

**COURT EN BANC MINUTES  
Tuesday, June 20, at 5:00 p.m.  
Boone County Courthouse  
Law Library, Second Floor**

**Judges Present:** Judges Jeff Harris, Kevin Crane, Kimberly Shaw, Carol England, Sue Crane, Michael Bradley, 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 Unit Manager Lana Brooks, Adult Court Services Supervisor Brandon Walker, Drug Court Administrator Mike Princivalli, Attorney Manuel Tatayon, 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. Approval of the May 2, 2017 Minutes**

Judge Deborah Daniels moved to accept the May 2, 2017, minutes. Second: Judge Sue Crane. The motion passed unanimously.

**4. Treatment Court Update**

Commissioner Casey Clevenger and Drug Court Administrator Mike Princivalli provided an update on the state of treatment courts. Commissioner Clevenger noted the following accomplishments of the treatment court this year:

- The 13<sup>th</sup> Circuit is the first treatment court in state to be on eFiling, all the treatment courts are now paperless.
- The Family Treatment Court in Callaway County is officially up and running and she expects they will have three families by the end of July.
- Screenings for Callaway County Treatment Courts will now be scheduled through Megan Morse, the deputy circuit clerk. Therefore once ordered to be screened, clients will be sent to Megan in the clerk's office and she will schedule a date for the screening. Judy Groner and Megan Morse were thanked for their willingness to take on this responsibility.

- An indigency policy has officially been adopted which allows more public defender clients to be treated. All the programs are available at a sliding scale fee.
- Starting on July 1, 2017, a new model will be started for all seven treatment courts and new handbooks will be available on the 13<sup>th</sup> Circuit website.

Commissioner Clevenger also provided updates as to funding issues and how the treatment courts will be impacted. She received news a couple of weeks ago that our state funding from DCCC will be reduced by \$83,000, due to a cut in legislative funding which affects all treatment courts statewide. She noted our federal grant also ends this year. Because of these two cuts, there will be a cap on the maximum number of participant in Drug Court. Mike Princivalli said the \$83,000 cut is essentially three to four months of funding. It should be noted that prior to graduation today there were 101 people in Drug Court. He said since 2000 this is only the second time we have had more than 100 participants. He said the federal funding, which supports 40 people, will end in September and those clients will then be assumed by DCCC funds, which previously noted was cut. He said a wait list will be maintained and triaged by the treatment court team. Currently he is completing 8-10 screenings a week for the circuit. Effective in the fall, the plan for Boone County Drug Court will be to drop their cap to 85 from 100. Other program caps include 25 for the Callaway County Drug Court, 10 for the Callaway DWI court, and 35 for Boone County DWI court. Commissioner Clevenger noted they are currently at their cap of 30 participants in Mental Health Court, therefore a wait list of 10 deep has already been implemented. Court Administrator Mary Epping noted funding is being requested through Boone County to expand the Mental Health Court to 40. It was noted the implementation of caps in the courts will not impact the judges' process for making referrals to the program. Commissioner Clevenger said she has adopted the practice to not take someone back into a program once they are unsuccessfully discharged unless there is a significant change in circumstances. Mary said the legislature independently moved \$1 million from the DCCC line into a specific line item for medication assistance treatment. She indicated we will be able to submit an RFP for specific medication assistant funding later this year. Mary also noted that during upcoming budget presentations to the Court en Banc they will be hearing about other things being done that may save costs, specifically to testing. However she noted in other ways our hands are tied with RFPs the state issues that our county also uses. Mary said Drug Court Funds can be used, however if we use \$80,000 a year, the fund would be depleted in about two and one half years.

## 5. **Boone County Jail Population Study**

### a. #13 – Bond Memos and Anchoring

Judge Kevin Crane said this is the last item to be addressed in Judge Oxenhandler's Boone County Jail Population Report. Judge Crane summarized the recommendation which indicates the prosecutor's bond memo to the court regarding suggested bond conditions and recommended bond amounts is potentially an ex parte communication, it should be something other than a bond recommendation from the prosecutor to the



court at the inception of the case, and it should only be about the prosecutor's input at the arrest and suggested conditions of release to protect the safety of the victim and the community, and not a bond recommendation in terms of amount. Judge Crane said Rusty Antel talked to Jim Smith, from the Commission on Retirement, Removal and Discipline. Rusty said he was informed communication of anything to the court, being bond amount, suggested conditions of release, or prior conviction would be considered ex parte communication. Judge Crane said he does not believe it is best practice to have law enforcement contacting the judge. He said currently no one has been reported as an ethical violation. Rusty has suggested changing Supreme Court rule, which takes significant time. Judge Crane talked with Judge Asel and Judge Dolan from the 33<sup>rd</sup> Circuit and they both suggested having the state file a motion instead of a memo. They could also incorporate the prior record of convictions of the detainee in the motion. The motion could remain pending until such time as the associate court has that motion in front of them at arraignment. The court could set the bond at whatever he/she wants, regardless of what the motion may recommend. However, the motion would not finally be ruled on until court or the detainee has legal counsel. Judge Deborah Daniels was concerned with the prosecutor including arrest information in the criminal history, others noted they see pending cases as noted but not arrests. This topic will continue to be discussed at the next Jail Overcrowding meeting.

#### **6. Appointing the Public Defender for 552**

Judge Kevin Crane said he attended the latest mental health staffing. They addressed cases where defendants appear to have a mental health condition and may not have been able to appear in court due to their behavior within the jail or may not appear to understand the process when in court. In these situations it was agreed the public defender can be appointed provisionally for purposes of 552. He said Assistant Public Defender Sara Aplin was at the meeting and she agreed in those instances they do not need the person to complete the application. The public defender will interview the defendant provisionally for the purpose of the 552 hearing only. Court Administrator Mary Epping said there have been multiple cases where the defendant has been instructed to complete the public defender application on multiple occasions and has failed to do so, potentially because they are not able to. It was agreed the language to use would be "public defender provisionally appointed for the limited purposes of 552." There was a discussion about how a judge would know there's a mental health issue versus someone being obstinate. Mary indicated the mental health staffing group may be able to assist with identifying which defendants are in need of this due to mental health concerns. It was also noted the prosecuting attorney can file a motion for 552 based on the mental health staffing recommendation since the prosecutor is present in that staffing.

#### **7. League of Women's Voters Presentation**

Court Administrator Mary Epping reported Boone County, as part of the NACo Stepping Up Initiative, is moving towards a housing first model and a pay for success program. As part of advertising this and getting community support, there is a group presenting to the

League of Women Voters on July 11 at the Columbia Library from 7-9 p.m. The goal of the presentation is to describe the intersect of those with mental health conditions, homelessness, and the criminal justice system. There will be some background of the problem describing the impact it is having in our community and each agency member will present on what they are doing.

Mary said she has been given 3-5 minutes to talk about the court and she plans to discuss information about the mental health video docket with MUPC, the mental health court and treatment courts, the weekly mental health staffings, the 552 process, and the strides Judge Noce has taken towards a community court that seeks to provide services to the homeless. Mary asked for all to let her know if there are other topics they think she should include in her discussion.

The group will ask for support for a pay for success model wherein the county will ask agencies like the hospital who lose money every year, to front money to help build an access center or other resource for the county that will ultimately save them money.

**8. Corporation for Supportive Housing (CSH) Data Integration/Pay for Success Technical Assistance Grant**

Court Administrator Mary Epping said Boone Commissioner Janet Thompson has been talking about this grant as Boone County is one of four counties in the country to be part of this technical assistance grant where we get help on how to integrate data from mental health, criminal justice, and homelessness data. The goal is to put the data into a program called DataLoom, which helps to best predict our community needs. It is predicted that our community will need an access center to take adults in a mental health crisis center instead placing them in the jail, however we may find that it is a homelessness problem with mental health and we need more housing to divert issues with trespassing, for example.

**9. Purchase of Services Contract, Boone County Children's Services Board**

Court Administrator Mary Epping said she is preparing an application for funding through the Boone County Children's Mental Health tax to provide parents with children ages 0-2 with more visitation to facilitate bonding but also to give parents education and tools on how to be better parents. These are parents with abuse and neglect cases in the family court, when the permanency plan is reunification. These funds would be direct pay, therefore a budget amendment will not be necessary.

**10. 2E and 2W Bench Renovation**

Court Administration Mary Epping said in 2016, we received a quote from Prost, who built the judges benches in 2East and 2West, that it would be about \$5,000 per courtroom to extend the judges' benches out 12 inches. Therefore, we budgeted \$20,000 in the Administration of Justice Fund, to provide a buffer. As the project went into the RFP process there were significant changes requested while meeting and discussing proposed



changes with potential vendors. This included changing the witness stand, moving the clerk to the other side of the bench, and making sure the court reporters have egress to the judges' hall.

After all the requests were sent to the interested companies, we received one bid out of three who showed interest and the bid was for approximately \$60,000. Because of this significant change, we have two options of either requesting a budget amendment or to start a new RFP process with only extending the judges' benches.

Judge Kevin Crane discussed the importance of a safety plan, including having an appropriate egress plan for the court reporters. Judge Kimberly Shaw suggested the full proposal be considered for the safety aspects it provides. Judge Shaw moved to accept the RFP with the additional amount of approximately \$60,000 total. Second: Judge Michael Bradley. The motion passed unanimously. Judge Kimberly Shaw moved to spend up to \$59,400 from the Administration of Justice Fund for the project. Second: Judge Michael Bradley. The motion passed unanimously.

There was also discussion regarding continued space issues in the Callaway County courthouse. Mary said she is hoping to meet with the judges to discuss these concerns for budget purposes.

#### **11. Federal Lawsuit Against Children's Division**

Deputy Court Administrator Cindy Garrett said a federal lawsuit has been filed in the Western District by Children's Rights, Inc., the National Center for Youth Law and the St. Louis University School of Law's legal clinic against Jennifer Tinball and Tim Decker, who are Acting Director and Director with the Department of Social Services. The lawsuit is filed on behalf of five foster children in Missouri, one being a foster child from the 13<sup>th</sup> Circuit. The lawsuit claims the Department of Social Services, who is acting as legal guardian for the foster children, has violated the foster children's 14<sup>th</sup> Amendment rights by failing to protect them from an unreasonable risk of harm by approving the misuse and overuse of psychotropic drugs and violated the foster children's rights under the Federal Adoption Assistance and Child Welfare Act by failing to provide health records. Each of the foster children are represented by adults in the lawsuit, referred to as "next friend." The lawsuit does not seek monetary damages beyond court costs, instead they seek that the Department of Social Services implement and maintain a comprehensive and updated electronic healthcare record for all children in their custody and that foster caretakers be provided a complete medical history of the foster child when the child is placed; that a clear and effective informed consent policy be developed that a responsible adult would sign before a child is given psychotropic medications; that a mandatory training program for social workers and foster caretakers be developed for the safe administration of psychotropic drugs in children; and that a secondary review system that targets "red flags" in prescription procedures for children in the foster care system be created.

**12. Other**

Judge Sue Crane thanked everyone for the support she has been given over the past few weeks.

Judge Kevin Crane said Judge Christine Carpenter announced her retirement effective August 31. She plans to have a retirement reception September 8 in Stephens Park at the Riechmann Pavilion. All members of the court, staff, and members of bar are invited. Judge Crane said he has asked the governor for an appointment prior to August 31.

Court Administrator Mary Epping said the Boone County Commission has decided to close county buildings on August 21, 2017, for the Eclipse from 12-2. The court will also be closed during this time. Callaway County Commission plans to close from 12:30-2. It was also noted some judges have cancelled their dockets due to concerns with traffic.

**13. Comments from the Public**

None.

**14. Next Meeting Date**

The next meeting is scheduled for July 25, 2017, in Boone County at 5:00 p.m. to convene in the Boone County Courthouse, Law Library. Meeting was adjourned at 5:47 p.m.

Prepared by: Cindy Garrett  
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