the docket schedule which might allow more consolidation of public defender cases.

The main change is in Division V to consolidate all private attorney criminal cases on one Tuesday morning docket. In the afternoon, arraignments would be at 1:30, with the public defender criminal cases after that. The same schedule would be followed on Wednesdays, and on Thursdays there would just be public defender cases. In Division VI, Thursday morning would be private attorney criminal cases, and arraignments at 1:30, followed by public defender criminal cases. Judge Larry Bryson raised some concerns about this proposal. Judge Christine Carpenter said that she needs a public defender all day for her Friday dockets; however, she would have no objection to the public defender not showing up for the morning docket until 10:00 am, because they do have a number of private attorneys on the DWI docket. Judge Deborah Daniels indicated that she could not divide her dockets. Judge Christine Carpenter made a motion to approve the proposed schedule. Second: Judge England. The motion passed unanimously.

5. 2010 Boone and Callaway Budget Schedule

Court Administrator Kathy Lloyd directed the court's attention to the schedule for preparation of the 2010 budget, which was included as page 7 of their packet. General discussion with the division heads regarding the needs of their area will begin the week of May 11. The budget will be presented to the court en banc for its approval at the August meeting. The budget must be final for presentation to each county by the second week of August.

6. Request for Hearing Room for Worker's Compensation Cases

Court Administrator Kathy Lloyd explained that the court had received a request from the state to use space in the courthouse for workers' compensation hearings. The space which would normally be assigned for this use would be Hearing Room 1, or the training room on the 4th floor. The consensus of the court was to tell the state that the court would provide space for workers' compensation hearings, subject to availability.

7. CASA Request for Office Space

Court Administrator Kathy Lloyd said that the court has also received a request from CASA (Court Appointed Special Advocates) for room for an office for their organization. They have lost their lease where they are currently located. They need room for their coordinator. A couple of places may be available, either in the Alternative Sentencing building or on the second floor of the courthouse in the attorney work room. Judge Cary Augustine said that they had discussed providing office space to them, in lieu of monetary support. Judge Christine Carpenter said that it will be a while before the space in Alternative Sentencing is available. Court Administrator Kathy Lloyd added that the court needs to consider the overall combined use of the Alternative Sentencing building when assigning future space. Judge Jodie Capshaw Asel asked whether there might be space in the old Knight Ford offices. Staff was asked to check into that space, and to contact the bar to see whether they would have any objection to using one of the offices in the attorney work room.

8. Reintegration Court

Judge Christine Carpenter told the court that Probation and Parole was instituting a program whereby officers would be limited in their ability to recommend revocation of probation. They would not be able to recommend probation revocation unless the case met certain guidelines. She is already seeing situations where a person is dismissed from the program, and then sent back a couple of weeks later. There appears to be a conflict between the goal of reintegration court, to make individuals accountable for their behavior, and the goal of the Department of Corrections, to not have people returning to incarceration. The Reintegration Court catches people who are using drugs, when regular supervision does not. This means that, while the Reintegration Court

has a higher percentage of people returning to incarceration than regular supervision, Reintegration Court has a lower percentage of individuals who reoffend.

Court Administrator Kathy Lloyd added that last year the court did not get all of the money it requested for Reintegration Court, and she has checked with OSCA and been told that the court will most likely be funded for the next year at its current level of funding, which is inadequate. She has contacted the Department of Corrections regarding funding from them.

Court Administrator Kathy Lloyd indicated that there has been a problem with people trying to avoid participation in Reintegration Court by getting an out of county home plan. Judge Oxenhandler said that he has been putting in his order that if placement is outside of Boone County, the individual cannot move back into Boone County without approval from the court.

Judge Christine Carpenter added that the program could be redesigned to have various levels of completion – if someone does well, they can complete the program in less time than others who are not doing so well. This would reduce the overall cost of the program because a number of people would require less time on supervision.

At this point, the discussion returned to Item 3.

9. Procedures for After Hours Ex Parte Orders of Protection

Assistant to the Court Administrator Joy Rushing explained that the Sheriff's Department had requested an amendment to the fax procedures handbook to allow The Shelter to fax petitions for orders of protection after hours to the Sheriff's Department, instead of a sheriff's deputy having to go to The Shelter to pick them up. The recommended changes to the fax procedures handbook are shown on pages 8-12 of the court's packet. The following changes were suggested: In paragraph A, the wording of the added sentence should read as follows: If the petition is obtained at The Shelter, The Shelter will contact the Sheriff's Department by telephone to make arrangements for faxing or hand-delivery of the petition. In the sentence which is being added to paragraph F, the word copy should be removed where it appears after the word original. Judge Leslie Schneider made a motion to approve the fax procedures as amended. Second: Judge Kevin Crane. The motion passed unanimously.

Assistant to the Court Administrator Joy Rushing explained that there has been a problem in Callaway County with the Sheriff's Department not referring all petitions for orders of protection to a judge after hours. Judge Augustine has requested an administrative order to make it clear that the on-call judge is to be notified of all petitions for orders of protection filed after hours. Judge Carol England made a motion to approve the order as presented. Second: Judge Cary Augustine. The motion passed unanimously.

10. New Travel Safe Zones under Section 304.590, RSMo.

Judge Leslie Schneider informed the court that there are not any travel safe zones in either Boone County or Callaway County. Judge Schneider made a motion that if such zones are established, the judges should just double the fine and send the cases to fine collection. Second: Judge Jodie Capshaw Asel. The motion passed unanimously.

11. Private Correctional Services, LLC

Judge Deborah Daniels said she has talked to Judge Kamp from Cape Girardeau about using Private Correctional Services to monitor defendants who are on probation. Her concern is that without the benefit of an administrator, defendants in personal injury cases on her docket are not being adequately supervised. The only method of supervising these individuals now is for her to

set show cause hearings, and that is a very inefficient use of the court's time and resources. She is very reluctant to turn these defendants loose without any control.

Court Administrator Kathy Lloyd explained that the court has had a number of solicitations over the years from private organizations that want to provide probation supervision services. Her predecessor, Bob Perry, generally recommended against the use of private services, and she has carried on his approach because there are some issues which arise. For instance, the defendants who have to use the private service have to pay and other defendants do not. This could be seen as an inequity, which could result in all defendants having to use the private service and pay, and the court doing away with its own Adult Court Services program. With Adult Court Services the court has more control over the quality of service provided, and the philosophy of the provider. There was a general discussion of the issue.

Judge Larry Bryson made a motion to table the issue until the next meeting, and ask Adult Court Services whether they have the personnel to supervise these defendants. The motion passed unanimously.

Judge Deborah Daniels asked whether Boone County could apply for grant funding for a domestic violence court coordinator, like Callaway County was going to do.

12. Court Costs

Judge Christine Carpenter explained that there was an issue with Probation and Parole believing that the current wording of court orders regarding court costs requires all court costs, including board bills, be paid within 30 days, and if they are not a violation would be filed. There was a general discussion of the issue. Judge Gary Oxenhandler indicated he would call Mike Webber, with probation and parole, and discuss the issue with him.

13. Increase in Focus On Kids Fee for Focus On Kids Online

Judge Cary Augustine said that the University of Missouri has developed an on-line Focus on Kids program which can be made available to individuals who cannot attend the actual class. He made a motion to amend the order regarding costs to provide for the availability of an on-line program for individuals who: (1) are handicapped; or (2) living outside a county where the Focus on Kids program is available. Second: Judge Leslie Schneider. Individuals who are handicapped would not be assessed the additional \$10 for the on-line program. The motion passed unanimously.

14. Criminal Nonsupport Cases

Circuit Clerk Christy Blakemore explained that there is a problem in criminal non-support cases when the judge orders restitution in the amount of past-due child support. This results in two judgments against the obligated parent for the same amount. After a general discussion, it was suggested that the judge order payment of the arrearages to the Family Support Center as a condition of probation.

15. Liability Insurance

Assistant to the Court Administrator Joy Rushing stated that in follow-up on the court's request at its last meeting, she had investigated whether the state of Missouri legal expense fund would pay a judgment against a judge. Section 105.711.2 of the Revised Statutes of Missouri provides that the state legal expense fund "shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction" She called the Missouri Attorney General's office to see whether they had any written guidelines as to when

they would provide a defense and/or pay a judgment, and she was told they did not have written guidelines. There was not discussion of the issue.

16. Orders of Destruction

Assistant to the Court Administrator Joy Rushing requested approval of the destruction of court records which had been stored at a county storage facility. The records were offered to the State Archives and to the Boone County Historical Society. Forty-five days have passed, and neither has indicated an interest in the records. Judge Gary Oxenhandler made a motion to approve destruction of the records. Second: Judge Carol England. The motion passed unanimously.

17. Courthouse Expansion Update

Court Administrator Kathy Lloyd said that the old signs have been removed, the painters are repairing the spots where they were removed, and the new signs will be installed by Thursday. As part of this signage, two of the hearing rooms have been re-named as courtrooms. The new Family Court courtroom in the Circuit Clerk's area will be 2 S, and the larger hearing room on the 3rd floor will be courtroom 3 SE. The smaller hearing room on the third floor will be hearing room one. There will be three functions as part of the courthouse open house: tours for staff on Friday; tours for the bar on Friday evening; and tours for the public on Saturday. She passed around a draft of the program for Saturday.

18. Other

Judge Kevin Crane said that Administrative Professional's day is April 22. He is suggesting that the court en banc order pizza, and some people volunteer to bring salads and desserts. If you bring a salad or dessert, you wouldn't pay for the pizza.

19. Comments from the Public

None.

20. Next Meeting Date

The next meeting date is June 2 in the Law Library of the Boone County Courthouse.

Prepared by: _____
Joy Rushing
Assistant to the Court Administrator

Submitted by: _____
Kathy Lloyd
Court Administrator

Distributed on: _____