

**COURT EN BANC MINUTES**  
**Tuesday, June 25, 2019, at 5:00 p.m.**  
**Boone County Courthouse**  
**Law Library, 2<sup>nd</sup> Floor**

**Judges Present:** Judges Kevin Crane, Brouck Jacobs, Jeff Harris, 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, Unit Manager Sherry Seiling, Deputy Clerks Michelle Cecil, Christie Murray, Beth Clark and Bobbi Malone, Adult Court Services Supervisor Brandon Walker, 13<sup>th</sup> District Public Defender Sarah Aplin, Assistant District Public Defender Jeremy Pilkington, Probation and Parole District Administrator Jared Drummond, 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. Employee Recognition**

Judge Kevin Crane recognized Deputy Circuit Clerk Bobbi Malone. Judge Crane read an article of a story posted on ABC17 regarding Bobbi assisting an elderly woman from a burning building with her oxygen tanks prior to fire fighters arriving. The Court presented Bobbi with a certificate of recognition for exceptional contributions to the 13<sup>th</sup> Circuit and the community.

**3. Introduction of All Guests**

Judge Kevin Crane welcomed guests.

**4. Approval of the May 21, 2019 Minutes**

Judge Stephanie Morrell moved to accept the May 21, 2019, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

*Commissioner Miller arrived at 5:05 p.m.*

*Skipped to Item #6*

**5. Probation and Parole Updates**

District Administrator Jared Drummond provided a packet of information regarding several changes, many that went into effect on June 1, 2019. The following changes were noted:

- Effective June 1, probation and parole began using a new evidence based Ohio risk assessment survey that takes about 1 ½ hours to complete. He said reports may now indicate the level of risk, based on the results. He said there is a push to have officers spend more time in the field to provide community supervision.
- Missouri Offender Management Matrix “MOMM” is now being utilized, in line with the justice reinvestment initiative, which identifies sanctions for negative behavior based on defendants risk to the community and incentivizes positive behaviors with reinforcements.
- The Community Supervision Center in District 26 (Fulton), will have generalized programming.
- JIR Treatment Pilot is going on within Boone County. This pilot project identifies individuals with substance use disorders and addictions and targets moderate and high level individuals. It is a collaboration with treatment agencies and officers meeting weekly to identify goals for the clients. This is for individuals not eligible for treatment court.
- SAR concerns and recommended changes were discussed. Jared requested ROR bonds pending SAR interviews. Judge Kevin Crane said he often recommends this on defer cases due to jail overcrowding. He said there has been an increase in the number of cases where an SAR is not being ordered. Judge Crane suggested it be ordered with the condition that the defendant report to probation and parole office upon release. Jared said they can provide a map of the probation and parole location to the court and jail. It was also recommended the map provided to the defendant by Probation and Parole note that the defendant needs to appear forth with. Probation and Parole will send a report to the judge if the defendant fails to appear for the SAR interview.
- SAR changes were noted. Jared said Section 4 will be deleted and will instead reference the risk assessment, with risk level, needs, etc. A copy of a letter from Division Director Julie Kempker is in the packet provided by Jared. He said the letter will be distributed throughout the state to the courts this week. The letter goes into further details as to the SAR changes.
- Changes to restitution are occurring due to *State v. Hayes*. If a judge orders a defendant to not be discharged until all fees are paid in full, defendants still get earned compliance credit, unless there is restitution or child support arrears that remain outstanding. Community service work and law enforcement restitution fund is not considered restitution for this purpose.
- There are changes to the notice of citation. Jared said in the past all violations as to #1 laws have been written in a violation report, however now if it is a misdemeanor law violation with no identifiable victim, it will be in a notice of citation format. It was noted if they want court action then it will be in a violation report. Judge Crane said there are times when the probation violation report will indicate, on the first page, no court action requested; however, later in the report there will be a request for a capias or for a violation hearing to be set. It was noted Probation and Parole considers a warrant to be delayed action.



*Moved to Item #7*

## **6. Rule 33 Changes**

Judge Stephanie Morrell said changes to Rule 33 have been discussed at the last Court en Banc and Criminal Justice Coordination Committee meetings. Since that time macros have been created to address all required findings. On pages 11 and 12 of the Court en Banc's packet is the warrant that adds all the standard conditions at the bottom that are required and they added #5 that the defendant have no contact with the alleged victim. Mary handed out a revised version of the warrant with a minor edit to the first check box. Judge Morrell said a finding has to be made on all felony and misdemeanor cases before doing the warrant that either there are reasonable grounds they will not appear on a summons or they are a danger to the crime victim, community or another person. She said this goes into effect on July 1. On page 13 of the Court en Banc's packet is bond paperwork for Boone County that lays out the conditions, which have been updated to comply with Rule 33 and will also become effective July 1. On pages 8, 9 and 10 are the modified order for the bond policy and scheduled bonds. On page 10, the underlined language is the proposed changes to the preset bonds. Judge Morrell said for circuit judges on failure to appear warrants, they must be seen by a judge within 48 hours. If there are times a defendant is unable to appear in court due to being in detox, needing an interpreter, refusing to cooperate, etc., then she is recommending when the case is passed that the order indicate why the case is being passed. Court Administrator Mary Epping reviewed data and found in one month there were 19 cases at the circuit level that would have needed to appear in front of a judge due to a failure to appear warrant.

Judge Kevin Crane said on Friday, June 28, 2019, at noon in the jury assembly room, senior Judge Deborah Daniels and Supreme Court Judge Brent Powell will be discussing Rule 33 to local bar members.

Judge Morrell said Rule 33.06 hearings (if the defense or state want the bond amount changed) require a motion to be filed and notice has to be given. She said unless notice is waived you have to allow 7 days after notice. She said after the hearing pursuant to Rule 33.05 or a failure to appear warrant, it would be a motion and notice to the party before a judge can consider bond again. It was noted there is nothing that currently says those in custody on probation violation warrants are included as Rule 33 is for pending cases.

Judge Morrell said in Boone County for Adult Court Services, if conditions are changed that are under the supervision of Adult Court Services, then an entry must be made for notice to go to ACS. Judge Morrell said contact needs to be made with Captain Hoskins at the jail regarding Rule 33.05, as when someone bonds or gets an ROR, their bond return date is their next court date. If someone bonds, the bond hearing will be cancelled and the next hearing will be the case review date. The bond return date cannot be the bond hearing date. Circuit Clerk Christy Blakemore said they do not normally receive the bonds until 10:30 a.m., therefore they are trying to find a solution to get the bonds earlier. Mary said the process in Boone County is the jail posts who is in custody and a

clerk tells the jail who to put on the video docket. Therefore, it is more of a court function than a jail function. Commissioner Casey Clevenger said when she has someone abscond and there is a warrant, once she finds they are in custody, it appears a lot of notice is needed by the jail before they appear in front of her. She believes the pre-plea diversion cases would need to be brought in front of a judge within 48 hours. Mary said she will follow-up on this process and further research will be done to ensure the commissioner can hear these cases. Judge Stephanie Morrell moved to approve the changes to the order on page 8, 9 and 10. Judge Jodie Asel noted the need for minor punctuation changes. Mary said there should be an amendment to page 10, to the last line of the title to include Class E felonies. Second: Judge Kimberly Shaw. There was discussion that it is the state's responsibility to ensure law enforcement has the appropriate information within the probable cause statement. The motion passed unanimously.

*Judge Harris left the meeting at 5:28 p.m.*

*Returned to item #5*

#### **7. Motions for Change of Judge**

Judge Stephanie Morrell said recently in the associate division there have been defense attorneys filing motions for change of judge, prior to arraignment. These motions are sent to associate judges even though a judge has not been assigned, and the attorneys are not following local court rule by referencing from what division the change is being requested. Boone County Circuit Clerk Christy Blakemore said the clerk can try to catch these and return them to the defense attorney. If the motion gets through to a judge, the judge can return to the clerk noting case not yet assigned to a judge therefore motion should be returned to filer.

#### **8. Callaway Courthouse Update**

Judge Carol England provided an update. She said they are looking at a tax proposal on the November ballot to build a new justice center and add on to the jail. Presentations are being made to the community, which have been well received. It is proposed for the jail and sheriff's department be built on the property where they are currently located. Locations to build a justice center is one block south of the current courthouse, which will allow for plenty of parking. The plan would be to use the existing courthouse for the public defender, juvenile office, public administrator and county officials. It is anticipated the clerk, prosecuting attorney, court marshals, and judges would be in a new facility. The county could sell the property where the juvenile office and public defender are currently located. This will be the only item on the ballot.

#### **9. Local Court Rule 1.D.**

Court Administrator Mary Epping said it was brought to our attention that Local Court Rule 1.D needed to be updated as the court eliminated the oversight by a Treatment Court



Administrative Judge through an administrative order; however, the rule was not updated. Mary recommended the court adopt the rule as noted on page 14 of the Court en Banc packet, which reflects the current practice. She is also recommending an emergency clause for the rule change. Judge Carol England moved to approve Rule 1.D as noted on page 14 of the Court en Banc packet, with the emergency clause. Second: Judge Kimberly Shaw. The motion passed unanimously.

**10. Local Court Rule on the Rap Back Program**

Court Administrator Mary Epping said in 2018 legislation was passed that created the Rap Back program. This program allows that after a conservator or guardian is appointed in probate court they can be required to have fingerprints submitted with the court. If that person is subsequently arrested or charged with an offense the judge or court will receive notification of the arrest, and can review to determine if the guardianship or conservatorship is still appropriate. The person already has to get fingerprinted, the new requirements is that we notify parties of the process and of the requirement to get re-fingerprinted every 6 years at their expense. Mary said probate judges in both counties want this process in place for our circuit. Local Court Rule 72 is on page 15 of the Court en Banc's packet, which would be a new addition to our Local Court Rules. Mary is recommending the new local court rule be passed with an emergency clause to be effective as of August 1, 2019. Judge Stephanie Morrel moved to approve Local Court Rule 72, to be passed with an emergency clause to be effective August 1, 2019. Second: Judge Carol England. The motion passed unanimously.

**11. Other**

Circuit Clerk Christy Blakemore said in 2015 there was an order to write off debt that was 10 years old or older. She reported that debt has been written off and she is requesting another administrative order to write off cases that are older than 10 years as of today's date. Judge Leslie Schneider moved to write off debt 10 years or older as of today's date. Second: Judge Kimberly Shaw. The motion passed unanimously.

Commissioner Casey Clevenger said Callaway County was awarded a \$2.2 million SAMHSA grant over a 5 year period to expand Family Treatment Court in Callaway County. She wanted to thank Cindy Garrett for writing the grant. She said they are working hard to get the program expanded which includes hiring a full time family treatment court service coordinator.

**12. Comments from the Public**

None.

**13. Meeting Date**

The next meeting is scheduled for July 30, 2019, at 5:00 p.m. in Boone County. Judge Kimberly Shaw moved to adjourn. Second: Judge Carol England. The motion passed

unanimously. It was noted the August meeting will be in Callaway. The meeting adjourned at 6:02 p.m.

Prepared by: Cindy Garrett  
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Deputy Court Administrator

Submitted by: Mary Epping  
Mary Epping  
Court Administrator

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