

COURT EN BANC MINUTES
Tuesday, February 28, 2017, at 5:00 p.m.
Boone County Courthouse
Law Library, Second Floor

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

Others Present: Boone County Circuit Clerk Christy Blakemore, Boone County Circuit Clerk Unit Manager Lana Brooks, Callaway County Circuit Clerk Judy Groner, Court Services Supervisor Brandon Walker, Juvenile Officer Ruth McCluskey, Boone County Juvenile Office Supervisor Angie Jaco, Deputy Juvenile Officers Alison Houston, Christina Gamblin and Dylan Carter,, Columbia Missourian Reporter Alejondia Amedondo, 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 and introduced guests.

3. Court Recognition of Employees

Judge Kevin Crane and Court Administrator Mary Epping recognized three Juvenile Office staff for their exception work in that they rose to the challenge of creating new programming within the Juvenile Office: Dylan Carter developed the Hero's program which teaches through superheroes, working with elementary age youth as a diversion to juvenile court referrals; Alison Houston developed a bullying program, THINK, to educate kids on bullying-based offenses due to the new class E felony offense of harassment; and Christina Gamblin developed the GrowGirl program which works with female youth to learn about savvy topics. Juvenile Officer Ruth McCluskey was also congratulated on challenging her staff to create new programs. Ruth noted these three staff members are some of her most senior staff who have shown a lot of enthusiasm and dedication to the Juvenile Office.

4. Approval of the January 10, 2017 Minutes

Judge Leslie Schneider moved to accept the January 10, 2017, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

Skipped to Item #6.

5. Update on Bond Policy

Judge Kevin Crane referenced page 6 of the Court en Banc packet. He noted the bolded language in the second paragraph was added to the bond schedule so when an individual is arrested on a schedule bond offense, waives the bond being set by the judge, and if not a domestic or special victim case, the detainee will only need to post bond on the felony(s) and not also misdemeanor offenses. This change also includes individuals arrested for a DWI offense along with additional traffic cases, the detainee will only have to bond on the DWI charge. Judge Leslie Schneider moved to approve the added language in the bond schedule. Second: Judge Christine Carpenter. The motion passed unanimously.

Skipped to Item #7

6. Post-Conviction Relief

Judge Deborah Daniels said the Missouri Supreme Court committee on rules and instructions recommended to the Missouri Supreme Court who has now approved a change to how you start counting the time for post-conviction relief. Judges recently received a handout in their mailbox from education on timelines. The modification is that when the rule becomes mandatory on July 1, 2017, we will go to modified mailbox rules so time starts from the date stamp when the plea on form 40 is mailed from the department of corrections. The rule specifically provides the clerk will have to keep a copy of the envelope as it will be the date on the envelope that will start the time to see if it qualifies for post-conviction relief. It is anticipated this will reduce the abandonment challenges.

Judge Kevin Crane said some circuit judges have been following a process upon receipt of the handwritten PCR, not appointing the public defender immediately, but rather making an entry that "defendant granted leave to proceed in forma pauperis, notice to public defender. Upon entry by public defender or in 30 days, cause to trial request docket." Due to recent appellate rulings, upon the filing of a new PCR, the entry should read "defendant granted leave to proceed in forma pauperis, public defender appointed, case to trial request docket".

Skipped to Item #10

7. Family Drug Court

Commissioner Casey Clevenger said the team has been moving forward with planning for Family Treatment Court in Callaway County. It has been decided Judge Sue Crane will retain jurisdiction over the juvenile case and Commissioner Clevenger will preside over the Family Treatment Court program. A participant manual and memorandum of understanding for the stakeholders have been created. The stakeholders have given a verbal consent to the MOU. Judge Crane, Commissioner Clevenger and Deputy Court Administrator Cindy Garrett will visit the St. Louis City Family Drug Court on March 7 as they have a model where the Drug Court Commissioner presides over their Family Drug Court. Commissioner Clevenger said the following agencies have committed to being a part of the team: Children's Division, Prosecuting Attorney, Callaway County Sheriff, Pathways, Juvenile Office, Probation and Parole, Faith Maternity Care, MaryBeth DeBrodie, Coalition against Rape and Domestic Violence and Women's Ministry. Commissioner Clevenger is seeking the Court en Banc's formal approval to proceed with the Family Treatment Court as she would like to start with staffing for potential participants in March. Judge Leslie Schneider asked for the MOU and manual to be shared electronically with the Court en Banc. She further noted she wants to ensure the focus within Treatment Court is on the child. Judge Christine Carpenter moved to approve the establishment a Family Drug Court in Callaway County under the supervision of Judge Sue Crane. Second: Judge Kimberly Shaw. The motion passed unanimously. Judge Carpenter congratulated Commissioner Clevenger, noting she has been in her position since November 2015 and she has accomplished a lot in that amount of time.

8. Local Court Rules

a. Local Court Rule 68.11

Judge Leslie Schneider referenced page 11 of the Court en Banc packet. She is requesting to clean up the rule, by striking the items that are not used or do not apply. Therefore the rule will only have one section remaining, that is currently labeled as "d." Judge Schneider moved to approve Rule 68.11 with the deletions noted. Second: Judge Kimberly Shaw. The motion passed unanimously.

b. Local Court Rule 69.01

Columbia Municipal Judge Cavanaugh Noce referred to page 12 of the Court en Banc packet which includes a the model form for a person to proceed as an indigent in municipal court. He

requested the bolded language be added to the local court rule that the model form may be used “or any other form approved by the presiding judge.” He noted they currently determine indigent status pre-plea where there is no jail time involved. He noted the two page model form as created by OSCA includes information about jail representation which does not pertain to 95% of municipal clients. Judge Noce offered to make a model form for the 13th Circuit, working with all the municipal divisions within our circuit if the Court en Banc believes there is a need for uniformity. The Court en Banc requested Judge Noce proceed with working with all municipalities within the 13th Circuit to create a universal form by July 1. He is also hoping to have a monthly meeting with all municipal judges within the 13th Circuit. Judge Kevin Crane said it was stressed at the presiding judges meeting that all municipal judges must understand they are a part of the circuit court, therefore he would recommend the monthly meeting be held at the county courthouse. It was noted that OSCA’s form was the goal of uniformity across the state. Court Administrator Mary Epping said she will contact OSCA to ensure we have approval to create our own model form. Judge Christine Carpenter moved to amend Rule 69.01 to include “or any other form approved by the presiding judge.” Second: Judge Jeff Harris. The motion passed unanimously. Judge Leslie Schneider moved for the addition to Rule 69.01 be passed as an emergency clause. Second: Judge Christine Carpenter. The motion passed unanimously.

9. Warrants on Case.net, Supreme Court Operating Rule 2.04

Court Administrator Mary Epping said earlier this month she and Christy Blakemore met with officials from the Columbia Police Department regarding having warrants not appear on public Case.net. She said some options were discussed and then it was determined that this is already covered by Supreme Court Operating Rule 2.04. That rule allows warrants to be off of the internet as requested by the prosecuting attorney, but this request only lasts for five days or until the warrant is served. It was agreed the process will entail law enforcement making the request through the prosecuting attorney and when the prosecuting attorney files the case, along with the probable cause statement, they will include a form for the judge to sign requesting the case be placed at a higher level within Case.net pursuant to Supreme Court Operating Rule 2.04. Mary noted the impact is on the clerks to set it at a higher level temporarily once approved by the judge.

Skipped to Item #11

10. “Victim” on Case.net Entry

Court Administrator Mary Epping said last November the Boone County prosecutor’s office approached the Boone clerk’s office about putting “victim” instead of the victim’s initials on Case.net entries to protect victims. Mary said this change was approved and the practice was happening only on the Case.net entries, however we failed to bring this request to Court en Banc for approval. Judge Deborah Daniels’s brought this concern to Mary’s attention as she was aware of a case where she put initials and saw “victim” was noted instead. Judge Daniels had concerns due to an Eastern District, ED104226, *State v. Mullen*, about whether or not it is appropriate to make this change. Mary noted this case involved the prosecutor redacting witness information such as phone numbers, date of birth, social security number and last known addresses of victims and witnesses from police reports before providing them to defense counsel. The Eastern District said the state has to disclose to the defendant upon written request which includes name and last known address of the persons whom the state intends to call as a witness, without a court order. Judge Daniels said years ago there was a lot of appellant information about the term “victim” in a jury instruction before the jury determined who the victim was. Based on that appellant experience Judge Daniels had concerns of moving to “no contact with N.G.” verses identifying N.G. as the victim, as they are not a victim until the jury or court makes a decision on fact finding. It was noted the warrant has the initials of the alleged victim listed. It was agreed the clerk could exchange the words “alleged victim” in place of initials on the docket entry, however the warrant would remain with the initials.

*Judge Deborah Daniels left the meeting
Returned to Item #5*

11. Alcohol/Drug Related Traffic – Filing Report

Deputy Court Administrator Cindy Garrett presented the Municipal Court report for July through December, 2016, on intoxication-related offenses as set out on page 19 of the Court's packet. The report was reviewed and no action was taken.

Judge Sue Crane arrived for the meeting.

12. Judges Portraits

Judge Kevin Crane referenced page 15 of the Court en Banc packet. He noted this language reflects what has been our practice, however it has not been documented anywhere. He recommends this language be put into an Administrative Order. Judge Carol England moved that the language noted on page 15 of the Court en Banc packet be approved as an Administrative Order. Second: Judge Kimberly Shaw. The motion passed unanimously.

13. Daily Docket List

Circuit Clerk Christy Blakemore said a daily group e-mail is sent listing confidential and non-confidential cases scheduled. She inquired if the judges use the information within this e-mail or if they should be removed from the group. It was requested that Commissioner Sara Miller remain on the group, however all other judges can be removed.

Judge Jodie Asel left the meeting temporarily.

14. Docket Schedule

Court Administrator Mary Epping distributed the proposed docket schedule with the following changes:

Boone Circuit Court

- 1) Division 3 is flipping his Boone law day dockets so that he hears criminal in the morning and civil in the afternoon. He may take up additional criminal matters after his civil docket if necessary.
- 2) Division 2 will not be returning to Boone County on his Callaway Law Days

Boone Associate Docket

- 1) Division 7 is hearing temporary motions only on Monday morning weeks 2 and 4 – she will be specially setting her contested cases.
- 2) Division 8 will not be in Callaway Monday – week 1 – afternoon.
- 3) Division 10's Wednesday Juvenile docket is moved from 2 p.m. to 1:30 p.m.

Callaway Circuit Docket

- 1) Division 2 will be in Callaway all afternoon week 1 on Monday, on Friday there will not be a separate 1:30 contested docket set.

Callaway Associate Docket

- 1) Division 7
- 2) Division 8 will not be in Callaway Monday – week 1 – afternoon.
- 3) Division 12 eliminated her week 1, Monday a.m. termination/sanction and DOR hearings, and moved Family Drug Court to 10 a.m. each week.

Mary requested the changes be effective May 1, 2017. Judge Leslie Schneider moved to approve the noted changes to the docket effective May 1, 2017. Second: Judge Kimberly Shaw. The motion passed unanimously.

15. Annual Report of Time Standards

Judge Asel returned during the presentation at 6:07 p.m..

Court Administrator Mary Epping provided the 2016 fiscal year annual report on time standards reports for the 13th Circuit from OSCA. Mary presented a PowerPoint of the statistics. Mary compared our circuit with the seven other judicial circuits in the state that have a similar population, although the 13th Circuit is the smallest of the comparison group. Mary noted we have increased filings in every category, most significantly in felony cases with an 18% and 20% increase. Mary said the current standards went into effect in 2009 via Supreme Court Operating Rule 17.23. There are currently three standards, set at 50%, 90% and 95%, however we only look at the 90% and 95% standards disposed of by certain timelines depending on the case type. It was noted we met the standard in Associate Civil cases in the 95% standard, along with all other circuits of our similar size. It should be noted there are only three circuits in the entire state that met all ten time standards, the 3rd, 10th and 14th Circuits. Mary indicated we normally meet about four standards and if we don't meet a standard, we are normally one of the highest when comparing to similar size circuits. Mary also compared our Circuit's statistics since 2009 to current. There was discussion about how to review the reports that are run. OSCA suggests you can best impact your numbers by not focusing on the cases that have already surpassed the time standards but rather focusing on the ones that are nearing the time standard dates. Mary said it is important to look at areas where we have made improvement in our numbers, even though we have not met the standard. It was recommended the Court en Banc be provided training on how to use the reports to better affect our numbers. Mary said we are very fortunate to have Lana Brooks on staff in our circuit as she is an expert on the reports and therefore she would be happy to work with Lana to provide a training. Mary said it should be noted the numbers do not impact our weighted workload, however they are standards we want to hold ourselves up to and we want to be the most efficient we can be for the parties and staff.

It was agreed Judge Shaw will be the chair of scheduling a meeting for training purposes on the reports available and how to best use them to affect time standard changes.

16. Other

Judge Kevin Crane said the prosecutor's office submits disposal forms from law enforcement for a judge's signature. Historically the presiding judge has signed these forms. However, in the future, these forms will be rotated to all judges for signature and approval.

Commissioner Casey Clevenger thanked Deputy Court Administrator Cindy Garrett for helping draft the MOU and participant handbook for Family Drug Court.

Court Administrator Mary Epping reported the polycom system in 3W is not functioning. Thursday at 9:00 a.m. someone will be here to do diagnostic testing on the polycom and other technology within that courtroom.

Mary noted the Callaway County security station is ready to go. Security will be up and running once a policy is approved by the Callaway Commissioners.

Boone County Circuit Clerk Christy Blakemore asked if any judges are using judges' notes on ebench. Commissioner Casey Clevenger, Judge Carol England and Judge Sue Crane noted they find it quite useful. Lana Brooks agreed to also provide training on this option when training on reports.

Christy also informed Associate Judges that when the clerk is using FTR, they are finding there are times when the screen goes blank, therefore they may need to request a five minute recess so they can shut down and restart in order to get the FTR functioning properly again.

17. Comments from the Public

Columbia Missourian reporter Alejandra Amedondo inquired about how often there might be a request to have warrants restricted from Casenet. It was noted Columbia Police Officers anticipated maybe a dozen times a year.

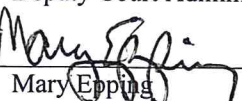
18. Next Meeting Date

The next meeting is scheduled for April 4, 2017, in Callaway at 5:00 p.m. to convene in the Callaway County Courthouse, Jury Assembly Room. Meeting was adjourned at 6:21 p.m.

Prepared by:

Cindy Garrett
Deputy Court Administrator

Submitted by:



Mary Epping
Court Administrator

Distributed on:

3/31/17