

**COURT EN BANC MINUTES**  
**Tuesday, October 25, 2016, 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, Deborah Daniels, and Commissioners Sara Miller and Casey Clevenger.

**Others Present:** Boone County Circuit Clerk Christy Blakemore, Unit Manager Lana Brooks, and Criminal Clerks Missy Marlett, Christie Murray and Michelle Cecil, Court Services Supervisor Brandon Walker, Defense Attorney Ben Faber, Missourian Reporter Hannah Black, 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 including Hannah Black from the Missourian.

**3. Approval of the September 27, 2016 Minutes**

Judge Kevin Crane moved to accept the September 27, 2016, minutes. Second: Judge Kimberly Shaw. The motion passed unanimously.

**4. Destruction of Records**

Deputy Court Administrator Cindy Garrett reported the Boone County Circuit Clerk's office has asked to destroy by shredding the documents on page 5 of the Court en Banc's packet. Judge Michael Bradley moved to approve the destruction of the records listed. Second: Judge Kimberly Shaw. Judge Bradley amended his motion to destroy records if they have been scanned. Second: Judge Shaw. The amended motion passed unanimously.

*Judge Harris arrived at 5:10 p.m., Commissioner Clevenger arrived at 5:15 p.m.*

*The Court en Banc skipped to item #10 – JIS Demonstration*

## **5. Jury Trials**

Court Administrator Mary Epping noted there appears to be an increase in the number of misdemeanor cases requesting jury trials in Boone County. Historically we used to have a day set aside for associate circuit judges to hear jury trials. We then established a rule locally, as noted on page 6 of the Court en Banc agenda, that if a jury trial was requested it was sent to a circuit judge to proceed with the jury aspect of the case. There was discussion regarding associate circuit judges hearing jury trials, which could be accomplished when making docket changes for 2017. The consensus was to allow one docket a month for each associate circuit judge to hear jury trials. This would require having a clerk from the judge's office run FTR gold for the jury trials. Mary referenced page 6 of the Court en Banc packet, Rule 6.1.1, noting the second paragraph would need to be eliminated. Judge Michael Bradley moved to eliminate paragraph two of Rule 6.1.1. Second: Judge Kimberly Shaw. The motion passed unanimously.

## **6. Probate Transfers from Circuit Court**

Court Administrator Mary Epping said at the September Court en Banc meeting Rule 4.3 was passed to be effective after 60 days, however part of that discussion was how those cases would be transferred to the Probate Division. Different options were discussed. Mary referred to page 6 of the Court en Banc packet, Rule 6.1.3, transfer of assignment for administrative purposes, noting the proposed language in bold could be added to address this issue, "Any matter under Local Court Rule 4.3 may be transferred to the Probate Division by any judge." It was determined Rule 6.1.3 is listed under Assignment to Associate Circuit Judges, therefore the recommendation is to use the proposed language and make it Rule 6.8, with the title "Assignment to Probate". Judge Jodie Asel stated we could avoid making an additional rule, as there will be very few of these cases and therefore they could go the Presiding Judge for assignment. Judge Michael Bradley moved to approve Rule 6.8, titled "Assignment to Probate" with the language "Any matter under Local Court Rule 4.3 may be transferred to the Probate Division by any judge." Second: Judge Kimberly Shaw. The motion passed unanimously. Rule 4.3 was passed on September 27, 2016, to be effective within 60 days therefore this rule needs to be passed with an emergency clause. Judge Bradley amended his previous motion so that the rule was Rule 6.11 versus 6.8. Second: Judge Crane. The motion passed unanimously. Judge Kevin Crane moved to make Rule 6.11 effective under an emergency clause, effective in 30 days. Second: Judge Shaw. The motion passed unanimously.

## **7. October Callaway County Board of Jail Visitors Report**

Judge Christine Carpenter said she was concerned with comments within Callaway County Board of Jail Visitors report. The report noted complaints about small meals, wanting bread to fill them up, not having hot breakfast, not having books available, and not having sheets. Judge Sue Crane said there is a library with books available to the inmates. It was agreed Judge Carpenter will follow-up on the concerns within the report.



## **8. Temporary Transfer of Cases to Alternative Sentencing Court**

Judge Kevin Crane said he believes when he is sending someone to Alternative Sentencing Court and imposing a shock sentence, the defendant would not be sent to shock, but rather he would stay the shock and leave the decision of the type of shock to be made by Commissioner Clevenger. He is finding when he imposes a shock treatment, which is mandatory in many DWI cases, and sending the defendant to Alternative Sentencing Court, the defendant does the time and then goes to the Alternative Sentencing Court. He believes the case should be transferred to the Alternative Sentencing Court for a decision with respect of how and when they do their shock and any conditional releases be in the purview of the Commissioner. Commissioner Casey Clevenger said the process Judge Crane is recommending is not what has been the practice, but she is not opposed to it. She stated in other jurisdictions that have Treatment Court Commissioners, the majority of those jurisdictions transfer the case to the commissioner while the person is participating in treatment court. When the person graduates or is terminated from treatment, the commissioner then transfers the case back to the sentencing judge.

Commissioner Clevenger said the majority of defendants are serving their shock treatment through home detention as she has only had one defendant in Boone County serve their time in jail. Therefore she believes it makes sense for them to be participating in treatment court while doing their shock treatment on home detention. This option is not available in Callaway as they do not have home detention, however as part of the plea agreement it may require defendants to serve their shock time. Commissioner Clevenger said other issues to be aware of are when cases remain in the sentencing court, she issues a warrant and the person is picked up on the warrant, the defendant has been going on the sentencing judge's docket versus be placed on her docket. She noted probation and parole continues to file reports with the sentencing court and sometimes the sentencing court will take action which is contrary to what treatment court is doing. If the criminal case is transferred to the treatment court, these issues could be resolved. Judge Deborah Daniels was concerned if the case was transferred to the treatment court commissioner then all records of the treatment court become public record. There was a question if docket entries can be made in the treatment court case number if the underlying case is transferred to the treatment court. It was determined further information is required before making a final decision. This topic will be added to the agenda at the November Court en Banc meeting.

## **9. Bonds Under New Criminal Code**

Judge Kevin Crane said the goal is to vote on the proposed Bond Schedule with the new Criminal Code at the December Court en Banc meeting in Callaway. Pages 9 through 11 of the packet are for review and consideration. Please let Judge Crane know of any concerns or suggestions. The new criminal code is driven by the type of the victim and the detainee's prior criminal history. This topic will continue to be on the November Court en Banc agenda for further discussion.

**10. JIS Demonstration**

Boone County Circuit Clerk staff presented a JIS demonstration on the process for completing disposition in JIS for a felony case amended to misdemeanor, working the queue, and a case being bound over from associate to circuit level. The associate circuit judges agreed an email can be sent to them when there is a filing, however the filing does not need to be attached to the email as the judge goes to Case.net to look at the filed report. Circuit judges will further discuss any potential changes to the process for them being notified of filed documents by email. There was discussion regarding the jail being unwilling to accept Case.net as the official record and therefore copies of orders have to be sent by the clerk by fax to the jail.

*The Court en Banc returned to item #5 – Jury Trials*

**11. Exceptions for Accepting Paper in Court**

Boone County Circuit Clerk Unit Manager Lana Brooks asked the judges to be conscientious of the number of things being accepted on paper and filed in criminal court, especially if the items could be efiled.

**12. Other**

Judge Carol England said she checked with the jail administrator in Callaway and everyone has sheets, and the Boone County library exchanges books for them, however they do not allow outside books due to contraband being tucked within them in the past. They are also not doing AA meetings as the only people who have offered to do the meetings are convicted felons. She feels we have a lot of internal people going into the jail and no one has voiced concerns.

**13. Comments from the Public**

Local defense attorney Ben Faber said every law firm has a member of their staff that goes to the courthouse therefore they would like to know if there is an option for that staff member to be allowed to have a cell phone when they enter the courthouse. Judge Christine Carpenter referred to Court Rule 9.6 where individuals can request other persons to be authorized. Ben was encouraged to contact Court Administrator Mary Epping for said approval.

Ben said on behalf of the defense bar regarding jury trials, there are some attorneys that may abuse this, however he believes asking for a jury trial to delay a case is a last resort for at least 95% of the bar.

Ben said he has been in the jails frequently and the library seems to be on par with reading materials. Historically it has been found there is not a lot to do in the county jails



versus department of corrections, where clients can participate in activities. Ben would be happy to work with anyone to provide more productive materials to the jail.

**14. Next Meeting Date**

The next meeting is scheduled for November 22, 2016, at 5:00 p.m. to convene in the Boone County Courthouse, Law Library. Adjourned at 6:45 p.m.

Prepared by: Cindy Garrett  
Cindy Garrett  
Deputy Court Administrator

Submitted by: Mary Epping  
Mary Epping  
Court Administrator

Distributed on: 11-18-16