

COURT EN BANC MINUTES
Tuesday, May 21, 2019, at 5:00 p.m.
Boone County Courthouse
Law Library, 2nd Floor

Judges Present: Judges Kevin Crane, Brouck Jacobs, Jodie Asel, Kimberly Shaw, Carol England, Sue Crane, Tracy Gonzalez, Leslie Schneider, Stephanie Morrell, Commissioners Sara Miller and Casey Clevenger and Columbia Municipal Judge Cavanaugh Noce.

Others Present: Boone County Circuit Clerk Christy Blakemore, Adult Court Services Supervisor Brandon Walker, Technology Services Supervisor Chris Fishman-Weaver, Callaway County Prosecuting Attorney Chris Wilson, Assistant 13th District Public Defender Jeremy Pilkington, Callaway County Assistant Public Defender Sam Baker, Court Administrator Mary Epping and Deputy Court Administrator Cindy Garrett

1. Call to Order/Welcome

The meeting was called to order at 5:00 p.m. by Judge Kevin Crane.

2. Introduction of All Guests

Judge Kevin Crane welcomed guests.

3. Approval of the April 2, 2019 Minutes

Judge Leslie Schneider moved to accept the April 2, 2019, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

4. Technology Updates

Technology Services Supervisor Chris Fishman-Weaver reminded everyone of the importance to store files in individual H: drive network folders versus the desktop as items on the desktop cannot be recovered. Chris said everyone should have a shortcut to their personal H: drive on their desktop. Chris also said his office will be replacing docking station in the courtrooms. He demonstrated how to hook up notebooks to the new docking stations.

5. Assignment of Associate Judge to Preside as Circuit Judge

Judge Kevin Crane said there may be circumstances where a civil case is filed at the associate circuit level, but a counter claim filed later exceeds the \$25,000, therefore making it a circuit level case. The clerk has been sending the cases to Judge Crane to assign to a circuit judge. However, Judge Crane said the associate circuit judges have the institutional knowledge of the case and so the associate circuit judge can sit as a circuit

judge when the counter claim exceeds \$25,000. Judge Crane said the cases have to come to him as it is technically a reassignment in their anointed capacity as a circuit judge.

Judges Sue Crane and Carol England joined by video at 5:11 p.m.

6. Missouri Association of Probate & Associate Circuit Judges

Judge Kevin Crane congratulated Judge Kimberly Shaw who was recently elected to serve a two year term on the Board of Directors for the Missouri Association of Probate and Associate Circuit Judges.

7. Rule 33 Changes

Judge Stephanie Morrell said there are changes in Supreme Court Rule 33 that will impact arraignments, timing of hearings, and bond amounts. She said the most important thing is the presumption a person should be released on an ROR with conditions, and warrant forms and bond paperwork will also have to be changed. The process of the defendant getting a copy of the warrants and bond paperwork also needs to be reviewed. Judge Morrell sent draft notes and proposed macros to judges for review prior to this meeting. She said the associate judges would like more time to discuss the rule and report back at the June Court en Banc meeting. She also reported changes will need to be made to the bond schedule to address conditions. Lastly, the court will need to address how probation violations will be heard in a timely manner. She also said if associate circuit judges decide to make oral versus written findings, it will need to be determined if there are enough clerks available to record in the courtroom.

Judge Brouck Jacobs arrived at 5:14 p.m.

8. Treatment Court Eligibility

Commissioner Casey Clevenger provided a handout of a draft treatment court eligibility checklist she is planning to implement on June 1, 2019. The goal is to make treatment court eligibility objective and transparent. She said when the court orders a screening, treatment court staff will use this checklist to easily and objectively determine if someone is eligible for treatment court which is a goal of the federal grant the court has for equity and inclusion. She has met with OSCA, Judge Carpenter, prosecutors in Boone and Callaway counties, private counsel, and the public defenders in Boone County regarding the eligibility checklist. She also consulted with a group from American University in Washington D.C. Commissioner Clevenger said state standards will be coming soon which will require an objective eligibility criteria. She said if this is implemented, she anticipates it will save treatment court staff at least 80 hours a year as currently they are spending at least an hour with each person referred for screening; with the checklist, they may not need to personally meet with clients to determine eligibility. Commissioner Clevenger noted it will not change processes for judges in referring individuals to be screened, rather it will streamline and simplify the process. It will also save jail staff time as they will be able to screen inmates by email and phone. She anticipates this could

make a lot more people eligible for treatment court. She said information not included in the form is criminal history and input from the victim, however judges should continue to consider everything when determining whether to put someone on probation.

9. Orders of Protection Child Custody

Judge Kimberly Shaw said this issue was addressed last month. She said the issue has continued on both child and adult orders of protection, orders of custody are being granted which may interfere with prior orders and ultimately cause issues for the sheriff. It was discussed what should be done to address custody concerns and Judge Kevin Crane said he was always told when on-call the judge should never do anything with the section as to custody/visitation due to prior existing orders. It was recommended that minutes from this topic be sent to all judges for those who are absent from the meeting and the topic be added to the on-call book or emailed periodically as a reminder.

10. Adult Court Services Recommit Authority Committee

Court Administrator Mary Epping said at the last Court en Banc meeting it was agreed that pursuant to Supreme Court Rules and statutory requirements, a warrant must be issued and Adult Court Services staff cannot just recommit someone who they believe is in violation of pre-disposition supervision. Judge Kevin Crane appointed Judge Stephanie Morrell, Adult Court Services Supervisor Brandon Walker, Court Marshal Les Werner and Mary to review the issue and propose a solution. Mary said the committee met and proposes the language highlighted on pages 9 and 10 of Court en Banc packet, which would put the defendant on notice that “as a condition of bond, the court orders that if and upon staff of Adult Court Services making an initial determination of a violation, defendant to remain in the courthouse until a determination regarding the violation is made by the court.” She said with this language the court marshal can temporarily detain the defendant, which allows Adult Court Services staff time minutes to get in touch with a judge to get a warrant signed. If Adult Court Services staff cannot get in touch with a judge within 15 minutes then the person will be released and be made aware the violation will be sent to the judge for the judge to take whatever action they deem appropriate. The judges wanted to ensure the defendant receives a copy of the form once signed by the judge. It was noted this form does not address the issue as to the need for a warrant after hours, however blank warrant forms are in a folder in the judge’s on-call bag to meet that need. It was agreed the format on page 10 was preferred with edits to the language to read “As a condition of bond, the court orders that if staff of Adult Court Services makes an initial determination of a violation, defendant shall remain in the Boone County Courthouse ...”.

11. Treatment Court Building Sign

Court Administrator Mary Epping said she meant to but did not include new signage in the 2019 budget. She said we used to call Treatment Court “Alternative Sentencing Court” and the legislator has also changed all language to Treatment Court. On page 11 of the Court in Banc packet is a photo of the Treatment Court building, which still says

Alternative Sentencing Center. Mary asked for approval to change signage to Treatment Court Center and pay for it this year. The quote received last fall was for \$900. Judge Leslie Schneider moved to approve purchasing the new signage in 2019. Second: Judge Kimberly Shaw. The motion passed unanimously.

12. COGNOS Court Reports

Court Administrator Mary Epping said she is very appreciative that several judges have reached out requesting specific case management reports. Mary sent out some examples of reports to each division last Friday. Mary provided a handout of sample reports. The first page of the handout lists the reports available from National Center of State Courts CourTool reports which the National Center has deemed important for courts to review. Page two of the handout is the first report of clearance rate by case type for a specific judge. Any number on the report that has a line under it provides a list of the specific cases that make up that number. Mary said some judges requested NCSC CourTool 4, Age of Pending Caseload. The last page of the handout is this specific report. Once clicking on the number, a list of all pending cases with the age of each of case is provided. Mary said judges should let her know if they are interested in any of the reports. She said the reports can be run by snap shot or by detail. She said having communication with judges on their concerns regarding cases allows her to look deeper into the levels for possible causes. She said these reports provide additional capability to look at individual caseloads that allows for judges to managing their dockets. Judge Kimberly Shaw inquired about getting monthly snap shots of clearance rate reports, to which it was noted can be run. Commissioner Casey Clevenger encouraged those interested to apply to attend the Missouri Court Management Institute "MCMI" where you learn a lot more about data.

13. 2020 Budget Schedule

Court Administrator Mary Epping said she has to, by statute, have the courts budget in to the Boone and Callaway county commissions by August 15. She has to go through the auditor and Court en Banc prior to that time. It was scheduled for the budget to be presented at the August 6, 2019, Court en Banc meeting.

14. Legislation Update

Court Administrator Mary Epping and Deputy Court Administrator Cindy Garrett provided a review of several truly agreed to bills. Mary will send out an email with details of each of the bills.

Judges Sue Crane, Carol England and Leslie Schneider left the meeting at 5:46 p.m.

15. Uniform Fine Schedule for Violation Bureau

Deputy Court Administrator Cindy Garrett said the document on page 13 of the Court en Banc packet is a sample order that was provided when the approved fine schedules for

traffic, watercraft, conservation, and municipal violations were distributed. Pursuant to Supreme Court Rule 38.10, each judicial circuit shall establish by court order a violations bureau in each county within the circuit and Supreme Court Rule 37.49 states any judge having original jurisdiction of any animal control violation, housing violation, or traffic violation, may establish by court order a local violations bureau, which shall be subject to the supervision of the circuit court. A copy of this sample order was provided to each associate judge in our circuit that hears municipal court cases for signature. Cindy passed out a handout with recommended language to be added in our local court rules under 69.3 as sections E & F. The sample order would then be included after Section F within Rule 69.3. Judge Stephanie Morrell moved to make the recommended changes to Local Court Rule 69.3. Seconded Judge Kimberly Shaw. It was noted this is a proposed order so Columbia Municipality does not have to use the sample order. The motion passed unanimously.

16. BIP Bond Condition

Deputy Court Administrator Cindy Garrett said the form on page 14 of the Court en Banc packet was provided to the jail for them to give defendants who have a bond condition to attend a batterer's intervention program. Domestic Assault Court Coordination Amy Cunningham is recommending that a copy of these forms be placed in the courtrooms so defendants can be provided the form at the time a judge orders a bond condition of batterer's intervention program. Cindy said Amy is also willing to come to the courtroom at the time this condition is being ordered so she can provide information to the defendants. All agreed to put them in the courtrooms on purple paper, however it was recommended to change the language "Alternative Sentencing Center" to "Treatment Court Center."

17. Art Committee

Court Administrator Mary Epping asked for Court en Banc approval to change the make-up of the Art Committee. There are currently three administrative orders regarding the members of Art Committee. Mary said due to the large number of committee members they have not been able to get together and have not met in several years. She has met with committee member Attorney Josh Oxenhandler and they are suggesting instead of the committee coming up with rules and regulations and curating the art that they use Columbia Art League, who curates the art for the Boone County Government Center. The current photos hanging in the courthouse was supposed to be up for 6 months and then be rotated out, but the same art has been up for years. Columbia Art League will rotate the art for us. Mary is requesting to repeal the three administrative orders and have a new order with a committee of a judge, president of the Boone County Bar or their designee, and the county commissioner assigned to the court, who will work with the court administration. Judge Tracy Gonzales moved to repeal the prior orders and create a new administrative order. Second: Judge Stephanie Morrell. The motion passed unanimously.

18. Other

Judge Kevin Crane clarified from the minutes of the last meeting that when someone is in custody a judge can appoint the public defender to the case. Circuit Clerk Christy Blakemore said at the last meeting that when a judge orders notice to the public defender, the clerk can send a notice to the public defender, even when they are not assigned to the case. District Defender Sarah Aplin is asking for the order to read “notice to the public defender Aplin to determine eligibility,” noting the defendant is in custody, instead of appointing the public defender to the case. It was reported that Sarah has said upon receiving that notice she will ensure they determine eligibility and get an attorney appointed. It was clarified there are two separate issues 1) those people already on the waitlist, but the public defender is not aware they are now incarcerated and where the order should read “notice to public defender Aplin that defendant is now in custody”; and 2) those people requesting attorney where there needs to be an order for the public defender to determine eligibility.

Court Administrator Mary Epping said she recently learned that statutorily the court is not required to have witnesses for a marriage unless the parties are under 18. Mary said she can send the statute number out by email.

Mary also said the Boone County Children Services Board is hosting a Youth Violence Prevention Forum on Wednesday, June 12 from 8- 10 a.m. at the Food Bank. Please let Mary know if you would like to attend and she will send an RSVP.

Judge Cavanaugh Noce said Columbia Municipality will only be doing one wedding docket on the 1st Friday of the month. He also said city council is giving him three new FTEs to handle the parking ticket caseload due to changes in Supreme Court Rules. Judge Kevin Crane inquired what happens if the ticket is not paid and the party fails to appear for their court docket. Judge Noce said the prosecutor will file an amended information with name of the person registered to the car at which time a summons will be sent. If they fail to appear on the summons date a second summons will be sent. Therefore the person will have received a ticket with the court date and two summons before he will issue a warrant, unless mail is returned. Judge Noce said this was addressed by the Supreme Court of Missouri in *City of Kansas City v. Hertz Corporation*. It was noted Judge Noce and the Boone County associate circuit judges who hear criminal cases are attending the Missouri municipal and associate judges’ annual conference this week.

Judge Kevin Crane requested Judge Noce join him again this year to make remarks at the State of Boone County Bar address in October. He said they also requested updates on the juvenile issues. He said the Court of Appeals, Western District, would be hearing cases in the ceremonial courtroom after the bar meeting in November.

19. Comments from the Public

None.

20. Meeting Date

The next meeting is scheduled for June 25, 2019, at 5:00 p.m. in Boone County. July 30 will be the meeting on budget. Judge Kimberly Shaw moved to adjourn. Second: Judge Stephanie Morrell. The motion passed unanimously. The meeting adjourned at 6:05 p.m.

Prepared by: Cindy Garrett
Cindy Garrett
Deputy Court Administrator

Submitted by: Mary Epping
Mary Epping
Court Administrator

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