

**COCLJ AUTOMATION AND ACCOUNTING ADVISORY COMMITTEE
MEETING – AUGUST 18TH, 2011
HELENA, MONTANA**

MEMBERS PRESENT:

Chairperson Judge Larry Carver
Judge Linda Budeski
Lisa Mader, Montana Supreme Court Administrator's Office
Claudia Anderson, Supreme Court Administrator's Office
Sharon Skaggs, Yellowstone County Justice Court
Barbara Pepos, Richland Co. Justice Court-Sidney City Court
Thelma Keys-Nicol, Kalispell Municipal Court
Judge Gregory P. Mohr
Judge Audrey Barger

MEMBERS NOT IN ATTENDANCE:

Sheri Bishop, Gallatin County Justice Court
Jennifer Boschee, President of MJC&MCCA

Meeting was called to Order by Chairperson Judge Larry Carver at 9:00 A.M.

APPROVAL OF MAY 19TH, 2011 MINUTES

Motion to approve minutes as submitted by Judge Mohr, seconded by Judge Barger and committee voted to accept.

PUBLIC COMMENT

No one appeared to make public comment at this time.

LARRY CARVER – UPDATE

Judge Carver wanted the committee to be aware that when e-mail and unapproved minutes go out to the committee members, they are not to be distributed to anyone else at that time. One item is the letter to the Town of Bridger, which needs to be approved by the committee first before it is sent out. Some of the e-mail that is sent out is for discussion purposes and not necessarily for distribution at that time.

Thelma wanted to discuss a Cite Pay issue where they wanted payment on cases, but the cases are sealed. Right now, they are unsealing the case to accept the payment, but have to remember to reseat the case after that. Lisa commented this is a configuration setting that it set to No Cite Pay payment on sealed cases. She is asking the committee for direction on this. They are at 41 courts installed with Cite Pay right now. Does the change to Cite Pay occur only in the courts that ask for that change or is the change made available to all the courts? Judge Barger stated this would not be a problem in her Court as she does not seal cases until they are completed. For example, a deferred remains open until all sentencing requirements have been met; including payment of the fine, then it is dismissed and sealed.

Judge Carver added the Supreme Court decided it is a conviction until the case is dismissed. However, there is a new ruling which just came out of Judge Phillips court

where the Supreme Court said it is not a sentence. Therefore, the Supreme Court was contradictory on their decision. Judge Mohr added when a deferred is sent to the State, it is open to everyone at that point. Once the deferment period is over and the case is dismissed, then it becomes confidential criminal justice information. Thelma stated their deferreds are dismissed and sealed once the deferment period is up. But, she added they still accept payments after that period of time and this is where the problem is occurring. Thelma does not believe the entire state needs to be changed if their court is the only one having this problem.

Lisa wanted to know if the committee approved this change as when approval was given to change the configuration of Cite Pay to accept payments from persons under the age of 18 YOA on a court by court basis if they asked for it. Judge Carver did not want to limit the manner in which a court could accept payment. Lisa said it is important for her staff to have a standard. Judge Mohr agreed with Judge Carver in that we never want to cause problems for courts when it comes to accepting payments, however, he wanted to know what the IT staff needed to make this work well for them. Claudia said with five trainers and courts being allowed to call in and make changes it complicates the process, as the trainers would almost need a list in front of them regarding what one court is allowed and which courts are not allowed. The standard always works better for them.

Sharon believes a court needs to be able to make changes when needed. Judge Carver said it should not cause problems for other courts if defendants are allowed to make payments on sealed cases. Lisa then stated they could certainly make the change to Thelma's court and any new install with Cite Pay, but since they are low on resources right now, going back to the other courts to make the change would not be done quickly. Judge Barger's only concern is will this make the case available to the public, especially if someone goes on Cite Pay and knows the ticket number and the defendant's DOB, could they see the charges? Lisa agreed the charge would show up on the Cite Pay web site.

Thelma then said there is a concern with someone seeing the charge on Cite Pay; therefore, she wanted to put hold on this issue until she could discuss it with her Judge. Thelma had another question regarding Cite Pay and it was a case with 3 charges where someone made a payment on Cite Pay. This defendant was on time pay. On the one charge the next due date was changed, however, on the prior 2 charges the payment date had not been updated. Sharon said the procedure is to put #1 in the payment ID when you go into the payment plan tab. Claudia said the clerks are trained to do this, however, Barb noted that if you haven't received training lately, you were unaware of this procedure. By adding the #1 in the payment plan ID, the oldest cases will be paid first and all next payment dates will be updated.

Lisa is confused by what happened in Thelma's case, as it was one case with 3 charges and that is different from what was discussed regarding the various time pay agreements. The IT staff would have to look at this issue on Thelma's database and ask JSI why that happened.

Discussion then focused on Cite Pay being shown on the www.mt.gov web site and how someone can get to the judiciary from that site. Judge Carver believed judiciary needed to be added on the main page on the right side. The Executive branch of government has set up this web site. Lisa believed the other agencies listed on the main page probably pay for that service. She added their agency pays the Department of Administration for various services. Lisa will, however, ask if on the right side they could list Judicial Branch and the bulleted item would take us to “*pay your citation on line*”. Sharon suggested when they speak with JSI; ask if Cite Pay would be willing to sponsor the link. Judge Carver tried to talk a defendant through getting to a civil form online from the www.mt.gov site and it was very difficult to get to the judiciary from there.

Sharon added where the services are listed on the main page to either pay your registration on line, or get your Fish, Wildlife & Parks licenses on line, they add: Pay your traffic ticket on line. Lisa added she is currently involved in getting the operating plan and going over the budget items for their department. She will keep us posted in regard to their being money in the budget for this type of change. Karen Nelson was very good at planning and looking ahead for their department’s needs.

Lisa showed the changes made to the Judicial Branch web site regarding the adding of “**How do I pay my citation on line?**” In addition, the number of courts and number of judges were updated. A link was added for the Automation and Accounting Practices committee, along with the past meeting minutes.

Next on the agenda was a mission statement for this committee. Lisa provided the committee with a draft. Judge Mohr inquired about the language which said Montana *trial* courts. He wondered if the word *trial* should be removed. The committee agreed to leave out the word *trial*. **Judge Mohr made a motion to approve the Mission statement with the one change to leave out the word “trial”, seconded by Judge Budeski and approved by the entire committee.**

Judge Carver also noted the forms need to be updated on the web site. Lisa advised the committee the forms are not managed by their department and they may need to contact the Law Library about updating the forms. The jurisdictional limits need to be changed on the Small Claims and Civil instructions, as well as the filing fee amounts. Lisa would contact Judy Meadows about the needed changes. There is also a governing body that makes the decisions about this web site.

Continuing with Lisa’s update, Jamie Beckman is the new hire to replace Deon and she is able to travel. The Help Desk position has been advertised and will close the end of August. It will take them a couple of weeks to get that position filled. Jamie is still working the Help Desk and she will train the new person once they are hired. All the Public Defender fee changes and the 50/50 restitution splits have been done across the State, with the exception of Colstrip, as they have had trouble contacting the Judge. As mentioned previously 41 courts are now installed with Cite Pay. It is important to note they have had some problems in getting the necessary paperwork back from the courts, in order to move ahead with the Cite Pay install. Tammy has sent the information out and

then had to follow-up a couple more times to find out why the paperwork has not been returned. Cite Pay is not a mandatory install; therefore, some of the courts may not be interested in it. Also, they have not received the new release of Full Court which was supposed to arrive in June. Lisa has a call in with JSI. That release will fix the date problem in overdue processing. Belgrade is the one court still needing the new overdue processing, but Claudia has simply not had time to address it. Claudia's position is still not filled, but closes soon. 45 Limited Jurisdiction courts have the Jury Module.

Sharon added that recently she met with Shannon from the Municipal Court and they looked into a program that updates the addresses on the jury list. The program is called "Cass" and the program will give the correct mailing address. This is a program from the Post Office. Sharon recommended the jury list be run through this program before it is sent out. It is not known how this program would work with the jury module, but Lisa would need to meet with the Attorney General and the committee that works on forming the lists.

Wanda Drusch and Carol Anderson both had e-mail accounts. The way the account is set up is if you do not use it within 180 days, it is moved into inactive. Passwords expire every 65 days as well. Lisa also said if the mail box is full they may not be able to get into it. Judge Carver said Judge Linda Hartsock's e-mail does not work and he has not been able to reach her.

Lisa hopes to have a list of the ROA codes worked on at the next meeting. Regarding e-filing, there have been some meetings held and one meeting was with Ed Smith, who is Chairman of the task force. Karen Nelson agreed to return and do contract work for their department. She is going to do some research on what has been done regarding e-filing, as well as what came out of the "working groups". There is a \$250,000 grant available for District Court and Prosecutor e-filing and Lisa got an extension on that grant till September 2012. Karen is going to help write the RFP and evaluate the vendors. This will be done on a phased-in basis. They will start with the prosecutors and District Courts and hope to move on to the appellate court. Lisa, Kevin and Sharon will be attending an E-Filing Conference in Long Beach in October and they will know more about it after the conference. Yellowstone County is paying the expense for Sharon to attend this conference, with Lisa and Kevin attending on the federal grant through the data assessment program.

Both Judge Carver and Judge Mohr were on the e-filing committees and they were left with the impression that the e-filing would be installed on a county by county basis. Lisa could not comment on that issue as she received the information regarding the grant the 2nd day she was in her new job.

Lisa and Beth will also get in touch with Ernie about Enterprise. Lisa wanted to have working groups when she gets going on Enterprise to make sure the application is meeting the specifications. Judge Carver requested that Lisa also ask Ernie about the Cite Pay credit card machines that the courts were going to be supplied with. Also, when Ernie had first spoken about the credit card machines they were going to be supplied to

the courts at a nominal fee. Lisa said she spoke to Lois about this and there was no mention of those machines in the contract. She would, however, bring that to Ernie's attention when she speaks to him.

CHANGE REQUESTS

Judge Snowberger made a change request to overdue processing and when Judge Carver went back to the minutes, it was noted that her overdue processing was different than the standard. This change was pursuant to how her court handles collections and it was approved back then.

#1 – an upgrade in Full Court management of Temporary Order of Protection be modified. That the notice of hearing which is currently on page 4 of the Full Court forms be moved and given its own paragraph number 13, above the direction to the clerk and above the judge's signature. If approved, this would be a recommendation from the committee to Joan, as the forms are the responsibility of the Attorney General's office. This would also change it so that there is only one Judge Signature.

Motion to accept this change was made by Judge Mohr with a second by Thelma. Committee voted and approved this change request.

#2- request on page 3 of the Final Order of Protection, remove the date and signature line for the judge, remove line break to move the Sheriff's direction up to page 3. The purpose of this request is to have the judge sign the document once.

Motion by Judge Mohr to accept this change request, seconded by Sharon. Committee voted and passed this change request.

BUTTE CITY – STATUTE TABLE REQUEST

Butte wants to take the fines from the 61 codes and divide up the money 76% to moving violations and take 24% of that money and put it toward capital improvements, which includes police cars. Judge Carver asked if there was an ordinance in this regard. Claudia had a letter with 5 signatures on it in the request from Butte. Lisa said the change would be to the statute table. Claudia said they could identify all their 61 codes, but they would have to make a change to the distribution tables in the 61 codes. Right now Full Court designates the amount of the fine money to the Treasurer. Claudia believed Butte has always done this, but the money would get run through the parking people. Now, Butte City is using the general ledger of Full Court. They felt they could track it better now through Full Court.

Lisa would question this request if approved, as a new statute table would need to be developed for Butte. Butte City had Full Court since June of 2005, however, general ledger just became in use in June of this year. Barb inquired what the statute stated regarding City courts and the distribution of the fines. Section 3-10-601 MCA speaks of the distribution of the fines for Justice Courts. City Court has concurrent jurisdiction with the Justice Court over all Misdemeanors and proceedings under that title. 46-17-402 MCA requires that all fines must be paid to the City Treasurer.

Judge Mohr made a motion to deny this request, seconded by Judge Barger. The full committee voted to approve this motion.

The automation committee has reviewed the change request and has voted unanimously to not approve it, as the distribution of fines is bound by statute. Judge Carver would review the letter to be sent to Butte City court and sign it for the committee.

ACCOUNTING DISCUSSIONS

Lisa wants to work on an accounting and responsibility compliance agreement with the courts. Sometimes when a court is being audited, their department is being asked to help with the audit. She wants the agreement to say the IT Department will install the programs, make sure that it is working and you are balanced and ready to go. Their responsibilities after that are to train and support personnel. Beyond that the IT Department cannot accept the liability. By doing the court's end of month report or trying to balance them for the last 4 years is not in the scope of their responsibilities. Judge Carver said for the record this committee asked Karen Nelson to develop the agreement years ago.

Lisa discussed this problem with Beth and it was agreed their department cannot be responsible for a court's audit. She hopes to provide a 1st draft of this type of document. Sharon suggested the courts in Idaho may have a policy in effect and it might help to ask them what they have done. It is the cities and county government responsibilities to make sure the courts are in compliance. Lisa went on to state if that city or County needs to, they can contract with JSI for further help, not the IT Department in Helena. Judge Carver could see where that agreement would clarify the responsibilities.

Judge Carver stated Judge Rieger is the new judge in Bridger. The problem with her accounting stemmed from the previous judge. The city denied helping her with an audit or providing her with other assistance. The problem is the figures on Full Court right now are wrong and there is no one around to help her balance it. The reason the IT Department wants to respond is due to a letter from the Town Clerk/Treasurer who put the problem as a Full Court system problem. In the draft response from the Supreme Court IT Department, the contacts from the court are well documented. Claudia said the problem is not a training issue, it is a learning issue. Claudia said the previous clerk did not perform her job as trained to do so. Claudia also noted that someone would need to go back at least 4 years and straighten out the records, to correct the accounting problem. The last sentence in the draft letter states, **“Additionally, it is our opinion that it is the Town of Bridger’s responsibility to resolve the accounting issues by seeking a licensed accountant who can assist the court in resolving these issues by monthly balancing out since 2007 to the present. If further assistance is needed, JSI should be contacted.”**

Lisa asked if there was anyway clerks could be certified in their jobs or at least in bookkeeping. The IT Department does not have a compliance officer. Once the policy is created and approved, it then needs to be distributed to the cities and counties. Claudia

added there will be a training lab at the conference in Kalispell. They plan on taking these training labs with them everywhere they go. Claudia noted when she attended the Judge's conference last spring; she emphasized how important it is to do the bank reconciliation. Judge Carver does not want Judge Rieger to have to resort back to the peg board. It would be great to be able to give her an option.

Discussion then followed why not all courts are audited. There are many city courts that do not have audits every year and it is a decision based on funds by the governing bodies. These situations make it very difficult for a new Judge and new staff. Judge Mohr believed a minimal audit starts at \$2500.00.

Sharon asked if the new clerk has gone back to 2007 and tried to balance out. Claudia said the problem is there is no way to verify what checks are correct, as the copies of the checks do not match what is on Full Court. Judge Carver said somehow this issue needs to be addressed, because it has happened in the past to new judges. Barb commented that if they start using the computer today and are doing it correctly, they will be off the same amount every month, which is the unresolved amount left by the previous Judge and clerk. Judge Audrey Barger said this is how she plans to handle it.

Lisa pointed to the letter from the auditor who put in his letter, "*Since the checks cannot be altered in Full Court, an adjusting entry should be made to fix this problem.*" Judge Barger said she spent as many hours as she could trying to balance Full Court, but she is at the point where she must move forward now and let the auditor know she is off by "X" amount of dollars. Lisa said there was another incident in E. Helena City court, as Judge Marion just recently resigned. Before she resigned she contacted the IT Department and asked for help closing out the last month. Cindy spent 6 hours with her closing out as Judge Marion did not know how to do this. The City then called and said they were bringing an auditor in to help them with the books. Beth advised them they would not help the auditor. Judge Carver said the IT policy statement should say that the IT Department would not perform auditing duties.

In going back to the draft letter to the Town of Bridger, they should make reference to the auditor's letter which stated it is not a Full Court problem, but a problem in previous staff not performing their duties. Lisa would make some changes to the letter and send it to Judge Carver for his signature.

Judge Mohr made a motion that the letter be sent to the Town of Bridger and it was seconded by Judge Budeski. The full committee voted and agreed with this motion.

Judge Carver said on the to-do list is a statement of how to proceed from this committee to the new Judges and new clerks. Judge Mohr asked if the IT Staff can track who is doing their end of month balance. There is a program available to them that will track how many courts they help and how much time is involved. Sharon inquired if there is a report that can be run checking to see if the bank reconciliation has been completed. If it is found that a court has not balanced out, then the Judge should be contacted. As the Judge is ultimately responsible for his office, there should be a checklist for them to look

at in the Full Court program. Another suggestion from Claudia was to run the Adjustment report in Full Court and verify that those adjustments are proper.

Sharon wondered if Claudia could give an update at the Judge's conference that courts need to balance out and do the bank reconciliation each and every month. Judge Barger told the committee how the books got messed up in her court before she took office. The commissioners hired someone to work about 4 hours per day and enter the checks and money into Full Court. This person had no prior court experience and no idea how Full Court worked. She would receipt a check for District Court on a Transcript of Judgment, not knowing that the check was for District Court, not the Justice Court. Lois did come to her court and worked in the office for a couple days trying to locate the problems.

Judge Carver said he wanted to send the new policy letter out to all the courts, so they are aware of what is going to take place in the future. Judge Carver said the letter to the courts would be under the heading of the Automation and Accounting advisory committee. Sharon said the letter is good, along with a verbal reminder at the training session. Claudia said it would be so helpful to her and the trainers if this was done.

THOMPSON FALLS CITY COURT

The Treasurer sent a letter to Thompson Falls City Court stating they are owed back approximately \$7,000, as they incorrectly sent money for the Tech surcharge which did not belong to that fund. This has been done since 2007. The letter said they were sending the Misd. Surcharge along with the Tech surcharge, hence the \$7000 is due back to Thompson Falls. Becky from their office asked Claudia if this was true. Claudia could not understand the spreadsheet the Treasurer sent, however, she went back and looked at the end of the month reports and they were very clear as to where the money went. Claudia knew Full Court was correct and the end of the month reports were correct. Claudia was able to do her own spreadsheet which did indeed show that the Treasurer was sending the Tech surcharge and additional money, but the additional money did not always match the amount of the Misd. Surcharge, all of which was very confusing to Claudia.

Claudia also noted some months the victim witness surcharge was sent incorrectly with the Tech surcharge. Then, Claudia spoke with the Treasurer to try and figure out what had happened since 2007. The treasurer advised her she was new to the job as the previous Treasurer passed away and the previous Judge also passed away. Then the treasurer asked the city clerk for help as to what to send. At the end of this, they had actually sent approximately \$6900.00 too much for tech surcharge. Unfortunately, that treasurer felt there was no one she could ask to get help when she was trying to figure this all out. Discussion then took place as to how the treasurers get their information as to the proper bar codes for distribution. Lisa said Local Government Services used to put out an accounting manual; however, they do not do that anymore. Lisa has struggled for years in trying to find out who trains the treasurers on the distributions, especially, when the legislature makes a change as to where the distribution is supposed to go.

Joliet and Fromberg courts are now handled by clerk, Jackie Schara, who also had worked for Judge Seiffert. She is very good in her job and exceptionally careful about the handling of the money. Those two courts are now up to date.

BUTTE CITY

This court for the past six years did not handle the money, but they assessed the fines and fees. They had 12 boxes of time cards for paid, not paid, past due and so on. Claudia went to the court with the hope of adjusting the amounts paid and the unpaid amounts, however, she saw some serious errors in the database. Claudia said they had to change their strategy to zero out everything and start all over. This was something they could do, since they had not done the general ledger previously. There unfortunately was a clerk issue in that court, which has been resolved by not allowing that clerk to enter any fines and fees.

Claudia said the court is doing well at this point, but they have yet to do an end of the month balance. The Judge had wanted to get general ledger up and running for some time, but due to the issues regarding fines and fees, there was no way of knowing what the beginning figures should be in each account. The previous judge refused to use the general ledger and in fact Lisa said this was the only court they had that would not use general ledger. The way the court operated in the past was people would come to the court to pay their fine, they would receive a paper receipt and they were supposed to walk that paper receipt down to the parking commission, where the defendant would give them the money. Some of the unknowns were who kept track if the defendant walked out of the building without paying the money. Also, there was no way the parking commission knew how to distribute those funds. There was no verification system from what the parking commission received and what the court wrote on their paper receipts.

LIST SERV

Lisa is part of the District Court List Serv and she believes it is a great vehicle in which to distribute information to all the courts. Lisa said she also sees the responses from the clerks. Lisa contacted Local Government Services and learned that MSU manages the List Serv for District Court. MSU said they would be willing to start a List Serv for the Limited Courts and there would be no charge. She also mentioned that the State would charge 7 cents per e-mail if they used their services.

Lisa said the List Serv could be broken down by one group for the clerks and one group for the judges. This would put the responsibility on the separate courts to keep that list updated on the List Serv. Lisa added it would be great to deliver messages to the clerks and judges this way. Also, the Best Practices could be distributed on the List Serv. When courts do not keep the IT division apprised of clerk changes, the new clerks get left out of knowing about upcoming events or changes.

Sharon is afraid right now there may be some clerks missing in the clerk's e-mail database, as that listing is now obtained from the members of the clerk's association, which may mean some non-members do not receive the e-mails. The downfall with the List Serv is that it will fill up a person's mailbox, so they will have to manage that. Lisa

puts her e-mail in an off-line folder and keeps it there. That way she can always search back through the e-mails if she needs to. Sharon thought it would be a great tool when it came time to get suggestions for the Fall Conference. Setting up List Serv would simply require all the clerks to send their e-mail addresses to the person setting up the List Serv. There would be 2 List Serv setups, one for the clerks and one for the judges, and it would not be a mandatory requirement to be put on the list. Plus once started a judge or clerk could opt out if they wanted to, even though, they would miss the notices from the Supreme Court.

Sharon made a motion that List Serv be set up, one for the Judges and one for the Clerks, with a second by Judge Barger. The committee voted on the motion and approved it.

BOND SCHEDULE

Judge Herman has not held a bond book meeting recently. Claudia, Lisa and Judge Carver have talked extensively on how to handle the Fish, Wildlife & Park changes. All the criminal violations in Fish, Wildlife & Parks are all renumbered. Almost all of the penalty requirements are now included in the statutes. The problem is that as of October 1st none of the statutes are going to match, as the old statutes will not be effective anymore. Unfortunately, there is no way to access those new codes yet. With about a month to go before the new codes take effect, this will be a problem. Judge Carver said they do have the Legislative Review book, which lists the Bill # and the new codes. For example, if you look up the new Aggravated DUI bill, the only thing the Legislative Review book will do is list the statute numbers affected by this bill. Therefore, the bond schedule cannot be worked on by just looking at the Legislative Review book.

Information for everyone to know is that the new Bond Book will not be completed in time. Keep in mind that once the Bond Book is updated, it must go before Fish Wildlife & Parks and the Highway Patrol for their review, as well as the Dept. of Justice to look at. Claudia and Judge Carver will both work on the Fish, Wildlife & Parks statutes and possibly get something out by October 1st. The reason for the change in the Fish, Wildlife & Park statutes was due to the fact no one could agree on the penalties. Lisa did speak with legislative services and the code commissioner and in that conversation she was told they would provide her with Fish, Wildlife & Park codes by the coming Monday, at least in an electronic version. Without seeing that, however, it is unknown what changes need to be made.

Lisa advised Jeff Marx will be coming to the meeting to discuss Smart Cop. He told Lisa there will be some new officers coming to Smart Cop by the end of September and they are with Fish, Wildlife & Parks and Motor Carrier Services. She believed he said there would be 23 officers using it. None of this should cause problems for the IT Division, as long as they are all using the Supreme Court's statute table. Electronic reporting from the courts to Fish, Wildlife & Parks and Motor Carrier Services would not be done at this time. Judge Carver tried sending a sentencing order to Fish, Wildlife & Parks electronically, but it did not work. He ended up giving copies of that paperwork to his Game Warden to get to Helena, so that an individual could take the Hunter Remedial Ed

program. Claudia commented for the courts that do have electronic reporting, the Motor Carrier violations do report electronically. This pertains to 12 courts in the State of Montana so far.

Sharon said in her court they e-mail the dispositions to Fish, Wildlife & Park. The disposition can always be printed out, scanned and then e-mailed. The same could happen with the form which has the Hunter Remedial Ed information on it. Sharon also noted that her court changed their warning letter in overdue processing on Fish, Wildlife & Park citations, adding that their hunting, fishing and trapping privileges may also be suspended. Judge Carver added this type of information should go to the courts in a Best Practices instruction.

MONTANA HIGHWAY PATROL IMPORTS

DOJ is changing the manner in which the citations are received by the Supreme Court. The only thing changing is that Marty will query the database and find the citations. Before they would send the images of the citations with their file, but now Marty will query the database for those images. The process change will not affect the courts in any manner. Now when Marty queries the database, he will receive an actual copy of that citation as it has been stored. The image is slightly different than what we received in the past. One of the major differences is the B.A.C. level which is now located in the lower part of the citation where docket information is listed. This B.A.C. will not appear on the defendant's copy. The data will come across in the Case Management system.

Jack Marx attended the meeting at this time. He is from the Department of Justice and is the Application Services Bureau Chief. Lisa said he is the person they have been working with since they started importing from Smart Cop. Judge Carver is asking why the B.A.C. was moved from the top of the citation to the bottom. The previous citation imported was a custom copy done in Crystal Reports. They have had some enhancements to Smart Copy and now the pdf is generated there. What they ran into is the difference between the court copy and the copy supplied to the Defendant. They were unable to separate these, so what they come up with is a second page. It is still only a one page document, but it will be listed below the docket number. Judge Carver asked why the B.A.C. is not noted on the defendant copy and Jack said it is a limitation of the application. Jack said if this group wants to see something different, then he will take that request to his vendor.

Judge Carver gave some history about the B.A.C. and it being reported on the complaint. And, specifically that it appear on the defendant copy as the committee felt it was important the defendant know that number. Jack said he would definitely take that to the vendor and see if it can be modified. Judge Barger believed with the new offense of Aggravated D.U.I. this information should be on the defendant copy. Jack noted that ultimately the decision will be made by Major Butler, who is the owner of this application.

The box “*companion*” when checked means this NTA is associated with another NTA. It is the Smart Cop’s system of filling in the blanks on the companion charges. Another difference on the citation is the change to standard time versus military time.

Marty said there is a change to the VOIDED citations. Currently the courts see the notice of each individual citation if it has been voided and an image is provided to attach to the case. In the future there will be no image provided of the voided citation. The Best Practices guide is to attach the images to the citations that are voided by Agency in Full Court. Lisa felt that in the beginning of Smart Copy they overproduced by supplying the voided citations; prior to that the court did not know about them.

Marty does not want to rely on e-mail to provide the voided citations because of what could happen if e-mail fails. Lisa said the problem occurs when the e-mail system is not working properly. In that case the citation is in the Full Court system and was not voided due to e-mail failure, resulting in the defendant being picked up for failure to appear. Marty has never taken the voided citations off of his server. Judge Carver said if he does not receive the e-mail, he will not open the folder for voided citations. Currently, Marty does not go in and verify that the voided citations have been picked up by the court and marked as voided by agency. Marty said it would take him a good 2 days or so of programming to be able to do this.

Judge Carver believes it is the officer’s responsibility to make sure that a citation is voided. The officer has some responsibility to make sure the court is notified and the citation is voided. Marty does believe the court needs the image of the citation to be voided. Judge Mohr made a motion that Marty provide the courts with a notification of voided citations and images of those citations. Judge Budeski seconded. Committee voted in favor of this Motion.

Jack added to the conversation that what they used to provide on voided citations they are no longer going to be able to do. If this is something that is needed, it is going to have to be the court that is generating this. An alternative is courts will have more access to the DOJ data than ever before. There will be a system to system connection, so perhaps something that might work would be a weekly voided citation report. At issue would be action being taken on the citation before the weekly report was received.

Marty will do some more work on this project and report back to the committee. Lisa said the easiest way for this to be done is as it is now, less the pdf file. The e-mail notification is still the easiest way to handle it. The only thing that he will not get from DOJ is the image.

Judge Budeski asked if the motion needed to be revisited since it was to provide an image of the citation. The Motion was withdrawn at this time.

Jack stated in moving forward with the Smart Cop application; it is the intent of the Justice Department to incorporate Fish, Wildlife & Parks and Motor Carrier users in the process. Starting in the October time frame, they will be adding 23 Fish, Wildlife &

Parks officers to the system. Motor Carrier Services is going to be added later. Judge Carver wanted Jack to be aware the statute table for Fish, Wildlife & Park violations will need to be updated and it has not been completed. Point of contact on the technical side is Dustin Temple. Lisa said Sgt. Tenney has been incredible to work with in getting the project as far along as it is now. Judge Carver would like to schedule a Smart Cop demonstration at the next meeting. Jack felt that Scott could go through this demonstration in about 20 minutes.

GREG NOOSE – RECORDS AND DRIVER CONTROL BUREAU

Judge Carver said there are still some judges that are unaware of the requirement to suspend the registration on a 2nd violation no liability insurance violation. Greg Noose said he would discuss HB 102 and HB 106 and the non pay and non appearance, as they overlap. He said they never get registration suspensions on a fuel theft. He said it is easier for the courts to do the non pay or non appear suspensions, which have no time limit and guarantee a contact with the Court.

His Department does see approximately 3000 license plate suspensions, subsequent to the 2nd offense no liability insurance violation. They see approximately 200 driver's license suspensions for 4th offense or subsequent no liability insurance. We have a ½ page form, which is also in Full Court. The first problem of not having and not displaying has the same effect. The second problem is sometimes the person convicted is not the owner of the vehicle. That leads as to how this license plate suspension form needs to be used. They are reluctant to suspend the registration when the owner is different than the convicted person and they do not have a signed form. If they, however, have a signed form they are fairly certain the convicted person will tell the owner what will happen. In some cases, the person convicted may have failed to display the card, and the owner may actually have insurance on the vehicle. Essentially it is a requirement of the form to submit the form and then the court has discretion as to what to do with the plates on a 2nd conviction. The court can recycle the plates and the convicted person will have to pay a fee to get new plates, or you can return the plates once they have met the requirements. This was allowed at the request of the judges who had plates that were personal to the vehicle owner. Further, there is the employment only registration.

In September, *the mt.ivs system* will go into effect which will be the on-line verification of insurance. This will be demonstrated at the clerk and judge's conferences in Kalispell in late September. In HB 106, courts must see the proof of insurance before they can allow someone into the 24/7 program. The *mt.ivs system* will be available to the courts. This will make it easier to see if the convicted person is the same as the owner of the vehicle. Greg believes the target date to go live with this is January 2012. Lisa believed that Highway Patrol will get first access with the courts being added later.

Greg Noose wonders how to automate the license plate suspension form when the owner of the vehicle is not the convicted person. The instructions to the Defendant as to what to do are on the bottom of the form. Greg Noose needs the form submitted with the disposition in order to make this work. Their Department works with the title and registration department and the person remains suspended until they show proof of

insurance to the motor vehicle division. They reinstate the privileges at that time. There is no fee paid to his Department to do this.

The *mt.ivs system* is query based and the information in that system comes from the insurance providers. This database will be real time. This program has been funded by a \$1.00 fee which is on everyone's registration. However, if this works to reduce the number of uninsured from 25% top 8%, then it will meet its requirement. Automating the suspension process means that we automate the form and make sure that it gets back to the owner. There needs to be 2 copies of the form, one for the defendant and one for the Marty. Greg Noose also advised there is no penalty for violating the restrictions on a plate, such as employment only. When the legislature created this they did not create a companion charge. It is believed the only charge a defendant could get for driving to a casino when he has employment only plates is possibly a no registration violation.

Greg Noose does not find much discretion in the statutes on a 2nd offense. If the court reports, then they must suspend the plates and registration. Any new proof of insurance the Defendant might display to the court would also need to be sent to the Records and Driver Control Division, so they can change the status of their plates and registration. The Treasurer can then reinstate the vehicle registration and does charge a small fee. The defendant can provide proof to Helena by fax. Currently the loss of plates and registration form is being mailed to his department. This form must be included with the ticket disposition.

Greg Noose said the ½ page form is the only notification that the Defendant receives. They do not receive a letter from his department, because the bottom half of that form is the notification. It is especially hard when the convicted person is not the owner of the vehicle. Greg did try this year to separate the offenses of failure to display proof of insurance and failure to have insurance in effect, but it was unsuccessful.

Greg Noose said when the defendant proves to his Department that the vehicle is insured, then they can get registration for restricted use of employment only for the remainder of the suspension period. The term in statute specifically states the vehicle can be driven for employment purposes only. The only penalty if they violate this is a charge of no registration. Judge Mohr inquired what would be the Best Practices to do with all the license plates. Greg Noose said they should be salvaged. Statute 61-6-304 gives the court discretion of giving the plate back to the Defendant.

Greg said his department presumes Notice of Suspension based on receipt of the form, with a citation number on it. Judge Carver said the defendant is the one who will sign the form and be given the Notice. Judge Carver also believed there is a huge training issue with courts not filling out the ½ page form and having the defendant sign it. Lisa said right now the VIN # is not imported into Full Court, even though you can see the VIN # when you image the citation. Marty can add that data element as it is already in our import. Greg Noose recommended meeting with Lisa and Claudia and getting ready for the presentation at the conference on September 29th in Kalispell. Right now this is the

#1 violation in the State of Montana, to the amount of 9000 no liability insurance and 4000 written for failure to display proof of insurance.

HB 102 and HB 106 – Today all courts have the authority to allow a probationary license after 45 days with interlock. His Department is handling about a dozen of those a month. They have between 3,000 and 4,000 subsequent offenders at this time. Therefore, the greatest percentage serves hard suspension that full year. But now courts with an access to the 24/7 sobriety program or DUI court have some options. 61-8-734 MCA changed the manner in how we count the DUI. DUI/BAC conviction now qualifies as a 2nd or subsequent offense **if less than five years have passed between the last prior conviction and the current offense date**. After three lifetime DUI/BAC convictions, no future conviction can be designated as a 1st offense regardless of the time passed. This means once a defendant hits 3rd offense, he will never again in his life be charged as a 1st offense.

Greg Noose will be glad to see the new statute books, where everything will be in one place. He added notifications to the department may be provided by courts at various times during and following the 1 year period of DL suspension. The preferred course of action is for the data elements such as 24/7 or DUI court participant, or eligible for probationary license and ignition interlock, to be transferred between the court and department in conjunction with the conviction disposition that is initially submitted and/or an amended disposition that is transferred at the time that the court takes an applicable action.

With the 24/7 program and/or DUI court participant the waiting period for a probationary DL is waived. The court will verify proof of completion of approved chemical dependency treatment and proof of motor vehicle liability insurance. All this cannot happen on day 1 of the sentence. That is why the Department will need an amended disposition, if he is in the 24/7 program and/or DUI court participant. Once the year is completed and the Department receives proof of completion, they will reinstate the license.

Judge Carver asked if this presentation would be given to the Judges at their conference. Brenda is working on it now and it will be presented then. Greg Noose said they will provide a paper document to the judges. Judge Carver asked if the court can send the DL suspension form like they do now and mark it was “non-comply”. Greg Noose said these are the procedures that need to be decided upon. Greg said the non-comply suspension is an indefinite suspension, until the defendant comes to the court and complies. But, he said there still needs to be a process where the Judge notes that the recommendation for a probationary DL is withdrawn and whatever happens after the 1 year suspension just happens. The defendant does not need to return to the court after the one year. Greg said that is the difference. In one case, the court takes care of the defendant and he will not receive a license until he deals with the court. In the other case, the defendant has lost his license for the one year suspension and at the end of the one year; the defendant will get his DL back with the payment of the fee. Judge Carver believes they may change some things at the Conference, as this issue is huge and very

confusing to the judges. Greg is afraid the books won't be completed yet and Lisa said they are due out in October. It is very hard to put this altogether when they are located in several different bills.

Judge Mohr stated the cross-referencing is very time consuming for the court as well. Greg Noose said it could even get more confusing if the defendant is a DUI court participant and a 24/7 participant. Greg believes in that case there is no waiting period, they will mark the required alcohol treatment as complete but shall not issue a restricted probationary driver's license until proof of installation of ignition interlock is received. At the end of the one year the defendant can have his interlock removed without showing any more proof of treatment.

Greg said there are 3 types of courts with 2 different types of circumstances. The Attorney General advised Greg that once a court sends a non-compliance and recommendation of no probationary, his Department cannot issue a DL until the end of the one year driver license suspension. Greg believes the DUI Courts may not like that process, as they would want the incentive to still be there that a defendant could get in compliance and the court would ask for a reinstatement of the probationary license.

Judge Carver said using the non-pay or non-comply method, after the Defendant appears in court and is again in compliance, the court would send the Reinstatement. He asked if the defendant would still be paying the \$100.00 fee to the Department. Greg Noose said yes, they would pay the fee and once they receive the reinstatement, the probationary license would once again be issued. Greg Noose said every time his Department does the work of suspending and reinstating, they do expect the fee to be paid.

Thelma said in her court they do rescind some of the 10 years or older cases. Judge Carver noted that rescind means the action should not have taken place. Greg Noose said they are coming up with these cases that will be 10 years or older and he is leaning towards just marking everything as completed and no valid DL. He is not sure about collecting the \$100.00 fee after the 10 year period as well. Also, he noted that some of the treatment programs are not happy about the court verifying compliance and not them.

Judge Carver asked Greg Noose about a question he had. A defendant had completed in-patient treatment before sentencing and they wanted to be credited for the ACT class. The defendant wanted to know this before they went into sentencing. On a 1st offense DUI Driver Control presumes compliance on a first offense; however, they do pay attention to non-compliance notices.

Judge Mohr inquired about the handling of out-of-state driver's licenses. In White Sulphur Springs, the judge was advised to take the DL and give the defendant the reinstatement form. We had always been told to not take an out-of-state DL, as the conviction goes to the State of Montana and your Department notifies his home state and then you send the forms to the defendant. Greg said there are some states where all they do is report the conviction. The committee looked at statute 61-11-101 MCA. Judge Carver said the statute is generic in that it states the court will confiscate the driver's

license of the defendant. Judge Carver and Judge Mohr agreed that as training judges they will just advise the judges to send the out-of-state DL's in.

NEXT MEETING DATE

The next meeting will have the following on the agenda:

Bond Book

ROA Codes

IT Department policy

Claudia and Greg on the license plate suspensions

Smart Cop Demo

Web Page update

Contact with Judge Wanda James and her DUI Court

Marty and update on voided citations

Meeting scheduled for Thursday, October 20th, 2011 at 9:00 A.M.

Minutes submitted by member, Barb Pepos

DRAFT