

COURT EN BANC MINUTES
Wednesday, September 23, 2015, at 5:00 p.m.
Boone County Courthouse
Law Library

Judges Present: Judges Christine Carpenter, Jodie Asel, Gary Oxenhandler, Deborah Daniels, Leslie Schneider, Carol England, Michael Bradley, Commissioner Sara Miller and Columbia Municipal Judge Bob Aulgur.

Others Present: Callaway County Circuit Clerk Judy Groner, Criminal Clerk Christie Murray, Adult Court Services Supervisor Brandon Walker, Attorney Rusty Antel and Court Administrator Mary Epping.

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 August 11, 2015, Minutes

Judge Gary Oxenhandler moved to accept the August 11, 2015, minutes. Second: Judge Michael Bradley. The motion passed unanimously.

4. Destruction of Records – Municipal and Boone County Circuit Court

Court Administrator Mary Epping said the Columbia Municipal Court asked to destroy by shredding the documents on pages 5 and 6 of the court's packet and the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on pages 7-9 of the Court en Banc's packet. Judge Jodie Asel moved to approve the destruction of the records listed. Second: Judge Gary Oxenhandler. The motion passed unanimously.

5. Furlough versus ROR

a. Request to Release Individuals from Jail

Judge Christine Carpenter said the Boone County jail asked for a guideline with regard to when individuals would be released on furlough versus an ROR from the jail. She said furlough is for those who are in jail on commit, and ROR are for pre-disposition. Judge Deborah Daniels said furlough statutorily refers to the Department of Corrections, but you could use the term for release from jail for those on commit time. Judge Carpenter asked if there was a difference between a mental health and a physical health/medical furlough. There was discussion and Judge Carol England said she has defendants sign a medical release at the jail so court marshals can call and verify the individual is at the hospital and when they leave. This does not give access to medical records. Judge England said she would provide a copy of the form to Boone's jail.

Cash Bond and Bond Schedules

Judge Christine Carpenter said there have been ongoing discussion and input regarding bond schedules, whether to use cash bond and how it ties into the jail population. She asked Judge Gary Oxenhandler to look into it and provide a report since he had been on the Judicial Law Enforcement Task Force since its inception.

Judge Leslie Schneider joined the meeting at 5:10 p.m.

Judge Oxenhandler provided a handout that included administrative order 7-05, Missouri constitution article I, §20, the federal court's order in *Pierce v. The City of Velda City* (a Missouri case), and articles on bail. Judge Oxenhandler said the Boone County jail population is up. In reviewing the population, 93 of 206 (45%) were there on bond, 52 of those on cash bond, 15 of those were class A felonies. In Callaway, 1/3 of the pre-trial population are on cash only bond. In *Velda* there was a cash only bond schedule for ordinance violations and there was no access to the court for up to 72 hours. Judge Oxenhandler noted the settlement states "no person may, consistent with the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, be held in custody because the person is too poor to post a monetary bond." He noted that no law prohibits cash-only bonds, but the culture of bond setting has changed. In reviewing the problem in its totality, Judge Oxenhandler noted prosecutors are asking for cash bond (though the judges are the ones who set it), and we tend to be controlled by the first bond set. Judge Oxenhandler said if there is a threat, a judge may set no bond and request bond review but there may be a speedy trial issue as a result. (Section 544.676, RSMo) He reviewed a recent case wherein a defendant was arrested on a misdemeanor B, bond was set at \$500, after 7 days of not being able to post, the bond was lowered to \$50, she still could not post it. After 14 days, the defendant's bond was changed to include an ROR. Other issues Judge Oxenhandler identified included: other circuits not holding defendant for misdemeanors, setting bond conditions that require some defendants to pay up to \$300 a month for monitoring devices, and using cash bonds for absconders from treatment court even though termination no longer automatically means time in prison. Judge Oxenhandler recommended a committee be formed to discuss these matters including the issues and impact of bond decisions, the use of Adult Court Services, the administrative order on bond, and the role of bail bondsmen in pre-trial release. Judge Carpenter agreed that there are many things Judge Oxenhandler presented that are all tied together and that it's not just one issue. Columbia Municipal Judge Bob Aulgur said there is a group that is suing municipalities for their bond schedules. Ultimately the issue is the judge should make a decision regarding bond and courts cannot delegate that authority by bond schedule. Adult Court Services Supervisor Brandon Walker said in Springfield they take the defendants to jail for all misdemeanors, including domestic assaults, book the individual, and release them on summons. Judge Michael Bradley said he recently saw a case where the arresting officer set bond at \$635 for a domestic charge. It was agreed that judges should be setting the bond amount, not the arresting officer unless it's a traffic case. Judge Deborah Daniels said her concern is when someone is in custody, but jail is not a possible punishment for the offense charged.

Judge Carpenter created a committee to review bond and all related issues. She asked Judge Oxenhandler to chair the committee. Other committee members were Judges Kevin Crane, Bradley, Kimberly Shaw and Carol England. Judge Carpenter asked the committee to review the practices and talk with Public Defenders, Prosecutor, defense bar, bond agents, etc. Judge Carpenter asked for an analysis saying that if the defendant is dangerous, there should be no bond.

6. Written Waiver of Preliminary Hearing

Judge Deborah Daniels said she, Judge Bradley and Judge Shaw agreed to changes on the Waiver of Preliminary Hearing form that was handed out. The changes include information on where the defendant is located, whether the hearing is by video, what division it is in and at what docket (a.m. or p.m.). Judge Gary Oxenhandler moved to accept the new form. Second: Judge Leslie Schneider. The motion passed unanimously.

7. Public Defender Information on SARs

Judge Christine Carpenter said the four circuit judges have tried to meet. The philosophy is that if the SARs were waived, defendant would get out of jail more quickly. Anecdotally in Callaway she processed a case where there was no SAR and there were at least 3 cases involved. She asked that this topic be kept on for the next month.

8. eFiling and Agency ID

Court Administrator Mary Epping said OSCA issued a list of agencies that could have agency ID, so they could eFile. She said the court may decide to require those agencies to file electronically. Mary provided the list to the Court en Banc. Currently Probation and Parole and the Juvenile Office already eFile, and in Boone the Public Administrator will begin eFiling pursuant to an administrative order on October 1. In Callaway the Public Administrator is an attorney so they are already filing electronically. Chief Juvenile Officer Ruth McCluskey in the Juvenile Office is going to work with CASA and Children's Division about filing electronically, but there is a long list of other agencies could have the agency ID. There was a discussion about other agencies including Adult Court Services. Brandon Walker said he wanted to think through the steps with the clerk's office before changing to eFiling. Judge Carpenter said there may be other discussions in the future about how the circuit does eFiling so we should wait to make a decision about Adult Court Services. Judge Carpenter asked this item be brought back at the next meeting.

9. Filing Fee and Costs – Administrative Order 11-15

Court Administrator Mary Epping said pages 11-16 of the Court en Banc's packet reflected an updated filing fees and costs. The judges hearing probate requested to start collecting a \$250 Guardian Ad Litem Fee on Petitions for Restoration on Adult Guardianships/Conservatorships and on Petitions to Terminate on Minor Guardianship/Conservatorships. These petitions often end up taking a lot of time for the Guardian Ad Litem and in the past we have not had at least the minimum of \$250 secured to pay the GAL, and it is difficult to collect after the hearing. Judge Gary Oxenhandler moved to accept the update. Second: Judge Leslie Schneider. The motion passed unanimously.

10. Drug Court Commissioner

Judge Christine Carpenter said applications for the position are due this Friday at 5 p.m. There are several options being reviewed as potential office space and it is expected to impact docket time.

11. Reappointment of the Board of Jail Visitors

Judge Christine Carpenter said everyone in Boone County wants to stay, one in Callaway County wants to leave. Judge Carol England said she would check on finding a new member for the next meeting – a male who is a Democrat. The appointment is needed for the end of the year.

12. Sexual Harassment Advisory Committee

Court Administrator Mary Epping said the Sexual Harassment Advisory Committee helps the Deputy Court Administrator prepare the annual training and are specially trained to handle complaints. There is one employee from each office. Mary asked the Court en Banc to review page 19 of the packet. Based on supervisors' recommendations, Pam Dampier from the JJC would replace Tim Gardener, and Toni Kardon from the Boone Clerk's office is up for renewal. Mary asked for the approval of Pam's appointment and Toni's reappointment. Judge Gary Oxenhandler moved to accept the committee members. Second: Judge Leslie Schneider. The motion passed unanimously.

13. Other

Court Administrator Mary Epping said the 13th Circuit Court Marshals took part in an active shooter training on Monday and it went well but, as a result, it was determined that the walk-through metal detector at the security station needed to be moved.

Judge Deborah Daniels said she was working with UMPC on forms for 96 hour mental health commitments. She asked that ROR for mental health cases be put on the next month's agenda.

14. Comments from the Public

None.

15. Next Meeting Date

The next meeting is scheduled for November 3, 2015, at 5:30 p.m. to convene in the Callaway County Courthouse, Jury Assembly Room.

Prepared and
Submitted by: Mary Epping
Mary Epping
Court Administrator

Distributed on: 10/30/15