

**COURT EN BANC MINUTES  
Tuesday, December 13, 2016, at 5:00 p.m.  
Callaway County Courthouse  
Jury Assembly Room, 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.

**Others Present:** Boone County Circuit Clerk Unit Manager Lana Brooks and Court Program Specialist Deborah Lee, Callaway County Circuit Clerk Judy Groner, Court Services Supervisor Brandon Walker, Columbia Missourian Reporter Hannah Black, Callaway County Assistant Prosecuting Attorneys Ben Miller and Risa Perkins, Defense Attorney Stephen Pratte, Presiding Callaway County Commissioner Gary Jungermann, Callaway County Sheriff-elect Clay Chism, Callaway County Deputy Sheriff Darrell Maley, Court Administrator Mary Epping, and Deputy Court Administrator Cindy Garrett.

**1. Call to Order/Welcome**

The meeting was called to order at 5:45 p.m. by Judge Christine Carpenter.

**2. Introduction of All Guests**

Judge Christine Carpenter welcomed and introduced guests.

**3. Approval of the November 22, 2016 Minutes**

Judge Kimberly Shaw moved to accept the November 22, 2016, minutes. Second: Judge Kevin Crane. The motion passed unanimously.

**4. Temporary Transfer of Cases to Alternative Sentencing Court**

Commissioner Casey Clevenger asked the Court en Banc to consider temporarily transferring cases to Division XII for treatment court participants in order to avoid confusion when the case is listed only under the sentencing judge. Commissioner Clevenger said there are weekly examples of cases where defendants are picked up on warrants issued by Division XII and returned to the sentencing judge versus Division XII. Judge Crane moved to approve that from the pendency of a participant who has been screened and accepted into alternative sentencing court, and until termination or graduation, that the case be transferred to Division XII. Second: Judge Bradley. Discussion included whether Division XII would now oversee mandatory jail time. Judge Christine Carpenter said jail time is not necessarily a decision of Division XII as it is often arranged as part of the plea agreement prior to getting to treatment court;

therefore, it would be the sentencing court's decision. Judge Carpenter recommended transfer from the time the defendant enters treatment court until the time of graduation or termination. Commissioner Clevenger reported after checking with OSCA and the circuit clerk's, the docket entry would need to say "cause transferred to Division XII for further proceedings in alternative sentencing court." It was noted the sentencing judge and Commissioner Clevenger would both be assigned in JIS. Judge Crane moved to amend his motion to defendants would be transferred to Division XII upon entering treatment court until transfer or graduation. Second: Judge Sue Crane. The motion passed unanimously.

**5. Bonds under New Criminal Code**

Judge Kevin Crane said he and Judge Deborah Daniels created the bond list on page 5 of the Court en Banc's packet in anticipation of the new criminal code to be effective January 1, 2017. He said this revised schedule has previously been discussed at Court en Banc and Jail Overcrowding. Judge Kevin Crane moved that Attachment A be adopted as reflected in the packet. Second: Judge Bradley. The motion passed unanimously.

**6. Local Court Rule 68.14 on Judgments**

Judge Leslie Schneider said within the next two months she will be proposing an overhaul of Rule 68. Commission Sara Miller said Local Court Rule 68.14 is a description of what needs to be set out in a judgment of dissolution of marriage. She said the legislature passed a statute that now requires some additional specific language to be in any judgment that deals with child custody or visitation, and dealing with the filing of family access motions. The statute states verbatim what needs to be in the judgment and she would therefore like to add that language to rule 68.14. Judge Schneider said there will be additional language regarding findings as to child support. Judge Schneider moved to adopt the mandatory statutory changes to 452.375.10 RSMo to our local court rule 68.14. Second: Kevin Crane. It was agreed an electronic vote will be taken after dissemination of the statute.

**7. Truancy Court**

This item was passed.

**8. Boone County Search Warrant Times**

Judge Kimberly Shaw said Sergeant Halford with the Missouri State Highway Patrol spoke with her regarding the process for DWI search warrants and noted their average time was 3 hours and 15 minutes to process a warrant from beginning to end. They are trying to shorten this processing time. Judge Shaw forwarded his email to the Court en Banc that showed law enforcement sometimes had to wait several hours to hear back from a judge. Judge Shaw said she reminded him that if law enforcement has not heard from the judge within 15 minutes, they should contact the judge by telephone. She said Deputy Court Administrator Cindy Garrett also forwarded another copy of the on-call



handbook to Sergeant Halford as a reminder. One additional aspect was that the highway patrol had some confusion over which judges require a notary for the search warrant. When a notary is required, it adds several steps on the part of law enforcement. Judge Shaw asked to provide law enforcement with a list of divisions that require a notary versus those who are willing to be sworn over the telephone. Judge Kevin Crane said the prosecuting attorney have said they are fine with defending motions to suppress when the affiant has been sworn in over the telephone. All judges agreed to swear in over the telephone, therefore not requiring a notary. It was requested the process for officers to be sworn in over the telephone be added to the on-call handbook and the updated handbook be provided to all agencies.

**9. Callaway Microphones for Jury**

Court Administrator Mary Epping said there was discussion at the last Court en Banc that associate circuit judges will now be hearing jury trials. The FTR will be relied upon for recording these trials. Microphones were tested in the Callaway ceremonial courtroom and it was found the microphones on the table were able to hear the jurors for voir dire. However Information Technology Supervisor Steve Smith pointed out that the microphones are each designated through FTR therefore making it difficult in knowing when an attorney is speaking versus a juror. Steve proposed adding one or two additional microphones specifically for jurors. There is already a microphone available, so this is at no additional cost. The FTR mixer has eight channels and currently four are used for the judge, the witness and the two attorney tables. Channels 5 and 6 could be used for jurors with wired microphones. It was also recommended we purchase two lapel microphones so attorneys could be mobile, which would be on channels 7 and 8. Lapel microphones can be battery charged or rechargeable. The rechargeable microphones are significantly more expensive on the front end, however additional batteries do not have to be on hand and the rechargeable lapel microphones have improved over the years with technology. Steve's recommendation is to purchase the rechargeable microphones. Mary recommended the Court en Banc approve \$2,500 for the cost to be taken out of the Callaway Law Library Fund.

Judge Michael Bradley moved that \$2,500 from the Callaway County Law Library fund be approved to purchase microphones. Second: Judge Carol England. The motion passed unanimously.

**10. Callaway Security Station**

Court Administrator Mary Epping said we are continuing to move forward with the security station in Callaway County. She stated there is universal support for the security station. There is a meeting next week with the security committee with regard to who is exempt from going through security and whether staff would be allowed to enter through the back entrance. It was noted the Callaway County Commissioners get the final vote. Mary said the Court en Banc previously approved using \$32,000 from the Callaway Law Library Fund to pay for a new X-ray machine for a security station. That machine ended up costing approximately \$2,000, which allowed for a huge savings. Mary noted we still



need to purchase the cabinetry that goes around the security station. Callaway County Commissioner Gary Jungermann said he received two local quotes for the cabinetry, a swinging gate with kevlar in it, shelving and a wooden petition to help guide those entering the courthouse. Mary requested we use the savings from the purchase of the X-ray machine to pay for the cabinetry, which is approximately \$6,000. Judge Leslie Schneider moved that \$6,000 be used to pay for additional costs to finalize the X-ray machine. Second: Judge Kevin Crane. The motion passed unanimously.

## **11. Callaway Family Drug Court**

Commissioner Casey Clevenger said upon her appointment one of her goals was to start a Family Drug Court in Callaway County. She has been discussing the topic with Judge Sue Crane and Court Administrator Mary Epping and has attended many trainings over the past year and she has come to the conclusion that a Family Drug Court needs to start small. Commissioner Clevenger would like to start a Family Drug Court in March with a goal of 3 families. She said referrals would be coming from family court and the prosecuting attorney. The model she is looking at would be families with a parent who has a criminal case and the children are involved with a family court case. She described Family Drug Court as cases where protective custody has been taken of children and their parent(s) have a criminal case. Judge Sue Crane said the commitment from the prosecuting attorney's office is diversion for the parents who would be referred. She said the juvenile case would continue and there would be cooperation and communication with the juvenile office and children's division with the Family Drug Court.

Commissioner Clevenger said the parents would appear in Family Drug Court and work toward the goal of reunification. She said there has been a great showing of commitment from the community with treatment providers, licensed counselors, faith community, probation and parole, coalition for domestic violence, housing, and the prosecuting attorney. If the parent(s) complete Family Drug Court, they would not only be reunified with children but also have their criminal case dismissed. The Callaway County sheriff's department has also committed to designating a deputy to work with the court.

Commissioner Clevenger said she wants to seek support of the Court en Banc as she believes there is enough buy-in from the community to get it started. Once there is time to show successful outcomes, they may be able to apply for funding in 2018/2019 to expand the program. Judge Christine Carpenter said in the past, as various treatment courts were added, we introduced the concept and then had a presentation to Court en Banc with a plan, including memorandums of understanding. Judge Carpenter recommended there be more one-on-one contact with all the Family Court Judges. If the plan continues to be to move forward, there should then be a presentation to Court en Banc regarding the various groups you intend to have an MOU with, the funding streams, and requirements of the program. Commissioner Sara Miller recommended looking to remove the issue of self-incrimination, which may require the prosecuting attorney to offer diversion right up front. Judge Sue Crane said 75% of the juvenile cases involve methamphetamines and in the last six months 100% of the cases entailed methamphetamines. Judge Crane said she is grateful that Commissioner Clevenger is willing to consider a Family Drug Court. Judge Carpenter said Family Drug Court is a very interesting concept but certainly a challenge as the treatment often butts head with



defense counsel, prosecutors, treatment and the court system. She said when you add juvenile court it can become very complicated. Commissioner Clevenger said she envisioned having staffing on Monday mornings with the juvenile office, children's division, and sheriff's department at the table to discuss cases where they had contact with people from the weekend. It was recommended this topic be brought back to Court en Banc.

**12. Callaway Becoming Class 2 County**

Court Administrator Mary Epping wanted to make all aware that Callaway County is moving from a Class 1 to a Class 2 County in January 2017. A meeting was held with County Commissioners to discuss preliminary changes. Mary noted there are not many changes, however the Court en Banc will now be involved in the number of sheriff deputies, their salary, and their appointment. Callaway County Sheriff-elect Clay Chism said section 57.220, RSMo, says the majority of circuit judge has to approve the number of deputies allotted and fix their pay and any new hires once becoming a Class 2 County on January 1, 2017, would need to be appointed with the approval of the majority of the circuit judges. Clay would like to get something in place prior to January 1. Commissioner Gary Jungermann provided information on why Callaway is being moved to Class 2. He stated there are four or five Class 2 counties in the State of Missouri, including Franklin County. Franklin County was concerned about becoming a Class 1 County as Class 1 Counties are required to give 25% of road tax funds back to the city. Therefore, Franklin County requested the statute change on what classified a Class 2 County. The statute previously said if you had an assessed valuation of \$650 million or more, you were a Class 1 County. Legislation changed to valuation to \$956 million and attach the CPI. With this change Callaway no longer met the criteria as they have an \$800 million assessed valuation. Callaway County was the only other county affected by this legislation change. Commissioner Jungermann said as a Class 2 County they are mandated to have one road deputy for every 5,000 population, which is currently met. Clay said there are three primary steps within 57.220 RSMo., first the majority of the circuit judges must fix the number of deputies allowed; second, once new deputies are hired they must be approved by the majority of the circuit judges; and third, it allows the judges to be a part of the budget process and fix the salaries annually. Judge Christine Carpenter said she will meet with Clay next week to further discuss.

**13. Central Registry, Child Abuse or Neglect**

Court Administrator Mary Epping wanted to make everyone aware of the section 210.188, RSMo, on page 6 of the Court en Banc's packet. There are two parts, the first one has to do with child abuse and neglect within juvenile court. By statute, when there is a finding by a preponderance of evidence that a party is responsible for child abuse and neglect as defined by 210.111 RSMo, the clerk automatically sends a certified copy of the judgment to Children's Division. The division must add that person to the central registry. The second part of the statute has to do with someone who has pleaded guilty to, or been found guilty of, certain crimes listed. If this occurs, the court shall enter an order directing the Children's Division to list the individual as a perpetrator of child

abuse and neglect in the central registry and the clerk then would send a certified copy of the judgment. In the criminal case, the clerk would only send the information after receiving an order from the court. Mary said she plans to send this to our prosecuting attorney's office to make sure they are also aware of this statute and make sure we are abiding by the legislation. Mary noted this came to our attention as we were contacted by Ellen Haynes with Children's Division as this statute has been in effect since August 28, 2016, and they have only had one case within the state submitted to the central registry. Mary said she will also be following up with juvenile office to ensure their attorneys are including the information in the family court. There was discussion by the Court en Banc, stating a bench card provided by the state would be helpful. Mary will send an electronic copy of the statute to the Court en Banc and the prosecutors of both counties.

**14. Reappointment of the Board of Jail Visitors**

Court Administrator Mary Epping said Boone County does not need anyone new on their board, however Callaway County needs a new person as Ms. Wilkinson has reached her maximum. The replacement will need to be a Republican woman. Judge Sue Crane and Judge Carol England will work to get this position filled. This topic will be added to the January Court en Banc agenda. Judge Leslie Schneider moved to reappoint the Boone County members as listed on page 7 of the Court en Banc packet. Second: Judge Kimberly Shaw. The motion passed unanimously.

**15. Other**

None

**16. Comments from the Public**

Callaway County Circuit Clerk Judy Groner said that with moving to a 2<sup>nd</sup> Class County, the circuit clerk salary will decrease by \$8,000 a year. She said this will affect the person that assumes the new term but not her current salary.

**17. Next Meeting Date**

The next meeting is scheduled for January 10, 2017, at 5:00 p.m. to convene in the Boone County Courthouse, Law Library. Meeting was adjourned at 7:00 p.m.

**18. Adjourn to Closed Session pursuant to §610.021(1) to discuss: Operation guidelines and policies of the court for responding to or preventing critical incidents of terrorist nature. (Roll Call Vote)**

Judge Deborah Daniels made a motion to go into closed session based on rule 610.021(18) to discuss the guidelines and policies of the Court en Banc for responding to or preventing critical incidents of a terrorist nature. Second: Judge Carol England.

The motion was approved with the following vote:

For: Asel, Shaw, Bradley, Crane, Kelly, Schneider, Daniels, England  
Against: None  
Absent: Sue Crane

**19. Reconvene in Open Session and Adjourn**

Judge Kevin Crane moved to reconvene and adjourn. Second: Judge Kimberly Shaw.  
Motion passed unanimously. Adjourned at 7:15 p.m.

Prepared by: Cindy Garrett  
Cindy Garrett  
Deputy Court Administrator

Submitted by: Mary Epping  
Mary Epping  
Court Administrator

Distributed on: 1/6/17