

COURT EN BANC MINUTES
Tuesday, June 2, 2009, at 5:00 p.m.
Boone County Courthouse
Law Library

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

Others Present: Assistant Public Defenders Paul Hood and Tom Porto, Adult Court Services Supervisor Pete Bakutes, County Counselor C. J. Dykhouse, and Circuit Clerk Christy Blakemore.

1. Call to Order

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

2. Approval of Minutes

Judge Jodie Capshaw Asel made a motion to approve the minutes of the April 14, 2009, meeting as presented. Second: Judge Carol England. The motion passed unanimously.

3. Surety to Pay Transportation Costs

Court Administrator Kathy Lloyd explained that Richard Hicks, Assistant County Prosecutor, had brought this issue up at a meeting of the jail overcrowding committee. The matter was placed on the court en banc agenda for discussion, but Richard Hicks was unable to be at the meeting. Kathy advised that she was not sure whether Richard was asking for any court action, or merely bringing this up as an information item. Judge Gene Hamilton indicated that no action was required because the statute allows the judge to assess the cost of returning the defendant to Boone County against the bondsman.

4. Resignation Letter from Boone County Jail Board of Visitors

Judge Gene Hamilton indicated that he had received a letter from Mark Pfeiffer resigning his position on the Boone County Board of Jail Visitors due to his appointment as a judge of the Missouri Court of Appeals. Judge Pfeiffer recommended that Harry Bozoian replace him as Chairperson of the board. Judge Hamilton advised that he will contact Harry Bozoian and ask him if he is willing to serve as chairperson of the board. Judge Hamilton appointed Judges Gary Oxenhandler, Larry Bryson and Leslie Schneider to identify a male Democrat who would be willing to serve on the Board of Jail Visitors to fill the vacancy created by Judge Pfeiffer's resignation. They are to bring their recommendation before the next court en banc meeting.

5. 96 Hour Mental Health Commitments

County Counselor C. J. Dykhouse informed the court that Mid-Missouri Mental Health is being purchased by the University of Missouri Hospital, which will be reopening the facility as Missouri Psychiatric Center on July 1, 2009. They still don't have a signed agreement for finalizing the transaction. The new organization will not be an agent of the Missouri Department of Mental Health, so the court will not be able to issue the standard order committing the individual to the Missouri Department of Mental Health. The facility will act as a public mental

health facility under Sections 632.115, 632.210 and 632.120 of the Revised Statutes of Missouri. They will accept orders under the “shall” provision of those statutes. Rikki Wright, general counsel for the Department of Mental Health, has been involved in the arrangements regarding the closing of Mid-Missouri Mental Health.

The old OSCA forms read that the individual was being committed to the Director of the Department of Mental Health or the head of an accepting facility. After July 1, the Department of Mental Health will be operating acute care facilities only in Rolla and St. Louis. There was a general discussion of the wording of the order which the judge would sign for a 96-hour hold after July 1. The Department of Mental Health is asking that the order direct that the individual be transported to Missouri Psychiatric Center or another willing facility. Even if an individual is to be taken to another facility, they will not be requesting transport by the Boone County Sheriff. Judge Gary Oxenhandler made a motion that the order of commitment read that the individual be placed in the care and custody of the Director of the Missouri Psychiatric Center or the director of another willing provider. After some discussion Judge Oxenhandler amended his motion to specify that this wording would appear in the first portion of the order and that in the second part of the order, the warrant to convey, the wording would be to the Missouri Psychiatric Center. Judge Christine Carpenter seconded the motion and its amendment. The motion passed on the following vote:

For:	Judges Daniels, Asel, Schneider, Oxenhandler, England, and Carpenter
Against:	Judge Bryson

The Circuit Clerk’s office will make the appropriate changes to the form.

6. Legislative Update

Discussion of Item 6 was deferred until after discussion of Items 7-14

Assistant to the Court Administrator Joy Rushing handed out a memorandum discussing select new legislation. She covered some of the highlights of the approved legislation. Court Administrator Kathy Lloyd highlighted the statute increasing the types of cases where video conferencing technology could be used.

7. CASA Request for Office Space

Court Administrator Kathy Lloyd updated the court on the request from CASA for office space. At the last court en banc meeting three options were discussed. The first was the space vacated by the move of child support enforcement. That space is not available. The second was for CASA to use one of the offices in the attorney work rooms, and the Boone County Bar approved that on a temporary basis. With the completion of the courthouse expansion, the area occupied by the contractors in the Alternative Sentencing building is now vacant, and there is an office at the entry to the ground floor which could be used by CASA, and maintained separate from the rest of the basement uses. Kathy recommended that CASA be allowed to use this space. That way they will not have to relocate in the near future, and if CASA fits in with the future uses of the ground floor they will not have to move. Judge Christine Carpenter had no objection to this use. Judge Gary Oxenhandler made a motion to approve assigning office space located in the ground floor of the Alternative Sentencing Center to CASA. Second: Judge Christine Carpenter.

8. Adult Court Services

Court Administrator Kathy Lloyd handed out a proposed probation order, which differs from the one in the court's packet. It proposes having Adult Court Services supervised probation on felony domestic abuse cases when the charge is reduced to a misdemeanor. Kathy explained that if a defendant is convicted of a felony, they are supervised by Probation and Parole, but if the defendant is convicted of a misdemeanor, there is currently no probation. The intention is that the supervision would be similar to that provided by ACS on other cases, in that ACS would only supervise the probation until the special conditions of probation have been met, such as attendance at MEND. Judge Leslie Schneider made a motion to approve the amendment to the Probation Services Order to allow Adult Court Services to supervise misdemeanor domestic violence cases. Second: Judge Gary Oxenhandler. The motion passed unanimously.

9. Extradition for Electronic Warrants

Boone County Circuit Clerk Christy Blakemore explained that on June 9, 2009, the Clerk's Office will be going to a system of issuing warrants electronically. This is part of a pilot project for the state. She needs to know what defaults should be set for felony and misdemeanor warrants. Christy Blakemore said the prosecutor wants full United States extradition on all felonies and statewide on all misdemeanors. Judge Leslie Schneider made a motion to follow the recommendation of the prosecutor's office and have full US extradition on felonies, and statewide extradition on all misdemeanors. Second: Judge Christine Carpenter. Judge Gene Hamilton appointed a committee of Judges Gary Oxenhandler, Jodie Capshaw Asel and Carol England to study the issue and make a recommendation for any changes to the court en banc.

10. Review of Fee Assessments

Discussion of this Item was deferred until after discussion of Items 11-13.

A. Focus on Kids Fees.

Court Administrator Kathy Lloyd explained that revenues from these fees have been decreasing. She understands that at least one of the vendors will be asking for an increase in the fees we pay them for the program. Currently they charge the court \$30 for the regular class, and \$50 for the on-line class. She is recommending that the court increase the fees charged to the participants to \$60 for the regular class and \$70 for the on-line class. Judge Leslie Schneider made a motion to approve the increase in fees as requested effective July 1, 2009. Second: Judge Carol England. The motion passed unanimously.

B. Drug Court Fees

Court Administrator Kathy Lloyd stated that in 2007 the drug court fees were set at \$30. Judge Christine Carpenter said that our court's fees are probably the lowest in the state, and some courts require the participants to pay the entire cost of their treatment. Judge Carpenter made a motion to increase the drug court fees to \$50 a month beginning January 1, 2010, for all participants entering drug court on or after that date. Second: Judge Gary Oxenhandler. The motion passed unanimously.

11. Fiscal Update – FY 2008 Final and FY 2009 1st Quarter

Court Administrator Kathy Lloyd directed the court’s attention to the information provided by June Pitchford, the Boone County Auditor, on page 36 of the agenda. Expenditures in 2008 exceeded revenues, due mainly to a 1.36% decrease in sales revenue. Reserves had to be used to pay the difference. However, the amount of expenses over revenue was not as great as expected due to decreases in personnel costs as a result of attrition. It appears that sales taxes for 2009 may decrease by 2-3%. The county is urging departments to identify areas for saving to prevent depletion of the county’s reserves. She wanted the court to be aware of this information as they prepare for the 2010 budget.

12. Report on Boone and Callaway County Library Funds

Assistant to the Court Administrator Joy Rushing directed the court’s attention to the revenue and expense statements for the Law Library Funds for Boone and Callaway Counties which are attached as pages 37 – 47 of the agenda. Generally, these funds are increasing. Court Administrator Kathy Lloyd explained that a large one-time payment of \$15,000 came from the Boone County Law Library Fund to purchase some audio-visual equipment for the new courtroom. Judge Carol England requested the purchase of a laptop computer to be used in Callaway County to play videos in the jury deliberation room. Second Judge Deborah Daniels. The motion passed unanimously.

13. Report on Boone and Callaway County Family Services and Justice Fund

Assistant to the Court Administrator Joy Rushing explained that the balance of the Family Services and Justice Fund has been decreasing. Court Administrator Kathy Lloyd said that this was due to two factors: the increase in the salary of the Family Court Commissioner, and a decrease in funds received from the Focus on Kids fees. *At this point the discussion shifted to a discussion of Item 10.*

14. Destruction of Records

Assistant to the Court Administrator Joy Rushing explained that there were many boxes of court reporter notes in various formats (paper tape, Dictaphone tape, reel to reel tape) at the county’s north facility. The documents that are beyond their retention dates were identified and offered to the state archives and the Boone County Historical Society. Neither was interested in taking custody of the documents, so staff is requesting an order allowing them to be shredded. Judge Leslie Schneider made a motion to approve the destruction of the records. Second: Judge Christine Carpenter. The motion passed unanimously.

15. Other

Court Administrator Kathy Lloyd explained the changes to the interlock system on the third floor. Circuit Clerk Christy Blakemore let the court know that there are people in the county who are passing counterfeit \$100 dollar bills. Her office accepted one of these, and the bank let them know what to look for in the future. Judge Deborah Daniels announced that probate mental health proceedings by video are scheduled to begin in June.

16. Comments from the Public

None.

17. Next Meeting Date

The next meeting date is August 4, 2009.

Prepared by: _____
Joy Rushing
Assistant to the Court Administrator

Submitted by: _____
Kathy Lloyd
Court Administrator

Distributed on: _____