

COURT EN BANC MINUTES
Tuesday, March 5, 2019, at 5:00 p.m.
Boone County Courthouse
Law Library, 2nd Floor

Judges Present: Judges Brouck Jacobs, Jeff Harris, Kevin Crane, Jodie Asel, Kimberly Shaw, Carol England, Sue Crane, Tracy Gonzalez, Leslie Schneider, Stephanie Morrell, and Commissioners Sara Miller and Casey Clevenger.

Others Present: Boone County Circuit Clerk Christy Blakemore, Callaway County Circuit Clerk Megan Morse, Adult Court Services Supervisor Brandon Walker, Callaway County Prosecuting Attorney Chris Wilson, Assistant 13th District Public Defender Jeremy Pilkington, 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 guests.

3. Approval of the January 29, 2019 Minutes

Judge Jeff Harris moved to accept the January 29, 2019, minutes. Second: Judge Stephanie Morrell. The motion passed unanimously.

4. Legislation

Deputy Court Administrator Cindy Garrett said Court Administrator Mary Epping sent an email on February 27, 2019, regarding legislation she is currently following. She also provided information from the House website as to bills regarding courts and juvenile courts. Please let Cindy or Mary know if there are additional bills you want us to track. Mary's email also included information regarding HB 5 as to judicial salaries and the realignment process that must be completed by 2020.

5. Blank Warrant Form

Judge Kevin Crane said page 8 of the Court en Banc packet is a blank copy of the warrant form that has been placed in the judge's on-call bag. He noted the highlighted sections can be ignored. Judge Crane suggested the judges write in "failure to follow a court order" in the charge code section. There was discussion that upon completing the form, a photo of the form can be taken with the iPad and then sent by email to the appropriate agencies. Judges Carol England and Sue Crane could not recall a situation where this form was ever needed after hours in Callaway County

6. Number of Jurors

Judge Kevin Crane said for those who have a jury trial, a pre-trial hearing is normally scheduled the day prior to trial. He said the number of people a judge orders for the jury trial will be assumed to be the number you want seated. The jury supervisor will determine how many she

needs to schedule to appear in order to ensure the number ordered to appear are present. Once an order for the number of jurors to be seated is made in court, the court marshal will immediately notify the jury supervisor so she can begin the necessary process for the following day's jury trial. Judge Crane requested this all be accomplished by 3:30 p.m. to allow the jury supervisor the necessary time to prepare the jury process.

7. Docket Changes

Judge Kevin Crane provided an update on the upcoming dockets changes as of April 8, 2019.

Division V – Thursday a.m. will be removing settlements and adding Child Support Court; Friday p.m. will be removing arraignments and a criminal docket.

Division I – Friday a.m. and p.m. will be removing Juvenile Court; Friday p.m. will be adding arraignments.

Division IX – Wednesday a.m. will be hearing DUR/DUS on 1st, 3rd and 4th Wednesday; Friday a.m. on the 1st, 3rd, and 4th Friday will hear Juvenile Court.

Retired Judge Oxenhandler will be serving as a special master to hear settlements one Friday morning a month.

Judge Jacobs arrived at 5:12 p.m.

8. 552 Requests

a. Mental Health Forms

Deputy Court Administrator Cindy Garrett said there have been some issues lately of counsel not filing an accurate 552 motion. She said there are OSCA forms available which are on pages 9 through 11 of the Court en Banc's packet. Court Administrator Mary Epping provided these forms to the local bars for distribution and these forms have been posted to our local website. Judge Jodie Asel clarified the differences between the three separate forms.

b. Public Defender, Private Evaluations

Judge Kevin Crane said there was a request that private evaluations be considered, when agreed upon by all parties. Judge Crane said this would normally involve cases where there is not a 552 order requested of the court and the parties agree a private evaluation can be completed. If both parties agree with the findings, the parties can then go to the court and request a commitment, to which the Department of Mental Health will accept based on the private evaluation. Judge Crane said a more common scenario is where the defense counsel goes, without a 552 request, to a private evaluator and based on their evaluation is able to plead NGRI. The state may then request their own evaluation, and there are then two experts in front of the jury, if the case is tried. It was agreed the private evaluation is a good option, however the judges do not believe it will occur very often, to where all parties agree to one private evaluator. Assistant District Public Defender Jeremy Pilkington said their office is recommending this option as to competency cases, not responsibility, as they are much more frequent and DMH is so backed up that they can get a private evaluation more quickly. It was agreed an order

pursuant to 552.020 for the private evaluation for competency must be requested and upon completion of the evaluation the court must accept the recommendation as to competency. It was agreed the evaluation can pre-date the order.

9. Bonds/George Dodge

Judge Jodie Asel referenced pages 12 and 13 of the Court en Banc's packet. Judge Asel said this issue came up when she did a final judgment on a George Dodge bond forfeiture. Judge Asel said she did the bond forfeiture order and hearing on final judgment of forfeitures set. At court, no one was present to represent George Dodge. She made a standard order of final judgment of bond forfeiture. She later received a form from the clerk's office for judgment of bond forfeiture, which states the cause was considered on the state's motion, evidence was adduced and the state's motion is denied or bond is ordered forfeited. Judge Asel was not comfortable signing the form as it was not on the state's motion, there was no evidence adduced, and she made an order of final judgement. Judge Asel reviewed Supreme Court Rule 33.14 which states the court can order the forfeiture on motion. She said years ago, when there were paper files, the state filed a motion for judgment of bond forfeiture with execution after the first docket entry made of bond forfeiture ordered. She said the reason this issue came up is the Division of Insurance needs a formal judgment before they pay bonds out and the form serves as the final judgment. It was agreed a motion needs to be filed by the state. Circuit Clerk Christy Blakemore clarified the state needs the final judgement form only if the judgment will be going against the bondsman's CD at the Division of Insurance. Judge Kevin Crane inquired about what happens when a bondsman dies, as in the case with George Dodge. There was a question as to what it means when a bondsman only has \$10,000 to satisfy all the bonds, which Christy clarified this is the amount the bondsman's has to post with the Division of Insurance. She further indicated this is why we have our rules as to the amount of assets required. Judge Asel asked if someone is going to be responsible for paying these forfeited bonds. Christy believed this would go against the bondsman's assets and estate, however that would probably be a county counselor issue to file something against the bondsman. Judge Jeff Harris asked if there is equivalent of tail coverage. It was suggested CJ Dykhouse be consulted regarding this topic. It was agreed the state must file a motion or request an oral motion. Judge Asel agreed to provide suggested language and processes in an email to the Court en Banc.

10. Adult Court Services Recommit Authority

This item is being passed until April.

11. 400.3 Workplace Violence Prevention Policy

Deputy Court Administrator Cindy Garrett said the policy on pages 14 and 15 of the Court en Banc's packet is a policy that was approved and added to our Personnel Rules and Administrative Regulations as of December 27, 2018. This policy was developed when the Juvenile Officer Performance Standards were implemented and the Juvenile Officer was required to have a policy regarding Prevention of Workplace Violence. Court Administrator Mary Epping felt the policy should be for all staff and therefore had the policy added to the Rules and Regulations.

12. Other

Judge Stephanie Morrell said she was on-call two weeks ago and the telephone lines were down at the Boone County jail and sheriff's department. She had a request for a higher bond. Staff at the sheriff's department scanned the higher bond sheet and emailed it to Judge Morrell. Judge

Morrell said with the current process, the prosecutor is sending the probable cause statement in an email to the judge as to why a higher bond should be set. She inquired why the prosecutor cannot also include the higher bond form in that same email. It was noted this is in situations where charges are not yet filed and the prosecutor is requesting a bond higher than on the approved bond schedule. Judge Morrell agreed to contact the prosecutor to see if they can include the higher bond form in their initial email, along with the PC statement. If the judge orders a higher bond it is then up to the prosecutor to contact the jail, notifying them of the higher bond.

13. Comments from the Public

Circuit Clerk Christy Blakemore said she will soon be down three staff, two in family court and one in probate.

Judge Kevin Crane inquired of Callaway County Prosecuting Attorney of the new trial setting process in Callaway. Chris said the process seems to be going ok.

14. Meeting Date

The next meeting is scheduled for April 2, 2019, at 5:00 p.m in Callaway County. Judge Kimberly Shaw moved to adjourn. Second: Judge Leslie Schneider. The motion passed unanimously. The meeting adjourned at 5:38 p.m.

Prepared by: Cindy Garrett
Cindy Garrett
Deputy Court Administrator

Submitted by: Mary Epping
Mary Epping
Court Administrator

Distributed on: 3/29/19