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Clackamas County

# Attorney general bars Clackamas County judge from child-welfare cases

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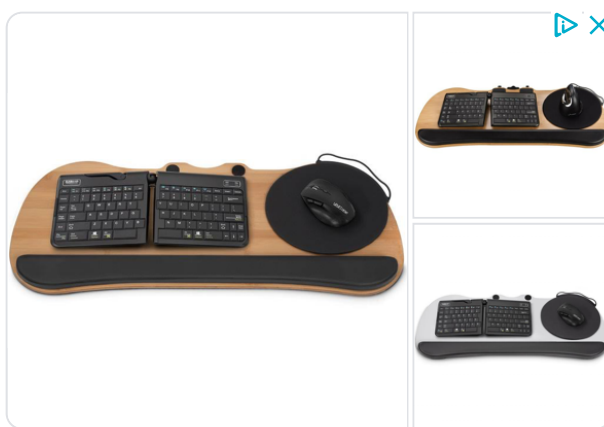
By **Steve Mayes | The Oregonian/OregonLive**

Judge Deanne Darling

Oregon's attorney general Wednesday formally called for a Clackamas County judge to be removed from child-welfare cases, saying "the lack of a fair and impartial forum is interfering with the ability of the state to protect Oregon's children."

Judge Deanne Darling, who made headlines last year when she ordered the state to bail out a child-rape suspect, said she would cooperate with the request to ensure a smooth transition.

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Attorney General John Kroger's action may be unprecedented.

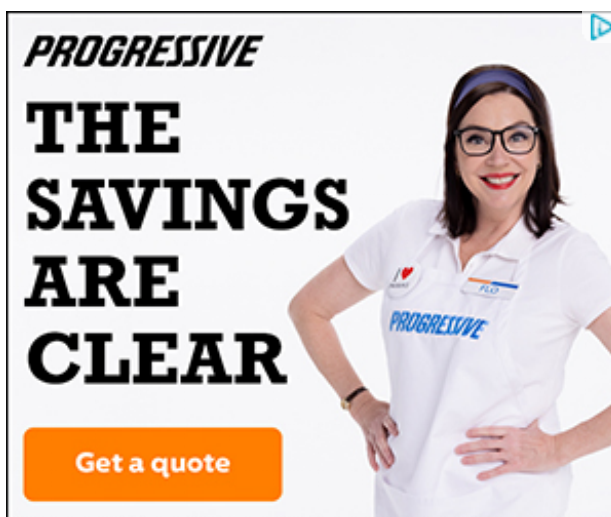
"I am not aware of the attorney general's office ever taking such a step," said spokesman Tony Green. The action applies to child dependency cases involving the state Department of Human Services.

Caseworkers and prosecutors have repeatedly bumped heads with Darling, the county's main juvenile court judge and the one who decides who gets custody of abused or neglected children.

Darling is known as a compassionate but no-nonsense judge whose rulings sometimes rankle child-welfare officials.

A headline-grabbing example occurred late last year involving Russell Paul Hamblen, a Wilsonville father who was charged with rape and sexual abuse of underage girls. After his arrest, the state took custody of Hamblen's 13-year-old son. Hamblen's wife could not care for the teen because of her drug and alcohol abuse and her own legal problems.

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Darling noted that the state didn't present any evidence Hamblen was an unfit parent and that his incarceration was the only legal barrier preventing him from caring for his son. She ordered the state to help Hamblen get out of jail using his own assets or Department of Human Services funds, if necessary.

Child-welfare officials were stunned by Darling's action, calling it unprecedented and inappropriate. State attorneys called Darling's order a "gross abuse of discretion" and appealed to the Oregon Court of Appeals, which blocked her order.

The debate ended when Hamblen, an alcoholic, was convicted earlier this year of sexually abusing and providing liquor to underage girls at his Wilsonville home. He was sentenced to 23 1/2 years in prison.

Kroger informed Clackamas County Presiding Judge Steven Maurer of his intentions last week and followed up with a letter that was released Wednesday at the request of The Oregonian.

"I have concluded that the state ... cannot obtain a fair and impartial hearing before Judge Darling in juvenile dependency matters," Kroger wrote, adding that his office would "file motions to disqualify Judge Darling in all future dependency cases."

Darling will continue to preside over other cases.

"We, obviously, as a court, are very disappointed that they think this was a necessary course for them to take," Maurer said.

Darling met with Kroger on Monday, at her request.

"Once he told me (his plans), I informed him that certainly I would make sure that the process allowed for an orderly transition of the cases to another judge," Darling said Wednesday.

The loss is not without pain, Darling said. "These cases have been my passion."

Kroger acknowledged as much in his letter to Maurer. "I respect Judge Darling's passion for juvenile dependency matters. In the end, however, fidelity to the rule of law must trump other considerations," Kroger said.

Oregon's liberal judicial disqualification process allows any party to any case to remove a judge early in a case. But a broad effort to block a judge from hearing an entire category of cases is unusual.

"I wouldn't say it's common, but it happens," said Norm Frink, Multnomah County chief deputy district attorney.

Earlier this year, Frink's office decided it would prevent Circuit Judge Marilyn Litzenberger from presiding over certain serious criminal cases because prosecutors were concerned she could not be impartial.

Darling was Clackamas County's first female judge. She was appointed in 1995 and elected to six-year terms in 1996, 2002 and 2008.

-- *Steve Mayes*: [stevemayes@news.oregonian.com](mailto:stevemayes@news.oregonian.com)

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## Judge seemed intoxicated during court hearing, attorneys say

Anna Del Savio January 29 2021

**Cathleen Callahan hasn't presided over criminal cases since incident; she says it was a mini-stroke, not alcohol**

A Columbia County circuit judge's erratic behavior at a hearing last year alarmed attorneys and led to the county's chief prosecutor asking that she no longer be assigned to preside over criminal cases, the Spotlight has learned.

On June 2, 2020, Judge Cathleen Callahan showed up late to a hearing in a child dependency case, slurred her words, and repeatedly mixed up the names and roles of various people involved in the case.

Attorneys who were listening to the hearing said Callahan's behavior was concerning.

When Callahan arrived, "it seemed very apparent that she seemed to be under the influence, just from her mannerisms and her speaking," said Mark Lang, one of the attorneys involved in the June 2 hearing, which was conducted telephonically.

Other attorneys on the call, all in separate locations, were texting and emailing with one another during the proceedings, expressing concern as Callahan slurred her words.

Audio of the hearing obtained by the Spotlight backs up the attorneys' characterization of Callahan's behavior. Because the audio identifies the family involved in the child dependency case, which are generally private cases, the Spotlight is not publishing the recording.

Callahan denied being intoxicated during the hearing. She said she suffered a "medical episode" during the court proceeding, which was diagnosed as a transient ischemic attack, or mini-stroke.

"I have been receiving the necessary medical care from my doctors and am confident that this episode has not affected my ability to carry out my judicial responsibilities," Callahan wrote in an email to the Spotlight.

Callahan declined to share any medical documentation confirming the diagnosis.



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Callahan said she has not had any similar medical episodes since the June incident, but concerns related to her conduct have not been limited to one day in June.

Lang said the parties in the case sat on the phone for more than half an hour after the proceedings were set to begin, waiting for Callahan to show up.

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"That's a lot of taxpayers' money sitting on the phone, because you've got attorneys that are appointed for these clients, you've got the attorney general (for the Oregon Department of Human Services) sitting on the phone, who could probably be doing other work," Lang told the Spotlight.

Lang said he felt bad for the clients on the phone, at least some of whom also thought Callahan seemed impaired.

"I think it really hurts people's confidence in the system," Lang said.

Paul Aubry, an attorney representing one of the family members in the case, said that he and other attorneys on the call notified court staff of Callahan's behavior.

Other attorneys confirmed that after the June incident, complaints were filed with the state Commission on Judicial Fitness and Disability, which hears complaints against judges and makes disciplinary recommendations to the Oregon Supreme Court. The commission's proceedings are confidential unless the commission files charges.

From June to September, Callahan was effectively off the bench, the county's trial court administrator confirmed. No official action was taken against her at that time, but she was not scheduled for any hearings.

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As presiding judge, Judge Ted Grove manages the distribution of cases among the Columbia County Circuit Court's judges.

Callahan began handling civil proceedings again in September.

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In October, District Attorney Jeff Auxier wrote (https://pamplinmedia.com/documents/artdocs/00003694685867-0957.pdf) to Grove asking to remove Callahan from all cases that the DA's Office is involved in, which means all criminal matters.

"I take this position with a great deal of regret, as I have never previously found Judge Callahan to be biased against the state and still consider her a friend. Unfortunately, the problem is that I am not confident that crime victims, law enforcement officers, or even the accused can receive a fair hearing or trial before Judge Callahan due to her current mental state," Auxier wrote.

Callahan's current docket includes issues like restraining orders, stalking orders, domestic relations and personal injury claims. Though those cases don't result in incarceration, they still determine the futures of families, homes, and individuals' finances.

In the letter, which the Spotlight obtained through a public records request, Auxier outlined a number of reasons for his concern.

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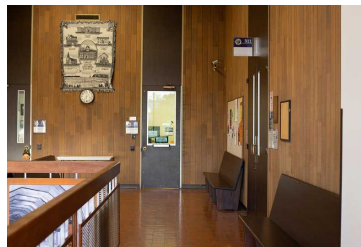
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Auxier also described a confrontation that took place on June 2, the same day as the hearing, "in which Judge Callahan approached me and criticized my decision to endorse Judge Grant in her re-election campaign, despite prior conversations in which we agreed not to discuss the matter." That was a reference to a contentious judicial race last year, which divided members of Columbia County's legal community between support for retaining Judge Jenefer Grant and replacing her with Scappoose-based attorney Michael T. Clarke.

During the conversation, Auxier wrote, Callahan "exhibited slurred and lethargic speech and I believe she smelled like alcohol."

Auxier said that attorneys who were present at the June 2 hearing described Callahan as "wasted" and "strangely jovial."

Auxier also wrote that a defense attorney had recounted to him an incident where Callahan took a bottle of liquor out of her desk drawer and offered him a drink in chambers around 11 a.m. on a business day.



In addition, Auxier wrote that Columbia County Sheriff Brian Pixley had voiced concerns that Callahan was "impaired" while serving as the on-call judge, who is responsible for reviewing search warrants outside of business hours. Pixley confirmed Auxier's characterization of his concerns but did not comment further.

Auxier wrote that he and Chief Deputy DA John Berg had attempted to talk to Callahan in September, but she "was not willing to have a meaningful dialogue with my office about our concerns."



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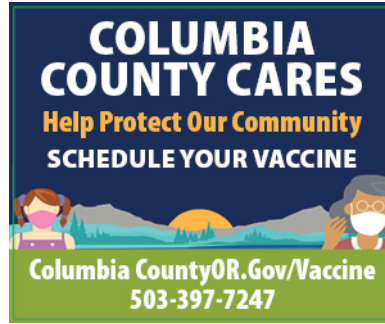


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Callahan's "hostility towards me was alarming and ... the meeting only increased my concerns about her ability to be fair and impartial," Auxier added.

Attorneys say Callahan's removal from handling cases put an additional strain on Grove and Grant, who eventually lost her re-election bid in November to Clarke.

Before becoming a judge, Callahan primarily practiced divorce law. Grove and Grant had more experience in criminal law and handled the majority of those proceedings.

Clarke's experience is also in civil cases, meaning Grove is handling criminal matters with one new judge and one effectively barred from criminal cases.

The Oregon Judicial Department effectively denied a public records request for correspondence between Grove and Callahan, with an Judicial Department attorney writing that he is "prohibited by state law from acknowledging whether any responsive public records exist."

The Judicial Department had also previously confirmed that records did exist, telling the Spotlight that staff had gathered the records and were in the process of reviewing them for any necessary redactions.



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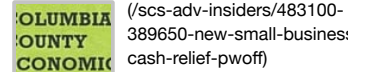
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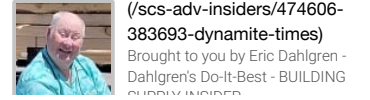
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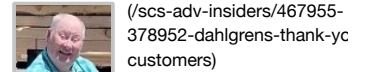
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## Our Opinion: Untenable situation in Columbia County Circuit Court

Editorial Board February 04 2021



Judge Cathleen Callahan has ducked questions about her health and lost the truth of her colleagues.



Trust in the system is in short supply in Columbia County.

Over the years, we've reported on budgetary shell games, gross mismanagement, childish feuds, spurious lawsuits, questionable investigations and more in South Columbia County. Few public entities in our region have been blameless. And yet meaningful turnover and meaningful change in many of our public offices has been elusive.

So it is saddening and disappointing to see that Columbia County Circuit Judge Cathleen Callahan's colleagues and peers have lost confidence in her ability to do the job to which voters elected her in 2014.

That year, Callahan unseated a judge appointed by then-Gov. John Kitzhaber, a rare case of voters effectively overruling a governor's pick for the bench. Voters in Oregon have that right, since judges must periodically run for re-election, or retention. Just last year, another sitting judge, Jenefer Grant, lost her retention bid as voters elected Michael T. Clarke as the newest circuit judge in Columbia County.

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Callahan joined the bench with nearly all of her experience rooted in civil law. As a judge, she had to learn on the job how to handle criminal proceedings. Judge Clarke will have to do the same. It's not ideal, but nor is it uncommon for a judge to be elected with only civil law or only criminal law experience — however, especially in a small judicial district like Columbia County, the job calls for them to handle both.

Right now, Callahan can't do that. That's because, as the Spotlight reported last week, District Attorney Jeff Auxier has asked that Presiding Judge Ted Grove not assign criminal cases to Callahan.

Why? Auxier says he is concerned about Callahan's mental state.

Last June, Callahan called in late for a sensitive hearing. On that call, she slurred her words and came across as confused and unprepared. The Spotlight's reporter spoke with participants on the call who said they believed Callahan was intoxicated. While not actually removed from the bench, Callahan's docket was cleared until September, and in October, at Auxier's request, Grove only began assigning her some civil proceedings.

**Read the Spotlight's Jan. 29, 2021, story on Judge Cathleen Callahan. (https://pamplinmedia.com/scs/83-news/496244-397818-judge-seemed-intoxicated-during-court-hearing-attorneys-say)**

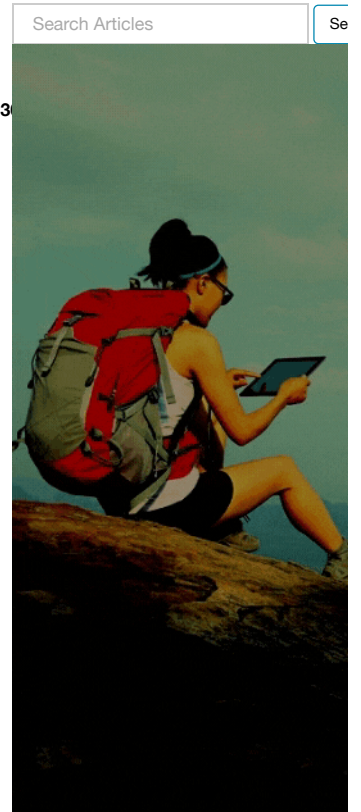
This is untenable. While Callahan maintains that she was not intoxicated and instead experienced a medical episode — a claim for which she has not put forward documentation, despite the Spotlight's request — the fact remains that Auxier does not trust Callahan to carry out the full duties of a circuit judge, and Grove has agreed to limit her responsibilities accordingly. That leaves a very small bench even more shorthanded, especially as Clarke just stepped into the robes and will need time to learn the ins and outs of presiding over criminal court proceedings.

Our intention here is not to shame Callahan, or anyone who is struggling with addiction. Substance abuse disorder is a disorder. Addiction should be addressed and treated, rather than stigmatized and swept under the rug. If Callahan has a substance abuse problem, she is far from the first public official to have that same struggle; Grove, in fact, has spoken candidly about his struggles with alcoholism before he became a judge. Many addicts, including many alcoholics, can overcome it with proper care, compassion and constant vigilance. They should have the opportunity to do so.

However, it has been more than eight months since that disastrous hearing. The Oregon Judicial Department has stonewalled the Spotlight's requests for records that could shed light on how the court system is handling the matter internally. Callahan has been less than forthcoming with the public, saying only this month that she had a transient ischemic attack, or mini stroke — the symptoms of which closely resemble drunkenness— that she has since received unspecified medical care, and that she believes she is still fit to serve as

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a judge. But what we know is that eight months on, Callahan does not have the confidence of the county's top prosecutor, and the court's presiding judge continues to selectively manage her workload.

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We have no wish to pry into people's personal affairs. But Callahan is in a position of public trust and authority. Her decisions can, without hyperbole, alter the course of people's lives. She has not leveled with the public as to why, for the better part of a year, she has been unable to perform the job to which she was elected in 2014 and re-elected in 2020, just weeks before she appeared to conduct a hearing while impaired. And her fractured working relationship with the district attorney will have knock-on effects, placing considerable pressure on her fellow judges, one of whom is brand-new and still getting up to speed.

Callahan owes the public an honest explanation of what has been going on. And if she is unable to regain the trust of the legal community in Columbia County, or if she is unable to fulfill her duties as a circuit judge, she should step down and allow someone else to serve out her six-year term.

Whatever ails Callahan, we sincerely hope that she gets the help and support she needs and that she makes a full recovery. And we hope the Columbia County Circuit Court gets back to full functionality as soon as possible. Judges wield awesome power, and the public deserves to be served by a court system they trust to be professional, efficient and diligent, just as they deserve government at every level that acts in their interests with ethics, accountability and integrity. It is hard to see how that can be the case in Columbia County unless there is a meaningful change.

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