

COURT EN BANC MINUTES
Tuesday, May 12, 2020, at 5:00 p.m.
Meeting Held Over Zoom Video Conference

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, Callaway County Circuit Clerk Megan Morse, Adult Court Services Supervisor Brandon Walker, 13th District Defender Sarah Aplin and Assistant District Defender Jeremy Pilkington, 12th District Defender Kathryn Benson, Callaway Prosecuting Attorney Chris Wilson and Assistant Prosecuting Attorney Ben Miller, Court Marshal Ben Pruett, Boone Assistant Prosecuting Attorney Jessica Caldera, Court Reporter Julia Paulus, Court Administrator Mary Epping and Deputy Court Administrator Cindy Garrett

1. Call to Order/Welcome

The meeting was scheduled to take place in the Callaway County Courthouse, but due to COVID was held over Zoom. Judge Kevin Crane called the meeting to order at 5:00 p.m.

2. Approval of the March 17 and April 22, 2020 Minutes

Judge Sue Crane moved to accept the March 17 and April 22, 2020, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

3. Budget Schedule

Court Administrator Mary Epping said on page 9 of the Court En Banc packet is the 2021 Budget Schedule. Mary noted she was required to present to the county auditors, Court en Banc, and county commissioners within certain time frames. No changes were requested.

4. Court Operations During Covid-19

a. Necessary Purchases

Court Administrator Mary Epping updated the Court en Banc on purchases made and additional purchases that have been requested due to the coronavirus. She said a subscription for \$10 a month was made to Start Meeting, a conference line, which allows up to 100 people per conference call. Mary reported 1,300 masks were purchased along with disposable gloves and cleaning products. Mary reported going forward there have been requests for additional items and we need to determine if we want to use court funds or county allocated funds. Both Boone and Callaway Counties received CARES ACT funding for expenditures related to COVID. It is not yet clear how to apply for it or when it might be spent. Mary said one request is iPads for judges and commissioners for video conferencing. The iPads would enable the judges to use their monitors for eBench and the Hdrive. Judge Carol England said tablets could also be used when parties appear in court so they can see parties appearing on Zoom. Judge Sue Crane recommended there should be one iPad for each division. The Court en Banc agreed to proceed with

purchasing iPads for each division. Mary said there was a wish list created by the clerks and court administration on what items we would request to the counties in case of another lock down. Examples of these requests included five portable printers from the Boone County Circuit Clerk. Mary asked how the Court en Banc wanted her to proceed with the use of funds for the wish list and other requested items. Judge Kevin Crane requested Mary put the requests in writing to him and they would then put out the information to the Court en Banc for approval. Mary said currently she has not received any guidance from the counties on how to request funds. Mary said we will need to continue to purchase masks and there may be a need to use funds for sneeze guards/plexi glass. The Callaway County clerks are in need of one additional sneeze guard and there was also discussion about using these for jurors. It was agreed there would be more discussion about needs for jurors. Mary said she was planning to purchase more masks through Office of Emergency Management as they are very inexpensive. Mary will get with Judge Kevin Crane before going to the county commissioners about the wish list.

b. Docket Changes

Court Administrator Mary Epping said Deputy Court Administrator Cindy Garrett has reviewed the dockets and how to best use the video technology. One issue is the number of video dockets being held on Mondays. Mary recommended if the court anticipates continuing to use video conferencing, then the circuit criminal in custody law day dockets should be moved to other week days through July. Suggestions are for Judge Harris to hear in custody cases on Tuesday morning, Judge Asel hear on Thursday morning, Judge Crane on Friday morning and Judge Jacobs hear on Friday afternoon. It was noted this recommended schedule change is due to the lack of video feeds to the jail with all in custody defendants being heard by video verses in person. Judge Harris asked about notice to attorneys. Circuit Clerk Christy Blakemore said once they have a start date for the changes they will make the docket changes and electronic notice will be sent. It was agreed May 18 would be the start date for the in custody docket changes and Mary will send notice to the local bars. Columbia Municipal Judge Cavanaugh Noce added he still needed Jail 2 in the morning for his in custody cases. Mary said effective May 13, 2020, OSCA is supposed to expand the bandwidth in the Boone County courthouse. She said we are also diversifying how we connect to the internet by using the Boone County wireless and hot spots which has avoided people being kicked off Zoom. It was noted Callaway County has not encountered the lack of bandwidth problems. Cindy said a technology document has been created to note when each division is using technology and the Boone County Jail Zoom account. She said the Boone County Jail is also using the Jail Zoom account to have mental health evaluations completed. Mary said judges are trying to stagger start times, and verified there have not been any other changes to the docket schedule as to when different case types are being heard. Mary asked when staggering cases to consider the number of people able to be in courtrooms with 6 foot distancing. Christy requested that each judge send her an email providing their suggested time frames of number of cases per time frame so they can appropriately schedule through at least the end of July.

c. Jury

Court Administrator Mary Epping said our assembly rooms are limited in the number of people we can have with social distancing so we may need to split voir dire between the morning and afternoon. She said the Boone ceremonial courtroom can fit 47 people. Mary said we are offering masks for jurors; however, she is not sure we should require

masks. CDC guidelines are to stay six feet apart or, if unable to do so, then wear a mask. She requested suggestions on what language to use in correspondence to potential jurors. There was discussion about the need to read jurors facial expressions which would not be possible if they are wearing masks. Mary said we could also pursue alternate locations for voir dire, such as the armory.

d. Safety

Mary provided an update about the Supreme Court operating directives. In the last month Boone County has had 22 positives with 5 active cases and in the last 14 days there have been 7 positives. Callaway County has had a total of 23 positive cases but she was unable to find the number of positives in the last 14 days. Mary said staff have not been told that they have to wear masks; however, there are concerns when staff are within six feet, such as when court marshals are wandering someone and when Juvenile Office and Adult Court Services staff are putting people on home detention. Judge Kimberly Shaw feels the public should be comfortable coming into the courthouse and she feels they would be more comfortable if people they are having contact with have masks on. Judge Kevin Crane spoke with both sheriffs and they will not wear masks as they have problems talking into their radios and will not do 6 foot distancing from an in custody person. Court Marshal Ben Pruett agrees with the sheriffs'; however, he does feel it is different at the front door. He understands people may be more comfortable if staff are in masks. Judge Jeff Harris said everyone walking through the courthouse doors is not there voluntarily and because of that he feels as many people as possible, including employees and the general public should be required to wear masks. There was discussion about public members who refuse to wear a mask and how that is to be handled. Columbia Municipal Judge Cavanaugh Noce said he has no problem with staff wearing a mask if they are interacting with the public and cannot practice social distancing. He is concerned with having an argument with someone coming to his location to pay a parking ticket if they refuse to wear a mask. There was discussion about sending people away if they are not willing to wear a mask. Judge Sue Crane said Callaway County is also a public building and they are looking at only allowing one person from the public per county office. Staff in county offices are not wearing masks. It was agreed any directives in Callaway would be only for the courtrooms. It was agreed individual judges can make their own requirements for masks in their own courtroom. Mary said her take away from the conversation is to direct staff to wear a mask if they are interacting with the public without a physical barrier and will be less than 6 feet from the person(s). She also understands we will offer masks to all members of the public and only require individuals from the public to wear masks if they are coughing excessively.

e. Supreme Court Directive

Judge Cavanaugh Noce said he understands the presiding judge is to come out with a directive to all municipalities. He wanted to make sure he is able to comply with any rules the court makes. Judge Kevin Crane said they will allow Judge Noce to review the order before it is made final.

Mary said other circuits are stating they are in Phase 0 until May 18 when they move to Phase 1. She said Phase 1 is still having only the most critical in person proceedings. She said we have contemplated going to Phase 2 on May 18 as we are currently handling cases pursuant to Phase 1. All agreed we will be on Phase 2 as of May 18 as we have

been in Phase 1 for 14 days. There was discussion that the occupancy rate is according to what local health departments are ordering.

5. Legislation

Court Administrator Mary Epping reported Raise the Age, which increases the age for juvenile court jurisdiction to the age of 18, may be getting an implementation date pushed back. Mary also said we have been following bills as to Guardian ad Litem (GAL) language due to concerns by local GALs. She said we have been working with local legislators; however, if the bill passes she anticipates we will have to modify our GAL contracts which may have a budgetary impact. Mary said she will send an update on other bills later this week.

Judge Kevin Crane thanked Mary and Cindy for their work with the many recent changes.

6. Bench/Bar Meeting

Nothing to report.

7. Other

Judge Kevin Crane said this coming Friday the flags will be at half-staff in honor of peace officers disabled in line of duty.

Judge Crane said the Missouri Association of Treatment Court Professionals elected Commissioner Casey Clevenger as president of the association and she will start in that position in the Spring of 2022.

8. Comments from the Public

Assistant 13th District Defender Jeremy Pilkington asked what increased in person proceedings would look like in Phase 2 so he can advise his staff. Judge Crane said it continues to be a work in process and it will depend on individual judges. He said there will not be a blanket order as each division will make their own decisions. Judge Stephanie Morrell said the associate judges have entered the same entry that starting June 1, 2020, for contested hearings, they will be by Zoom or in person and it is up to defense counsel and prosecutor to determine how they are able to do that. She said for photo exhibits she is willing to do a pre-trial conference to determine how to get them admitted, since it is a new process. She said starting next Monday they are in courtroom but they are encouraging people to be by Zoom.

Judge Kevin Crane said he spoke with Callaway County Sheriff Chism and Boone County Sheriff Carey and they have agreed to transport a defendant if the court has made an order for transport. However, Judge Crane advised the sheriffs the court would only do this when absolutely necessary. Judge Tracy Gonzalez said that if there is a request and order for transport, it should be because something substantial is occurring. Judge Crane said there is currently not a date set for when people will be allowed to visit the jail.

Assistant Prosecuting Attorney Jessica Caldera inquired when grand jury or jury trials would begin. Judge Crane said there is not currently an answer but the court will keep everyone updated.

Boone County Circuit Clerk Christy Blakemore wanted to know if starting next Monday all judges would be in person in the courtroom with the exception of Division II. It was agreed this would be individual decisions.


Christy said currently from 8:00 a.m. to 5:00 p.m. the on-call judge has been handling ex partes and bond setting. She wanted to know when they should expect a judge in the office to handle these versus the on-call judge? It was agreed starting Monday they should go back to standard procedure, including for search warrants, and only send to the on-call if no one is available within the courthouse.

9. Meeting Date

The next meeting is scheduled for June 8, 2020, at 5:00 p.m. in the ceremonial courtroom in Boone County, which is also Judge Jodie Asel's last day with the court. Judge Stephanie Morrell moved to adjourn. Second: Judge Tracy Gonzalez. The motion passed unanimously. The meeting adjourned at 6:24 p.m.

Prepared and Submitted by:

Cindy Garrett
Deputy Court Administrator



Submitted by:

Mary Epping
Court Administrator



Distributed on:

6/5/20