

**COURT EN BANC MINUTES**  
**Tuesday, October 6, 2009, at 5:00 p.m.**  
**Boone County Courthouse**  
**Law Library**

**Judges Present:** Judges Gene Hamilton, Cary Augustine, Leslie Schneider, Gary Oxenhandler, Larry Bryson, Christine Carpenter, Jodie Capshaw Asel, and Kevin Crane, and Commissioner Sara Miller.

**Others Present:** Boone County Circuit Clerk Christy Blakemore, Unit Manager Lana Brooks, IT Supervisor Christopher Kilbride, Public Defender Tony Manansala, Court Marshal Les Werner, Attorney Ryan Carter, Assistant Public Defender Tom Porto, Adult Court Services Supervisor Pete Bakutes, Court Administrator Kathy Lloyd, and Assistant to the Court Administrator Joy Rushing.

**1. Call to Order**

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

**2. Approval of Minutes**

Judge Kevin Crane made a motion to approve the minutes as presented, with the correction of adding Judge Asel as being in attendance. Second: Judge Asel. The motion passed unanimously.

**3. Adult Court Services Supervised Probation and Community Service**

Court Administrator Kathy Lloyd explained that this item was on September's agenda, but was continued to give the judges additional time to review the information. She passed out a handout which consisted of a proposed order based on the most recent order concerning Supervised Probation and Community Service. The changes to the existing order are shown in red. In paragraph A, a phrase is added to include drug and alcohol related driving offenses disposed pursuant to Section 302.321, RSMo. Under B, 3, two restrictions are added to Community Service, shock jail time is added, and compliance with court services' directives is included.

The judges expressed concern regarding the limitation in the new language of Paragraph A to drug and alcohol related driving offenses, and asked that the language "drug and alcohol related driving offenses" be replaced with "driving while suspended or revoked."

Judge Bryson made a motion to approve the order as amended. Second: Judge Asel. The motion passed unanimously.

**4. DWI Court**

Judge Christine Carpenter said that since the last meeting she has talked with the assistant prosecutor who does DWI's about a possible DWI court, and he was in favor of developing such a court. She also had a meeting with 17 lawyers from the defense bar, who also support the court. She has also talked with OSCA and the Missouri Department of Public Safety. The plans are to start the program January 1 as a voluntary program, which would include both felonies and seconds. The court en banc voted at the September meeting to pursue the development of a DWI court. She anticipates that by the next meeting they will have developed guidelines for the court, such as target population. The docket changes that would need to be made would be on

Thursdays, when she now has reintegration court, for her to do Reintegration Court one-half of the day, and DWI court the other half. The best practice is that the DWI Court judge not be the sentencing judge in any of the cases. This would not be a problem with the felonies, and she looked at the cases that they might take, and only six of them were seconds.

There was a general discussion of the procedures which would be involved for a DWI court.

Judge Carpenter passed out an article about the court in Springfield being recognized for its DWI court.

## **5. Westlaw**

Assistant to the Court Administrator Joy Rushing presented information to the court on the cost of the West electronic research service. She explained that she had not been able to obtain information from them about the cost of the Missouri Practice series on CD. She provided the court a copy of the statute which allows the court to terminate a contract due to lack of funding.

Lexis/Nexis has yet to provide accurate information on the cost of adding the MOBar CLE's to the court's current service.

Judge Oxenhandler explained that if we drop the West electronic service, the cost of the print service would go up to approximately \$11,000. If the court were to get rid of the print services for the Missouri Southwest and Missouri Digest services, it would reduce the cost of the print materials to roughly \$300 a month.

Assistant to the Court Administrator Joy Rushing indicated that there were two questions:

1. Should the West electronic service be dropped?
2. Should the court continue to subscribe to the print Southwest and Missouri Digest publications?

The matter was deferred so staff could get additional information on the cost of Lexis/Nexis.

## **6. Department of Correction Cases by Polycom**

Court Administrator Kathy Lloyd stated that a couple of months ago she was contacted by OSCA about Polycom communication with the Department of Corrections. Fulton Diagnostic Center has now been equipped with a Polycom unit, and they are planning for units in other facilities across the state. Cole County has been using video arraignments with the state correctional facility in Jefferson City. OSCA would like to expand this technology to other circuits. This would require scheduling the arraignments with OSCA in advance. The court has a portable Polycom unit that can be set up in any courtroom. It is only a single screen unit. There is also one in Callaway, which has been used in juvenile proceedings.

There was a general discussion of the use of a waiver form for video hearings.

## **7. Wireless Access**

Court Administrator Kathy Lloyd passed out the proposed protocols for the use of wireless access in the courthouse. Staff members will be able to access the wireless network using the same password they use on their work computer. Attorneys will have to apply to the IT department for a password. There was a general discussion of where wireless access would be available in the courthouse.

**8. Ceasing Cellular Phones**

Court Administrator Kathy Lloyd passed out a proposed policy for the use of cell phones in the courthouse. The proposal would generally ban the public from bringing cell phones into the courthouse. There was a general discussion of to whom the restrictions would apply and how they would be enforced.

Judge Christine Carpenter made a motion that a policy be drafted that would apply only to jurors. Second: Judge Kevin Crane. The motion passed unanimously.

**9. Sprint Palm Treo Pro**

Court Administrator Kathy Lloyd explained that there are three issues involved in providing judges with PDA's. There had been some discussion of getting Lotus Notes on the judges' Treo's. This can't be done with the Palm software, the software must be Windows based. This means the existing phones will have to be replaced. This raises three issues: (1) the cost of replacing the existing phones; (2) the cost of purchasing a data plan; and (3) the program currently used to put the judges' calendars on their Treo's is Palm-based.

It would probably be best to look at implementing new phones in January 2010. There are four Palm Treo's now which are not old enough to be eligible for upgrades. In January, they will be eligible for the reduced upgrade cost of \$199. Also, sometimes at the end of the year, the replacements are free. If phones have to be purchased, an allocation will need to be made from the Administration of Justice fund to cover the cost.

**10. OCN**

Boone County Circuit Clerk Christy Blakemore stated that they were still having a problem getting an OCN number on all cases where it is required. They have talked to the prosecutor's office and they have agreed to make an effort to put OCN number on the papers they file. The Circuit Clerk's office is trying to stamp the docket sheet on those cases where fingerprints are needed.

There was a general discussion of when fingerprinting should be ordered by a judge.

**11. Reappointment of Board of Jail Visitors – Boone and Callaway**

Judge Gene Hamilton asked the judges whether they were aware of any changes that needed to be made from the list of current members. If not, he will just contact the chair of each board to ask them to see whether members were willing to serve another term. Court Administrator Kathy Lloyd said that this is the last year that Genie Rogers and Donna Hennigh are eligible for reappointment, because there is a 12-year limit on term of service on the board.

**12. Replacement of terminating Employees**

Court Administrator Kathy Lloyd let the court know that she has received a notice from the Office of the State Courts Administrator that a policy has been adopted that vacancies in state court positions will not be filled until the annual leave/compensatory time of the terminating employee has been exhausted, plus two additional pay periods.

The mileage reimbursement has been reduced to 45 cents a mile, effective October 1.

**13. Sexual Harassment Committee**

Assistant to the Court Administrator Joy Rushing said that it was the time of year when the court needed to appoint members to the Sexual Harassment Committee. There are four members whose terms are expiring: Ann Schnell, Marisa Wise, Sullonge Turner and Beth Clark. Ann Schnell and Beth Clark are both eligible for reappointment and are willing to continue to serve. Sullonge Turner did not wish to be reappointed, and Diana Winn has been recommended as her replacement. Marisa Wise has served three terms, and Tara Duckworth is being recommended as her replacement.

Judge Cary Augustine made a motion to approve the appointments as recommended. Second: Judge Kevin Crane. The motion passed unanimously.

**14. Other**

Judge Cary Augustine indicated that they are having issues with an insufficient number of courtrooms in Callaway County. He asked that when a courtroom is needed in Callaway for other than a regular docket, it be scheduled in advance through Marla or someone else do avoid conflicts.

**15. Comments from the Public**

None.

**16. Next Meeting Date**

The next meeting date is December 8 at the Callaway County Courthouse.

Prepared by: \_\_\_\_\_  
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Distributed on: \_\_\_\_\_