

**COURT EN BANC MINUTES
Tuesday, May 17, 2016, at 5:00 p.m.
Boone County Courthouse
Law Library, Second Floor**

Judges Present: Judges Christine Carpenter, Jeff Harris, Kevin Crane, Jodie Asel, Deborah Daniels, Leslie Schneider, Carol England, Kimberly Shaw, Michael Bradley, Commissioners Sara Miller and Casey Clevenger, and Municipal Judge Robert Aulgur.

Others Present: Boone County Circuit Clerk Christy Blakemore, Boone County Circuit Clerk Unit Manager Lana Brooks, Adult Court Services Supervisor Brandon Walker, Court Marshal Les Werner, Boone County Sheriff Sergeant Christie McCaleb, Defense Attorneys Mike Campbell and Ben Faber, 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 Christine Carpenter.

2. Introduction of All Guests

Judge Christine Carpenter welcomed and introduced guests.

3. Approval of the April 19, 2016 Minutes

Judge Kevin Crane moved to accept the April 19, 2016, minutes. Second: Judge Michael Bradley. The motion passed unanimously.

4. Bond Committee

Judge Daniels arrived at 5:04 p.m.

Judge Kevin Crane provided an update on changes to the bond process. He said our circuit will not be able to maintain a scheduled bond system at the jail due to courts saying it is a violation of equal protection. Currently the proposed plan is a system where we take into account the need to address jail overcrowding and the need to show we have reviewed the appropriate criteria before the bond is set. He said in the State of Missouri, 90% of the counties do not do anything with bond until the prosecutor decides on charges. We are looking at a system where if law enforcement determines the individual is not appropriate for citation the individual is taken to the jail, at which time the officer will be required to provide a probable cause statement and a form with the criteria as approved by the Supreme Court. The officer will complete the report and respond to the criteria as best as he/she can articulate. It should be noted there will be many questions the officer may not be able to answer. For the judge on-call, there has to be a window

where a judge is not called on bonds, such as 10:00 pm to 8:00 am, however there will be an exception if the jail reaches maximum capacity, where they are allowed to call the judge for a bond amount. With every on-view arrest, there will be a hearing over the phone with the jail to allow the judge to set the bond. The judge can also call the jail after hours to see if there are individuals who need bonds set. Judge Crane said this process will allow everyone to be treated equal in that everyone will have to wait at the jail until a bond is set based on the judge's review of the probable cause statement and the required criteria. Judge Crane said he is continuing to work on the process. Judge Aulgur said he has been following this process since August 2015.

5. Social Security Numbers

Judge Christine Carpenter said defense Attorney Rusty Antel brought this topic to the court's attention. There have been a couple of meetings to discuss and it has been determined this is not a problem specific to the 13th Circuit, but rather a statewide issue. Clerks reviewed some files and found more than 20 documents in the case with social security numbers. Some of these documents included OSCA forms that automatically populated with social security numbers that cannot be changed. There will continue to be follow-up on this topic.

6. Cell Phones in the Courthouse

Judge Christine Carpenter provided handouts showing cell phone policies for counties across the state, the 13th Circuit Electronic Device policy, and photos of a gun and taser that resemble cell phones. She noted the 13th Circuit's policy needs to be revisited due to recent events within the courthouse involving cell phone. Judge Carpenter noted our current policy allows the public to bring electronic devices into the courthouse and at the beginning of each court docket the court marshal announces that all devices should be turned off within the courtroom. She noted our policies and requests are often ignored, in that the media has sent tweets from the courtroom and interviewed and recorded in hallways. Judge Carpenter provided several specific incidents that have occurred recently involving the public using cellphones – which someone was using their cellphone in the courtroom and were argumentative with court marshals about it, concerns about using cellphones to make recordings, or to communicate with others. Judge Carpenter stated we have a security issue to address while trying to accommodate the public. Court marshals spend lots of time attempting to monitor cell phone use: texting, emailing, and photo, audio or video usage. Judge Carpenter proposed we adopt a policy that no cell phones may be brought in the courthouse by the general public. Staff, attorneys, law enforcement and media would continue to be allowed to enter with cell phones. She noted there would need to be a press release to give the public plenty of notice of the new policy. She also recommended the new policy be included on notices sent to parties about court hearings. Judge Carpenter recommended those individuals who are allowed to enter with cell phones would need a form of identification.

Court Marshal Les Werner stated our policy indicates photos are not to be taken within the courthouse without court approval. He stated his staff has been addressing security

issues, dealing with cell phones more in last two weeks than ever before. He provided documentation of photos from Facebook that the public took and posted with inmates in handcuffs in our courtrooms. Security is an issue as people in the courtroom can text that inmates are leaving the courthouse and this puts Boone County Jail staff at risk as they are loading inmates into county vehicles. It was noted that jurors' phones are taken at check-in and put in numbered manila envelopes. Judge Michael Bradley said he has been to many courthouses where cell phones are not allowed and there does not seem to be a major problem. It was noted this proposed policy would be for the Boone County Courthouse only and would not affect the Municipal Court or the Callaway County Courthouse. Judge Kevin Crane moved to prohibit cell phones in the Boone County Courthouse except for law enforcement, media, attorneys, probation and parole, and employees within the courthouse. He further moved that individuals present for weddings be allowed to have their cell phones to take photos of the wedding. Judge Leslie Schneider moved to table the motion. It was agreed this item would be further discussed at the next Court en Banc meeting.

7. Callaway Board of Jail Visitors

Judge Christine Carpenter said there were some alarming issues noted in the past Callaway Board of Jail Visitors report. Court Administrator Mary Epping said she spoke with the jail and followed up on the noted concerns. The following was reported: the commissary was closed while an employee was out of the office for two weeks, however the inmates had notice in advance of the closure; the facility has been sprayed for ants and spiders; tables are being repaired soon; inmates do not go outside if the weather conditions do not warrant it such as it being too cold or rain; religious text is allowed to be brought in, however the jail does not provide copies; Gideon's come in on Sundays and they provide mini bibles to anyone who desires one. The jail does not discriminate with religious affiliations and anyone would be able to have someone bring them a soft-back religious text.

8. Bond Condition of Interlock on DWI Felonies

Judge Christine Carpenter said this only affects the circuit level judges. She has seen a lot of people who have had an Ignition Interlock bond condition on a felony DWI for a long period of time while the case was in associate circuit court, and at their circuit arraignment they request the bond condition be removed. Judge Kevin Crane said he has allowed the condition be removed at the time of plea, where it is deferred. This topic was brought up as informational only as each judge can make the decision on what they choose to do regarding the bond condition.

9. Treatment Court Eligibility Letter

Judge Kimberly Shaw said she received an email from Mental Health Court Coordinator Clayton VanNurden stating a concern that when an ASC screening is ordered in associate circuit court, the eligibility letter sent to the associate circuit judge and kept in the associate file. Therefore, when the case moves to circuit level, the circuit judge is not

aware of the letter in the associate level file. Circuit Clerk Christy Blakemore requested her office be given some time to see if they can find a solution. This item will be discussed at the July meeting.

10. Jury Stress Brochure

Court Administrator Mary Epping said there was a session at the Judicial Leadership Conference which addressed trauma of jurors and judges. There was a speaker at the conference who stated in Dallas, Texas, the prosecutor hands out a flyer. A version of what they provide to jurors is on page 10 of the Court en Banc packet. The prosecutor in Dallas has an employee that takes calls and provides assistance to jurors and witnesses who may have suffered trauma after they have served on a jury. The brochure in the packet was copied and provided to jurors after one of Judge Carpenter's murder trials. It simply says we realize you saw and heard some graphic material; it provides signs of distress and some suggestions of ways to help cope. The flyer is currently available for anyone who is interested. Mary is continuing to explore any additional assistance we may be able to provide such as the EAP program. Judge Carpenter said her jury seemed very appreciative that she even acknowledged the difficult things they saw and noted the need to care for themselves. Judge Kimberly Shaw knew one of the jurors, who informed her she felt the information was very helpful and she appreciated the acknowledgment. Mary said if anyone wants copies for jurors to let her or Jury Supervisor Marla Gunn know and they will make copies.

11. Court Clerk II Salaries

Circuit Clerk Christy Blakemore said she is going to have five vacant FTEs in June and three of those five position are leaving for better paying jobs. She provided a power point regarding salary of her staff. A clerk with the court for one year makes the same salary as a clerk who has been with the court for 14 years. After the deductions for retirement and benefits for the employee only, their take home amount is \$19,027. She then provided information regarding her supervisors. A supervisor who has been with the Court for 13 years versus 21 years makes the same amount, \$34,000, regardless of supervising 5-6 employees or 14 employees. Mary Epping noted with the county budget we have some flexibility with the salary; however with state employees we have no discretion or ability to give raises. Christy said 1999 was the last time state employees received step increases. At that time there was a difference in pay as you received step increases. Therefore with an employee who has been with the court for 27 years versus 20 years, you can see a difference in their pay. This was a positive; however this also gets those clerks close to a supervisor's pay, and the supervisors who have more responsibility.

Christy showed a copy of the state pay grid. Christy first wanted the Court en Banc to understand the salary and why she continues to lose staff. She also wanted to bring this to the Court en Banc's attention as she was a part of a 21st Century Workforce group with OSCA. To completely redo job descriptions and address the compression issue, it will take \$15 million. Christy said the Missouri Circuit Clerk' Association will be

focusing on this next year with the legislature. She also wanted the Court en Banc to be aware so they can also talk about the issue with legislatures. For Boone County we have several agencies to compete against for employees, such as the University of Missouri, Shelter Insurance, State Farm Insurance, Veteran's United, etc. Another concern Christy noted is Boone County has a great reputation with the state and we want to maintain that reputation. However, there are five to six employees with longevity who will be eligible for retirement around the same time. After that, the tenure of staff is significantly lower. Christy wants to have folks who are willing to stay with the court so they will continue to have the experience and institutional knowledge from those who retire. It was noted this is far reaching within the judiciary, not just the clerks but also the Juvenile Court. Christy also stated she was informed on Monday by OSCA that Boone County just went below the weighted workload line, therefore one of the new hires can only work 39 hours a week.

12. Legislative Update

Court Administrator Mary Epping provided a legislative update. Mary will provide a list of bills that are court related that are finally agreed to and passed. She asked those present to contact her if there are any particular bills of interest. She said SB591 was passed and the language says in a criminal case an expert witness shall not state an opinion about whether the defendant did or did not have the mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone. There are also a lot of exceptions. Mary will provide all a copy of the bill. Mary also reported the 21st century judicial workforce budget request was \$15 million and it's anticipated this item will continue to be put in the budget and they are hoping it will pass by the third year. The state did approve a 2% raise for the upcoming fiscal year for staff. Mary noted OSCA's budget was reduced for the judicial conference; therefore the circuit will have to pay for the judicial conference attendance this year. The judges received a 1% increase. Mary said Boone County has been doing a salary study, where they compared Boone County salaries to other similar markets around the state. Boone County found the base range was 20% off market. Therefore they moved the starting salary for positions up to be a more competitive base salary. The county now has a policy saying you can only hire someone in at the base salary or up to 15% over the base. The state had a similar analysis completed and that is where they came up with the \$15 million request. Christy said out of her 45 staff, 18 have a second job. Mary said she will include all bills with judicial proceeding and SB588 regarding expungement of criminal records. She anticipates having this list out by Friday. Mary is also still tracking the Callaway Marshal bill, as it has been added to another bill.

13. Bench Bar Meeting

The Bench Bar meeting is on June 29 in Callaway for trivia night.

14. Other

Judge Michael Bradley suggested Court en Banc portraits that have been taken over the years be displayed somewhere. Court Administrator Mary Epping will see what photo files she has. Judge Christine Carpenter said Deputy Court Administrator Cindy Garrett is working to put together a history of the Court en Banc.

Mary reported a door and wall has been installed in the Adult Court Services office for security. They plan to add a card reader in the near future as well. This was the only office that was open and accessible to the public.

15. Comments from the Public

Defense Attorney Ben Faber said he was involved in a situation recently where a defendant who wore a turban in a courtroom was asked to remove the turban. Ben asked about the court's policy. Court Administrator Mary Epping reported this issue has already been addressed with staff as he should have been allowed to wear religious attire. It was a training issue on our side.

16. Next Meeting Date

The next meeting is scheduled for July 19, 2016 at 5:00 p.m. to convene in the Boone County Courthouse, Law Library.

Prepared by: Cindy Garrett
Cindy Garrett
Deputy Court Administrator

Submitted by: Mary Epping
Mary Epping
Court Administrator

Distributed on: 7/22/16