

COURT EN BANC MINUTES
Tuesday, May 12, 2015, at 5:00 p.m.
Boone County Courthouse
Law Library

Judges Present: Judges Christine Carpenter, Jodie Asel, Kevin Crane, Gary Oxenhandler, Deborah Daniels, Leslie Schneider, Carol England, Michael Bradley, Sue Crane, Kimberly Shaw, and Commissioner Sara Miller.

Others Present: Callaway County Prosecuting Attorney Chris Wilson, Boone County Prosecuting Attorney Dan Knight, Boone County Assistant Prosecuting Attorney Tracy Gonzales, Boone County Public Defender David Wallis, Boone County Circuit Clerk Christy Blakemore, Boone County Circuit Clerk Unit Manager Lana Brooks, Adult Court Services Supervisor Brandon Walker, Adult Court Services Officer Diana Winn, Court Marshal Les Werner, Court Administrator Mary Epping, and Deputy Court Administrator Cindy Garrett.

1. Call to Order/Welcome

The meeting was called to order at 5:00 p.m. by Judge Christine Carpenter.

2. Introduction of All Guests

Judge Christine Carpenter welcomed guests.

3. Approval of the April 7, 2015, Minutes

Judge Gary Oxenhandler moved to accept the April 7, 2015, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

4. Destruction of Records – Boone County Circuit Clerk

Deputy Court Administrator Cindy Garrett reported the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on pages 7 and 8 of the Court en Banc's packet. Judge Leslie Schneider moved to approve the destruction of the records listed. Second: Judge Jodie Asel. The motion passed unanimously.

5. Legislation

Court Administrator Mary Epping provided an update on legislation. She noted the passage of HB12, which is the judiciary's budget. Included within that bill was the 13th Circuit Court Marshal. Mary also noted not specifically included in the bill, but included in the Senate committee worksheet, was the 13th Circuit Drug Court Commissioner. Mary reported she spoke with OSCA, the Boone County lobbyist and Betsy Aubuchon from the Supreme Court to inquire about the Drug Court Commissioner being approved

for the 13th Circuit. Mary and Judge Christine Carpenter drafted an e-mail to send to Betsy and Supreme Court Clerk Bill Thompson, which was provided to all present. The e-mail provides a summary of the two year effort to get a Drug Court Commissioner and the process of how the funding was approved. The draft e-mail states we plan to post the job and pursue filling the position unless we are notified this would cause a problem. Mary asked that the draft e-mail be reviewed by all and if someone has a strong feeling against the e-mail or has additional language to recommend, to let her know. Mary also noted five DJO III statewide positions were cut from the budget.

6. Boone County Electronic OnCall Committee Report

Judge Gary Oxenhandler reported his committee met to develop protocol. He tested the process and it is simple to use the secure email network. The process will include a warrant coming from the prosecutor's office to the judge, and replied to all on the prosecutor's email, including law enforcement. Judge Oxenhandler developed written protocol for the judges when completing ex-parte applications and warrants. There was a discussion about using lotus notes through cell phones to complete the process. Technology Services Supervisor Steve Smith or Judge Oxenhandler will provide one-on-one training with each of the judges. For those outside the system, such as prosecutors, law enforcement and mental health, training will also be arranged. There was a discussion on uniformity for the process. All judges agreed they would try the e-mail process the next time they were on-call. Law Enforcement officials are ready to start the process and will be notified that the process of using e-mail instead of fax will start immediately. Prosecuting Attorney Dan Knight wanted to clarify if there was going to be a change in policy regarding search warrants. It was agreed once the court receives the warrant from the prosecuting attorney the judge will reply to all and include law enforcement and the clerk. There was discussion about the process for the "to be set" bonds and all agreed these should go through the prosecuting attorney and then to the judge. Assistant Prosecuting Attorney Tracy Gonzales asked if there would be copies of the new process that can be shared with the prosecuting attorney staff. Judge Oxenhandler stated he or Steve would arrange training for the prosecutors.

Judge Deborah Daniels joined the meeting at 5:34 p.m.

7. Public Defender Information on SARs

Judge Christine Carpenter said the District Public Defender David Wallis had requested this topic be placed on the Criminal Justice Administration Coordination committee meeting agenda; however, she felt it was more appropriate for the Court en Banc to discuss. She understands the concept that ordering SARs may affect the jail population. She would like the four circuit judges to discuss the issue and then get back to the Public Defender. She reported she has the packet of information David shared regarding statistics and the concept from other jurisdictions that she will also share with the other circuit judges. Judge Carpenter asked that this topic remain on the agenda for future meetings.

8. Metal Detector Procedures

Court Administrator Mary Epping stated Callaway County has a new metal detector. It will be used for all law days and as requested by judges for particular cases. The Court Marshal's must be made aware if judges are requesting this security measure on particular cases so they can set it up. During the Callaway County Security meeting there was discussion whether anyone may bypass the security. Mary reviewed Administrative Order 1-01 on page 9 of the Court en Banc's packet regarding Boone County's policy. It was discussed that currently in Callaway only the prosecuting attorneys, judges and law enforcement officials there on official business are allowed to bypass security. Mary questioned if we wanted to adopt the same Administrative Order for both Boone and Callaway counties or wait to formally adopt a process for Callaway County until after security measures were installed. It was agreed to wait on an order until an x-ray machine was installed at the front door. Mary asked that the Court en Banc start thinking about this and how it affects all the staff in the building as currently many staff enter through the back door with a key card.

9. Callaway Court Marshal

Judge Christine Carpenter said at the Callaway County Security meeting there was a discussion to memorialize the state-paid Court Marshal. Callaway County Prosecuting Attorney Chris Wilson provided a brief history of the position stating Judge Jodie Asel and former Court Administrator Kathy Lloyd approached the Callaway County Commission several months ago about security for the courthouse. Historically the objection was philosophical. The Commission is now open to more secure measures in the courthouse. The next obstacle was funding. The Commission felt another FTE would be needed and they reported if the court found a way to fund it they would be willing to consider securing the Courthouse. Kathy looked at modifying the statute, which is currently before the legislature. Court Administrator Mary Epping noted on page 10 of the Court en Banc's packet is the organizational chart for the Court Marshal. She noted the new state-paid position would be a supervisor over Callaway County Deputy Court Marshals, but under the authority of the 13th Circuit Court Marshal. Mary also pointed out the statute states the position is the presiding judge's appointment. In terms of pay, Mary said internal equity of court staff and 13th Circuit sheriffs will be taken into consideration.

10. Callaway and Boone Polycom Policies

Judge Christine Carpenter stated this will be a discussion of the four circuit judges to come up with uniform policies on what types of hearings will be heard on video conference. She feels the Court should strive for some uniformity. This topic will continue to be on future agendas.

11. New forms for Adult Abuse and Child Order of Protection Cases

Judge Leslie Schneider said OSCA approved new Ex Parte Petitions for Child and Adult Order and order forms. The new forms must be implemented by July 1, 2015. The updated forms will be provided to the judges, sheriff, shelter, etc.

12. Cellphones in the Courthouse

Court Administrator Mary Epping noted issues arise on occasion with regards to cell phones in the courtroom. On page 14 of the Court en Banc's packet is the local court rule for electronic devices. The question was raised whether cell phones should be prohibited from the courthouse. Currently only jurors are prohibited from bringing electronic devices. Mary noted the table on the bottom of page 14 indicates other circuits' policies. There was substantial discussion regarding the issue with widely divergent view. This item will be further discussed on future agendas.

13. Payment Plan Warrant Request Form, Collection of Court Debt

Judge Kevin Crane said after the last Court en Banc meeting there was substantial research done on the topic of using payment plans, debt collection, and issuing warrants. Court Administrator Mary Epping sent out a PowerPoint previously to the Court en Banc regarding the outcome of some research. Judge Crane referred to pages 15 through 17 of the Court en Banc's packet. The forms were reviewed as amended which included exempting debt collection when a capias warrant is being issued. He said judges can also set a show cause hearing and then a capias warrant can be issued if they do not show for court. Judge Crane suggested based on past discussion, the new forms would exempt all cases where a show cause is set or capias warrant is issued from debt collection. Judge Michael Bradley handed out a form that he plans to use for fines. This form warns the defendant if they do not pay the fine on the date of court, fail to meet with Adult Court Services to arrange a payment plan or fail to abide by a payment plan as agreed upon, a warrant will be issued.

Judge Carol England stepped out of the meeting at 6:20 p.m.

It was discussed that the forms Adult Court Services submits to the judge shows all the attempts officers have made to collect fees, therefore the judges feel justified to issue a warrant for their arrest for failure to abide by a court order. Judge Leslie Schneider moved to approve the Adult Court Services forms as noted on pages 15-17 of the Court en Banc's packet. Second: Judge Oxenhandler. The motion passed unanimously. It was also agreed that the form as presented by Judge Bradley can be used by those interested. Mary thanked Diana Winn, Brandon Walker and Cindy Garrett for the work they did to pull together the information on the PowerPoint.

Judge Carol England re-joined the meeting at 6:25 p.m.

14. Stepping Up

Court Administrator Mary Epping noted the Boone County Commission approached her and Sheriff Dwayne Carey to address mental illness in the jail. The idea is to see what is happening now and then take proactive steps to prohibit people with mental health conditions from entering the jail. This would include work between law enforcement and mental health agencies. Mary is bringing this to the Court's attention, however the Court is not being asked to do anything except agree to help address and assist where we can. Judge Christine Carpenter stated she is in favor of the concept but the Commission will be in charge of the project.

15. Other

Judge Deborah Daniels suggested there should be a process for requests to release individuals from the hospital, and to have a HIPAA release. She indicated if a HIPAA release is not signed the hospital will not call the jail to inform them that individual is getting ready to be discharged. Judge Christine Carpenter asked to put this topic on the agenda for next meeting and to discuss with the jail to ensure we are not misusing HIPAA.

Judge Gary Oxenhandler wanted all to be aware of new eye witness instruction that goes into effect January 1, 2016, but can be used now. This can be used in criminal cases where eye witness testimony is an issue. Judge Oxenhandler will share these instructions with all.

16. Comments from the Public

None.

17. Next Meeting Date

The next meeting is scheduled for June 9, 2015, at 5:00 p.m. to convene in the Boone County Courthouse, Law Library.

Meeting adjourned at 6:40 p.m.

Prepared by:

Cindy Garrett

Cindy Garrett
Deputy Court Administrator

Submitted by:

Mary Epping
Mary Epping
Court Administrator

Distributed on:

6/5/15