

OPEN NINTH:
CONVERSATIONS BEYOND THE COURTROOM
THE 24 X 7 JUDGE
EPISODE 13
DECEMBER 5, 2016
HOSTED BY: FREDERICK J. LAUTEN

(Music.)

>> Welcome to Episode 13 of "Open Ninth: Conversations Beyond the Courtroom" in the Ninth Judicial Circuit Court of Florida.

And now here's your host, Chief Judge Frederick J. Lauten.

>> **JUDGE LAUTEN:** I'm here today with Circuit Judge Lisa Munyon, who's been a judge since 2003. She currently serves as the Administrative Judge for the Circuit Civil Division. She's assigned to the Complex Civil Litigation Division, completing five years in that division. And, importantly, Judge Munyon serves as the chair of the Florida Courts Technology Commission.

Judge Munyon, thanks for joining us today. Welcome.

>> **JUDGE MUNYON:** Thank you.

>> **JUDGE LAUTEN:** So we're here to share with our listeners something a lot of people don't know about, and that -- the general public understands that judges are in a courtroom during the day, but they probably don't know that there's a judge on duty 24/7, and a term we refer to as either the emergency duty judge or on-call duty judge.

So why don't you explain how that works to our listeners.

>> **JUDGE MUNYON:** Well, in the Ninth Judicial Circuit -- and really in every circuit across the state -- there is

always a judge available to handle emergency matters, such as search warrants and arrest warrants that occur after hours. It doesn't matter if it's Thanksgiving or Christmas, a judge is available.

Essentially, any emergency matter after 5:00 on the weekdays or any emergency matter occurring during the weekends or when the courthouse is closed will be heard by an emergency duty judge, which is available at all times.

>> JUDGE LAUTEN: So how does that work? Does the judge stay here in the courthouse 24/7? I can't imagine that's how it works.

>> JUDGE MUNYON: No, it does not work that way because obviously we don't have emergencies that occur all the time. But we have a phone, and if there is an emergency, we get a call from the sheriff's office dispatch, and they put us on the line with a law enforcement officer who needs the search warrant or the arrest warrant, and we make arrangements to sign the search warrant or arrest warrant with the officer.

>> JUDGE LAUTEN: So we have 65 judges in the circuit. Then what you're saying is that at least one of those judges has a phone with him or her every minute of the day, every day of the year, just in case law enforcement or someone needs a judge for some emergency?

>> JUDGE MUNYON: Absolutely.

>> JUDGE LAUTEN: Well, I guess that raises the logical

question -- next question, what's an emergency?

>> **JUDGE MUNYON:** Well, we have a definition of emergency that we have given to law enforcement officers. And, basically, it's an unforeseen combination of circumstances that call for immediate action, and law enforcement should seek the emergency duty judge intervention only in rare and extreme circumstances where the law or totality of circumstances requires immediate action.

>> **JUDGE LAUTEN:** Okay. So --

>> **JUDGE MUNYON:** In lay terms --

>> **JUDGE LAUTEN:** Yeah, what does that mean in lay terms?

>> **JUDGE MUNYON:** Basically that means that if there is something that needs immediate action, such as a home that has been evacuated and they -- and law enforcement wishes to search the home, um, and they need a judge to sign a search warrant, they need immediate action, they don't want to keep family members out of that home any longer than necessary.

Or if they know the whereabouts of a suspect and they want to arrest him immediately, um, they might come to us for an emergency arrest warrant as well.

>> **JUDGE LAUTEN:** Okay. Sounds like it's predominantly for law enforcement. Is it also for citizens at large or do they just -- citizens at large sort of wait until the courthouse opens the next day?

>> JUDGE MUNYON: Citizens at large by and large wait until the courthouse opens the next day because only law enforcement officers can obtain and serve search warrants or obtain and serve arrest warrants. So they're the only ones that would be able to do that.

There are a few exceptions, however. We do have someone on call 24 hours a day that can handle emergency domestic violence injunctions for citizens. We also have, on rare occasion, the necessity for an attorney from a hospital to contact us to deal with an emergency, um, matter, to permit the hospital to treat someone.

>> JUDGE LAUTEN: So years ago when I was the emergency duty judge, there was a baby in the hospital who would have died without a blood transfusion, with respect to the parent and their religious beliefs precluded them from consenting. And you and I know under Florida statute that doctors can ask a judge to even overrule the parents' objections to a blood transfusion.

And in this case, after careful thought, I did that. And so this child was given a blood transfusion and the child survived, but the doctors were pretty clear that this child wouldn't have survived without that, so we get those kinds of situations too.

>> JUDGE MUNYON: That is the exact situation that I was referring to.

>> JUDGE LAUTEN: Well, let's kind of explain to our listeners with words the process that -- that law enforcement goes through and a judge goes through in getting a search warrant after hours. Why don't you outline that for our listeners so they know how it happens.

>> JUDGE MUNYON: It is very similar to getting a search warrant during the day. A law enforcement officer will engage the judge. If it's after hours, they do that by calling the Orange County Sheriff's Office or Osceola County Sheriff's Office communications center, who contacts the judge.

Right now, we have in place an electronic warrant system that allows the officer to send us the warrant electronically. It will have already been sworn to by someone else that can take oaths, and the officer will have given an oath to this other person.

The judge would then open that document, read the warrant, and if it's appropriate -- or read the affidavit that accompanied the warrant. And if it's appropriate, sign the warrant and then email it back to the officer.

>> JUDGE LAUTEN: So I started by saying you've been on the bench for 16 years. When you first started as the judge and your first experience with emergency duty, did it work that way or did it work a different way?

>> JUDGE MUNYON: It worked a different way.

>> **JUDGE LAUTEN:** Why don't you tell our listeners how it worked back then.

>> **JUDGE MUNYON:** After hours, officers would -- you would get a call in the middle of the night and they would come to your home. And so you had to alert your neighbors that you may see law enforcement officers at the house at odd hours of the night, it doesn't mean anything's going on, other than I'm doing my job.

The new procedure saving both Orange County taxpayers -- saves Orange and Osceola County taxpayers a lot of money because law enforcement officers, before we had this electronic system, would take, literally, an hour off the road to drive to my house and an hour to get back to where they were wanting to serve the search warrant.

Now they don't have to do that. They can almost immediately get a judge to intervene and it saves -- it allows them to be on the road doing what we're paying them to do.

>> **JUDGE LAUTEN:** There's a fact that sometimes I mentioned to the public as chief judge that people are surprised when they hear, but I think our -- our Ninth Judicial Circuit comprises, as you know, of course, Osceola and Orange County. That covers, I think, 2,000 square miles of land. Osceola is bigger, I think, than people realize and goes farther south in the State than people realize if

they're not paying attention to geography.

So if an Osceola deputy needed a warrant from a judge who was on duty in Orange County, they might have to drive really for hours just to get to the judge.

You're telling us now that they can just in an instant electronically send the warrant to the judge?

>> JUDGE MUNYON: Yes.

>> JUDGE LAUTEN: Any challenges with switching to this technological change?

>> JUDGE MUNYON: Well, with any new procedure and new technology, it takes some time to adapt to it for everyone that's using it, on both sides, both on law enforcement's side and on the side of judges. And it's required us to learn some new skills that perhaps we didn't have to have before.

Now we do need to know how to use a computer. It's much different than receiving a piece of paper from, you know, an officer handing it to you, signing it with a pen, and handing it back to him.

>> JUDGE LAUTEN: Any -- we've heard a little bit about this recently, both in the election and just sort of in general news, security concerns about moving information electronically. Are there security concerns for this or not?

>> JUDGE MUNYON: There are always security concerns any time you're dealing with technology. However, we have in

place a pretty robust procedure to protect that. And we have an even better process coming online very soon that, um, is extraordinarily secure, and we will have absolutely no issues with security.

>> JUDGE LAUTEN: Let me loop back. You mentioned training and having to sort of train people. In your opinion, who needs more training, the judges or law enforcement officers? Who's behind the curve more?

>> JUDGE MUNYON: Probably judges need a little bit more.

>> JUDGE LAUTEN: Probably us, right?

>> JUDGE MUNYON: -- need a little bit more training than law enforcement officers, or at least that's my experience. I don't see what the law enforcement agencies go through to train their personnel.

>> JUDGE LAUTEN: One thing that's amazing now, and I'm sure the general public sees it now, it seems to me that almost every law enforcement patrol car I see has a mounted computer, practically, you know, right on the dashboard there's a computer. Is that -- is that the current state for the most part of law enforcement practice?

>> JUDGE MUNYON: Most of the large law enforcement agencies seem to have laptops in the patrol cars with the ability to electronically access the internet. So theoretically, a law enforcement officer could literally

write a warrant in his patrol car, find his supervisor, have -- swear to the warrant before the supervisor, and send it to me without ever setting foot in a station.

>> JUDGE LAUTEN: So, I guess, um, judges then must be able to have access to laptops or some other device, because if they have a PC that's just a stand-alone at work and they're on duty after work, how does the information get to them? So why don't you explain to our listeners what we've done to ensure that judges have a system that they can use.

>> JUDGE MUNYON: When I started, we had computers. They were much different than the computers we have now. And until very recently, every courtroom had a computer, my hearing room had a computer, and my office had a computer. So I had three computers that I was working with pretty routinely.

We have downsized the number of computers that we need by buying Surface Pros. And now I take that Surface Pro with me from my chambers to my hearing room to my courtroom, and then I can take it home. And that allows me to use the Surface pen to electronically sign orders and warrants and to be much more efficient by using one device, as opposed to three different devices and then needing something else to take home with me when I have emergency duty.

>> JUDGE LAUTEN: So have we eliminated the need for three devices, and the judge just needs one, as opposed to

one in chambers, one in the hearing room and one in the courtroom?

>> **JUDGE MUNYON:** We are in the process of the change at this point. So I think most judges still have computers in their chambers. But all of the courtrooms, by and large -- and hearing rooms have been switched to docking stations for Surfaces.

>> **JUDGE LAUTEN:** Well, why don't -- so I'm gonna switch back to the actual logistics of emergency duty. So 24/7 -- we're just about to enter this elongated holiday season, Thanksgiving and Christmas. Are you telling me that a judge is on duty on Christmas Day and Thanksgiving Day and New Year's Day?

>> **JUDGE MUNYON:** Absolutely. And you will see that a judge is not only signing arrest warrants and search warrants, they're doing initial appearances on the holidays.

>> **JUDGE LAUTEN:** Why don't you tell our listeners what that entails. What does that mean for a judge on Christmas morning, for example?

>> **JUDGE MUNYON:** On Christmas morning, you would wake up, early in the morning, usually about 7:30, you would travel to the juvenile courthouse, and then you would read all of the petitions for -- essentially arrest warrants for juveniles to determine whether there's probable cause to continue holding the juvenile and determine if there are any

restrictions that can be placed on the juvenile to let the juvenile go home with their parents.

So you read all of those, and you have the juveniles come in from both Orange and Osceola County, and you deal with each of them one at a time.

After that, you review any petitions for dependency that are filed by the Department of Children and Families. And those are basically petitions that the Department has said on an emergency basis, we believe a child is abused, abandoned, or neglected, and we need the judge to intervene and remove the child from this home and place the child either in a relative's home or in foster care. So you review all of those and the parents that are involved with those.

After that, you drive to the jail, and you deal with initial appearances in Orange and Osceola County from the Orange County Jail. And that entails reading every one of the arrest warrants that have been generated since the last initial appearance and making a determination of whether there's probable cause or not to -- for the person's arrest and make any determinations with regard to bond or conditions of bond.

>> JUDGE LAUTEN: So those three events, delinquency petitions, petitions for dependency, and then reviewing arrest affidavits, does that -- how long does that typically take? Is there a typical day? Does it vary?

>> **JUDGE MUNYON:** Typically when I've done it, because I have been doing this a while, I have gotten pretty quick at it. I'm usually -- I start about 7:30. I'm usually done by 2:00 or 2:30. On a really busy day, people have been there until 6:00 or 7:00 each day.

>> **JUDGE LAUTEN:** So I would imagine it's an interesting debate who goes to the jail on Thanksgiving Day and Christmas Day and New Year's Day. So why don't you tell the listeners a little bit about how we decide what week a judge serves emergency duty. And then we'll get into our recent decision-making for how judges -- who -- what judges have emergency duty on what day.

>> **JUDGE MUNYON:** Well, fortunately, the decision regarding who does emergency duty on the super holidays is the chief judge's decision.

>> **JUDGE LAUTEN:** You make me a real popular guy.

>> **JUDGE MUNYON:** Absolutely. It's been my experience that generally it's the judges with the least seniority that draw the emergency duty on Thanksgiving and Christmas, so that means that we've all done it because we've all been the junior judge at some point.

>> **JUDGE LAUTEN:** Right. And that's sort of our system. Although we wouldn't take someone on their second week on the job and say go to the jail. Someone would usually step in. If there was, for example, an appointment by the governor in

December, we probably wouldn't take that brand-new judge and say, go do it.

So this year we tried something new, which is instead of the chief judge and the court administrator sitting down, we used to do this with a computer program and try to balance who had emergency duty last year. If you had it for a single holiday like Memorial Day, do you give the same weight to Christmas week, which was always difficult. And then we would assign judges, and we'd do it for maybe a 65-week period and then we'd start all over again. And sometimes you might have served on week 65 and the computer would pick you for week two or three, and you go, I just did duty.

We tried something new this year, which was a draft. Why don't you tell the listeners a little bit about the emergency duty draft system.

>> **JUDGE MUNYON:** Well, in addition to being different, it was actually a bit of fun. What we -- we got a calendar that was out five years that had, um, basically a track that you could choose, 1 through 65, each representing a week. And if I chose in the first year week 16, then I'm going to have week 16 in that 65-week cycle for the next five years.

And once the -- the -- the weeks 1 through 65 were established, then by seniority, we got to choose our weeks. So the judge with the longest time on the bench chose first. And the one with the least amount of time on the bench chose

last.

>> **JUDGE LAUTEN:** All right. And so I know that for Judge No. 1, our court administrator, Matt Benefiel, sent out an email that said, with the No. 1 pick in the emergency duty draft, Judge Rodriguez is on the clock to pick his week 1 through 65, which got everybody chuckling because it felt like the NBA or NFL drafts, sort of those two sports drafts.

But actually adding a little bit of levity to it, I think, helped because no one wants duty on Christmas week, if they can avoid it. And -- but it also allowed people to kind of make choices on their own rather than say here's the week we've assigned to you --

>> **JUDGE MUNYON:** The reason --

>> **JUDGE LAUTEN:** -- and gave you a chance to make a decision. How did you feel about that?

>> **JUDGE MUNYON:** I really liked the fact that I know for the next five years when I'm going to have emergency duty. So I don't have to, um, wonder when Matt spins his wheel what my duty week will be next year and whether I've already made vacation plans or that sort of thing. I can plan. I can plan out my docket so that I'm not as busy during that week since I'm going to be signing warrants all week. Or I can, you know, make sure that I don't schedule vacation when I'm supposed to be doing emergency duty and then have to try to get one of my colleagues to switch with

me.

>> JUDGE LAUTEN: Great. So we've talked a lot about emergency duties and warrants. What if an officer needs a warrant not after hours but just in the middle of the day, what does the circuit do with that?

>> JUDGE MUNYON: Right now during the middle of the day, we have one judge during lunchtime every week, and it rotates by the week that sees all of the nonemergency warrants. And the judge is usually available from 12:15 to 1:30 every day to handle those.

Beginning next month, we're going to have a different system. And basically the judge that has emergency duty is going to handle all of the warrants, both the nonemergency warrants and the emergency warrants. So that will be the one week in 65 where you're very busy dealing with things outside of court.

>> JUDGE LAUTEN: I'm gonna switch gears for a little bit because this -- I don't know if our listeners knew about emergency duty, but I'm not sure they know about this either, and I want to talk a little bit about it.

So you are the chair of the Florida Supreme Court Florida Courts Technology Commission. Why don't you tell the jurors what that is.

>> JUDGE MUNYON: The Florida Courts Technology Commission was established by a rule of judicial

administration, and basically it is our job to set policy and standards statewide for the judicial branch when it comes to technology.

So we deal with interoperability standards between the courts and the clerks of court to ensure that we can all receive our records from the clerks and send our records to the clerk without any, um, operability issues between our different types of computer systems.

And we also set minimum standards for technology around the state. Most of our technology funding comes from counties. Some of it comes from the legislature, and we just need to make sure that everyone has the availability of the same resources. So we have set minimum standards for technology.

>> JUDGE LAUTEN: So how long have you been chair of that commission?

>> JUDGE MUNYON: I've been chair of that commission for four years at this stage.

>> JUDGE LAUTEN: How long have you served total on that commission?

>> JUDGE MUNYON: Six years total.

>> JUDGE LAUTEN: So do you get extra pay for being chair of a Florida Supreme Court commission?

>> JUDGE MUNYON: No, you do not.

>> JUDGE LAUTEN: Did you seek that position out

voluntarily or were you chosen or why would you do something where you don't get extra pay?

>> **JUDGE MUNYON:** I was asked to do it.

>> **JUDGE LAUTEN:** Right.

>> **JUDGE MUNYON:** Because I do enjoy the efficiencies that can be gained by technology. But I also recognize that there needs to be collaboration between everyone that's involved, not just judges, but clerks, law enforcement officers, state attorneys, public defenders, to ensure that we have a well-rounded system. So I enjoy that, sort of, collaborative effort.

>> **JUDGE LAUTEN:** How much time does it take from your schedule, either monthly or on a six-month basis or annually, whatever breakdown you want to give?

>> **JUDGE MUNYON:** In looking at it over the last year, I believe I have spent about 20 hours a month dealing with technology commission issues. We have meetings once a quarter by rule, and those typically take two days.

>> **JUDGE LAUTEN:** So there's 67 counties in the state of Florida. Do the clerks all have the same computer system so the courts can just link up with the same single computer system in the state?

>> **JUDGE MUNYON:** No, we do -- the clerks do not have the same computer system. Each of the 67 clerks gets to choose what computer system they use. Many of them are on a

system that was created by the Florida Clerks and Comptroller's Association, but many of the larger clerks are on different commercially available systems, so we have to be able to negotiate with all of those systems and receive information from all of those services.

And by the same token, not all judicial circuits are on the same system. Each of the 20 circuits has the ability to have their own system, and we made that to be able to also receive data from all of those systems statewide into the Supreme Court so they can have the necessary reporting data that they need.

>> JUDGE LAUTEN: Well, you mentioned earlier about compatibility and standards. What -- that must be an enormous challenge if you have so many different systems in the State of Florida and you're talking about compatibility and you're talking about standards.

Tell us a little bit about that. How do you -- how do you mesh all that together?

>> JUDGE MUNYON: It is extraordinarily complicated. The way that we have been able to do it is we get the experts in those areas, um, to come and partner with us to draft the applicable standards. It is really difficult to try to draft everyone that has the necessary expertise when you have no money to pay them to help you.

But we have been very fortunate because we have some

truly brilliant people that work for the court system and the clerk's system across the state, and they have been willing to volunteer their time to create these standards.

>> **JUDGE LAUTEN:** So were you a computer expert before you became chair of the Florida Courts Technology Commission?

>> **JUDGE MUNYON:** I was an enthusiast? I would not say I'm an expert, and I still am not an expert.

>> **JUDGE LAUTEN:** But you know more than most judges I've met about technology. Was that self-taught because you became chair and you needed to understand language and operability and all the things that go with computers?

>> **JUDGE MUNYON:** I'm pretty much self-taught. I have had one brief computer class that the FBI offered a number of years ago. But other than that, it's been self-taught. And trial and error.

>> **JUDGE LAUTEN:** So you didn't major, for example, in computer technology or computer science? What was your undergraduate degree in?

>> **JUDGE MUNYON:** In business, so, no, I did not. Although I did take a computer programming course in COBOL, which --

>> **JUDGE LAUTEN:** That's --

>> **JUDGE MUNYON:** It's doing a lot of good for me now.

>> **JUDGE LAUTEN:** I was going to say, that's doing you a lot of good, hasn't it?

So as we kind of wrap up here, maybe you can prognosticate a little bit. What do you see in terms of the courts and technology a few years out? And then, like, three to five years out and then maybe 20 years out?

>> **JUDGE MUNYON:** Twenty years out is very hard to predict.

>> **JUDGE LAUTEN:** All right.

>> **JUDGE MUNYON:** Because the more we become virtual, you have to wonder, do you need the big courthouses to have your everyday hearings? Of course you're going to need them when you have jury trials and you need everybody to come to together and to receive the evidence in the same room at the same time.

But if I'm having a hearing with lawyers in Los Angeles and in Miami, do I really need everybody in the same room? So that is an issue, I think, that we're going to have to address in the next 20 years.

>> **JUDGE LAUTEN:** So right now, do you have people who ever appear in your hearing rooms from a remote location?

>> **JUDGE MUNYON:** Yes, I do.

>> **JUDGE LAUTEN:** All right. And what about at a trial, could someone appear remotely? I was teasing with the -- our guest from Cisco and then I talked to Mark Britton the COO of AVVO about, would a witness ever be hologrammed into the courtroom?

>> **JUDGE MUNYON:** I haven't had one hologrammed into a courtroom.

>> **JUDGE LAUTEN:** All right.

>> **JUDGE MUNYON:** In my last trial, which was a four-week trial, I had an individual testify from Virginia in court. And it was smooth --

>> **JUDGE LAUTEN:** Testify in front of a jury?

>> **JUDGE MUNYON:** Yes, testified in front of the jury.

>> **JUDGE LAUTEN:** Was it live? Were the questions being asked in real time?

>> **JUDGE MUNYON:** They were being asked in real time. There was no lag. After a while, you really forgot that he was on video as opposed to being there live, sitting there in the witness stand.

>> **JUDGE LAUTEN:** So do you, particularly in civil -- I know in criminal, the confrontation clause raises an issue -- do you see a little bit more of this, this sort of remote appearances or these virtual appearances in the courtroom?

>> **JUDGE MUNYON:** Yes, we see it quite a bit in civil. In civil, if a witness has to come from out of state, it's generally the parties that have to pay the expense of that. So they have a vested interest in reducing the cost of bringing the witness in to testify, so they tend to use electronic means a little bit more frequently.

>> **JUDGE LAUTEN:** Well, Judge Munyon, I know from

personal experience how much work the Complex Civil Litigation Division takes. And then you're also the Administrative Judge for Circuit Civil, and I happen to know how much work that takes.

What I've never done is serve as the chair of the Florida Courts Technology Commission, which is an essential Supreme Court commission, really about our future, the future of the courts, and how we will operate because technology is driving the clerks and it's driving us.

I don't know how you juggle three jobs like that, that one of which is more than full time, which is the Complex Civil Litigation Division, with 20 extra hours a month for the Florida Courts Technology Commission. And I know the extra time it takes you to be Administrative Judge of Civil.

So on behalf of all of the judges in the circuit and really all the citizens in Central Florida, I want to thank you for taking on three full-time jobs and thank you for your dedication and thank you also for explaining emergency duty to us and the challenges facing Florida courts and technology.

Thank you for being with us today.

>> JUDGE MUNYON: And thank you for the opportunity.

>> Thank you for listening to "Open Ninth: Conversations Beyond the Courtroom" brought to you by Chief Judge Frederick J. Lauten and the Ninth Judicial Circuit

Court of Florida.

Please remember to follow us on Facebook and Twitter for more information about the Ninth Judicial Circuit Court.

(Music.)