

AMENDED
COURT EN BANC MINUTES
Tuesday, August 4, 2009, at 5:00 p.m.
Boone County Courthouse
Law Library

Judges Present: Jodie Capshaw Asel, Carol England, Gary Oxenhandler, Leslie Schneider, Cary Augustine, Larry Bryson, Deborah Daniels, and Commissioner Sarah Miller. Judge Gene Hamilton arrived late due to a jury trial. *Judge Larry Bryson had to leave the meeting, due to a prior engagement, before the discussion and approval of the 2010 Boone County Budget.*

Others Present: Victim Advocate Mark Koch, Boone County Circuit Clerk Christy Blakemore, Unit Manager Lana Brooks, Public Defender Tony Manasala, Public Defender Tom Porto, Assistant Prosecutor Richard Hicks, and Beverly Steelman from the Callaway County Circuit Clerk's Office.

1. Call to Order

The meeting was called to order by Acting Presiding Judge Jodie Capshaw Asel.

2. Approval of Minutes

Judge Leslie Schneider made a motion to approve the minutes of the June 2, 2009, meeting as presented. Second: Judge Larry Bryson. The motion passed unanimously.

3. Boone County Board of Jail Visitors Chairman and Nominees

Court Administrator Kathy Lloyd indicated that Harry Bozoian has agreed to serve as chair of the Boone County Board of Jail Visitors. Judge Gary Oxenhandler made a motion that Harry Bozoian be appointed as chair of the Boone County Board of Jail Visitors. Second: Judge Deborah Daniels. The motion passed unanimously. Court Administrator Kathy Lloyd further indicated that Judges Oxenhandler, Bryson and Schneider had recommended Bob Buckley as a member of the Board and he has agreed to serve. Judge Gary Oxenhandler made a motion that Bob Buckley be appointed as a member of the Boone County Board of Jail Visitors. Second: Judge Deborah Daniels. The motion passed immediately.

4. Changes to Wording in the Order for 96 Hour Commitment

Judge Deborah Daniels informed the court that C. J. Dykhouse had reported that the agreement between the University of Missouri Medical Center and the Department of Mental Health for provision of mental health services had been finalized. Judge Daniels distributed a copy of the standard OSCA order of commitment form. Judges should enter the initials for the university mental health facility in the three blanks referring the facility to which the individual should be transported.

Judge Daniels explained that MUPC was asking judges to sign an Amendment of Placement on Prior Order for 96 Hour when an individual had to be transferred from MUPC to another facility. The application for transfer should be accompanied by a Notice of Admission from MUPC and a letter of acceptance from the facility to which the individual is to be transferred.

Court Administrator Kathy Lloyd indicated that this procedure will require a change in court order. (There was a general discussion of whether the university facility should be referred to as UMPC or MUPC.)

Judge Daniels made a motion that the proposed form be used for amending placement on 96-hour commitments, and that all three blanks be filled in with Missouri University Psychiatric Center, in whatever format they prefer. Second: Judge Bryson There was a general discussion as to why this court would need to act on a case initiated in another county, and whether it was appropriate for the judge here to amend the other judge's order.

Judge Bryson withdrew his second on the motion to approve the form. There was no other second motion, so that motion failed for lack of a second. Judge Gary Oxenhandler made a motion to move the item to the end of the agenda. Second: Judge Augustine. The motion passed unanimously.

5. Electronic Warrants and Extradition

Judge Gary Oxenhandler asked that this item be passed to the next court en banc meeting. Due to his absence, he was unable to meet with Judge England and Judge Asel to discuss a recommendation.

6. Certified Copies of Prior Convictions for Trial

Boone County Circuit Clerk Christy Blakemore stated that a question had arisen regarding certified copies of judgments. The clerk's office has been printing off the Sentence and Judgment from the docket sheet on JIS, and certifying that copy. The prosecutor's office has indicated that some judges in the past have been unwilling to accept this certification because the Sentence and Judgment from the docket sheet on JIS is not signed by a judge. The prosecutor's office does not want to risk using the certified docket sheet for enhancement purposes. Judge Deborah Daniels said that the Eastern District had held that under 558.016 and .018 the electronic docket sheet was not sufficient. Judge Cary Augustine asked that the matter be tabled to the next meeting to allow staff to research the issue.

7. Driver Improvement Program with State Fine Collection Center

Assistant to the Court Administrator Joy Rushing said that the court had received a letter from Jack Morgan, Director of the State Fine Collection Center, asking the court to authorize the FCC to allow a driver improvement program for individuals handling their cases through the FCC. This is allowed under Section 302.302, RSMo., approved by the state legislature and effective August 28, 2009. She has attached a proposed order for the court, which needs to be amended to correct the statute in the first line to Section 302.302.5, and to change the word "order" in the third line to "authorize." There was a general discussion of the issue.

8. Warrants on Cases Bound Over

Boone County Circuit Clerk stated that in order for the time standards to be stayed on the circuit level on cases bound over, a warrant has to be issued by the judge at the circuit level. This usually happens when there is a detainer because the defendant is in the Department of Corrections. After a general discussion, Judge Leslie Schneider made a motion to pass the matter to the next court en banc meeting. Second: Judge England.

9. Work Release in Callaway County – Three Quarter Time, Board Cost and Violators

Judge Jodie Asel said this came up because it is handled differently in Boone County than in Callaway County. In Boone County a defendant automatically gets released on ¾ time unless the Director of Reality House files a violation report. In Callaway County the defendant must affirmatively request ¾ time. It was the consensus of the court that no action needed to be taken on this issue.

10. New Administrative Ignition Interlock Device Requirements

Assistant to the Court Administrator Joy Rushing explained that a question had arisen regarding the impact of the new administrative ignition interlock device requirements on the court. These requirements were passed by the Missouri legislature in 2008, but implementation was deferred until this year. She has talked to the Department of Revenue, and they have said that the ignition interlock requirement they enforce is separate from any ignition interlock requirement which may be ordered by a judge. Under the administrative interlock program, drivers convicted of certain violations are required to have an ignition interlock device installed on their vehicle for the first six months after their license is reinstated. The provider notifies the department when the device is installed and when it is removed. The department does not get any notification if the individual with the device attempts to start the car while testing positive for alcohol consumption.

11. Local Court Rule 9.5

Assistant to the Court Administrator Joy Rushing stated that a local attorney had questioned whether there was a violation of Local Court Rule 9.5 when a victim advocate appears in front of the bar to provide support to a victim of abuse. She reviewed similar rules in other circuits. Many circuits have no similar rule, but several who do provide that the judge may approve the appearance of individuals not otherwise allowed before the bar by the rule. The court could amend Local Rule 9.5 by adding the language “Unless otherwise specifically permitted by the court” to the beginning of the current language of Local Rule 9.5, as shown on page 20 of the court’s handouts.

Judge Cary Augustine made a motion to amend Local Rule 9.5 as suggested. Second: Judge Gary Oxenhandler. The motion passed unanimously. There will be a 60-day comment period before the amendment becomes effective.

12. Westlaw

Assistant to the Court Administrator Joy Rushing explained that the cost of the Westlaw electronic research service has been increasing steadily, and is now roughly \$15,500 annually. Expenditures for all Westlaw products will be over \$20,000 in the coming year. For the first time next year, the expenditures for all Westlaw products will exceed the revenue in the Law Library Fund which pays for the service. She has talked to C. J. Dykhouse, the county counselor, and he indicated that the Westlaw contract should include a governmental addendum which allows governmental entities to opt out of a contract if there are insufficient funds in the budget to pay for the contract.

Lexis/Nexis is available to the court at no cost, and for approximately \$300 a month more, the court could have access to all MoBar CLE’s electronically. If the court gives up Westlaw, they would give up access to the Missouri Practice series. Judge Gary Oxenhandler said that he likes Westlaw, but he believes that Lexis/Nexis would suit the court’s needs once the judges learn to use it. Court Administrator Kathy Lloyd added that one option might be to see whether there would be any savings in combining our contract with the other offices that have a contract with Westlaw.

The consensus was that staff should talk to Westlaw about ways the total cost of Westlaw to the court and the county could be reduced. Court Administrator Kathy Lloyd added that the court could also ask Callaway County to contribute to the cost of the service, as it did in the past.

Judge Deborah Daniels made a motion to table the issue for further information. Second: Judge Cary Augustine. The motion passed unanimously.

13. Legislative Updates

Assistant to the Court Administrator Joy Rushing said that Marcia Hazelhorst, with the Callaway Juvenile Office, attended a training that discussed recent legislative changes and their affect on the juvenile court system. The court has been provided a copy of the legislative update as part of their packet. This information is similar to information provided to the court at an earlier meeting.

14. Fine Collection Approval of Driver Improvement Program –

SAME AS ITEM 7 – no further discussion.

15. 2010 Budget

Court Administrator Kathy Lloyd presented the court’s budget for 2010. Highlights of her presentation are shown on the attached pages.

Judge Leslie Schneider made a motion to approve the budget as presented. Second: Judge Gary Oxenhandler. The motion passed unanimously.

At this point, the court returned to its discussion of Item 4.

Judge Gary Oxenhandler made a motion that MUPC should file an application for transfer and the judge could then issue an Order Upon Application for Transfer. Second: Judge Leslie Schneider. The motion passed unanimously.

16. Other

None

17. Comments from the Public

None.

18. Next Meeting Date

The next meeting date is September 15, 2009.

Prepared by: _____
Joy Rushing
Assistant to the Court Administrator

Submitted by: _____
Kathy Lloyd
Court Administrator

Distributed on: _____