

**COURT EN BANC MINUTES**  
**Tuesday, July 7, 2020, at 5:00 p.m.**  
**Jury Room**  
**2nd Floor Callaway County Courthouse**  
**And Over Zoom Video Conference**

**Judges Present:** Judges Kevin Crane, Brouck Jacobs, Jeff Harris, Joshua Devine, Kimberly Shaw, Carol England, Sue Crane, Tracy Gonzalez, Leslie Schneider, Stephanie Morrell, Commissioners Sara Miller and Casey Clevenger.

**Others Present:** Boone County Circuit Clerk Christy Blakemore, Callaway County Circuit Clerk Megan Morse, Adult Court Services Supervisor Brandon Walker, 13<sup>th</sup> District Defender Sarah Aplin and Assistant District Defender Jeremy Pilkington, 12<sup>th</sup> District Defender Kathryn Benson, Callaway Prosecuting Attorney Chris Wilson, Boone County Assistant Prosecuting Attorney Roger Johnson, Attorney Myia McKinnon, Court Marshal Ben Pruett, Court Reporters Julia Paulus and Jenni Bosh, Court Administrator Mary Epping and Deputy Court Administrator Cindy Garrett

**1. Call to Order/Welcome**

The meeting was called to order by Judge Kevin Crane at 5:12 p.m.

**2. Introduction of Guests**

Judge Kevin Crane welcomed guests.

**3. Approval of the June 8, 2020 Minutes**

Judge Leslie Schneider moved to accept the June 8, 2020 minutes. Second: Judge Stephanie Morrell. The motion passed unanimously.

**4. Orders of Destruction**

Deputy Court Administrator Cindy Garrett reported the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on pages 5 and 6 of the Court en Banc's packet. Judge Leslie Schneider moved to approve the destruction of the records listed. Second: Judge Kimberly Shaw. The motion passed unanimously.

**5. Circuit Court Plea Semantics**

Judge Brouck Jacobs said the circuit judges have agreed to follow Supreme Court Rule 24.02 and their interpretation is the state and defense are permitted to agree to a plea agreement that would call for the court to sentence the defendant to a suspended execution of sentence or suspended imposition of sentence and the court would either

accept or deny the agreement.

## **6. Jury Trials**

Judge Kevin Crane said Judge Brouck Jacobs has a three day jury trial scheduled for late July. He said this will be our first jury trial since Covid-19, which will be used to determine new processes.

## **7. Video Committee**

Court Administrator Mary Epping said the committee members met June 19, 2020. She and committee chair Judge Leslie Schneider met with Judges Tracy Gonzalez, Kimberly Shaw, and Carol England; Circuit Clerk Christy Blakemore; Deputy Court Administrator Cindy Garrett; Technology Services staff Dickson Njoroge; and attorneys Jacque Brazas, Derek Hux and Jason Simmons. Mary said the attorney members were recommended by the local bar associations.

Mary said there was discussion about Zoom invites/notifications for court. In Boone County Zoom invites are sent by either the judge, Court Administration staff or a court reporter. In Callaway County invites are sent by circuit clerks.

Mary said there was discussion about the time it takes to create the invites; required security guidelines such as the link and password cannot be published to the public online; time and efficiency for staff doing the invites which results in employees getting behind on other responsibilities; reliability in that it is not always obvious to the staff who will be on Zoom versus in person; pro se people can pose a challenge (knowing how to request to appear by Zoom); and ensuring the courts are “open to the public”.

Mary reported the following proposals:

- 1) Eliminating the “hybrid” courtroom (having people on Zoom and in person in the courtroom at the same time), and instead splitting each docket into two so there would be a video only docket and an in person only docket or taking up all the in person cases first, then the Zoom cases.
- 2) Use of Conflict Calendar –add a page with all the invites for attorneys since they have to log in to that site.
- 3) Make sure “Zoom” is added to the case name to indicate which cases parties have requested to be by Zoom.
- 4) Offer more training to judges, clerks, marshals and court administrative staff on the invites and how to handle all the components from set up to strike.

Judge Crane requested the committee meet again and come back to Court en Banc with proposed standards for different case types. It was agreed this topic would be reviewed on the August 25, 2020 Court en Banc agenda.

## **8. Public Defender Waitlist**



a. PD Misdemeanor Eligibility – Administrative Order for Misdemeanor Eligibility, Order of Appeal

Judge Kevin Crane said the court has implemented the appeal docket, which is going well, with Sarah Aplin appearing for the docket and the state appears if needed. Judge Stephanie Morrell said she has a misdemeanor case where the appeal was denied as it is not likely to result in incarceration, but she feels the defendant is still entitled to counsel. Judge Crane said he believes these defendants have two choices: they can retain an attorney or they can waive their right to an attorney. Judge Morrell said if the defendant is found indigent, she is unsure how they would have the ability to hire counsel. She said if the defendant will not waive counsel, then it is on the court to appoint an attorney. Sarah Aplin said her understanding is it would be on the court to appoint an attorney or for an attorney to be willing to handle a case without charging a fee or offering a reduced fee. Judge Morrell suggested the court work with private counsel on options to represent these clients.

b. PD Representation on Probation Violations – Due Process Order

Judge Kevin Crane asked the Public Defender to revise the two proposed forms used by other counties for the Court en Banc to review and issue an administrative order. Judge Crane requested the proposed forms be submitted by August 25.

**9. COVID Update**

Court Administrator Mary Epping said grand jury was selected and Boone County will have one this Friday and one in Callaway County next Friday with just 12 jurors coming in person to each court. She said the Armory is not available until August 17. In Callaway County she reached out to 54 Country for jury selection and they have some events planned but are willing to work with us. They also have internet capability. Mary said Springfield is having its first jury trial on July 13. She said their court requires masks but the city does not so they are using face shields for jury selection as this allows the attorneys the ability to see jurors' faces. Mary said there has also been discussion about using ceremonial courtroom in Boone County with social distancing in which masks could be removed once seated. Mary received a quote of \$8,000 for plexiglass to separate 14 jurors in one courtroom. Mary and Judge Crane revisited the ceremonial courtroom and discussed using rows one and three in the jury box and having five juror in front of the jury box and using plexiglass around the five jurors in front of the jury box. That would lower the cost of the plexiglass to approximately \$3,000. It was noted in the Callaway County courtroom there are two rows that seat 14 jurors. It was agreed in Callaway County a portion of the well area could be given up to allow all jurors in the well area and breaking up the area with plexiglass.

Mary said the circuit is currently in Supreme Court phase 3 and there is no phase 4, therefore we are in phase 3 unless we would need to drop to a lower phase or until the Supreme Court issues other options. She said the City of Columbia issued an ordinance

that was signed on July 6 that exempts Boone County property from the ordinance that requires face masks; however, the court is adopting the ordinance with language that says it will follow the order except when it interferes with judicial operations. Judge Crane said there may be instances where the judge or court needs to deviate from the ordinance. Mary said the Administrative Order is for Boone County since the city ordinance is for Columbia. She inquired if Callaway County wanted the Administrative Order to require face masks in the Callaway County courthouse to which it was agreed that was not necessary.

Mary said the Boone County Bar is having a CLE on Wednesday and there was discussion about attorney client conversations in the courtroom. She said there is no perfect solution but we are open to suggestions. There was discussion about allowing clients and attorneys to communicate through text message.

Mary said currently we have taped off areas in the courtrooms and she asked if there are other suggestions of things to be incorporated for health safety concerns. Judge Morrell inquired about social distancing between the judge and the circuit clerk within the courtroom. It was agreed the clerks can wear masks in the courtroom if needed.

Mary said cleaning supplies are now more readily available and she asked if those supplies are needed at attorney tables to wipe down table tops, microphones, etc. It was requested this be made available in the courtrooms.

Public Defender Kathryn Benson inquired about jurors calling in and requesting to be excused due to Covid and asked for the judges position if the defense or state does not want to proceed with jury trial due to lack of a cross section concerns or regarding effective communication with client when in custody on speedy trial cases. Kathryn believes the state and defense needs to be aware of everyone that has been excused in case they want to make a challenge. Judge Crane said currently for those jurors with requests for excuses due to Covid, the judge approves their excuse temporarily and the jurors are moved to another panel time period. Kathryn feels the information/data needs to be made available. Judge Crane said there is a record of who is and is not a potential juror.

#### **10. On-Call Search Warrants**

Boone County Circuit Clerk Christy Blakemore said years ago the process was changed so not all clerks have access to search warrants. However, currently when oncall, search warrant are sent to the regular clerk inbox to which all circuit clerk staff have access. Christy requested creating a new email inbox for oncall search warrants. It was agreed Christy will work with IT to create a new email inbox and the oncall book will be updated. Callaway County said they do not need a different process.

#### **11. Remote Control Access to Case.net**

Boone County Circuit Clerk Christy Blakemore said the Supreme Court has given



direction that they want remote access to Case.net available effective sometime in 2021, which means people can go on Case.net from home and see filed documents. They would no longer need to go to the courthouse to see those documents on an approved terminal. She said when this goes into effect it will be from that date forward for any documents filed after that date. She said documents with level 3 and above will still be secured and not able to be seen. It was agreed this topic will be reviewed again at Court en Banc in October.

**12. Other**

Judge Kevin Crane received a letter from the Boone County Board of Jail Visitors. They requested direction on how to proceed with visits due to Covid. Judge Crane plans to advise they need to follow whatever the jail and health department says until further notice.

**13. Comments from the Public**

No Comments.

**14. Next Meeting Date**

The next meeting is scheduled for July 28, 2020 at 5:00 p.m. in the Ceremonial Courtroom of Boone County, when the budget will be presented. August 25 would be following meeting. Judge Stephanie Morrell moved to adjourn. Second: Judge Leslie Schneider. The motion passed unanimously. The meeting adjourned at 6:12 p.m.

Prepared and Submitted by:

  
Cindy Garrett  
Deputy Court Administrator

Submitted by:

  
Mary Epping  
Court Administrator

Distributed on: 7/24/20