

SIXTH DISTRICT BENCH BAR MINUTES  
Criminal Bench Bar Subcommittee  
November 20, 2009  
Courtroom 301

Present: J Dunn, J Box, Warren Webber, Vic Pearson, Dave Martinez, Doug Bowen, J Carnaroli, Steve Herzog, and Suzanne Johnson. Absent – J Laggis, Steve Muhonen

- I. Welcome – Judge Dunn and Judge Box
- II. Purpose and Format of the Criminal Bench Bar Subcommittee – J Box

Members:

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The purpose of our committee is to create an atmosphere amongst the attorneys and judges where general issues and problems can be discussed and solved. Are there ways that we can make working in the courts easier and generally more consistent throughout our district? The members of this committee are assigned to be available to get problems to the table and then as a committee, discuss them and propose protocol.

- III. Old Business:
- IV. New Business:

- A. When the public defender's office disqualifies itself, the conflict attorneys are not getting the information quickly enough. As a result, many preliminary hearings have to be reset because the conflict attorneys have not had a chance to discuss the case with their new client.
  - a. All of the offices must remain diligent in their efforts to turn around paperwork because of the short timeline
  - b. A new procedure that includes the name of the assigned conflict attorney on the Motion and Order was implemented a week ago. This will save one additional step. It is too soon to tell if it will make a difference.

*Suzanne – will ask the deputy clerk who handles the assignments with the conflict attorneys to email and/or call the conflict attorney when the assignment is made. Use the ‘return receipt’ on email and print a copy to put in the file. If the attorneys do not check their emails, then their secretaries need to do it.*

- c. Dave Martinez – brought up his concern that the lack of witness rooms, attorney interview rooms, jury rooms often place attorneys in a situation where there is a lack of confidentiality between client and counsel. He suggests that it would be helpful if each one of the magistrate judges have at least a separate jury room assigned to them.
- d. J. Box pointed out that among the ABA’s Ten Principles of a Public Defense Delivery System is the requirement that Public Defenders be provided sufficient space for confidential access to their clients. Requiring Public Defenders to meet with their incarcerated clients in the hallway or in the jury box in the court room is inconsistent with this principle.

*The committee recommends the County look at space in the courthouse that might be available to provide conference rooms for attorneys to consult with their clients. Members of the committee may be asked to assist in this process.*

- B. Different magistrate judges use different Advise of Rights and Waiver of Speedy Trial forms. Defense attorneys would like a standard form to be used by all magistrates.

*Judge Box will work with the Bannock County magistrate judges to see if a standard ISTARs Advice of Rights form can be created and used by all magistrates. One suggestion includes putting the Advice of Rights form in each case for use by the attorneys and/or judges.*

*Dave Martinez will draft a Waiver of Speedy Trial form for misdemeanor charges that includes a waiver of both statutory and constitutional rights. He shall also draft a similar notice for district court and submit it to J Dunn who will bring it before the district judges.*

- C. A complaint was received about ex parte contact by probation officers with their judges. This could be a violation of the Code of Judicial Conduct and judges should be cautious when engaging in contacts with their probation officers. If substantive information is discussed both the prosecuting attorney and the defendant or defense counsel must be included.

*At one time, Judge Thomsen offered to provide training to probation officers. Suzanne will work with Vic Pearson and Dave Martinez to draft some guidelines to be used in the training. Once the guidelines are adopted by the judges, we will ask J Thomsen, Vic and Dave to hold training for felony, misdemeanor and juvenile probation officers.*

- D. After attending national training on problem solving courts, Judge Dunn notices that recently there seem to be some confusion regarding how to get defendants into problem solving.

*Judge Dunn will get a hold of Kerry Hong and set up a meeting that includes judges, public defenders and prosecutors to talk about the criteria and process for getting defendants into problem solving courts.*

E. J Carnaroli had two jury trials settle that were scheduled for the day. None of the attorneys involved notified the judge or the jury commissioner that the trials were settled. As a consequence, the jurors were called in and appeared before Judge Carnaroli.

*Attorneys are encouraged to notify the court promptly if a jury trial is not going to go in order to minimize costs and inconvenience to jurors.*