

COURTS COMMITTEE

AGENDA

January 15, 2009 at 8:00 a.m.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of December Meeting Minutes.**
- **Mental Health Screen Update. County Attorney.**
- **Sentencing Checklist update. Judge Thompson.**
- **PD Misdemeanor Workgroup Report. Sally Cumisky.**
- **Conciliation Court Mediation – Paul Brosnahan.**
- **Discovery Workgroup Update – Bruce Nelson.**
- **Court Funding Update. Karin Sonneman and Judge Thompson.**
- **Skipping the February meeting. JDT**
- **Other issues.**
- **Next meeting: February 19 or March 19, 2009 at 8 a.m. ?**

CJCC COURTS COMMITTEE MEETING

January 15, 2009

Present: Hon. Jeffrey D. Thompson, Brian Glodowsky, Marsha Metzler, Lori Larsen, Carmaine Sturino, Tom Williams, Chuck MacLean, Lynne Caldwell, Karin Sonneman, Sue Smelser, Kalene Engel

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on March 19, 2009 at 8:00 a.m.

Discussion:

Minutes – December 18, 2008 meeting minutes APPROVED

Conciliation Court – Paul Brosnahan: Paul Brosnahan spoke with Shawn Bartsh (female) about the system they have for handling conciliation court cases in Ramsey County. Shawn volunteers along with 30 other people to hear conciliation court cases as referees. The volunteers are offered \$75/day for their time, but most do it pro bono. The referees have taken virtually the entire caseload off the judges and the cases are rarely appealed. Shawn suggests recruiting older lawyers and judges. Judge Thompson noted that Olmsted County has a strong mediation program for conciliation court cases, staffed by their law clerks. He also noted that a system such as that used in Ramsey County may afford litigants the time they want to be able to have their cases heard. He would like to take this idea back to his judge's committee and asked Kalene Engel to get documentation from Shawn as to how the program is operated.

Mental Health Screen Updates – Chuck MacLean: The County Attorney's Office has not yet drafted the order referenced in the December 18, 2008 minutes.

Sentencing Checklists Update – Judge Thompson: The sentencing checklists continue to be a work in progress. They are sometimes difficult to read (due to small print) and take more time, but they allow the parties to review what has been ordered prior to leaving the courthouse. Judge Thompson suggests that some of the standard terms, such as "defendant remain law-abiding" be placed in a section of the order which includes standard conditions.

PD Misdemeanor Update – Sally Cumiskey: Sally was not present; no update.

Discovery Workgroup Update – Carmaine Sturino: The group met on December 17, 2008 and went through how different parties receive information about criminal cases. Many issues were identified, such as the fact that the County Attorney's Office has access to some drives on which photos and recordings are kept, but the City Attorney's Office does not. One system that everyone in the group would like to see is some sort of on-line access to records. Tom Williams is coordinating a field trip to Elk River so members of the group can view the system used there, which won a national technology award. In response to a comment that it would be important to keep track of who received what discovery and when, Chuck MacLean commented that keeping track of computer access would actually be easier than what is being done now. Another important issue discussed was BCA testing requests. The BCA is

overwhelmed and it takes 10-14 days for drug testing (much longer for others, such as DNA testing). With our current practice of setting pre-trials two weeks prior to the trial, that may not leave enough time for the test results to come back. Judge Thompson notes that, in appropriate cases, pre-trials could be scheduled earlier. Chuck MacLean also notes that a request for testing could be made by the prosecution as soon as the jury trial was scheduled.

Court Funding Update – Karin Sonneman/Judge Thompson:

- At Justice Magnuson's news conference yesterday, he basically asked "what part of justice do you want us to stop doing?" Pawlenty's response was to cut business taxes and human services; however, he has also asked everyone to determine the impact of 10% across the board reduction
- Upcoming events: there is a Southeast Minnesota Coalition meeting on January 31st; a brainstorming session on Saturday, 1/17 at noon in Owatonna (the invitee list for this meeting is not known) and the Community Outreach and Diversity Committee has plans for a legislative trip on February 13, 2009.
- Gene Pelowski advised Judge Thompson that the deficit is going to be 6.5 to 7 billion, and there are no good plans on how to deal with this. The Courts have been asked to plan for a 10% cut, which is 600 people, plus an additional 30% of that amount to cover severance issues.
- The Foley bill proposed to cut judges, close courthouses, make all juvenile offenses petty and all non-targeted misdemeanors infractions to be heard by hearing officers. The maximum financial penalty for an infraction would be \$750 and any unpaid amount would be subject to revenue recapture. The bill would take effect 1/1/2011 insofar as closing courthouses are concerned.
- Some proposals suggest decriminalizing driver offenses, some of which might already be happening.

February Meeting – Judge Thompson: Because we have so many unanswered questions with respect to budget issues, for which we will likely not have answers by February, Judge Thompson suggests that we skip the February meeting. He suggests that we continue to work on pending issues and also review the list of goals (which he handed out) to determine what issues still remain to be addressed. Carmaine Sturino pointed out that the committee has been working hard on issues and does not want the missed meeting to be misconstrued as being a lack of effort or progress on committee tasks. Chuck MacLean acknowledged that the workgroups have been doing good work, but that he feels the CJCC may lose funding, and that he has been working with the County Board to save the core funding.

Thought of the Day: Just because a python can eat a pig, does not mean it can eat a hippopotamus. (Translation: We all have limits.)

Next Meeting: Thursday, March 19, 2009 at 8:00 a.m.

○ The Courts Committee Did Not Meet in
February, 2009



COURTS COMMITTEE AGENDA

FOR: March 19, 2009 at 8:00 a.m.

PLEASE NOTE: This meeting will be held in Jury Room for Judge Bostrack's Courtroom 3. We expect to be joined by a group from Clinton, Iowa who are looking to start up a Criminal Justice Coordinating Council.

- **Review and Approval of January Meeting Minutes.**
- **Crime Victims Rights Week. Cami O'Laughlin.**
- **Sentencing Checklist update. JDT.**
- **PD Misdemeanor Workgroup Report. Sally Cumiskey.**
- **Settlement Conference Update. Prosecution and Defense.**
- **Changes to in-custody meeting rooms. Karin Sonneman.**
- **Compatibility problems with Discovery. Karin Sonneman.**
- **Chief Judge Order. Sally Cumiskey.**
- **DANCO photograph. Sally Cumiskey.**
- **Court Funding Update. JDT.**
- **The Cost of Continuances. Julie Koop.**
- **Review Assignments by the Coordinating Council. JDT**
- **Other issues.**
- **Set date for next meeting. April 17 or May 21?**

CJCC COURTS SUBCOMMITTEE MEETING

March 19, 2009

Present: Hon. Jeffrey D. Thompson, Hon. Nancy L. Bostrack, Lynne Caldwell, Sally Cumiskey, Lori Larson, Rena Patterson, Kalene Engel, Julie Koop, Bruce Nelson, Tom Gort, Carmaine Sturino, Karin Sonneman, Rich McCluer, Tom Weber, Sherri Brekke, Amy Cielinski, Mike Krage, Marsha Metzler, Cami O'Laughlin, Adria Sherwood (WRC), Eryn Redig (WRC), Dave Brand, Steve Buswell, Nicole Kinn, Ron Ganrude, Angela Erickson

Special Guests: Clinton County Delegation: Brian Guy (Clinton Chief of Police), Rick Lincoln (Clinton County Sheriff) Tim McClimon (Clinton Department of Corrections), Dennis Starling (Chair – Clinton County Board of Commissioners), Judge Gary McKenrick, Craig Eberhardt (Clinton Jail Administrator), Mike Wolfe (County Attorney)

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on April 16, 2009.

Discussion:

Minutes – Approved, January Meeting Minutes

Crime Victims Rights Week – Cami O'Laughlin: Crime Victims Rights Week starts April 25 and goes through May 1st. Monday, April 25th, there will be a panel discussion in Courtroom One at 7:00 starring Judge Mary Leahy, Paul Brosnahan and others. Tuesday, April 26th there will be a presentation on Teens, Technology and Stalking at 7-9 p.m. at the Winona Senior High School Auditorium. Thursday, April 28th, there will be a presentation by Tom Gort and Chuck MacLean at the Winona State Campus on "What is the CSI Effect?" This will cover what effect CSI has on jurors, evidence retention tips and more for the community. They are still finalizing a law enforcement training concerning what ICE is, when ICE becomes involved, etc. This will be on Wednesday, April 27th, from 8:30 -10:30 a.m. Post credits will be applied for. Spread the word!

Sentencing Checklist Update – Hon. Nancy Bostrack: The Sentencing Checklist committee met last Monday. The checklist is being used in felony and gross misdemeanor cases, and they are still putting the finishing touches on it. So far everything seems to be working well. There is a second form for those cases where there are multiple counts, so people should be aware of the two separate forms. Mr. Gort noted the County Attorney's office likes the checklist, as they get the sentencing order quickly and regularly and it will be helpful down the road as it will be very clear what the orders were. It's a very efficient way for everyone to know what the sentence was. Judge Thompson noted that a response from the Department of Corrections will be incorporated into the revised format, so a sentencing order may be starting soon.

Public Defender Misdemeanor Workgroup Report – Karin Sonneman: Ms. Sonneman wanted to note that one of the successes of the CJCC has been to have traffic court staffed by the prosecutor's office and the public defender's office. Statistics have been showing that between 60-75% of the cases get resolved that same day during traffic court, which is key with budget cuts and the fact that the Public Defender's office is being pressed to not handle

misdemeanors anymore. The way traffic court is working out shows that everyone is teaming up to address problems in the system, and that this is a success story in terms of cutting down cases that have to be assigned to the Public Defender's Office. If the cases don't get settled on the first day, a second arraignment is scheduled to try to resolve the case on another date, and 14% of cases aren't resolved ultimately, which is a pretty significant number. Also, Ms. Sonneman noted that the CJCC sponsored an internship program which has provided a lot of hours to the Public Defenders that don't need to be paid for, which saves money for the Public Defender's Office and the system as a whole. The Court Administrator's office has also benefited from an intern in their office. Here in Winona with the CJCC, with the way the Traffic Court has been working, they are trying to minimize the wait listing process, but there are cases that do not resolve so there is a procedure set up. The waitlist issue is going to become more problematic as more cuts are made, and the CJCC has been really working hard to try to solve these problems before they become really critical fights. Ms. Sonneman asked that the workgroup meet again to address the waitlist issue.

Settlement Conferences Update – Karin Sonneman: Ms. Sonneman gave an update on the settlement conferences from the defense point of view. She thinks they are working really well by having the Court set aside two hours on a certain day for these conferences where the Public Defender and the prosecutor can try to resolve a case. It works especially well for "garden variety" felonies and it resolves more cases. Ms. Sonneman personally likes it as it forces her to work on a case earlier rather than later to see what can be resolved. Mr. Gort agreed with her and stated that it really gives the public defenders a chance to get in touch with their clients to talk to them, and that the public defender and the prosecutors often get together informally before settlement conferences to try to get ahead of it all and figure out what can be resolved. Judge Thompson defined what a settlement conference is in Winona County. Where the felon is not in jail, and after he pleads not guilty, the matter is set for a pre-trial and trial with a settlement conference scheduled 4-5 weeks out. The prosecutor will have a written plea proposal so there is something to discuss and hopefully it can get resolved, but if not they can get a pre-trial and trial date from the court clerk. A Judge has to be available to take guilty pleas, and if it is close to resolving but not quite there yet, it can be set for a plea hearing, otherwise it goes to trial. This is a good way to try to make every court appearance more meaningful.

Changes in Custody Meeting Rooms – Karin Sonneman: Ms. Sonneman asked that this be on the agenda because there was a change made in the custody meeting rooms, where defense attorneys meet their clients, and no one really got to have a say in the changes. What happened was that before there was a window that could be opened to talk to clients through, and pass information between them. The window is now sealed, and there is no microphone system in place. In essence, this is an attorney/client privilege problem. The other problem is that the rooms aren't sound-proof, and there aren't telephone systems set up (which would also help with interpreter situations), so basically anyone outside the room can hear what is happening inside. Ms. Sonneman would have appreciated being told about the changes, and given a chance to discuss it because it affects her discussions with clients as there is no chance for effective communication. Also, now they only effectively have one room to meet in which means that it is all getting backed up. Ms. Sturino noted also that the phones will help, but in order for the window to be open a guard needs to be there, and a lot of clients don't want to discuss their case in front of the guards. Also, you can hear everything that is going on around the rooms as well, including the elevators and the bathrooms.

Dave Brand noted that a lot of changes need to be made to get a system working properly in these rooms, which would involve moving walls, sound-proofing, and getting phone systems set up. Ms. Cumiskey noted that there are plans by the county to make some modifications. Judge Thompson suggested a workgroup be set up. Sally Cumiskey will chair the group, and Karin Sonneman, Carmaine Sturino, Dave Brand, Mike Krage and Lacey Crownheart will be a part of it.

Local Use of Criminal Surcharges: Sally Cumiskey asked if prosecutors could ask for costs of prosecution. Chuck MacLean indicated that he has to do affidavits, etc. to do so. Judge Thompson says if costs for buy money or out-of-state witnesses are supposed to be imposed on Defendants based upon ability to pay. Chuck MacLean says this issue came from the County Board and they wanted to know why they could not get such money. The MN County Association lobbyist, Nancy Haas (who is also the lobbyist for the District Judges Association) did not feel that this would be a good use of time. Right now, criminal surcharges go into the general fund. Chuck says that he can certainly put together prosecution costs affidavits and see where it goes. -Could we change how the forfeiture funds (cars, money) are divvied up? The lobbyist stated that if you play with that, you'll get a smaller piece.

Compatibility Problems with Discovery – Karin Sonneman: Ms. Sonneman would like to join the work group on this, chaired by Bruce Nelson, as there are continuing discovery issues. Mr. Gort thinks it makes sense that there needs to be standards in discovery forms, but because there are different departments using different formats, sometimes additional software is needed. Mr. Gort would like to be on the committee as well. Ms. Engel also suggested that Mark Anderson from IT should be on the meeting. Mr. Nelson will call a meeting to deal with this issue.

Chief Judge Order – Sally Cumiskey: Ms. Cumiskey updated the group on an order by the Chief Judge that is going to allow the prosecutors to issue their won subpoenas. This is a great benefit for the court administration to process things more quickly, especially as more staff is lost. Ms. Cumiskey is looking into a way through MCAPS to get the Court Administration signature on the subpoenas so that the prosecutors don't even need to come to court administration to get them signed. Also, they won't have to file them back with court administration unless there is a witness fee to pay or for certain other reasons. This is a good example of a way in which they are trying to make things more efficient.

DANCO Photograph – Sally Cumiskey: Ms. Cumiskey stated that committees in St. Paul are trying to figure out how to attach photos to DANCO orders over the computer. The rule now states that the judge may include a photograph of the defendant with the Order as it goes out. It has never really been used but has recently come back to the court's attention. The work on the photo pass is actively underway, and hopes to be in place by early September.

Court Funding Update – Judge Thompson: Judge Thompson stated that there are a lot of issues with not having adequate court funds, especially as there have not been adequate funds for 6 years. The Governor's original proposal was a 5% court cut, which would lead to staff cuts. The Senate proposal is now for a 7% cut. Gene Pelowski (state representative) says that the 7% assumes 2 billion dollars of new revenue, but as there isn't going to be any new revenue, the Senate proposal is actually a 15% cut. Judge Thompson notes that if you look at it that way, we would have to cut our staff by about 30%.

The Governor came out with a new proposal, leaving the courts the same and giving the courts 10 million more for the next biennium. It looks as though what he's proposing is to leave most other agencies flat or cut them a little, and really is going to hammer health and human services. Judge Thompson's conclusion is that they are playing a game of chicken and hopefully someone will step into solve the problem, but that doesn't look likely. There are lots of contingency plans, and the Chief Justice has made it clear that if the cuts happen, lots of things will stop happening (conciliation court, petty misdemeanors, quality of life crimes), and we will have to concentrate on processing serious crime offenses. More will be known in the next month, but we really don't know what will happen.

The Cost of Continuances – Julie Koop: Ms. Koop noted that the impact of continuances on scheduling is getting more demanding. The requests are on the rise, and it takes at least 10 minutes to process one request. It involves getting the request, getting the files, trying to enter them, answering calls about the request, getting it back from the judge, checking calendars with the attorneys, entering it in the system, changing dates, and changing codes. Half of Ms. Koop's day is processing continuances, and also Defendants have started calling her to try to reach their attorneys because everyone is just so busy.

Judge Thompson stated that there are often good grounds for asking for a continuance, but there are times when the requests are being made for not so good reasons, and so please keep in mind the impact on the system that they have. The more people we lose, the longer it is going to take to process these requests. Ms. Sturino noted that some of the scheduling problems lately have been improved and the Judges have been very good about understanding that attorneys are often scheduled in multiple courtrooms at one time. She also wanted it noted that the other side of the coin is that if they don't get the continuances, than they will be in multiple courtrooms and everything can get backed up that way, so it goes both ways. Everyone is trying to do their best, and there are positive changes happening, but it's frustrating and hard, and it would be best to try not to create more problems just by fixing one of them.

Review Assignment by the Coordinating Council – Kalene Engel: The action plan goals are going to be reviewed at the June Strategic Planning Session. Ms. Engel would like everyone to think about issues that this committee should address in the upcoming year. A lot of the goals of the committee are very broad, so she would like to hear about specific issues. Ms. Engel will bring them back to the committee to deal with those issues. Please e-mail any specific issues to be dealt with to her, so they can fix whatever they can.

Next Agenda:

Review and Approval of Minutes

Changes to in-custody meeting rooms update – Sally Cumiskey



CSI:

CRIME SCENE INVESTIGATION

What is the CSI Effect?

As part of National Crime Victim Right's Week (NCVRW), County Attorney Chuck MacLean and Assistant County Attorney Tom Gort will explore the CSI Effect and what impact it may have on local cases. This presentation will also focus on evidence retention tips for the community.

When: April 30th, 2009 at 7 p.m.

Where: The large courtroom in the National Child Protection Training Center on the WSU Campus



For more information about this event, or any of the other NCVRW events, contact the Women's Resource Center at (507) 452-4440, or Winona County Victim Services at (507)457-6586



This project is supported by a 2009 National Crime Victims' Rights Week Community Awareness Project subgrant awarded by the National Association of VOCA Assistance Administrators under a Victims of Crime Act grant from the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime.

APPEARANCES:

Prosecutor

Defense Attorney

Defendant

FILE No. ICR No.	CT. No.	CHARGE	LEVEL	MINN. STAT. §	OFFENSE DATE	CONVICTION DATE/TYPER (PLEA/GUILTY BY COURT/GUILTY BY JURY)
85-CR- ICR: #						

SENTENCE:

<input type="checkbox"/> Sentence Executed	<input type="checkbox"/> Imposition Stayed	<input type="checkbox"/> Probation Before Conviction/Minn. Stat. § 152.18
<input type="checkbox"/> Sentence Imposed/Execution Stayed	<input type="checkbox"/> Adjudication Stayed	<input type="checkbox"/> Continued for Dismissal
<input type="checkbox"/> ___ Yrs. ___ Mos. ___ Days		<input type="checkbox"/> 2/3rds language needed

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<input type="checkbox"/> ___ Yrs. ___ Mos. ___ Days		<input type="checkbox"/> 2/3rds language needed

APPENDIX A ON THE REVERSE SIDE IS A PART OF THIS ORDER

RE: STATE OF MINNESOTA VS. _____

OBATION:

Supervised: DOC-FEL 10 Washington St., Winona DOC-CU 5th Floor, Courthouse, Winona Unsupervised to Court Term

GENERAL CONDITIONS	<input checked="" type="checkbox"/> Law Abiding Behavior	<input type="checkbox"/> Alcohol Assessment	<input type="checkbox"/> Psychological Evaluation	<input type="checkbox"/> Follow Recommendations
	<input checked="" type="checkbox"/> Sign Probation Agreement w/i 14 days	<input type="checkbox"/> CD Evaluation	<input type="checkbox"/> Psycho-Sexual Evaluation	<input type="checkbox"/> Provide Releases
	<input type="checkbox"/> CWS/STS Hours _____	<input type="checkbox"/> Dom. Viol. Inventory	<input type="checkbox"/> Other:	
	<input type="checkbox"/> Cognitive Skill Program	<input type="checkbox"/> No Alcohol Use	<input type="checkbox"/> Stay Out of Bars and Liquor Stores	
<input type="checkbox"/> DNA Sample	<input type="checkbox"/> No Controlled Substance Use	<input type="checkbox"/> No Association with Persons Known to Defendant to be Using or in Possession of Alcohol		
<input type="checkbox"/> Sex Offender Registration	<input type="checkbox"/> Random Testing	<input type="checkbox"/> No Association with Persons Known to Defendant to be Using or in Possession of Controlled Substances		
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:			
<input type="checkbox"/> No Contact w/Victim(s)	<input type="checkbox"/> Cancel Interim DANCO Order			
<input type="checkbox"/> No Uninvited Contact w/Victim(s)	<input type="checkbox"/> DANCO Sentencing Order			
<input type="checkbox"/> No Contact w/Persons Under _____	<input type="checkbox"/> No Unsupervised Contact w/Persons Under _____			
<input type="checkbox"/> Excluded from Victim(s) Residence at _____				
<input type="checkbox"/> Excluded from Victim(s) Employment at _____				
<input type="checkbox"/> Other:				

FINANCIAL CONDITIONS	<input type="checkbox"/> Fine\$ _____	<input type="checkbox"/> Discharge Bond
	<input type="checkbox"/> Restitution.....\$ _____	<input type="checkbox"/> Apply Cash Bail to Financial Obligations
	<input type="checkbox"/> Alcohol Assm. Fee.....\$ _____	<input type="checkbox"/> Refund Balance to Defendant
	<input type="checkbox"/> Prosecution Costs\$ _____	<input type="checkbox"/> Other:
	<input type="checkbox"/> Surcharge/Law Library\$ _____ 80.00	
	<input type="checkbox"/> Financials Due in Full: _____	
	<input type="checkbox"/> Payment Agreement	

JAIL	<input type="checkbox"/> _____ Days Jail	<input type="checkbox"/> _____ Days Stayed for _____
	<input type="checkbox"/> _____ Days EHM	<input type="checkbox"/> Alco Sensor <input type="checkbox"/> GPS
	<input type="checkbox"/> Credit for Time Served: <input type="checkbox"/> _____ Days <input type="checkbox"/> Since _____	<input type="checkbox"/> STS - Day for Day Credit
	<input type="checkbox"/> Huber Release Subject to the Sheriff's Policy for: <input type="checkbox"/> Employment <input type="checkbox"/> School <input type="checkbox"/> Other: _____	
	<input type="checkbox"/> Report: <input type="checkbox"/> Immediately <input type="checkbox"/> By _____	

OTHER	<input type="checkbox"/> Other Charges Dismissed:	<input type="checkbox"/> Probation: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive w/ _____	<input type="checkbox"/> Jail: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive w/ _____
	<input type="checkbox"/> Other: _____ _____ _____		

Dated: _____

Judge of District Court

TEENS, TECHNOLOGY, & STALKING: THINGS YOU SHOULD KNOW

With

Jodi B. Rafkin
Staff Attorney

National Stalking Resource Center
Washington, DC

Jodi B. Rafkin joined the National Center for Victims of Crime in June 2008 and works as the Program Attorney for the Stalking Resource Center. Jodi has trained on various topics, including stalking, domestic violence, sexual assault, international assistance, and counter terrorism. Prior to joining the National Center, Jodi was a Deputy District Attorney in Los Angeles County, an Assistant U.S. Attorney in the Eastern District of California, and a consultant for the American Bar Association, where she worked in developing countries to promote criminal justice reform and the rule of law. She has over 20 years experience working with victims of crime, prosecuting cases involving sexual assault and domestic violence at the state and federal levels, and was the Violence Against Women Act Coordinator for the Eastern District of California.

When: April 28, 2009 at 7 p.m.

Where: Winona Senior High School Auditorium
901 Gilmore Ave, Winona, MN

Stalking affects 3.4 million people every year in the United States. No one is immune to becoming a victim of stalking. Nearly 75% of all stalking victims knew their offender. While methods of stalking vary greatly, cyberstalking is quickly becoming a significant problem. Email, instant-messaging, blogs, computer spyware, GPS tracking, listening devices, and video/digital surveillance are affecting 1 in 4 stalking victims each year.

This presentation is designed to address how stalking is affecting our teens and what we as a community need to know.

For more information about this event, or any of the other NCVRW events, contact the Women's Resource Center at (507) 452-4440, or Winona County Victim Services at (507) 457-6586



WINONA COUNTY
VICTIM SERVICES



Stalking
resource center

THE NATIONAL CENTER FOR
Victims of Crime

This project is supported by a 2009 National Crime Victims' Rights Week Community Awareness Project sub-grant awarded by the National Association of VOCA Assistance Administrators under a Victims of Crime Act grant from the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime.

As part of National Crime Victims' Rights Week,
Winona County Victim Services and the Women's Resource Center present:



Civil Options for Victims of Crime: A Panel Discussion

Panelists:

The Honorable Mary C. Leahy, Attorney Dan
Heuel & Attorney Paul Brosnahan

Discussion to include the reasons to file a civil lawsuit, a comparison of the civil and criminal justice system, statutes of limitations and information your attorney will need.

Monday, April 27th, 2009

7:00 p.m.

Winona County Courthouse, Courtroom 1
171 West Third Street, Winona

**For more information about this event, or any of the other NCVRW events,
contact the Women's Resource Center at (507)452-4440, or Winona County
Victim Services at (507)457-6586**

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DANCO ORDERS

299C.46 CRIMINAL JUSTICE DATA COMMUNICATIONS NETWORK.

Subdivision 1. **Establishment; interconnection.** The commissioner of public safety shall establish a criminal justice data communications network which will enable the interconnection of the criminal justice agencies within the state into a unified criminal justice information system. The commissioner of public safety is authorized to lease or purchase facilities and equipment as may be necessary to establish and maintain the data communications network.

Subd. 2. **Criminal justice agency defined.** For the purposes of sections 299C.46 to 299C.49, "criminal justice agency" means an agency of the state or an agency of a political subdivision charged with detection, enforcement, prosecution, adjudication or incarceration in respect to the criminal or traffic laws of this state. This definition also includes all sites identified and licensed as a detention facility by the commissioner of corrections under section 241.021.

Subd. 2a. **Noncriminal justice agency defined.** For the purposes of sections 299C.46 to 299C.49, "noncriminal justice agency" means an agency of a state or an agency of a political subdivision of a state charged with the responsibility of performing checks of state databases connected to the criminal justice data communications network.

Subd. 3. **Authorized use, fee.** (a) The criminal justice data communications network shall be used exclusively by:

- (1) criminal justice agencies in connection with the performance of duties required by law;
- (2) agencies investigating federal security clearances of individuals for assignment or retention in federal employment with duties related to national security, as required by Public Law 99-169;
- (3) other agencies to the extent necessary to provide for protection of the public or property in an emergency or disaster situation;
- (4) noncriminal justice agencies statutorily mandated, by state or national law, to conduct checks into state databases prior to disbursing licenses or providing benefits;
- (5) the public authority responsible for child support enforcement in connection with the performance of its duties;
- (6) the public defender, as provided in section 611.272; and
- (7) a county attorney or the attorney general, as the county attorney's designee, for the purpose of determining whether a petition for the civil commitment of a proposed patient as a sexual psychopathic personality or as a sexually dangerous person should be filed, and during the pendency of the commitment proceedings.

(b) The commissioner of public safety shall establish a monthly network access charge to be paid by each participating criminal justice agency. The network access charge shall be a standard fee established for each terminal, computer, or other equipment directly addressable by the data communications network, as follows: January 1, 1984 to December 31, 1984, \$40 connect fee per month; January 1, 1985 and thereafter, \$50 connect fee per month.

(c) The commissioner of public safety is authorized to arrange for the connection of the data communications network with the criminal justice information system of the federal government, any adjacent state, or Canada.

Subd. 4. **Commissioner administers and coordinates.** The commissioner of public safety shall administer the data communications network and shall coordinate matters relating to its use by other state agencies and political subdivisions. The commissioner shall receive the assistance of the commissioner of administration on matters involving the Department of Administration and its information systems division. Other state department or agency heads shall assist the commissioner where necessary in the performance of the commissioner's duties under this section.

Subd. 5. **Diversion program data.** Counties operating diversion programs under section 401.065 shall supply to the bureau of criminal apprehension the names of and other identifying data specified by the bureau concerning diversion program participants. Notwith-

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standing section 299C.11, the bureau shall maintain the names and data in the computerized criminal history system for 20 years from the date of the offense. Data maintained under this subdivision are private data.

Subd. 6. Orders for protection and no contact orders. The data communications network must include orders for protection issued under section 518B.01 and no contact orders issued under section 629.715, subdivision 4. A no contact order must be accompanied by a photograph of the offender for the purpose of enforcement of the order, if a photograph is available and verified by the court to be an image of the defendant.

History: 1965 c 903 s 1; 1967 c 334 s 2; 1977 c 424 s 1; 1983 c 293 s 92; 1986 c 444; 1987 c 166 s 1; 1993 c 326 art 10 s 8; 1996 c 440 art 1 s 51; 1997 c 159 art 2 s 44,45; 1997 c 203 art 6 s 31; 2000 c 377 s 4; 2001 c 167 s 1; 2007 c 54 art 4 s 1

299C.47 [Repealed, 1976 c 149 s 63]

299C.48 CONNECTION BY AUTHORIZED AGENCY; FEE, APPROPRIATION.

(a) An agency authorized under section 299C.46, subdivision 3, may connect with and participate in the criminal justice data communications network upon approval of the commissioner of public safety; provided, that the agency shall first agree to pay installation charges as may be necessary for connection and monthly operational charges as may be established by the commissioner of public safety. Before participation by a criminal justice agency may be approved, the agency must have executed an agreement with the commissioner providing for security of network facilities and restrictions on access to data supplied to and received through the network.

(b) In addition to any fee otherwise authorized, the commissioner of public safety shall impose a fee for providing secure dial-up or Internet access for criminal justice agencies and noncriminal justice agencies. The following monthly fees apply:

- (1) criminal justice agency accessing via Internet, \$15;
- (2) criminal justice agency accessing via dial-up, \$35;
- (3) noncriminal justice agency accessing via Internet, \$35; and
- (4) noncriminal justice agency accessing via dial-up, \$35.

(c) The installation and monthly operational charges collected by the commissioner of public safety under paragraphs (a) and (b) are annually appropriated to the commissioner to administer sections 299C.46 to 299C.50.

History: 1965 c 903 s 3; 1967 c 334 s 2; 1973 c 123 art 5 s 7; 1977 c 424 s 2; 1987 c 166 s 2; 1987 c 320 s 2; 1Sp2003 c 2 art 4 s 9

299C.49 GRANT REVIEW.

The commissioner of public safety, after consultation with representatives of criminal justice agencies, shall review all grant requests for federal and state funds from the Governor's Commission on Crime Prevention and Control or its successor for criminal justice information systems and recommend action to the commission.

History: 1977 c 424 s 3

299C.50 TRANSFER OF FUNCTIONS.

The commissioner of public safety shall perform all duties in respect to the state's criminal justice information system which were transferred from the commissioner of finance and the Governor's Commission on Crime Prevention and Control by executive order of the governor; provided, that a transfer shall not occur if the state is informed by a federal agency that the transfer will result in the loss of federal moneys to which the state would otherwise be entitled pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 351, as amended by the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415, and the Crime Control Act of 1976, Public Law 94-503.

History: 1977 c 424 s 4

Third Judicial District Court Administration Procedures Order

WHEREAS, the Minnesota Judicial Council has authorized the allocation of trial court funds to the Third Judicial District for fiscal year 2009; and

WHEREAS, the funds allocated to the Third Judicial District for fiscal year 2009 are not adequate to fund the District's operational expenditures and staffing study complement of personnel; and

WHEREAS, the Third Judicial District reduced its personnel expenditures in order to structurally balance its budget by the close of the 2008-2009 biennium; and

WHEREAS, the workload of the District is not expected to diminish while staffing levels are being reduced; and

WHEREAS, the Third Judicial District Court Administration Team (3DAT) compiled a list of administrative procedures that will result in time savings for staff; and

WHEREAS, at the January 30, 2009 bench meeting, judges of the District recommended that each court Administration office implement those administrative procedures.

Now, therefore,

IT IS ORDERED THAT:

Effective February 17, 2009, Court Administration will implement the following practices:

1. Do not make repeated efforts to remind guardians and conservators to file required reports and accountings. Use the Notice of Annual Accounts, which sets a default hearing which will be cancelled upon receipt of the accounting. If the accounting documents are not filed, proceed to the Order to Show Cause process.
2. All public requests for copies must be in writing and the fee included with the request. Phone requests should not be accepted, and no copies should be made until the fee is paid.
3. Discontinue formal court orders on juvenile traffic cases and discontinue using sentencing orders on all misdemeanor matters.

STATE OF MINNESOTA

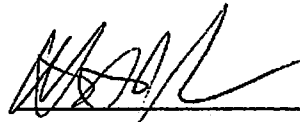
DISTRICT COURT

THIRD JUDICIAL DISTRICT

Third Judicial District Court Administration Procedures Order

The attached Order is meant to address administrative issues with a minimal impact on judicial adjudicative issues. If any part of the order will detrimentally impact adjudicative issues, please contact the undersigned. I can either amend the order if the problem is widespread, or make individual county exceptions for local problems. I suggest each county review #3, particularly, to ensure that will not inadvertently cause unintended problems if the orders are important to an individual county's juvenile or misdemeanor processes.

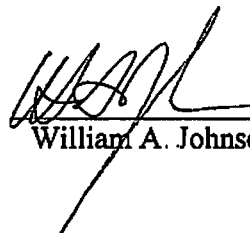
February 6, 2009.



William A. Johnson, Chief Judge

4. Discontinue filing subpoenas – both in the file and on MNCIS – and allow parties to retain the subpoena until there is an issue with a witness failing to appear or a request for witness fee payment is made.
5. Allow prosecutors to issue their own subpoenas similar to civil rules.
6. Discontinue whenever possible the paper pay agreement. Utilize MNCIS payment plan.
7. Whenever possible, judges should dispose of juvenile petty offenses in the court that took the admission. Discontinue change of venue on these files
8. Do not file any attachments on conciliation court cases. Have parties bring this information to court instead of filing with the claim.
9. Court Administration will stop baby-sitting files for documents that are supposed to be filed by parties; e g., findings. CA should close the file. And if the findings are subsequently received, they will be filed. If not, the CA will not monitor for them.
10. Consider discontinue reviewing Cases Without Activity and Cases Without Future Hearings reports and use the Judicial Pending Assignments Report instead.
11. Discontinue checking *all* transactions on the Transaction Listing Report and spot check transactions instead.
12. On IV-D cases where there's an interpreter and those hours are reported monthly for federal reimbursement, have the district interpreter schedule tally those hours for the entire district rather than each county do their own. This could be accomplished by having staff in each county enter "IV-D" in the comments when requesting an interpreter.
13. Follow Work Flow Standards policy approved by 3DAT. (See Attachment A.)

Dated this 6th day of February, 2009



William A. Johnson, Chief Judge

COURTS COMMITTEE AGENDA

FOR: April 16, 2009 at 8:00 a.m.

PLEASE NOTE: This meeting will be held in the Courtroom 2 Jury Room.

- **Review and Approve March Minutes.**
- **DHS Assistance for Corrections. Sherri Brekke.**
- **Sentencing Checklist update. Judge Bostrack**
- **Last Minute Calendar Additions. Julie Koop**
- **The Cost of Continuances. Julie Koop**
- **In-custody meeting rooms update. Sally Cumiskey**
- **Review Coordinating Counsel Assignments. JDT**
- **Court Funding Update. JDT**
- **Leadership Succession for the Courts Committee. JDT**
- **Other issues?**
- **Next meeting May 21, 2009 at 8 a.m.**

CJCC COURTS SUBCOMMITTEE MEETING

April 16, 2009

Present: Hon. Jeffrey Thompson, Hon. Nancy Bostrack, Hon. Mary Leahy, Chuck MacLean, Rich McCluer, Judy Gilow, Brian Glodowski, Bruce Nelson, Carmaine Sturino, Christine Ledebuhr, Sally Cumiskey, Lynne Caldwell, Sue Smelser, Julie Koop, Marsha Metzler, Rena Patterson, Teri Hendersen, Kalene Engel, Karin Sonneman, Nicole Kinn Sherri Brekke

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on May 21, 2009.

Discussion:

Minutes – Approved, March Meeting Minutes

Award Ceremony for CJCC Student Interns: Sally Cumiskey – Ms. Cumiskey, CJCC Vice-Chair, presented Certificates to Erin Nibbe, Brianna Jahnke, Dorie Bjerklie, Christine Ledebuhr, Tiffany Stavish and Angela Erickson in appreciation of their hours of volunteer time to the CJCC. Thank you for all your hard work!

Sentencing Checklist Update – Hon. Nancy Bostrack: Judge Bostrack reported that there is now a multi-page sentencing checklist which is in bigger print and allows for the handling of multiple counts. The Appendix has also been reworked so it is more useful to Defendants. The checklist seems to be working well. Thanks to Lynne Caldwell for putting the checklist together.

DHS Assistance for Corrections – Sherri Brekke: Ms. Brekke reported that DHS is going to be assisting Corrections in placement for individuals with a mental health diagnosis. DHS will be assigning a mental health case manager who would assist with service planning, transition and service coordination when these individuals come back to the community. The details and official start date for this still have to be worked out.

Last Minute Calendar Additions – Julie Koop: Ms. Koop reported that there have been numerous requests to add cases onto the calendar with respect to juveniles who are already scheduled for court but has additional charges. This creates problems because the parents are supposed to get five days advance notice.

Continuances – Julie Koop: Ms. Koop noted that continuances take a lot of time, and they are on the rise lately. Sally Cumiskey noted that when Ms. Koop was gone, there were a lot of last minute requests. Ms. Cumiskey wants to know why this happens when the attorneys have sometimes three months before the set date. Chuck MacLean reminded everyone that it's not just the cost to the court administration, but also the cost of justice, the cost of denying the continuance when a request is made. We are all busy and pressed for time, and usually when the parties agree to a continuance it should be granted. Judge Thompson noted that we're going to have to start prioritizing cases and pretty soon, new dates are going to be 6-12

months out. Judge Leahy said that we need to look at it case by case, so both sides need to be a little more giving in thinking about how much time it takes for everyone involved. Judge Leahy noted that the most annoying cases are when the files should have been looked at ahead of time to ask for a continuance.

On a related note, Carmaine Sturino just wanted everyone to have a heads up that she is assuming the waitlisted adult misdemeanor cases which are also heard on Tuesdays, when she has juveniles. She isn't exactly sure yet where to put all her time, but she is giving a head up that these could conflict and last minute changes may need to be made. Karin Sonneman added that we all need to recognize that there are not enough Public Defenders so it puts a lot of pressure on them, and continuances are not just frivolous, there is usually a good reason. When it is a good day for one party, it may not be for another, so we should all be thinking of everyone involved. Judge Thompson said that we have to be able to communicate and not "cannibalize" the system. He reminded everyone that this is the reason we have this committee, and people have to recognize that the less resources we have the less efficient we become.

Brian Glodowski asked why we couldn't set more default omnibus on for more than 3 per ½ hour. Judge Bostrack suggested that on Friday afternoons we set all default omnibus hearings for 1:30, and Judge Leahy suggested that an omnibus should be default unless there is a written motion. Chuck MacLean agreed with this.

In-Custody Meeting Rooms – Sally Cumiskey: Sally Cumiskey stated that the workgroup met on April 2nd. The issues are with the 4th floor meeting rooms' headsets and soundproofing, and that the 3rd Floor room is unavailable. In the short term, it was decided to reopen the 3rd floor holding room. In the long term, the county would come up with a plan to make it more convenient. At the judges meeting, it was agreed to use the 3rd floor room. If the attorney does not want to use the 3rd floor room, they still have the options to go to the 4th floor room or to meet at the jail. Ms. Cumiskey noted that the work group is getting together next month to discuss progress, but who pays for it is another issue. Karin Sonneman asked for an update on the phone issue in the room, and Sally Cumiskey said that Lacy is working on it. Carmaine Sturino noted that the headsets are not working right now. Sally Cumiskey said that the architect that designed the building will be here April 24 if anyone wanted to meet him and discuss it.

Review Coordinating Council Assignments – Judge Thompson: The Discovery Committee headed by Bruce Nelson is still meeting and looking into pure e-discovery. Chuck MacLean had a question about whether getting discovery to defense attorneys before Rule 8's was getting better, and both Carmaine Sturino and Karin Sonneman said that it is better but not always the best. Rich McCluer noted that paper discovery seems to be timely, but digital seems slow. Ms. Sturino said they were working out a way to receive all of the juvenile discovery together and to create some form to get all the discovery.

The Pro Bono/Private Bar Rep, headed by Rich McCluer, has no organized group. Mr. McCluer is still attempting to recruit individuals to take cases. He is also taking cases himself. Judge Thompson thinks we should do an afternoon CLE to get lawyers up to speed on trial tactics in an effort to encourage some lawyers to take on pro bono cases when they don't do a lot of criminal work.

Judge Thompson asks Kalene Engel to make the Council Assignments list in bigger print and to eliminate the committee headed by Retired Judge Challeen. The assignments will be prioritized at the next meeting.

Court Funding – Judge Thompson: Judge Thompson stated that we are the only district in the state that has one judge counties. This will probably end soon because of proposals to delay filling judge vacancies (about 5 judges are going to retire). The best case scenario is court cuts of 5%. Voluntary unpaid leave has been requested of court staff, and may possibly be requested of the judges. These efforts are to prevent further layoffs. We don't know exactly what will happen yet.

Next Agenda:

Review and Approval of Minutes

Changes to in-custody meeting rooms update – Sally Cumiskey

New Chair – Judge Bostrack will be taking over for Judge Thompson.

Traffic Court issue – late arrival of defendants – Stephanie Sheire

Council Assignment list – Judge Thompson and Kalene Engel

COURTS COMMITTEE AGENDA

MAY 21, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- Review and Approval of April Meeting Minutes
- Traffic Court – Stephanie Sheire
- Children’s Justice Initiative – Judge Leahy & Kalene Engel
- Counsel Assignment list – Judge Thompson & Kalene Engel
- Conciliation Court – Kalene Engel
- Sentencing Worksheet Review – Judge Bostrack
- Scheduling and Continuances
Personal Info Details Disclosure Open Court RICH McCUER
- Other Issues
- Date for Next Meeting: June 18th or June (25) 2009 at 8 a.m.?

CJCC COURTS SUBCOMMITTEE MEETING

May 21, 2009

Present: Hon. Nancy Bostrack, Rich McCluer, Judy Gilow, Brian Glodosky, Bruce Nelson, Carmaine Sturino, Tammy Merchlewitz, Sally Cumiskey, Sue Smelser, Julie Koop, Marsha Metzler, Kalene Engel, Karin Sonneman, Nicole Kinn Sherri Brekke

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on the fourth Thursday, June 25, 2009.

Discussion:

Minutes – Approved, April Meeting Minutes

Traffic Court – Stephanie Sheire – Ms. Sheire could not attend the meeting, however it was discussed that her concern was that when individuals come to traffic court late, there is a lot of running up and down when they finally get there. Judge Bostrack shared that the judges discussed this at their meeting, and everyone agreed to *try* the following procedure:

1. Prosecutors/Public Defenders meet with on-time people.
2. When the court has gotten through the on-time individuals, Prosecutors/Public Defenders can leave.
3. Individuals showing up after the attorneys have left will be checked in, put on a list, and given a copy of their rights to read.
4. Prosecutors/Public Defenders will return at 9:30 to meet with late individuals. 9:45 might work just as well.
5. Late individuals will appear at the beginning of the 10 o'clock calendar.

Ms. Sturino noted that while everyone wants to see the cases get done, most of the attorneys have to be at the 10:00 rule 8's, and those can go until noon because of how many are scheduled. This is why 9:30 or 9:45 might work better.

Children's Justice Initiative – Hon. Mary Leahy and Kalene Engel: Ms. Engel received a letter from Judge Leahy about it. It seems that the Children's Justice initiative works closely with a bunch of different departments (consistent with the CJCC). Ms. Engel wants to form a committee that would inform the courts committee on what is happening with the Children's Justice Initiative, so that if they were ever to try for grant funds through the CJCC or needed the CJCC's help, it would be helpful to have an established group contact. The committee would only be utilized to report to the courts committee on the Children's Justice Initiative's progress. Sally Cumiskey and Judy Gilow volunteered to have their names put on the committee as they are also on the Children's Justice Initiative committee.

Counsel Assignment List – Hon. Jeff Thompson and Kalene Engel: Ms. Engel noted that most things on the list have already been done, so they are looking to put new items on the list. There will be a strategic planning meeting for the CJCC in September, so any new

suggestions should be given to Kalene Engle before then. Sally Cumiskey suggested adding "e-filing" to the list as it requires a partnership with prosecutors and law enforcement, and there are multiple counties in the third district that are doing it successfully. It was noted that there is already a discovery workgroup, and Mr. Nelson stated that it is going to require a significant investment in new software. Sally Cumiskey just doesn't want to be the only county in the district that isn't doing something about it.

Another suggestion was having a "continuances" workgroup. Julie Koop noted that the number of requests goes up and down, sometimes there are a lot and sometimes there are very few. Kalene Engel said she would put it on the list, and when it becomes a priority again, they can look into it further.

Conciliation Court – Kalene Engel: Kalene Engel noted that a new statute has been passed that allows the chief judge to appoint referees to manage conciliation court. Judge Bostrack said that the judges have talked about it, and they don't know what the chief judge is going to do about this yet, but the fact that conciliation court here would still need the support staff, it's not clear that referees would be helpful. There is also a concern about the district paying someone to do the job, and where would the money come from. Nicole Kinn suggested a mediation program consisting of law clerks and pro bono attorneys who could come in and do mediation with contested cases before it even had to go before a judge or referee to try to alleviate some of the time it took. Kalene Engel asked if some of the money from the 3rd district bar association that comes to the private bar could be allocated to this project. Ms. Sturino inquired about whether this was something that we could take back to the private bar association to get lawyers involved in the pro bono mediation. Mr. McCluer said that there would probably be more interest in this than in representing misdemeanor cases pro bono. Ms. Sturino suggested this be put on the workgroup committee list. Judge Bostrack suggested we put this on next month's agenda and see where it goes. Judge Bostrack will check with the chief judge to see what his thoughts are and will also talk to the other Winona County judges about the mediation aspect of it.

Sentencing Worksheet Review – Hon. Nancy Bostrack: Judge Bostrack updated the group on how using the sentencing worksheet was going. She said that from the judge's point of view everything seems to be working just fine. Mr. McCluer noted that he likes how they are being used as well.

Scheduling and Continuances – Julie Koop: Ms. Koop noted that as of now there is nothing new to report. She did indicate that she has been scheduling default omnibus hearings on Friday afternoon as suggested at the last meeting, but we probably won't see those until July or August.

Personal information/details and disclosure in open court – Rich McCluer: Mr. McCluer noted that the procedure of when defendants come in front of the court, and the court asks them to recite their phone number and address in open court could have consequences. There is often a large gallery of people sitting in court, and anyone there could write the Defendant's information down and use it. It is understood that the goal of getting the information is because Defendants are often bouncing around and in theory this makes it easier to keep in touch with them, however Mr. McCluer was wondering if there wasn't some way to make this more confidential. Ms. Koop noted that it is nice to get the phone number as it makes it easier when there is an emergency or a request for a continuance. Sally Cumiskey

suggested that this be put on the judge's meeting agenda. Rich McCluer suggested that there be some type of paper form that could be sitting on the counsel's table that the Defendant could fill out while sitting there and it could be put in the file. Ms. Cumiskey commented that there are more and more forms to keep track of right now, and when something like this gets forgotten then there would be nothing at all. Mr. Nelson also noted that it is helpful to have it read out loud as the prosecutors sometimes need updated contact information as well, so any form would really need to be in triplicate. Ms. Koop stated that because the address portion is in a different screen in MNCIS, the clerks are sometimes not entering it into MNCIS immediately, so a form probably wouldn't add more time for them anyway. Ms. Sturino suggested this also get put on Ms. Engel's strategic planning workgroup list.

Other Issues – Hazardous Exhibit Policy: Sally Cumiskey stated that we do have a hazardous exhibit policy. A copy of this policy is attached to these minutes for everyone to review.

Other Issues – Holding Room Update: Sally Cumiskey updated the group that the phones for the fourth floor holding room have been ordered and they expect they will be put in the week of June 1st. The long-term plan for the 3rd floor is to add a wall and move the buttons on the elevator, but the issue is who is going to fund this. In the meantime, the 3rd floor holding room is being used unless there is an objection by an attorney.

Other Issues – Level of Sentence: Sally Cumiskey noted that right now MNCIS doesn't show the level of sentence and has never shown the level of sentence. However in June, MNCIS will show the accurate level of sentence.

Other Issues – Walk in My Shoes Program: Karin Sonneman wanted to let everyone know about this program. It will be like a shadow program where members of the community, or anyone interested, can see how different entities in the system work. They are looking for volunteers who would be willing to be shadowed, and it can be anyone in the criminal justice system. They think they will do it in the fall, and there will be a survey out at the county fair to determine interest. They are trying to bring the criminal justice system to the public so they can see how it works.

Other Issues – Community Outreach Open House: Karin Sonneman noted that Community Outreach is having an open house either September 27th or October 4th. This is through the Historical Society and Minnesota World Partners. They are looking for volunteers who will help with a tour of the courthouse and learning stations. They will be doing a mock trial, so anyone interested in playing a part should let Ms. Sonneman know. There is a planning meeting on May 27th at 7:30 a.m. at the Country Kitchen if you anyone wants to join and help out.

Other Issues – Court Budget: Sally Cumiskey noted that the budget is better than expected, but a lot of it will depend on union negotiations that haven't taken place yet, so we'll just have to wait and see.

Next Agenda:

Review and Approval of Minutes

Conciliation Court – Kalene Engel

New Laws – Sally Cumiskey

Continuance Requests And the Need for Waiver of Time Frames - Julie Koop

Next Meeting – July 16th or July 23rd?

COURTS COMMITTEE AGENDA

June 25, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of May Meeting Minutes**
- **Children's Justice Initiative – Judge Leahy & Lynne Caldwell**
- **Conciliation Court – Kalene Engel**
- **New Laws – Sally Cumiskey**
- **Continuance Requests And the Need for Waiver of Time Frames
- Julie Koop**
- **FYI on Processing Payable Citations – Sally Cumiskey**
- **Byrne Justice Assistance Grants – Kalene Engel**
- **Courthouse Open house – Karin Sonneman**
- **Other Issues**
- **Date for Next Meeting: July 16 at 8 a.m.?**

CJCC COURTS COMMITTEE MEETING

June 25, 2009

Present: Hon. Nancy Bostrack, Rich McCluer, Carmaine Sturino, Sue Smelser, Julie Koop, Marsha Metzler, Kalene Engel, Sherri Brekke, Marge Oium, Justin Wesley, Julie A. Thompson, Lori Larsen, Lynne Caldwell.

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on Thursday, July 23, 2009.

Discussion:

Minutes – Approved, May Meeting Minutes

Children's Justice Initiative – Lynne Caldwell: A CJI meeting was held on June 17, 2009 and three main topics were discussed: (1) review and update of the team roster/report; (2) discussion of termination of parental rights (TPR) versus transfer of legal custody (TLC) and (3) review/finalization of a permanency order for delinquency cases. The team roster/report was updated with current information. A productive discussion was had regarding TPR v. TLC and the feeling was that Winona County was approaching this issue appropriately. A permanency order, which includes a checklist and a section for the "best interests standards" which was modeled after the Hennepin County order, was reviewed and revised. Lynne Caldwell will be making changes and sending a copy of this to Justin Wesley, so he can determine whether this addresses 4e concerns. The form will also be discussed at the Judge's Meeting. Justin will be added to the CJI invite list and this issue of "permanency forms in delinquency cases and how it relates to 4e funding" will be placed on the next Courts Committee Agenda.

Conciliation Court - Kalene Engel/Judge Bostrack: Kalene Engel contacted Shawn Bartsh, the attorney from the Cities who has been serving as a conciliation court referee in Ramsey County. Ms. Bartsh again expressed her willingness to assist Winona County in implementing a program, including conducting training and actually conducting conciliation court, perhaps by special appointment. Judge Bostrack discussed the issue with Judge Robert Benson, who noted that only two counties have approached him about the idea. He wanted to know whether the Winona attorneys who were interested in acting as referees would do it on a volunteer basis. Carmaine Sturino and Kalene Engel expressed a willingness to volunteer. Kalene Engel will have Shawn Bartsh contacted Judge Benson to discuss how the procedure works in Ramsey County. The issue of conciliation court mediation will be discussed at the next Judge's Meeting.

New Laws List – Sue Smelser/Julie Thompson: Sally Cumiskey was ill so she was unable to report on the new laws. Sue Smelser noted that the filing fees were going to be increasing significantly on July 1, 2009. The Public Defender co-pay is also increasing from \$28 to \$75. Julie Thompson also reported that, starting in August, foster care cannot be used for punishment for a child's behavior (see Minn. Stat. 260B.007, subd. 2). The only places excluded from this are chemical dependency treatment or secure facilities. Juveniles either

need to have a medical diagnoses or be placed in secure placement or the placement must be able to be justified for best interests. Attention must be given to the language being put in the orders as well as detention alternatives. Craig Brooks is convening a meeting of stakeholders to discuss this issue.

Continuances/Need for Waiver – Julie Koop: Julie Koop inquired as to whether the procedures for continuing omnibus hearings required modification. At present, omnibus hearings are set from the courtroom, but there are frequently requests made to reschedule those omnibus hearings—which would put the hearing outside of the 28 day requirement. Most requests are joint requests from the prosecutor and defense attorney. Court Administration has operated on the basis that a joint request, or a request from the defense attorney constitutes a waiver of the time frame. However, a question arose as to whether the Defendant had to affirmatively waive that right or whether his/her attorney could do so. Justin Wesley felt that the waiver could be made by the attorney. The procedure will be left as is.

Processing Payables – Sue Smelser: A change to the way payables are processed is underway. The State is centralizing the system, such that all information will be sent to and processed in the Cities. Details are sketchy at this point, but the target date for full implementation is June 30, 2011.

Byrne Justice Assistance Grants – Kalene Engel: Kalene Engel summarized the Byrne Justice Assistance RFP that was circulated with the Agenda. She stated that there were many purpose areas in the grant that would fit well with some of the issues that we had been working on in the CJCC, and pointed out that E-Citation, which was mentioned at previous Courts Committee meetings, was one of the preferred purpose areas. She asked that everyone take a look at the RFP and get back to her with ideas for proposals. The application deadline is July 23, 2009. She also distributed a notice of a presentation entitled "Do Mental Health Courts Work?" which is scheduled for July 17, 2009 in the Cities and which Judy Gilow plans to attend.

Courthouse Open House – Carmaine Sturino: Carmaine Sturino gave an update on the progress of the Courthouse Open House workgroup. There are three main areas in which planning is occurring: the vignette (mock trial); an interactive tour and volunteers. Anyone wishing to volunteer should contact Anne Drazkowski. Sherri Brekke has already volunteered to be the inmate dressed in orange in a holding room, but there are many other opportunities available.

Next Meeting: July 23, 2009 at 8:00 a.m.

Next Agenda:

Review and Approval of Minutes

Conciliation Court – Judge Bostrack

Permanency forms in delinquency cases and how it relates to 4e funding-Justin Wesley

New Laws – Sally Cumiskey

Next Meeting



Do Mental Health Courts Work?

The Minnesota Judicial Branch invites you to attend a presentation unveiling new research findings on the Hennepin County Mental Health Court.

Research Background

The MacArthur Mental Health Court Study that began in 2005 is concluding its first phase to determine the effectiveness of mental health courts (MHC) in improving public safety outcomes and treatment engagement among people enrolled in these specialty courts. The study includes 4 sites – San Francisco and Santa Clara Counties in California, Hennepin County in Minnesota, and Marion County (Indianapolis) in Indiana.

Preliminary findings show significant improvements in recidivism, reduction of jail, and community engagement and functioning for MHC clients. Two of the researchers, Henry J. Steadman, Ph.D. and Lisa Callahan, Ph.D., from Policy Research Associates, Inc. will present these findings from the national study with a spotlight on Hennepin County.

Continued funding has been received from the John D. and Catherine T. MacArthur Foundation for the second phase of the research to study the costs of mental health courts, comparing the costs and benefits of the specialty courts with typical criminal court procedures for these defendants. The continued cooperation and partnership with all 4 sites will expand our knowledge about the beneficial effects of mental health courts as well as the financial costs and benefits of these specialty courts.

Presentation Schedule

- Date: Friday, July 17, 2009; 8:30 a.m.—11:00 a.m.
Location: Minnesota History Center — 3M Auditorium
50 parking vouchers will be available
Presenters: Henry J. Steadman, Ph.D. and Lisa Callahan, Ph.D.
Policy Research Associates, Inc.
Program: 8:30-9:15 Reception MN History Center Atrium
9:15-9:30 Welcome Chief Justice Magnuson
9:30-11:00 Presentation Policy Research Associates

Mental Health Court Staff from Hennepin and Ramsey Counties will be available to answer questions about their Mental Health Courts.

COURTS COMMITTEE

AGENDA

July 23, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of May Meeting Minutes**
- **Conciliation Court – Judge Bostrack**
- **Permanency forms in delinquency cases and how it relates to IV-E funding-Justin Wesley**
- **New Laws – Sally Cumiskey**
- **Ex parte contact – Rich McCluer**
- **Cover letters: signed or stamped - Rich McCluer**
- **Disclosure of criminal history pursuant to Rule 7 and 9 – Karin Sonneman**
- **Other Issues**
- **Date for Next Meeting: August 20th, 2009?**

CJCC COURTS COMMITTEE MEETING

July 23, 2009

Present: Hon. Nancy Bostrack, Rich McCluer, Sue Smelser, Julie Koop, Kalene Engel, Sherri Brekke, Marge Oium, Julie A. Thompson, Lori Larsen, Lynne Caldwell, Marsha Metzler, Nicole Kinn, Brian Glodosky, Judy Gilow.

Purpose: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on Thursday, August 20th, 2009.

Discussion:

Minutes – Approved, June Meeting Minutes

Conciliation Court - Judge Bostrack: Judge Bostrack noted that she has not heard anything from Judge Benson as of yet on this. She knows that Rochester is interested, and Judge Benson is going to see how many other counties are interested in this. This was also brought up at that Judge's meeting, and they are still looking into the benefits, how it will affect court staff and are waiting to hear what Judge Benson has to say on this. Kalene Engel noted that she gave Judge Benson Shawn Bartsh's contact information, and that Chief Justice Magnusson was talking about conciliation court referees at a recent talk he gave, so that will get the interest out there as well. This will be kept on the agenda for next month.

Permanency forms in delinquency cases and how it relates to IV-E funding - Justin Wesley: Justin Wesley was not present at the meeting. Judge Bostrack noted that the judges have approved the proposed order and will use the proposed order if the prosecutor come to the hearings with the form mostly completed, like a DANCO order. The form would be submitted to the court as a proposed order. Lynne Caldwell noted that the committee changed some small items (wording, more case number spaces, etc), and was still waiting to hear back from the other committee members regarding the changes. Lynne will check to see how long the hold on getting these forms out is. This will be kept on the agenda for next month.

New Laws – Sally Cumiskey: Sally Cumiskey was not present at the meeting, however many others had new laws to share. Brian Glodosky reported that there are new administrative citations going into effect that allow certain traffic offenses to be charged administratively. Also, some citation fines will be going up, and Brian noted that the state will get one third of the money. This should start after October 1st when there is state-wide approval of the form. Examples of these citations would be speeding under 10 mph over, failure to obey stop signs, etc.

Sue Smelser updated the committee that for 8:00 arraignments, all payable tickets will no longer be calendered. There will now be two lists (those cases "calendared" and those cases not "calendared") that will be printed off the day before by Kerry Rosecke and Dawn Judy. This is by order of the state, working towards a centralized payable citation. Brian Glodosky noted that prosecutors would need copies of both lists.

Brian Glodosky also noted that No Proof of Insurance is now a payable offense.

Julie Thompson stated that in CHIPS cases, there is new language that says if the father or one parent is missing, social workers have to show they made diligent efforts to get their names and information. The social workers are now going to have to document their efforts in finding the missing parent. Lynne Caldwell noted that she just went through webcast training having to do with this, and at EPCs there will now need to be a finding on the record that there is prima facie evidence that an effort was made, and also all orders have to be reduced to writing. Also, the judges will have to adjudicate the juvenile truant, not just make a finding that they are truant. Lynne will print out the power point and give it to Sally Cumiskey and Sherrie Brekke to look over. This will be put on the next agenda for an update.

Ex Parte Contact – Rich McCluer: Rich McCluer had a question regarding what safeguards are in place to stop prosecutors from going directly to the judges with requests for extensions of deadlines on matters, restitution, etc. (not continuances) without having gone through defense counsel first? He believes that both parties positions on these matters should be submitted to the judges before a decision is reached. Lynne Caldwell stated that court administration looks to see whether the other party is CC'd on the request, and if the judge has any questions about it, they usually ask. Judge Bostrack noted that this sometimes happens on both sides, defense counsel sometimes does it as well. Rich McCluer stated that even if he is CC'd on a request, sometimes it is being signed before he even has a chance to look at it. Kalene Engel noted that sometimes trying to make sure the other party gets a chance to review it completely could cause purposeful delay, and Mr. McCluer responded that the other party could file a motion for relief. He is concerned about the current procedure, especially if the party is requesting significant relief. This will be put on the next agenda to discuss better procedures, and to get an answer as to what procedure the County Attorney's office is following, as no one from the County Attorney's office was able to attend this meeting.

Cover letters: Signed or Stamped? – Rich McCluer: Rich McCluer was wondering, does Court Administration require cover letters to have an actual signature, or will a stamped signature suffice? He has recently gotten filings back from Court Admin for not having signed the cover letter itself. Lynne Caldwell stated that she had never heard of that, and in fact, a cover letter isn't even really needed and is mostly just thrown away unless it is being used to state service. Lynne will bring it up to the Court Administration staff to make sure that this doesn't happen anymore.

Disclosure of Criminal History Pursuant to Rule 7 and 9 – Karin Sonneman: Karin Sonneman was unable to attend this meeting, and it will be put on the agenda for next time.

Other Issues

Judy Gilow updated the committee on a conference she attended in the Cities, regarding whether or not mental health courts work, put on by Ramsey and Hennepin Counties. She stated that they reinforced what they already knew, that while the courts work, you cannot see a cost savings until at least a year –year and a half. She also noted that there are federal dollars for drug courts. There was discussion about how schizophrenia and bi-polar disorders are the most frequently diagnosed in jail, and in a dual diagnoses of mental illness and addiction, which drives the other? She discussed how more often they have a team that works with individuals and they are seeing more peer specialists being sued to go to the court with

them. Kalene Engel noted that they are aware of the federal dollars.

Brian Glodosky was wondering how far along we were getting on setting default omnibus motions on Fridays. Julie Koop said they are doing it when they can, they are trying, but there are certain issues that keep some defaults from being set then. It's not a complete process yet.

Next Meeting: August 20, 2009 at 8:00 a.m.

Next Agenda:

Review and Approval of Minutes

Conciliation Court – Judge Bostrack

Permanency forms in delinquency cases and how it relates to IV-E funding-Justin

Wesley/Lynne Caldwell

New Laws – Sally Cumiskey

CHIPS language change – Sherri Brekke/Lynne Caldwell

Ex parte Contact – Rich McCluer

Waitlist Issue – Brian Glodowski

Settlement Conferences – Chuck MacLean

Next Meeting September 17, 2009?

COURTS COMMITTEE AGENDA

August 20, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of Minutes from last meeting**
- **New MI/CD program at the Jail - Jerry Obiglio, Matt Hudson , Steve Buswell & Nancy Valentine (guests)**
- **Conciliation Court – Judge Bostrack**
- **Permanency forms in delinquency cases and how it relates to IV-E funding- Justin Wesley/Lynne Caldwell**
- **New Laws – Sally Cumiskey**
- **CHIPS language change – Sherri Brekke/Lynne Caldwell**
- **Ex parte Contact – Rich McCluer (bumped until next month per request of Mr. McCluer, who is unable to attend this month's meeting)**
- **Waitlist Issue – Brian Glodowski**
- **Settlement Conferences – Chuck MacLean**
- **Juvenile Delinquency/Chips cases – Carmaine Sturino**
- **Assignment of pre-trial supervision cases. – Sherri Brekke**
- **Next Meeting September 17, 2009**

CJCC COURTS COMMITTEE MEETING

August 20, 2009

PRESENT: Kalene Engel, Sally Cumiskey, Lynne Caldwell, Sue Smelser, Marsha Metzler, Julie Koop, Julie Thompson, Craig Brooks, Sherri Brekke, Lori Larson, Carmaine Sturino, Brian Glodosky, J.P. Plachecki, Rich McCluer

PURPOSE: The purpose of the Committee is to make court case scheduling more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on Thursday, September 17, 2009.

(Kalene Engel chaired the meeting in Judge Bostrack's absence (jury trial).

DISCUSSION:

Minutes – Approved – July Meeting Minutes

New MI/CD program at the Jail - Jerry Obieglo, Matt Hudson , Steve Buswell & Nancy Valentine (guests) – deferred until September meeting due to the fact that no judges were present.

Conciliation Court – Sally A. Cumiskey: We are proceeding with the thought that Chief Judge Benson will give the okay for referees in Conciliation Court. Sally, Kalene and Judge Leahy recently had a meeting with Shawn Bartsh who volunteers in Conciliation Court one day per month in Hennepin County. Sally received information from Michael Upton of Ramsey County about the process. The judges are looking for voluntary participation by attorneys and would like the assistance of the Bar Association to recruit people. Olmsted County is working on training for the entire Third Judicial District so there is consistency between the counties. This committee was instrumental in changing the law in this area as it was our inquiry that prompted Shawn Bartsh to contact her legislator and work toward expanding conciliation court referee opportunities to other jurisdictions.

Permanency Forms in Delinquency Cases and How it Relates to IV-E Funding – Sally Cumiskey: There was a meeting between all parties where the form order was approved. The plan was that the judges would consider the order on the bench when presented. All or most of the order would be completed and any changes during the hearing would be made. When orders would be issued came into question, i.e., at every hearing regardless of whether placement was continued or new? Also, once implemented the process became a major event in the courtroom. Mr. MacLean wanted more time to prepare the order. The new process is the Court will consider the order whenever presented, during or following the hearing. This does not affect preparation of the Transport Order in the courtroom, which will continue. Julie Thompson and Craig Brooks pointed out that IV-E money is lost if needed language is not in the orders – both for reimbursement and family services collaborative funding.

New Laws – Sally Cumiskey:

DANCO: The form is going to change to add Federal and VAWA language. The Winona County form has all the necessary information except the warning language. The 2007 photo law requires that if a photo is available the person should be identified in the courtroom. Training on the process will be in October (judges and court staff) with a go live date in November. When certain statutes are entered an automatic search of MN DL and IDs will begin and a flag will note whether a photo is available. Since many statutes will trigger this search, Court Admin Staff will have to manually modify when appropriate. The photo w/information will pass to the BCA. The judge is the one who is to make the identification.

Auto Assess: The Court system is going through massive changes. Once auto assess is implemented, MNCIS will determine the fine and split based upon the statute, community of offense and prosecuting agency. Winona and Lewiston are okay. St. Charles, Rollingstone and LaCrescent need to take steps to get a portion of the money. Restitution will still be assessed manually.

Auto Referral: Auto referral will follow Auto Assess. If someone misses a payment by the due date, it will be referred to collections immediately. This is why fines and surcharges are not longer a condition of probation.

Traffic/Arrestment Court: Traffic court will not exist as we know it in the future. There will be centralized entry of all citations (St. Paul) which could result in loss of local staff. New tickets will not have hearing dates. Our office will have to scan tickets to the centralized location. If they are not clear, or there is a wrong statute – they will be referred back to us, along w/customer complaints. This should be in effect by June 30, 2011. We were invited to participate in the process, however, it would require a minimum of 10 hours/week (Court Administrator or supervisor) for a long period of time. The Third District doesn't have enough staff to be able to have someone participate in the planning process.

CHIPS Language – Lynne Caldwell: CHIPS orders will require "diligent efforts to locate relatives" language. A Webcast training is set for August 27 – Court Administration staff will attend. The ITV Session through the State Supreme Court is set for September 25 (9:00-11:00) at COB-A. Julie Thompson has made ITV arrangements. Judges Thompson and Leahy will attend (Judge Bostrack is on vacation) as well as law clerks and court staff. The notice was sent to the CJI team.

Ex Parte Contact – J. P. Plachecki: J.P. addressed the process used when a proposed Restitution Affidavit and Order are submitted. Currently, Court Admin staff is checking to be sure the other party has been carbon-copied on restitution requests, then the file with the request is forwarded to the judge. The cover letter does not always indicate whether the other party has been contacted and what their position is. This results in the order being issued before 30 days have elapsed – the time within which objections can be made and hearings requested. There was also a discussion with respect to language at hearings and how the court staff processes restitution in these situations: "restitution reserved for 30 days" as opposed to "objections to restitution ordered must be made within 30 days". The difference might be between adult and juvenile cases. Sally is going to bring this to the judges' meeting on September 15th. In the interim, all restitution requests, responses, etc., will be forwarded to Lynne to monitor. An email will be sent to Court Admin staff in that regard. It was noted that court staff cannot analyze every document/letter that is submitted with respect to deadlines, i.e., extensions on deadlines. Discussion of those issues can be addressed at the next Wait List meeting. There is already a continuance policy in place which requires the parties to indicate whether the other party agrees to or objects to the request. This policy seems to be working fine.

Wait List Issue – Brian Glodosky: Kalene has heard back from a few people with respect to feedback on options proposed at the August 4, 2009 meeting. The deadline for feedback in August 21st—Kalene will send a reminder.

Settlement Conferences – Chuck MacLean: Tabled as Chuck was not present.

Juvenile Delinquency/Chips Cases – Carmaine Sturino: Carmaine pointed out that at times there are both CHIPS and delinquency cases involving the same family. Sometimes both cases are assigned to the same judge, sometimes not. She indicated there might be pros and cons to both. Best practices indicate one judge per family. Julie K. pointed out that court staff is not always aware of a companion case. Usually the CHIPS is filed first. If a delinquency is filed down the road, different court staff may work on that and would not be aware of the CHIPS case. Julie T. pointed out that if a child is diagnosed, he/she cannot be placed for punitive reasons so it is important that information is shared if more than one judge is involved. Sally will bring this to the September 15th judges' meeting. In the meantime, we need to communicate when there are multiple files.

Assignment of Pre-Trial Supervision Cases – Sherri Brekke: Sherri noted that there is not a problem when a juvenile who is in custody is placed on pre-trial supervision – she is aware of those cases. The problem is juveniles who are not in custody. This does not arise very often, but when it does, there can be a substantial delay. She receives notification through court minutes. These minutes can be mixed in with less time-sensitive minutes and she does not always realize that. She is going to look more closely at the minutes when received. Sally suggested these be treated like PDRs by the courtroom clerk. Lynne suggested that the minutes, if sent along with other minutes which are less time-sensitive, be flagged. This will be brought to the next Criminal Team meeting.

Juvenile Detention Alternatives – Kalene Engel: There is a meeting set at the Kensington on September 24th from 10:00-12:00. Kalene has sent out notification. Jim Backstrom, Dakota County Attorney, will be present along with Angelique Kedem, Juvenile Detention Alternatives Initiative State Coordinator.

Next Meeting: September 17, 2009.

Next Agenda:

- New MI/CD program at the Jail - Jerry Obieglo, Matt Hudson , Steve Buswell & Nancy Valentine (guests)
- Settlement Conferences – Chuck MacLean
- JDAI Update – Craig Brooks/Julie Thompson
- Others – as submitted to Judge Bostrack

COURTS COMMITTEE AGENDA

September 17, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- ✓ **New MI/CD program at the Jail – Jerry Obieglo, Matt Hudson, Steve Buswell & Nancy Valentine (guests)**
- **Settlement Conferences – Chuck MacLean**
- **JDAI Update – Craig Brooks/Julie Thompson**
- **Strategic Planning for this committee – Kalene Engle, Chuck MacLean, Judge Bostrack**
- **Juvenile transport orders – Judge Bostrack**
- **E-filing; e-charging; and e-citations – Sally Cumiskey, Judge Bostrack**
- **Driver's license return program – Kevin Burke**

CJCC COURTS COMMITTEE MEETING

September 17, 2009

Present: Judge Bostrack, Judy Gilow, Lori Larsen, Craig Brooks, Justin Wesley, Sherri Brekke, Nancy Valentine, Kevin Burke, Rich McCluer, Julie Koop, Chris Ledebuhr, Judge Thompson, Lynne Caldwell, Sue Smelser, Karin Sonneman, Kalene Engel, J.P. Plachecki

Purpose: The purpose of the Committee is to make court case scheduling and case management more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next meeting will be held on Thursday, October 29, 2009.

Discussion:

Minutes – Approved August Meeting Minutes

New MI/CD program at the jail – Nancy Valentine: Ms. Valentine introduced the mental health/chemical dependency program that was created by the Hiawatha Valley Mental Health Center and Wenden Recovery Services. The program takes place twice a week in the jail, and sessions are two hours long. (It is a 96 hour program.) Three inmates currently participate in the program. A mental health diagnosis is required to participate. Inmates must be in jail for a significant amount of time to participate; chances of completing the program while in jail are slim, but the expectation is that they would continue the program after release. The program is on a volunteer basis at this time, but Ms. Valentine stated that they would like it to be court ordered in some cases. An official name for the program has not yet been established.

Settlement conferences – Chuck MacLean: Chuck MacLean was not present at the meeting. Justin Wesley stated that Mr. MacLean would like the issue to be continued until next meeting.

JDAI update – Craig Brooks: Mr. Brooks informed the Committee of a meeting on September 24 at 10 A.M. in the lower level of the Kensington, in which two individuals from the state will discuss the Juvenile Detention Alternatives Initiative. He encouraged all those interested to attend. Kalene Engel noted that Jim Backstrom of the Dakota County Attorney's Office will be in attendance. Mr. Brooks stated that the purpose of the program is to divert juveniles that have committed non-serious crimes from court. He stated that the program is similar to restorative justice. The website is www.jdaihelpdesk.org. Mr. Brooks said he would give a program update at next month's meeting.

Strategic planning for this committee – Judge Bostrack: Judge Bostrack discussed committee successes, challenges, and goals. Successes were the sentencing checklist, passage of conciliation court legislation (in which private attorneys can act as conciliation court referees), and increased communication between departments. Goals are to streamline case

flow, soundproofing issues, and e-filing. Karin Sonneman brought up the issue of funding for the court system, and raised concerns that the budget crisis is undermining the right to counsel, which has a detrimental effect on the court system as a whole.

Juvenile transport orders – Judge Bostrack: Judge Bostrack noted that a county attorney presented a new transport order to the court clerk at one particular hearing. Justin Wesley stated that this order may have been presented in confusion, but no new order was being used by the county attorneys.

E-filing, e-charging, and e-citations – Judge Bostrack: Judge Bostrack stated that there are three counties in the district that do not use e-filing of complaints, Winona being one of them. Sally Cumiskey emailed all counties in the district, asking them for thoughts on using the e-filing process. The response she received was positive. Most counties believe e-filing is more efficient. Judge Bostrack asked where the County Attorney stands on this issue. Justin Wesley expressed support for e-filing of complaints and would discuss the issue with the county attorney.

Driver's license return program – Kevin Burke: Mr. Burke wished to discuss whether the judges would consider a stay of adjudication without a hearing if Mr. Burke sends a discharge report asking for adjudication. The group decided that a hearing will be required. Discussion ensued over judges ordering a stay of imposition rather than a stay of adjudication. The judges were made aware that ordering a stay of imposition makes the DL return program more difficult. But there are times when a stay of imposition is appropriate. The DL return program has been helpful to individuals in figuring out what to do in order to get their driver's license back. Mr. Burke raised the concern that a fine due date of 90 days was not long enough for individuals to pay their fines. The group decided that a requirement of the driver's license return program will be that fines must be paid within 6 months; however, any other fine payment terms ordered by the judge will trump the DL return program policy regarding fines. Mr. Burke discussed illegal aliens being referred to the program, asking prosecutors not to recommend the program for a person who is unable to legally obtain a license. Mr. Burke stated that he sees individuals coming through the program more than once. The original intention was for individuals to go through the program only once, but Mr. Burke is okay with repeats, if appropriate.

Lori Larson will check on the DL return program success rates and she will share that information at the next meeting.

Other Issues:

Karin Sonneman brought up bail hearings. She stated the public defenders often do not receive files until the evening or day before the Rule 8 hearings, and are unable to give timely notice. If the prosecutor objects to hearing the bail modification requests, the client must sit in jail until a new hearing is scheduled. She requests this issue to be put on the Courts Committee meeting agenda.

Kalene Engel discussed the Courts Committee's purpose. She suggested broadening the Committee's purpose, as the current purpose focuses on effective case scheduling. The suggestion was made, and approved to change the purpose to "make court case scheduling

and case management more effective, efficient, and convenient.”

Judge Thompson stated that there is discussion of the possibility of trial centers to alleviate financial burdens on the court system.

Next Meeting: October 29, 2009 at 8:00 a.m.

Next Agenda:

Review and Approval of Minutes

Settlement conferences – Chuck MacLean

JDAI update – Craig Brooks

Driver's license return program success rate– Lori Larson, Kevin Burke

Bail Hearings – Karin Sonneman

E-filing – Brian Glodosky, Justin Wesley, Chuck MacLean, Sally Cumiskey

*Courts
Mly
handouts*

The following question regarding the e-filing of complaints was sent by Sally Cumiskey to all of the Third District Court Administrators:

"For those of you doing this, are your county attorneys happy with the way it works?"

Here are their responses:

WASECA COUNTY:

"I've heard that it really isn't much different from what they did before, so it's not a lot more work for them. It does make sure everything is legit before it gets to us and they did have to get updates on their system. Overall, they're willing to do it to help us out for little to no extra effort on their part."

— Hans Holland

OLMSTED COUNTY:

"I have not heard any complaints from the county attorney or city attorney offices recently. Was some initial bugs but things have settled down."

— Chuck Kjos

HOUSTON COUNTY:

"I believe so. After they got the bugs worked out – getting the latest MNCAP version, etc."

— Darlene Larson

FREEBORN COUNTY:

"I think so, there were a few bugs initially that had to be worked out, but it seems to be good now."

— Kristine Maiers

MOWER COUNTY:

"As far as I know."

— Patty Ball

RICE COUNTY:

"I think there is some frustration with the prosecutors because there are problems that arise and the majority of them stem from the side of the prosecutor. Most recently, the prosecutors have been unable to read the error messages, so there is a lot of e-mailing back and forth with the group.

"Our city attorneys have not yet started utilizing e-complaint because they are waiting for all the bugs to get worked, so we just have the 1 prosecuting office up and running right now. I am sure when all the other prosecutor's get on board, we will have a whole new list of issues."

— Marie Cramer

Correspondence with Linda Murray, Third District MNCIS Coordinator:

Question by Sally:

Also, do you know how much the cost is if a county attorney has MCAPS already to make whatever modifications are necessary to do e-complaints?

Answer from Linda Murray:

They would have to upgrade their Advantage Database Server—depending on how many licenses they would need—(count how many attys they have or who it is that actually produces the complaints in their office)

2 user license - \$300

5 User License - \$700 (this is what I would guess they need based on past rollouts)

10- User License - \$1,300

Then it would be an additional charge for the MCAPS upgrade that includes training—\$500

You could get input from David Walker from Freeborn, or Mike Nelson from Olmsted—as far as how easy it is for them to use— they also understand the value of having it and the now potential for future messages back to them—(we may start working with the MCAPS guy on sending dispositions back to them)

I don't have anything written on it—but once you have it installed and set up the integration all that is different for the county atty is to push a button that says E-file and then it will pop up a e-file number it assigns and they write that up in the corner of the paper complaint-

Question by Sally:

Do you know if the license is a onetime event payment?

Answer from Linda Murray:

I think so...

Correspondence with Mike Nelson, Executive Assistant Olmsted County Attorney:

From: Cumiskey, Sally
To: Nelson Mike
Subject: E Complaints

Hi, I got your email address from Chuck Kjos after you were recommended by Linda Murray who is the Third District MNCIS Coordinator and has worked on e complaints in many of the Third District Counties.

Our Winona County Criminal Justice Coordinating Council's (CJCC) Courts Committee chaired by Judge Nancy Bostrack is developing goals for next year. One of the possible goals is to implement e complaints. Winona is the one of 3 counties in the Third that do not do e complaints – the other two, Dodge and Wabasha, do not have MCAPS software. Winona does have MCAPS but had wanted to see how the pilots developed.

We are looking for feedback from County Attorneys who currently have e complaints to see how you like it; impact to you, negative/positive/otherwise so that we can have discussion at our next meeting. Our County Attorney Chuck MacLean is on the Courts Committee. We are also asking for feedback from David Walker in Freeborn County. Chuck Kjos has indicated that from the perspective of the Courts and Court Administration, it has been a positive impact, but we want to hear from the prosecutors.

Thank you for whatever feedback you can give us.

Sally A. Cumiskey
Court Administrator
Winona County

From: Nelson Mike
To: Cumiskey, Sally
Subject: RE: E Complaints

Good morning,

We are currently and have been e-filing for quite some time. We are moving to E-charging and e-signature next week, but we are a pilot program for that.

E-filing is actually a program only to help the courts. It does not really help the County Attorney at all and may in fact be slightly more work as we still have to get the paper form signed and take it to Court Admin. However, we also get future court events sent to us automatically. This is a great benefit as some places have staff just dedicated to updating court dates. I believe both would be available in Winona.

Our city attorney office also does e-filing. E-filing is a quick thing for the County Attorney office and such a great benefit to court administration, I believe all County Attorneys should be interested.

Please let me know if I can be of further assistance.

Mike Nelson
Executive Assistant
Olmsted County Attorney
(507) 328-7614

COURTS COMMITTEE AGENDA

October 29, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of Minutes**
- **Settlement conferences – Chuck MacLean**
- **JDAI update – Craig Brooks**
- **Driver's license return program success rate– Lori Larson, Kevin Burke**
- **Bail hearings – Karin Sonneman**
- **E-filing – Brian Glodosky, Justin Wesley, Chuck MacLean, Sally Cumiskey**
- **E-filing – Lynne Caldwell, Michelle Davis and Special Guest Linda Murray**
- **CAM – Special Guest Marcia Dunn**
- **Payables – Carmaine Sturino, Brian Glodosky**
- **The CSI effect – Judge Thompson**
- **Winona's case clearance rate – Judge Thompson**

Upcoming Meeting Dates:

November 4 – Special Courts Committee meeting on payables

December 10 – Regular Courts Committee meeting

CJCC COURTS COMMITTEE MEETING

October 29, 2009

Present: Judge Bostrack, Sue Smelser, Julie Koop, Marsha Metzler, Julie Thompson, Carmaine Sturino, Sherri Brekke, Christine Ledebuhr, Brian Glodosky, Tami Mueller, Aarah Saugen, Marcia Dunn, Bryan Delvin, Lynne Caldwell, Lori Larson, Karin Sonneman, Chuck MacLean, Judge Thompson, J.P. Plachecki

Purpose: The purpose of the Committee is to make court case scheduling and case management more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next regular meeting will be held on Thursday, December 10, 2009.

Discussion:

Minutes – Approved September meeting minutes

JDAI update – Craig Brooks: Mr. Brooks was not present; Judge Bostrack stated that he has no updates at this time. If anything changes, he will inform the Committee.

Driver's license return program – Lori Larson: Ms. Larson reported that 528 people have entered the program since it began in March 2001. Currently, 248 cases are open. The program has had 266 successful closures and 221 unsuccessful closures, or a 55% success rate.

Bail hearings – Karin Sonneman: Ms. Sonneman spoke to the Committee on the issue of not having enough public defenders to handle Rule 5 hearings. Public defenders often do not get a client assignment until the Rule 8 hearing, and at that point there is not enough time to get the information necessary to address public safety in a meaningful way or file a motion. The public defender must then ask for another bail hearing to be set. Judge Thompson said that he announces at Rule 5 hearings that release conditions may be reviewed at the next hearing. It was suggested that a staff member from the county attorney's office could look at the Rule 8 calendar to see who is in custody and expect a bail motion. The public defenders will try to work with the county attorneys to provide as much notice as possible for a bail motion. The Committee agreed that court administration would try to make processing of public defender applications more of a priority.

Settlement conferences – Chuck MacLean: Mr. MacLean expressed his belief that settlement conferences work often enough that it is worthwhile to continue to hold them. Settlement conferences are limited to felonies or special requests, and are not always heard in front of a judge.

E-filing/e-complaints: Chuck MacLean stated that the county attorney's office was still in the research phase and was not initiating e-filing or e-complaints at this time. Brian Glodosky said he had gone to training over a year ago and found that e-filing causes prosecutors, rather than

court administration to enter case data, and the only advantage to prosecutors is receiving a case number immediately. Mr. Glodosky shared that prosecuting agencies are expected to pay for the e-filing software and yearly licensing fees and must have MNCAPS, which many smaller offices do not have. Judge Thompson said funding is available to get the software paid for. This topic will be revisited at the January Courts Committee meeting.

CAM program – special guests Bryan Delvin and Marcia Dunn: CAM stands for Counseling for Abusive Men. Ms. Dunn provided an overview of the program, stating that most of the men in the program were there as a result of a fifth degree assault conviction. The program is based on the Duluth model, which was the first program in the nation for batterers. The CAM program deals with power and control issues, and is based on the philosophy that certain behavior can be unlearned. Mr. Delvin described the procedure for CAM: a psychological evaluation is ordered, and if the evaluation determines that the individual is appropriate for CAM, orientation takes place. The individual then starts group work on a weekly basis, for a total of 20 sessions. The cost of the program is \$35 each group session or \$700 total. This cost is a decrease in what it used to be, and is now included under most insurance policies. It was clarified that a domestic violence inventory is not a psychological evaluation and provides no benefit to the offender, only to the Department of Corrections for supervision purposes.

Payables: Judge Bostrack informed the Committee of a meeting on payables with the state court administration office on November 4 at 8 a.m.

Next regular meeting: December 10, 2009 at 8 a.m.

Next agenda:

Review and approval of minutes

Summary of November 4 meeting on payables

The CSI effect – Judge Thompson

Winona's case clearance rate – Judge Thompson

Sentencing orders and sentencing minutes – Tami Mueller, Aarah Saugen

E-complaints – January meeting

CJCC COURTS COMMITTEE SPECIAL PAYABLES MEETING

November 25, 2009

Present: Judge Bostrack, Michelle Davis, Lynne Caldwell, Dawn Judy, Sally Cumiskey, Justin Wesley, Carmaine Sturino, Brian Glodosky, Bruce Nelson

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Discussion:

Kelly Mitchell, staff attorney for the Minnesota Supreme Court and Nancy Crandall, deputy director for court services were present.

Kelly Mitchell described briefly how payables work. Minnesota Statute § 609.101, subd. 4 gives the judiciary the authority to set fines for misdemeanors. There is a list of offenses for which an individual can pay a fine and no court appearance is necessary. An offense on the payable list is not automatically certified as a petty misdemeanor, but it does become a petty level misdemeanor after the individual agrees to pay the fine. The citation should state that by paying the fine, the individual is waiving his right to trial and pleading guilty.

Brian Glodosky addressed his concern regarding payables. Misdemeanors are considered payables, but Minnesota Statute § 609.13 states that misdemeanors are misdemeanors regardless of the sentence. The judicial branch has no authority to treat misdemeanors as petty misdemeanors. A criminal rule allows misdemeanors to be treated as petty misdemeanors, but courts should not act as a legislative authority. The Minnesota Supreme Court has said that the certification process is a procedural right that cannot be done without the consent of the defendant.

It was explained that the language on the register of actions states that a conviction is defined as a petty misdemeanor under Minn. Stat. § 609.13, but they were in the process of replacing this with the applicable rule, Minn. R. Crim. P. 23.02.

Nancy Crandall told the group that they were moving towards statewide standard citations, which will state the rights an individual gives up as a result of paying the fine. She pointed to Minnesota Statute § 169.99 as the uniform citation statute. July through September of next year is the target timeframe for the uniform citation forms. Fines will be assessed automatically and 1.3 million citations will be processed by an out of state agency. The BCA has a grant to work on developing e-charging and e-citations.

Ms. Mitchell told the group that the judicial council looks at the payables list every year in the fall. Feedback or suggestions are welcome.

Ms. Crandall said that the move to a centralized payment center is the highest priority. So far Kandiyohi and Washington counties have started sending citation entry to the payment center. Court administration will still be able to accept payment at the window, but individuals will be able to mail their payments to the payment center or pay online. This information should be listed on a sheet received by officers along with a citation. The payables unit will have an automatic referral to collections for unpaid citations. Payables will not be sent to collections but rather to court administration to issue a warrant. If an individual then turns himself in, the offense will be a misdemeanor. If he makes the payment, the offense will be deemed a petty misdemeanor based on the level of sentence.

Next regular meeting: December 10, 2009 at 8 a.m.

Next agenda:

Review and Approval of Minutes

Summary of November 4 meeting on payables

The CSI effect – Judge Thompson

Winona's case clearance rate – Judge Thompson

Sentencing orders and sentencing minutes – Tami Mueller, Aarah Saugen

E-complaints – January meeting

COURTS COMMITTEE AGENDA

December 10, 2009 AT 8:00 A.M.

PLEASE NOTE: This meeting will be held in Courtroom 2 Jury Room.

- **Review and Approval of Minutes**
- **Summary of November 4 Meeting on Payables**
- **The CSI Effect – Judge Thompson**
- **Winona's Case Clearance Rate – Judge Thompson**
- **Sentencing Orders and Sentencing Minutes – Tami Mueller, Aarah Saugen**
- **Jury Trial Calendaring – Chuck MacLean**

Next Meeting Date:

January 21, 2010

CJCC COURTS COMMITTEE MEETING

December 10, 2009

Present: Judge Bostrack, Aarah Saugen, Julie Koop, Lori Larsen, Nolan Rosenkranz, Sherri Brekke, Marsha Metzler, Sally Cumiskey, Judge Thompson, Sue Smelser, Brian Glodosky, J.P. Plachecki, Carmaine Sturino, Tami Mueller, Michelle Davis, Kalene Engel

Purpose: The purpose of the Committee is to make court case scheduling and case management more effective, efficient, and convenient. Meetings shall provide an opportunity for open discussion on scheduling issues while keeping a record of areas of agreement and issues in scheduling.

The meetings are held the third Thursday of every month at 8:00 a.m. in the jury room adjacent to Courtroom 2. The next regular meeting will be held on Thursday, January 21, 2010.

Discussion:

Minutes – Corrected and approved November meeting minutes

Summary of November 25th meeting on payables

The CSI effect – Judge Thompson: Judge Thompson discussed an article from the Courts Today publication. The article was based on a sociological study of jurors that watched CSI. CSI jurors were generally more informed and had more realistic expectations than other jurors. The article suggests that asking potential jurors questions related to their TV watching habits during voir dire would give attorneys a better indication of what kind of juror they would be.

Winona's case clearance rate – Judge Thompson: Judge Thompson discussed a set of statistics on statewide case clearance rates from September 2008 through August 2009. The report is named MNJAD and can be found on Courtnet. The results show that Winona County had the worst case clearance rate in the district for felony DWIs and major criminal cases. However, Winona County had a total of 102.1 cases cleared in a year, compared to 94.4 statewide. Winona County had a good clearance rate for CHIPS, civil, and serious felony cases. The committee discussed eliminating default omnibus hearings as a way to clear cases more efficiently. Sally Cumiskey discussed the procedure that was created for default omnibus hearings, which the courts have not been following. This issue will be discussed at next month's meeting.

Sentencing orders and sentencing minutes – Aarah Saugen and Tami Mueller: The DOC said they faced some confusion due to the discrepancy between the sentencing orders and what occurs in the courtroom during sentencing hearings. Judge Thompson and Judge Bostrack said they did not like using sentencing orders and agreed to revert to the prior method of reviewing the clerk's minutes from the sentence hearings and signing off on them. The DOC and court administration will work on the language for sentencing templates.

Next regular meeting: January 21, 2010 at 8 a.m.



Next agenda:

Review and approval of minutes

Winona's case clearance rate and default omnibus hearings

Criminal voir dire

Domestic abuse risk assessment bench guide

Shelter for pets of domestic abuse victims

DWI sentences

E-complaints

THE 'CSI EFFECT': DOES IT REALLY EXIST?

CRIME and courtroom proceedings have long been fodder for film and television scriptwriters. In recent years, however, the media's use of the courtroom as a vehicle for drama has not only proliferated, it has changed focus.

In apparent fascination with our criminal justice process, many of today's courtroom dramas are based on actual cases. Court TV offers live gavel-to-gavel coverage of trials over the Internet for \$5.95 a month. Now, that's "reality television!"

Reality and fiction have begun to blur with crime magazine television shows such as *48 Hours Mystery*, *American Justice*, and even, on occasion, *Dateline NBC*. These programs portray actual cases, but only after extensively editing the content and incorporating narration for dramatic effect. Presenting one 35-year-old cold case, for example, *48 Hours Mystery* filmed for months to capture all pretrial hearings as well as the two-week trial; the program, however, was ultimately edited to a one-hour episode that suggested the crime remained a "mystery" . . . notwithstanding the jury's guilty verdict.

The next level of distortion of the

criminal justice system is the extremely popular "reality-based" crime-fiction television drama. The *Law & Order* franchise, for example, appears on television several nights a week promoting plots "ripped from the headlines." It and other television programs pluck an issue suggested by an actual case and weave a story around it.

The most popular courtroom dramas—whether actual, edited, or purely fictional—focus on the use of new science and technology in solving crimes. *CSI: Crime Scene Investigation* has been called the most popular television show in the world. Not only is *CSI* so popular that it has spawned other versions that dominate the traditional television ratings, it has also prompted similar forensic dramas, such as *Cold Case*, *Bones*, and *Numbers*.

According to one 2006 weekly Nielsen rating:

- * 30 million people watched *CSI* on one night.
- * 70 million watched at least one of the three *CSI* shows.
- * 40 million watched two other forensic dramas, *Without a Trace* and *Cold Case*.

Those ratings translated into this fact: five of the top 10 television pro-

grams that week were about scientific evidence in criminal cases. Together, they amassed more than 100 million viewers. How many of those viewers reported for jury duty the next day?

CLAIMS AND COMMONLY-HELD BELIEFS

Many attorneys, judges, and journalists have claimed that watching television programs like *CSI* has caused jurors to wrongfully acquit guilty defendants when no scientific evidence has been presented. The mass media quickly picked up on these complaints. This so-called effect was promptly dubbed the "CSI effect," laying much of the blame on the popular television series and its progeny.

I once heard a juror complain that the prosecution had not done a thorough job because "they didn't even dust the lawn for fingerprints." As one district attorney put it, "Jurors now expect us to have a DNA test for just about every case. They expect us to have the most advanced technology possible, and they expect it to look like it does on television."

But is this really the expectation

of today's jurors? And if so, is it the fault of *CSI* and its ilk? To date, the limited evidence that we have had on this issue has been largely anecdotal, based primarily on prosecutor interviews with jurors after trials. Now, however, we have some findings based on a formal study that two researchers, Gregg Barak, Ph.D., and Young Kim, Ph.D., criminology professors at Eastern Michigan University, and this author performed. We surveyed 1,000 jurors prior to their participation in trial processes.

The prospective jurors were questioned regarding their expectations and demands for scientific evidence and their television-watching habits, including *CSI* and similar programs. Our goal was to determine if there was any empirical evidence behind the commonly held beliefs that juror expectations for forensic evidence—and their demand for it as a condition for conviction—are linked to watching law-related television shows.

WHAT PROGRAMS DO JURORS WATCH?

In June, July, and August 2006, a written questionnaire was completed by 1,027 randomly summoned jurors in Ann Arbor, Michigan. The potential jurors, who completed the survey prior to any jury selection, were assured that their responses were anonymous and unrelated to their possible selection as a juror. First, we obtained demographic information and asked the prospective jurors about their television-viewing habits, including the programs they watched, how often, and how "real" they thought the programs were. Then, we tried to determine what these potential jurors expected to see in terms of evidence from the prosecutor.

The survey asked questions about

seven types of cases:

1. Every criminal case.
2. Murder or attempted murder.
3. Physical assault of any kind.
4. Rape or other criminal sexual conduct.
5. Breaking and entering.
6. Any theft case.
7. Any crime involving a gun.

With respect to each of these categories of crimes, we then asked what types of evidence the prospective jurors expected to see:

- * Eyewitness testimony from the alleged victim.
- * Eyewitness testimony from at least one other witness.
- * Circumstantial evidence.
- * Scientific evidence of some kind.
- * DNA evidence.
- * Fingerprint evidence.
- * Ballistics or other firearms laboratory evidence.

Then, we got to the heart of the matter: not only did we want to explore jury expectations regarding scientific evidence, we also wanted to discover whether the prospective jurors would demand to see scientific evidence before they would find a defendant guilty. We asked the survey participants how likely they would be to find a defendant guilty or not guilty based on certain types of evidence presented by the prosecution and the defense.

Using the same cases and evidence described above, we gave potential jurors 13 scenarios and five choices for each:

1. I would find the defendant guilty.
2. I would probably find the defendant guilty.
3. I am not sure what I would do.
4. I would probably find the defendant not guilty.
5. I would find the defendant not guilty.

To help ensure that all of the survey respondents were operating from the same legal guidelines, we gave them the burden of proof and

reasonable doubt instructions that are given to all seated jurors in criminal cases in Michigan.

JUROR EXPECTATIONS FOR FORENSIC EVIDENCE

Did the survey respondents expect the prosecution to present some kind of scientific evidence?

Our survey indicated that:

- * 46 percent expected to see some kind of scientific evidence in every criminal case.
- * 22 percent expected to see DNA evidence in every criminal case.
- * 36 percent expected to see fingerprint evidence in every criminal case.
- * 32 percent expected to see ballistic or other firearms laboratory evidence in every criminal case.

The findings also suggested that the jurors' expectations were not just blanket expectations for scientific evidence. Rather, expectations for particular types of scientific evidence seemed to be rational based on the type of case. For example, a higher percentage of respondents expected to see DNA evidence in the more serious violent offenses, such as murder or attempted murder (46 percent) and rape (73 percent), than in other types of crimes. Our findings also indicated that a higher percentage wanted to see fingerprint evidence in breaking and entering cases (71 percent), any theft case (59 percent), and in crimes involving a gun (66 percent).

THE ENVELOPE, PLEASE

It was not a surprise that *Law & Order* and *CSI* were the two most frequently watched law-related television programs (45 percent and 42

percent, respectively, of the surveyed jurors). We found that frequent *CSI* viewers also frequently watched other law-related programs, and those who did not watch *CSI* tended not to watch such programs. We also found that *CSI* viewers, in general,

evidence that was less likely to be relevant to a particular crime than did the non-*CSI* viewers. Although our study revealed that the prospective jurors had high expectations for scientific evidence, the more important question, I believe, is whether

* In the "every crime" scenario, *CSI* viewers were more likely to convict without scientific evidence if eyewitness testimony was available.

* In rape cases, *CSI* viewers were less likely to convict if DNA evidence was not presented.

I once heard a juror complain that the prosecution had not done a thorough job because "they didn't even dust the lawn for fingerprints."

were more likely to be female and politically moderate. Respondents with less education tended to watch *CSI* more frequently than those who had more education.

As to how "real" a television program was perceived to be, our results indicated that the more frequently jurors watched a given program, the more accurate they perceived the program to be. What role, then, did watching *CSI* play in the respondents' expectations and demands for forensic evidence?

FORENSIC EVIDENCE AND JURY VERDICTS

For all categories of evidence—both scientific and nonscientific—*CSI* viewers (those who watch *CSI* on occasion, often, or regularly) generally had higher expectations than non-*CSI* viewers (those who never or almost never watch the program). But, it is possible that the *CSI* viewers may have been better informed jurors than the non-*CSI* viewers.

The *CSI* viewers had higher expectations about scientific evidence that was more likely to be relevant to a particular crime than did the non-*CSI* viewers. These viewers also had lower expectations about

those expectations were more likely to result in an acquittal if they were not met. In other words, do jurors demand to see scientific evidence before they will find a defendant guilty?

Interestingly, in most of the scenarios presented, potential jurors' increased expectations of scientific evidence did not translate into a demand for this type of evidence as a prerequisite for finding someone guilty. Based on our findings, jurors were more likely to find a defendant guilty than not guilty even without scientific evidence if the victim or other witnesses testified, except in the case of rape. On the other hand, if the prosecutor relied on circumstantial evidence, the prospective jurors said they would demand some kind of scientific evidence before they would return a guilty verdict.

IT'S NOT CSI!

There was scant evidence in our survey results that *CSI* viewers were either more or less likely to acquit defendants without scientific evidence. Only 4 of 13 scenarios showed somewhat significant differences between viewers and non-viewers on this issue, and they were inconsistent.

Here are some of our findings:

* In both the breaking-and-entering and theft scenarios, *CSI* viewers were more likely to convict if there was victim or other testimony, but no fingerprint evidence.

HYPOTHESIS AND DISCUSSION ON WHAT IT MEANS

Although *CSI* viewers had higher expectations for scientific evidence than non-*CSI* viewers, these expectations had little, if any, bearing on the respondents' propensity to convict. This, we believe, is an important finding and seemingly very good news for our nation's criminal justice system: that is, differences in expectations about evidence did not translate into important differences in the willingness to convict.

That said, we believe it is crucial for judges and lawyers to understand juror expectations for forensic evidence. Even though our study did not reveal a so-called "CSI effect" at play in courtrooms, my fellow researchers and I believe that a broader "tech effect" exists that influences juror expectations and demands.

During the past 30 years, scientific advances and discoveries have led to a technology revolution. The development and miniaturization of com-

puters and the application of computer technology to almost every human endeavor have been primary forces in new scientific discoveries. At the same time, new technology has created a revolution in information availability and transmission. The Internet is an obvious example, and, in many ways, it has been the catalyst for this ongoing revolution.

Science and information feed off each other; advancements in science are fostered by the ability of scientists to exchange and transfer information. At the same time, scientific developments almost immediately become available not only to scientists but also to the entire world. It is hardly unexpected that the media grab scientific discoveries and quickly make them part of our popular culture.

Many laypeople know—or think they know—more about science and technology from what they have learned through the media than from what they learned in school. It is those people who sit on juries. Every week, the ever-evolving scientific and information age comes marching through the courtroom door in the psyche of almost every juror who takes a seat in the box.

THE JURY IS ALWAYS 'RIGHT'

Our legal system demands proof beyond a reasonable doubt before the government is allowed to punish an alleged criminal. When a scientific test is available that would produce evidence of guilt or innocence—but the prosecution chooses not to perform that test and present its results to the jury—it may be reasonable for a jury to doubt the strength of the government's case. This reality may seem unreasonable to some, but that is not the issue. Rather, it is how the criminal justice system will respond to juror expectations.

One response to this change in expectations would be to get the evidence that jurors seek. This would take a major commitment to increasing law enforcement resources and would require equipping police and other investigating agencies with the most up-to-date forensic science equipment. In addition, significant improvements would need to be made in the capacity of our nation's crime laboratories to reduce evidence backlogs and keep pace with increased demands for forensic analyses.

OUR RESPONSE

Another response would be to equip officers of the court (i.e., judges, prosecutors, and defense lawyers) with more effective ways to address juror expectations. When scientific evidence is not relevant, prosecutors must find more convincing ways to explain the lack of relevance to jurors. Most importantly, prosecutors, defense lawyers, and judges should understand, anticipate, and address the fact that jurors enter the courtroom with a lot of information about the criminal justice system and the availability of scientific evidence.

The bottom line is this: Our criminal justice system must find ways to adapt to the increased expectations of those whom we ask to cast votes of "guilty" or "not guilty."

This article was reprinted from the NIJ JOURNAL /ISSUE NO. 259 NCJ 221501 (Find the the original report at www.ncjrs.gov/App/Publications/abstract.aspx?ID=243377). For further information, the complete results of this study are reported in Shelton, D.E., Y.S. Kim, and G. Barak, "A Study of Juror Expectations and Demands Concerning Scientific Evidence: Does the 'CSI Effect' Exist?," *Vanderbilt Journal of Entertainment and Technology Law* 9 (2) (2006): 331-368, available at www.law.vanderbilt.edu/journals/jetl/articles/vol9no2/Shelton.pdf. **CT**

Donald Shelton has been a felony trial judge in Ann Arbor, Michigan, for 17 years. He is on the faculty at Eastern Michigan University (EMU) and conducted the research that is discussed in this article with two other EMU criminology professors, Young S. Kim and Gregg Barak. Shelton presented the results of the study discussed in this article at the 2007 NIJ Conference. He has written extensively on the impact of technology on the law.

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