

**COCLJ AUTOMATION ADVISORY COMMITTEE
MEETING – FEBRUARY 10th, 2012
HELENA, MONTANA**

MEMBERS PRESENT

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

MEMBERS NOT PRESENT

Jennifer Boschee, MJC&MCCA President, out of State
Sharon Skaggs, excused for medical reasons

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

APPROVAL OF MINUTES

Lisa commented that on Page 6, 3rd Paragraph down, it should be Judge Clute. Also, Lisa wanted to change the number of employees on the 2nd to last paragraph on Page 6 to 18 FTE. Lisa also noted a change needed to be made on Paragraph 3 on Page 8 the coding for CitePay at the Jail was not done. Judge Mohr made a motion to accept the minutes with the above corrections, seconded by Judge Budeski. The committee passed this motion and the minutes were approved.

PUBLIC COMMENT

No one appeared to make a public comment.

LARRY CARVER – UPDATE

Judge Carver advised the electronic filing project was passed by the Commission on Technology with the few items that needed to be clarified. The change in the FTP was to include 2 justice courts, 2 district courts and the Supreme Court and this was done. The committee met on January 27th, which included Judge Carver, Lisa, Rex Rank, Sharon Skaggs, Kay Johnson the District Court Clerk in Chinook, Marv Scott who is the Bar Association representative and Nancy Sweeney who is the Lewis & Clark County District Court Clerk. The committee will be going through the Request for Proposal with a set of rules which have been drafted by Karen Nelson. The next process is to receive training on how to evaluate the RFP, because the State Procurement office sets the rules for this process. Each committee member will go through the RFP, evaluate and score it. The committee members do not discuss this until the process is finalized. After that the top 3 go through a demonstration. It is possible at that public meeting the vendors will be there.

The specific set of rules from the Procurement office is to prevent a vendor from finding fault with the process and possibly future legal action against the State. Lisa commented

at least the procurement process and selecting the vendor must be done by the end of September. This is because there is grant money tied to the project. Judge Carver said the Department of Administration is going to house the program. In order to do that, the Court Administration had to enter into an agreement with the DOA. In that contract, they have a contract with Montana Interactive, which is an exclusive contract. There will need to be a determination whether Montana Interactive has a shoe-in in this process, or if that part can be opened up as part of the bid in this electronic filing project. This is being evaluated right now and when Judge Carver finds out the results, he will pass them along to the committee. Karen Nelson obtained the grant for the judiciary.

Lisa said the DOA will house this program which gives them a vested interest in this project. But, they must always go through the Department of Administration procurement process, whether or not they are a separate entity of government. Further adding to what Judge Carver noted about the exclusive contract with Montana Interactive, Lisa said this may create inefficiencies in the process. The Court Administrator's Office was not included in the E-Services Advisement Board; therefore, they are taking the position they should not be included in the exclusive portion of the contract with Montana Interactive.

Lisa said there is another exclusive contract with E-Pass which is a user authentication program and they want this in the contract. Judge Carver said it is smart to try to get that determination before the bid process begins. The contract states they must honor any contracts already in effect with the DOA, but Judge Carver does not believe this will prevent them from changing that in this process. Lisa added whichever vendor is chosen for the payment process, it must sit outside the State server. Karen Nelson anticipates between 10-12 vendors bidding, therefore, taking up considerable time from the committee's members.

LIST SERV

Judge Carver is pleased with List Serv and there have been good questions and answers from the Judges on it. Questions on it were regarding the fact that District Court does not have a central depository and getting access to District Court records. This was discussed at the Commission on Technology and decided against, with further discussion there are no privacy access rules in place. The District Court central repository is not let out to anybody, including the District Court clerks and the District Court Judges. Judge Muth wants to look into the District Court records and see if the defendant in front of him has prior offenses. Lisa said the repository is not the source to obtain this information and it is not the Judge's job. However, the main reason is the lack of privacy access rules.

Judge Mohr inquired as to the purpose of this central repository for District Courts and Lisa replied it is used by the Court Administrator's office to access statistical information and to implement the Dashboard program in the District Courts. The District Judges are able to obtain performance measurements and the clerks are able to do case cleanup. Judge Carver had a member of the Bar Association on the Commission on Courts of Ltd. Jurisdiction ask for access to the Judge's List Serv and Judge Carver said it was only open to the judges. If the judges knew a prosecutor or some other attorney was looking at

List Serv, they would be reluctant to use it. Thelma inquired if someone could look at those e-mails, since it is a government entity. Lisa replied they would have to go through a specific process to get that information. Judge Carver said Thelma made a good point in that nothing is private, but on the other hand it is used for discussion only.

One item brought out in the discussions was the Judges needed more training on Aggravated DUI's. One of the issues is Search Warrants when a Judge has jurisdiction in one county and they actually draw the blood in another county. Judge Barger added when the county uses a detention center in another county and a hospital in another county, the questions arise regarding the Search Warrants.

BOND BOOK UPDATE

Judge Carver will get together with Judge Herman in regards to updating the Bond Book. Lisa also said they needed developers in order to get the bond book project completed, and have just recently hired their developers. Judge Carver said there are other agencies that use our Bond Book as well. The new legislature will begin in January 2013; therefore, it would be helpful to finalize the Bond Book in the near future.

SYSTEMS OR APPLICATION ACCESS POLICY

Judge Carver noted he reviewed the State computer access policy, pursuant to the last meeting minutes, and these rules will not work for us. Lisa agreed and they did not distribute it for this reason. Lisa said the State policy was a computer access policy, but what they need is a systems or application access policy. She is obtaining access policies from other states and agencies and hopes to bring something to the committee to look at.

CLAUDIA ANDERSON – UPDATE

Claudia and her staff of trainers have been working on the Full Court Update, which JSI sent to them in October. Currently, they are on their 4th or 5th release of that update. They are testing it in the Missoula District Court where it is working fine right now, and except for one issue, is working fine in the Yellowstone County Justice Court. JSI is currently working on a new release to fix the current bugs. Once they receive it back from JSI it will be tested and back out to the courts. That release had some corrections to the CitePay receipt issues, therefore, it is holding up new CitePay installs.

Staff has been working on District Court issues as well, which is the training of the courts on the Dashboard program and court case clean-up. Manually, they are adding 60 hearing types for the District Courts.

Claudia will demonstrate one of the new e-learning videos that trainer, Mike Richetti, created. He created it in an Adobe-learning suite, and used it for this training video. The training pertains to the Jury Module, which will be a major job in May when the courts begin the process of obtaining new jurors for another year. Claudia thinks Mike did an awesome job, even though; it is not the end product. She would like all the clerks to be trained this way, allowing them to all view the same information. Claudia said you can download forms, manuals, notes and tips. Judge Carver added there will probably be webinar training on Aggravated DUI. This will be created by Inman from the Dept. of

Justice and hopefully, will come out before the Judge's spring school. Ms. Inman is in the Attorney General's office. The discussion is this will be put up on the Dept. of Justice website for the judges to view.

LISA MADER – UPDATE

Lisa reported they did hire developers and they are now at full staff. The developers started their positions on January 23rd. Right now they are working on every process Marty had and documenting them. They have already completed some minor re-engineering; therefore, she is expecting they will do well. Lisa held her first staff meeting on February 7th and it went well. She discussed her and the division's team goals. Strategic planning and the branch goals were shared with the staff.

ENTERPRISE

Ernie from JSI and his crew will be coming to Helena during the week of March 19th. They will meet with Lisa, Claudia and the technical staff to discuss infrastructure issues. The last discussion was held in December 2009. Lisa will have many questions that need to be answered regarding infrastructure and deployment. There is no funding available for new hardware or network changes, should that be a requirement of Enterprise. This information needs to be determined in order for their division to include it in the funding request at the legislature. Lisa added she hopes to be far down the road with Enterprise in the next 3 years. But, she is unable to do anything until the issue with the infrastructure is solved. She is having monthly conference calls with Ernie, to make sure everyone knows what is being worked on.

Lisa has expressed her concern over the fact they are on their 5th version of the Full Court update which should have been delivered last June, but was not received until October. She told Ernie every time her staff finds a problem that JSI did not find; it takes that much longer for the process to move along. This is not acceptable to her and her staff. Further, they are not getting the same level of support from JSI they received in the past. Lisa added they use Full Court statewide and give JSI many dollars for these products. She, therefore, does not expect the level of support to drop off. Ernie did sound surprised to hear this from Lisa and said he would check into it. At least he is aware that she is tracking these issues.

Judge Carver commented the State paid for the Enterprise program. JSI is also into the Broker system with the State. Even in the e-filing project which will be going out for bids, whether or not JSI submits a bid, they are already involved because of the Broker. Also, the language needed to talk to Full Court will have to be worked out with JSI. Lisa and Karen had a conference call with Ernie to ask questions if he is not the successful bidder in this project. They wanted Ernie to give them the high level estimate of what the integration costs will be from JSI, to make the e-filing system work with Full Court. Ernie did ask questions to help him answer those questions correctly. Lisa said integration will have to take place with Full Court and C-track on the appellate side.

Thelma inquired if there is a performance clause with JSI? In other words, they must meet certain goals before they can receive the money for their product. Lisa could not

immediately answer the question as to what is in the contract. Thelma said the prosecutor's office in Kalispell has the same problem as the courts do, as far as the lack of support for the system. Lisa said she will look into the contract. Judge Carver asked if Lisa and Claudia were going to the Full Court conference and Lisa replied someone from their office will attend. Judge Carver felt it was important to hear where the company is going and get a feeling as to how they are doing.

One of the priorities which came out of the last Automation Committee meeting was Motor Vehicle reporting. Lisa advised they have made no progress in this area for the following reasons. The Business Analysts have been focused on the District Court project and case cleanup and an enhancement was made to the error reporting to the Court Administrator's office, unfortunately the enhancement created problems. Motor vehicle is still working with some issues. JSI has received all the information they need and the last she heard earlier this week was it's going to take some time to research. Lisa finds it frustrating because if JSI had taken stock in the concept she had provided them for the change request, these issues should not have occurred. Lisa added she is not a developer and may be seeing the situation in a simplistic view.

Lisa believes they need a systems and application policy for Full Court, as well as who is allowed to access List Serv. She will do research to see what other states and organizations have in place. Hopefully, something will be presented to the committee at the next meeting.

Regarding citation import, they are still in the same situation as they were at the last meeting with Fergus County and Culbertson. Progress has been made as they took some ideas to the Dept. of Administration to get the connectivity they needed to be able to transfer the files to them. Every one of their options was denied. They did ask what their recommendations were and DOA did come back with a resolution. The developers are working on the two separate packages for 2 courts in order to deliver the PDFs and text files to an FTP server, because they cannot get directly to these two courts machines. Once this is delivered to the FTP server, the court will be responsible for pulling it down. It is unfortunate because it means there are separate packages and separate instructions.

DRUG COURT – UPDATE

As a follow-up to the request to use Full Court for Drug Court by Judge Wanda James, which was denied by this committee, Judge James came up with a solution. The Drug Court coordinator was able to get a company from Buffalo, NY to come and train any drug court personnel in courts where there was no money to pay for a computer program. This system was free to them and even had specific Montana coding in the program. 10 people attended the training.

Lisa inquired if anyone used LJCMS anymore and a couple of courts replied they still do for records checks. Judge Barger would like to know how to use it since they must go back through boxes to search for old convictions. Lisa said something will need to be done to LJCMS as they move forward with systems, because the old DOS program will not work anymore. One of the new developers may be able to assist in possibly moving

LJCMS over to a program such as Access and read-only. Judge Carver commented it would need to be kept due to the new records retention rules which were approved in April because it is an index to the docket.

MIP ISSUE

Judge Carver said he was contacted by a clerk that wanted to know about sending dispositions on MIPs to the Dept of Public Health and Human Services. Judge Carver contacted the Dept of Public Health and Human Services to speak to the person that handles the MIP records and even after trying for half a day never did reach anyone who knew anything about it.

COMMITTEE MEMBER RECOMMENDATIONS

Claudia and committee members came up with the following clerks:

Tina Schmaus from Missoula Municipal Court

Jim Doyle from Blaine County who works for Judge Perry Miller

After discussion from committee members, Judge Carver will contact Tina Schmaus first and see if she is willing to accept the nomination. If she is not interested then Judge Carver will ask Jim Doyle.

Judge Carver would like the Clerk's Association to advise who will be replacing Jennifer Boschee as President until an election is held at the Fall Conference.

CITRIX LACK OF USE

Claudia called some of the courts and presented the following: She talked about Drummond City Court, Granite County Justice Court and Phillipsburg City Court first. After talking to Debi Fratzke she learned the Drummond City Court was closed in 2008. There is talk of reopening that court, but if they do this it will only be open one day per month. She advised Claudia the funds were dispersed in 2008 to the Mayor and to Gail Leeper who was at the time city clerk and these funds will be used to start up the new Drummond court. The city did sign an agreement with Deb Fratzke, which was last Fall, but nothing formal has been announced. Deb Fratzke is the Judge for the Justice Court in Phillipsburg. Granite County Justice Court in Drummond still has payments coming in from one person and there is no activity in this Court. All the tickets are now written into the Court in Phillipsburg.

Phillipsburg City Court is not used much because all traffic and criminal tickets get written into the Granite County Justice Court in Phillipsburg. Only city ordinances are written into the Phillipsburg City Court and they do not have many of these. All three of these courts are up on Citrix and the State is paying a fee. They are using Full Court in the Granite County Justice Court.

Claudia talked to Jodi who is the clerk in Cascade, because the Judge does Belt City Court as well. Judge Cary is in Belt the 1st and 3rd Fridays of each month. Jodi commented Belt never has tickets. They have an inter-local agreement with the Sheriff's Department, but no tickets are written into Belt City Court. Claudia does not know the

fees involved in keeping these courts on Citrix. Claudia went on to Stevensville City Court where Judge Birkender is now and is in every other Thursday and every Friday. She has not touched Full Court in 9 months. The previous Judge did not use it either. The Judge is interested in using Full Court again, but with the 9 month gap there will be problems in getting Full Court up and running correctly. At the end of the conversation with the Judge, Claudia learned she purchased a bar and casino and works late hours as it is.

Judge Carver commented with the licensing fees and Citrix fees; this must come to a substantial amount of money the State is paying for the computers not using the Full Court program. The other issue is the updating of the hardware in these courts. Belt City Court has not used Full Court at all. Judge Carver asked if we could put this issue on the agenda for the next meeting and possibly Claudia could provide a hand out of what the fees are for these courts.

Judge Carver was contacted by Wanda Drusch from the Manhattan Court and they are going to civil infractions. Judge Carver recommended Wanda spend some time with the Clerks in the Billings Municipal Court and learn how they handle it. Judge Mohr added Fairview City Court expressed an interest in this as well.

ACCOUNTING RULES AND PROCEDURES DRAFT DOCUMENT

Judge Carver wanted the minutes to reflect the committee unanimously approved the final draft of the Accounting Rules and Procedures document. It was also decided this document did not need to go before the Commission on Technology. Claudia and Judge Carver will get together and draft a letter to send out to all the judges.

Motion was made by Judge Mohr to accept this Accounting Rules and Procedures document, seconded by Judge Linda Budeski. Committee voted and approved this Motion.

Lisa added the District Court clerks accepted the new Rules and Procedures and made note of it in their minutes. Therefore, Lisa is going to send this document out, pursuant to the discussion and minutes of that meeting. Judge Mohr suggested drafting the letter to the judges and explaining the discussions that took place. But, it was decided for the Ltd. Jurisdiction Courts, Judge Carver and Claudia will draft a letter to go with the new Rules and Procedures document.

JSI-CREDIT CARD TERMINAL CONTRACT

Pursuant to the last minutes, Lisa obtained a CitePay contract for a payment terminal. A mistake on the paperwork is the terminals are \$400.00, not \$600.00 and Lisa confirmed this with Ernie. She explained if a court has the funds and wants a credit card terminal, this is the contract between JSI and the court. The Court Administrator's office will not be doing a statewide deployment of these terminals. Lisa said she learned that Montana Interactive spent \$300,000 in their coding to become compliant with all the rules and regulations regarding credit card payments. Hence, the reason why a credit card payment

program cannot be part of the State network, but must be outside of it due to the rules to become PCI compliant.

Judge Barger asked if Lisa knew what is involved regarding the installation of this terminal in someone's court. Lisa believes you plug in the terminal and it goes directly to CitePay. She also thought the level of effort from their office would be minimal. Claudia saw a demonstration of the terminal and it asks the questions on-screen, similar to what CitePay asks right now. She is not sure if the case must be open in order for the terminal to work, or if the terminal opens the case itself. Lisa said the terminal will be contacting the same web browser on the server the computers do now to access the internet. The transactions, however, are originating from an outside server.

One question is does the terminal have the same language on it that someone paying on CitePay would see. This language was modified for the State of Montana. Lisa said no courts are using this terminal currently in the State of Montana. Claudia is wondering if Full Court looks at this as a regular e-payment as opposed to a counter payment. Lisa will check with Ernie on these questions. Judge Carver wondered if these terminals are working in other States. Lisa knows they are out there, but she does not know the states.

Judge Mohr had a question regarding the SUPPORT clause, are they dealing with JSI or Verifone? This is in the Verifone PayWarePC License agreement form, which was attached. The second question is why are the courts purchasing support? Judge Carver would like to discuss this at the next meeting and Lisa will ask all the questions from today's meeting.

Judge Carver is not interested in having a terminal but would like to know what the interest level is in other courts. After Lisa gets her questions answered from JSI, they could set up a "survey monkey" for the courts, giving them the information about the cost of the terminals and inquire if the court is interested and how many would they want.

Currently, there are 55 courts installed with CitePay. As Claudia stated earlier due to the Full Court update which is not ready to be deployed, they cannot perform any new installs of CitePay. Judge Mohr inquired what the time frame on the update is. Claudia said it is still in testing with JSI, but as soon as they receive it they immediately get to work on their testing.

Judge Carver believed the kiosks would be the way to go, because if there is access to the internet, there would be access to order of protection forms, civil and small claims documents and access to pay their fines. Claudia said the kiosks have printers available as well. Judge Carver said the computer would only access CitePay and www.mt.gov, where all the forms are located.

Beth is working with Montana Legal Services and the self represented forms. In terms of the Adobe issue which was discussed at the last meeting, the state has not done much to this date. Lisa asked Kevin to get in touch with the DOA and the person who was going to provide the state agencies with the tool to scan their web site and determine which of

their forms are extendable, which is the issue with the Adobe pdf forms. Once they determine that and the State has arrived at a decision, these fill able forms may need to be changed. Judge Carver noted any changes to forms or new forms must be approved by the Commission on Courts of Ltd. Jurisdiction.

Lisa did speak to Karen Nelson about the contract with JSI and if there was a performance clause in it. Karen Nelson wanted everyone to know she did not negotiate that contract and no, there is no performance clause in it.

CITEPAY BOND AT THE JAIL

Lisa said the discussion on this occurred in March 2011. In May 2011 Lisa was given the indication that coding would begin by mid-summer, with delivery by late summer 2011. In October 2011 at Long Beach, Lisa discussed this with Ernie and the coding had not begun. Lisa then received an e-mail October 20th, 2011 from Bill, which stated, *“Ernie, we have 2 related enhancements on our plate for Montana concerning paying bonds at CitePay. Both of which are driven by the need to pay bond at a jail in one county when the court that should receive the bond money is in a different county. The first is to make some or all warrants with specified bail amounts payable at CitePay as real bond balances rather than an unapplied receipt. If a defendant is picked up in County A for an outstanding warrant out of county B, the payer could pull up the warrant by doing a case or citation search at county B and pay the warrant bond amount. This would cause a cash bond record to be created in Full Court on county B, because that is where the warrant exists and a confirmation e-mail would be sent to the jail in county A and they could release the defendant. This will require modifications to the e-payment code and to CitePay. Whether it will require a code change in Full Court depends on how to show a Warrant at CitePay. If all warrants are payable at CitePay, or if we can identify which warrants are payable, then we should not have to modify Full Court. However, if the clerks will need something like a check box to mark when a warrant is payable on line, then we will need to modify Full Court, and a new release will be necessary.”*

Therefore, the question is all warrants or does the court determine which ones could be paid on CitePay. Judge Mohr believes it would be all warrants with a bond amount on the warrant. If the warrant is from a partner/family member assault, then there would be no bond noted on the Warrant. Therefore, Judge Mohr said any warrant with a bond on it would mean the defendant could bond out. Judge Carver said they must be notified if they have mandatory appearance, but most would have a bond amount on them. Judge Mohr said any warrant should include the language defendant must appear or contact the court within 10 days from the posting of bond. A copy of the Warrant should be with the Defendant and any time the jail accepts bond, they give the defendant an appearance date in court. Judge Carver stated they may arrest someone on his warrant in Billings based on the hit in CJIN, without an actual copy of the warrant. Thelma inquired if that was proper without the Judge’s signature, but Judge Mohr said it would be probable cause to arrest the person. Therefore, there may be times when the Defendant does not have a copy of the warrant.

Lisa went on to the 2nd piece of the modification. *Making jails configurable on a statewide basis, rather than a court basis, is mostly needed for posting a bond as an unapplied receipt. When a person is detained for a new offense which is not entered in Full Court, this modification would allow the payer to select the Court where the receipt should be created, while also selecting the jail from the statewide list rather than a countywide list. This modification would only require a change to CitePay.*

Lisa did reply to the question of warrants as **all warrants**. Regarding the **jail configuration, it would be statewide, not county specific**.

At the end of the e-mail, he said: *Two kinds of bonds are going to be supported, posting bonds on existing warrants in which case a cash bond record will be created in Full Court in the court where the warrant was issued, and posting bond for new offenses which have not yet been entered into a Full Court system, in which case an unapplied receipt bond payment will be recorded in the court selected by the payer at CitePay.*

Lisa said we can do the unapplied receipt right now and it goes into the bond receipt in the court that was chosen by the payer and shows you all the information the payer enters. What cannot be done right now is posting bond on warrants and having the notification go to the detention center when bond has been posted. On October 20th with these modifications JSI thought they could (barring any unforeseen issues) have this to us by the end of 2011. Then in December as they were in the midst of testing another release of Full Court and dealing with CitePay issues, which meant that Lisa had a full mail box, she did receive an e-mail from Bill that was about CitePay bond enhancements. Lisa missed that e-mail and did not respond to it.

Lisa then responded to the e-mail in January and she received a reply from Ernie which stated we missed our window of opportunity for Bill to work on this and it will be early summer before they can begin modifications. Lisa responded she was disappointed to hear this since the original discussion took place in March of 2011 and in May; Ernie indicated coding would begin in summer with delivery in late summer of 2011. Then, Bill would begin coding at the beginning of November with a completion date unknown, until he knew how to handle the issues in his e-mail. However, Bill was unable to begin that coding until December, at which time Lisa overlooked his e-mail. Lisa also responded she received no follow-up e-mails or phone calls, until she inquired about this in late December. Now, Ernie said coding will begin in summer of 2012, which is over a year since the discussion and completion closer to fall 2012.

Ernie replied to her there were a series of unforeseen glitches at JSI. Lisa has had more discussions with them and unfortunately, they do need Bill to do this coding. Ernie said he will do some juggling in order to allow Bill some time to work on this project.

Judge Carver asked if an officer is going to accept bond at the stop using Montana Interactive and he wondered how this would work. Lisa said this would be a separate phase. Thelma inquired if the officer could use his phone and connect to CitePay and do the transaction over his phone. Judge Carver said the officer would not have a copy of

the Warrant, as he only has a hit from CJIN. Lisa said you want that officer to take the defendant to a jail, in order to obtain the MANS form and get processed at the detention center. Also, the officer would receive a copy of the warrant and could give a copy to the Defendant; therefore, he is aware of his appearance date.

Lisa said the deadline for the grant funding of NCHP 2012 is coming up, although, the exact date is not known yet. They have decided to go ahead with an analysis of the MANS # processing in Montana and hire an outside vendor to do MANS # training. She said there are issues at detention centers and in the courts. Some people do not know what to do with these green cards. This has been a problem for years. Judge Carver said the training manual for MANS forms is no longer available. The idea behind the grant is to know what is going on with the MANS form in Montana and to develop the appropriate training materials. This grant would allow them to contact every detention center and every court for the analysis. Judge Carver said the biggest hole in the conviction reporting process is the MANS #.

CITRIX ISSUES-REVISITED

Lisa did provide the committee with the costs to the State for having a computer out there and networked. The question is do they keep paying these costs when a court is not using Full Court. After talking with Tammy and Karen, Lisa said their take on it was if you do not use their case management system, then you are not going to be provided equipment by the Court Administrator's Office. Ft. Benton City does not use Full Court. Phillipsburg City has equipment, which means they are on a replacement cycle, but they have had very few city ordinances to handle. Lisa is concerned about Belt City court since they have not entered anything since 2009. They have 2 computers, 2 monitors, 2UPS, a backup system and 1 printer. Lisa does not know what is going on in Broadus, but they do have equipment. Stevensville is going to be an issue at some point. In Broadus, Judge Mohr thought they were going to combine the two courts and Lisa said if they do that, then the equipment will come back to them.

Lisa said her main issues are Belt, Ft. Benton and possibly Stevensville. The judge in Stevensville has not touched Full Court for the past 9 months and she was provided with training. She wants to start Full Court again, but without 9 months of entries, it becomes a training issue and a financial support issue. The only one with a network connection is Ft. Benton City. There are 34 courts up on Citrix and the rest of the courts are using their database. Because Ft. Benton is on the network and the cost is near \$4,000 per year, Lisa would like to cancel the network connection and get the equipment returned. Lisa feels the same way about Belt. Judge Carver inquired as to why the equipment should be pulled from these locations, as the equipment is probably outdated. Tammy brought to Lisa's attention that Stevensville is due for replacement equipment. Stevensville has not used Full Court for the past 9 months. Judge Carver stated he felt the Commission on Courts of Ltd. Jurisdiction should make the final decision as to what this committee decides. Judge Carver does not think the Judge in Ft. Benton would have any problem with the network connection being taken down or the return of the equipment. He was installed in January 2010 and the equipment could be used elsewhere.

Judge Carver suggested this committee adopt a policy. Judge Mohr believed the policy would simply be *use it or lose it*. The Court Administrator's office must be able to justify use of their equipment. Judge Carver offered to call Belt City Court and Ft. Benton City and talk to them about the equipment issues. Teton County does not use Full Court and they are not supplied with equipment. Claudia trained Judge Anderson in Ft. Benton and because they do not have many tickets, they want the Judge to call them when they get tickets, so they can show them how to enter them and how to do the financial part. Claudia said she called Judge Anderson, but he never called her back, nor did he show any interest in learning the program.

Judge Carver said it would be much easier for him to contact the courts and let them know they will not be upgraded and if they have a state network connection, it will be shut down. Linda Budeski commented if the equipment is older there may not be any sense in getting the equipment back. Lisa said her issue with that is she does not know what these courts are using the equipment for and it is state-owned equipment. There may be a problem if he called for help regarding the equipment later on as well, such as the PC getting a virus. Lisa said the equipment is state owned and they cannot even sell equipment to the courts. But, Judge Carver added they are collecting a surcharge and the computer may be used to build sentencing orders, or bond orders. Judge Barger said how do you know the surcharge is being collected with no usage of Full Court to document it.

Claudia added they may be using the word processing program, but not Full Court. Judge Barger said the issue is about the small jurisdictions that need to incorporate into the larger courts, or their local government incurs some of the costs. Judge Carver asked if that meant he would advise the courts the equipment would be going back. Judge Barger said there should be a policy in place.

Judge Carver said he would contact the courts and ask them if they are using the equipment and what are they using it for. Lisa felt she should be the one to contact them since it involved state owned equipment. Claudia added she just contacted these courts and the information provided is recent. Judge Mohr likes the idea that Lisa could contact them in case they question the training they received. Judge Carver believes if the court is using the equipment, to let them have it. The state won't be able to recoup their money on the older equipment. Lisa will make the phone calls first and report back.

Judge Mohr made a motion Lisa contact these courts for further information regarding the usage of the state equipment, seconded by Judge Barger. The committee members voted and passed the motion.

ROADSIDE PAYMENTS – TRAINING MATERIAL

Claudia provided examples of e-mails from roadside payments. First, you would need to get set up with Montana Interactive, as far as what bank accounts they are depositing into. Also, in set up would be the names of the clerks that would be receiving the e-mails. The first e-mail is the notification of the credit card payments. In 3-4 days the deposit e-mail will be received. Claudia wants the clerks to print out the first e-mail and put the TK # on the e-mail. It is important to keep these documents until the bank

reconciliation has been done, in case you need to go back and check on something. You should receive this sheet at about the same time the citations are imported. Included in the citation import is an excel spreadsheet which does list the citations where bond was collected. Also, the citations will have the bond amounts on them if bond was collected. When you get this first e-mail, you bring up the case either by citation number or defendant name.

The clerk must enter the bond forfeited and the disposition date, assess the fines and fees, and make sure what is assessed is what was collected. After assessing fines and fees, you then take the payment in as a credit card payment and in the Bank slot mark it as SmartCop. Then write that case # on the e-mail, which would be a cross reference. Claudia said you would do this as soon as you receive the e-mail, especially if you are running overdue processing. Moving on, at the end of the day when you run your cash balance, it will show up under credit cards. They will be in the total for the day, but will not be in the cash drawer.

In 3 or 4 days later, you receive the second e-mail which shows the deposits into the court account. The e-mail will show the payment date and the date when the deposit was made. Sandy from Montana Interactive told the committee everything shown on the first e-mail will appear on the 2nd e-mail when the money is deposited. After the 2nd e-mail you go to Deposit Entry and make the credit/debit deposit, then make SmartCop deposit comment, checking off only the ones that are on the e-mail. Claudia said you do the CitePay deposit separately and the credit card deposit separately. In looking at the deposit slip, you will see the comment for SmartCop. The daily bank deposit will not include any of these credit card transactions, because they are not located in your cash drawer to take to the bank. In other words, you do your credit card payments separately, your CitePay payments separately and then your cash drawer deposit separately.

When you do the bank reconciliation, CitePay will be noted, but there will be no comment for SmartCop, because it does not come through on this form. You can match them up by receipt # to reconcile with the bank. Claudia said at issue is the courts that have another credit card provider. This may complicate the procedure, but Lisa said the best idea would be to switch to CitePay because it updates the case automatically. Lisa said Montana Interactive takes about 3 weeks to setup a court, but there is very little that needs to be done to Full Court. The committee courts that will be installed are Hill County Justice Court, Judith Basin County Justice Court, Park County Justice Court and Richland County Justice Court. Lisa said when that is done they have a better idea of how to handle the pre-installation and the training. Claudia said they must be careful when training CitePay and SmartCop to keep the two separate. Lisa commented that approximately 72,000 citations have already imported to the courts. Fergus County does not import citations, so that is one court which might have to wait until the citations are actually brought in by the Officers. Lisa added Butte Silverbow will have to deal with this differently because they have 2 Justice Courts and they do not automatically do the import. A clerk at that location gets the citations and divides them up between the 2 courts. It is unknown if they would be able to take SmartCop payments, because the officer would not know which Justice Court should get the funds. Claudia asked how

Ravalli County would handle it because they have two judges as well. Claudia said in Missoula all the money goes to the County Treasurer and possibly it could be split up there. Even though there are 2 Judges in Flathead County, they only have one database and they do not separate the money. Claudia said in Missoula they have to count the money twice, run two end-of-day reports, two bank reconciliations, in other words two of everything.

Lisa hopes within 1 ½ months, they will have everything set up to begin installation of SmartCop payments into the committee courts. Major Butler and the DOJ know this project is coming up. Judge Carver wanted Major Butler and the Highway Patrol to know that in six weeks there were only 3 SmartCop credit card transactions in Yellowstone County.

KALISPELL MUNICIPAL – UPDATE

The committee asked Lisa to send information to Judge Ulbricht, setting out the court responsibilities and the Court Administrator's office responsibilities when changing to municipal infractions. The information was sent on Wednesday and Lisa had not received a reply as yet. Therefore, no action has been taken on the request. Thelma advised she had the paperwork with her and would give it to Lisa. Whitefish City Court will need to go through the same procedure as Kalispell is now going through, including filing the change request form. Lisa said these changes take time and effort on her staff and the court will have nonstandard tables, which will make going to Enterprise more labor intensive.

WEBINAR TRAINING

Claudia gave the committee a demonstration of web training on the Jury Module which had been created by one of their trainers, Mike Richetti. The committee was very impressed with the training and the vast amount of information provided.

GREG NOOSE – MOTOR VEHICLE DEPT.

Greg Noose discussed the new form – SUPPLEMENTAL REPORT TO MVD. This is a form used by the Court after the sentencing on a DUI has taken place and gives the Dept. of Motor Vehicles the information they need to properly issue an offender a Restricted Probationary Driver's License.

Greg Noose said a Court will first send off the conviction. After further monitoring of the offender, the court will pull up this form, which will be in Full Court, therefore automatically populating the defender information. The court will manually check one of the boxes on the form. The choices on the form are: Ignition Interlock-waiting period, 24/7 Participant, and DUI Court Participant. The court would save this form according to their court policy and send the Dept. of Motor Vehicles a copy of this form. Claudia and Lisa made the form as easy as it could be, saving the clerks from having to enter the information by having it pre-populate.

The goal is this form would be electronically sent, the same as DL Suspension and DL Reinstatement are now. Lisa agreed, but wanted everyone to know their trainers are still

coming up to speed on everything that Marty had programmed. She does not have a good timeline on the electronic transfer at this time. This form is associated with a 2nd or subsequent DUI/BAC conviction. At the bottom of the form is: Withdrawn Eligibility for Probationary DL. If the offender is non-compliance this is an option under the law. This will cause a re-suspension of the DL for the entire suspension period. Greg Noose said the court can also use the Non-Pay/Non-appear form, which allows the offender to get into compliance and again be able to have a restricted DL, simply by sending the DL Reinstatement form. When the court uses the new SUPPLEMENTAL REPORT TO MVD FORM and checks the Withdrawn Eligibility for Prob DL, the suspension is for the remainder of the DL suspension period.

Thelma inquired about a Drug Court Participant and which form should they use. Greg Noose said it depends on how the court wants to handle it. Greg Noose said under 61-5-231 if the court withdraws eligibility, they are done for the remainder of the suspension period and that is why this new form is available. Greg Noose said this new form is not the tool to use, unless the court does not want the defendant to drive for the remainder of his DL suspension.

Greg Noose stated the box in the upper left corner states: *Not a conviction disposition – Report conviction as required.* This form is not intended to report the conviction. Claudia commented the report will not work if there is no conviction. Under conviction information, #3 on the form is where the conviction date is noted. Greg Noose said the Violation Date helps the DMV attach this to the correct case.

Greg Noose advised they have had approximately 70 Aggravated DUI convictions to date. About 15 of those offenders had a DUI just prior to the new charge. Therefore, the violation date and the conviction date help the DMV keep those charges separate, and make the right suspension on the right charge. Judge Carver stated he thought the form was done exceptionally well. Judge Mohr mentioned the Aggravated DUI statute will need more work in the next legislature.

Greg Noose wanted to update the committee that his department is getting caught up on the Non-Pay, Non-Appear paperwork and has recently hired some more personnel, one of which is dedicated specifically to that job. They are seeing more of this paperwork than a suspension for a gas drive off.

Speaking of the new form, Greg Noose stated they may not be able to allow a probationary right away, until their office has been provided the proof of Ignition Interlock-for example. Lisa said her next step is to get together with the developers and see how comfortable they are in getting these forms to transmit in the same manner as the DL Suspension and DL Reinstatement do now. They will also work on training materials for this form. Greg's department is not seeing many probationary licenses issued for the 24/7 program. Major Butler mentioned to Lisa and Greg there were 17 counties now using the 24/7, but he expected to see many more by summer.

The next form discussed was the License Plate Surrender-Request to Suspend form. Claudia was the person who generated this form. This new form will automatically populate from the court records as well. Greg Noose needed either the plate number or the VIN number. But, right now the VIN number does not go into Full Court. The old form asked for the Title # as well. Greg said his personnel could ID the vehicle just from the license plate number. They do look for the same address and the same last name in certain cases. They will suspend on an unsigned form when the defendant and the owner are clearly the same. In other words, the vehicle owner must have the same name and address as the person who received the ticket. When they cannot make a link, they will return the form when it is unsigned by the Defendant. Greg Noose said the suspension even applies on the charge of Failure to Exhibit, as well as Failure to have Proof of Insurance.

MTIVS – the Montana Insurance Verification System will make a difference on the no insurance tickets. This is going to be a great help to the officers and to the courts. The database will be point in time and current on its information. Greg wanted the committee to know the only notice the owner of the vehicle is going to get is the form from the Court. The Motor Vehicle Dept. does **not** send any notices out on this type of suspension. Therefore, his department wants to be sure the owner knows of this action by the court. If someone other than the owner of the vehicle signs the form, they can show the owner the driver signed the form and was aware of the suspension.

Judge Budeski gets the question from the defendants as to whether they can still sell the vehicle. Greg stated as long as there is a valid title transfer involved, the Treasurer will process the transaction and the Dept. of Motor Vehicles will release that vehicle from suspension. Judge Carver commented there needs to be training on this process as well. There are still judges out there who do not know about the form or the procedure. Judge Carver wanted this new form in the Judge's books and Greg felt there would be time at the conference to explain it further. Lisa said this is another form they would like to electronically transfer in the future. This form would be sent to the Motor Vehicle Division with a copy of the disposition. Greg Noose said the disposition would need to be populated on this form if it was going to be electronically transferred. He thought this form would be in Full Court, brought up and filled out and manually sent in with the disposition. Lisa said she does not want a form for courts that report dispositions electronically and another form for courts that send their dispositions in manually. This should be done manually, until the process can be streamlined later on down the line.

Commercial Motor Vehicle – Deferred

Greg Noose let the committee know millions of federal dollars could be lost if convictions are not on the record and on the federal system within 10 days. MCA 61-8-117 states that if Montana convicts an out-of-state driver that record must be on the federal system within 10 days. You have five days to report and the Motor Vehicle Division must get it on the record within 5 days after that. The problem is today there are competing definitions of traffic convictions. Under 61-5-213 you will find the primary conviction defined. Under 61-11-101 conviction is defined again. But, under 61-11-101, the court is allowed to consider the 10 days the defendant can appeal his conviction to the

District Court. Therefore, the system worked out with Lisa was that dispositions are not reported electronically until 15 days has gone by. This was at a time when all dispositions, including deferred, had to be reported.

This reporting rule of the 5 days, plus 10 days, has caused the issue of losing highway funds. Greg said they came up with a suggestion that courts do not need to report deferreds on non-commercial drivers. Greg said they want it clarified in 61-11-101 that only on commercial drivers do you need to report deferred imposition of sentences. Non-commercial drivers, you do not need to send in dispositions on deferred sentences. Greg said they will also delete the reference to appeals in 61-11-101 altogether. There are fewer appeals today due to the number of courts that are now Courts of Record. In other words, this would create a situation where all traffic convictions would be reported to Motor Vehicle Division on day one. The 5 day reporting rule would still be in effect. The federal funding problem isn't caused by the 5 days reporting, but the 10 additional days. Greg suggested the courts talk to Lisa about when the court would report the disposition. This would be no different than the DUI reporting that is taking place now. The disposition must be in the hands of the Motor Vehicle Division before a defendant can get a probationary license after a DUI conviction.

Greg Noose said their solution to the highway funding issue is to report everything on day 1. If a defendant does decide to appeal, then his department will take the conviction off. This should solve the problem he has with the federal funding. Federal law states if you defer imposition of sentence on a commercial license holder, it must be placed on the driver's record. Some judges interpret that to mean you cannot defer a conviction on a commercial license holder. Other judges say it does not prevent the deferral, just during that time it must be placed on the driver's record. Then at the end of the deferral period, if the conviction is vacated, it is removed from the driver's record. Therefore, at the very least there needs to be a separation of commercial and non-commercial drivers deferred records, because on the commercial drivers the deferred sentence must be reported. Judge Carver interprets 61-11-101 as saying that you cannot defer a commercial driver's conviction if that conviction would lead to a suspension of the driver's license. Although, Greg Noose noted any conviction which carries points can result in a suspension.

Greg Noose wanted to give a heads up on what his department is going to request from the legislature. In April, Peter Funk, who is an assistant Attorney General, will be with him and drafting the legislation. Greg said they will present a proposal and allow that proposal to be open to the judges for comments. Lisa said what it sounds like to her is they will need a change to the tables, as in a deferred imposition of sentence that does not report and a deferred imposition that does report, as in the case of a commercial driver. In addition, she will need a deferred – dismissed to report for the commercial driver. Greg Noose stated if you take the decision from Judge Olson and Judge Ortleby that you cannot defer on a commercial driver, then you may not need to change Full Court.

Judge Mohr and Judge Carver believe the court should report all deferred imposition of sentences, whether a commercial driver or not. Judge Carver explained their definition of

conviction is the finding and sentence and deferred imposition is a sentence; therefore, it should be reported. Greg Noose said there are many courts that will argue with the comment. Judge Carver said the Attorney General's office determined a deferred is a finding of guilt and the finding of guilt remains, until it is removed. Greg Noose will need to hear this from all the judges. Judge Carver believes the statute should be changed, so it is consistent throughout. Judge Carver likes to advise a defendant he has been convicted, but he is going to give them an option to have the conviction removed from their record by giving them the deferred.

Judge Mohr asked Greg if the funds have already been lost and Greg replied no. They have an action plan and they probably have until the next legislative session. In electronic reporting, dispositions are not sent until after 15 days. Judge Carver said this is the first issue to address. Greg said getting rid of the appeal time in the statute appears to be the best way to handle it. Lisa said the 15 day rule came about when they were developing electronic reporting of convictions to the Dept. of Motor Vehicles. Greg believes this will take a legislative change to correct. Judge Mohr stated the defendant cannot appeal if he/she has pleaded guilty. 61-5-213 is the definition of a traffic conviction.

NEXT MEETING DATE

FRIDAY, APRIL 20TH, 2012 AT 9:00 A.M.

Meeting adjourned.

Minutes provided by member, Barb Pepos