

**COCLJ AUTOMATION ADVISORY COMMITTEE
MEETING – March 27th & 28th, 2008
Helena, Montana**

MEMBERS PRESENT:

Karen Nelson, Supreme Court Administrator's Office
Chairperson, Judge Larry Carver
Judge Johnny Seiffert
Judge Gregory P. Mohr
Judge David Ortley
Judge Scott Wyckman
Sheri Bishop, Gallatin County Justice Court
Sharon Skaggs, Yellowstone County Justice Court
Lisa Mader, Supreme Court Administrator's Office

MEMBERS PRESENT BY PHONE CONFERENCE:

Barbara Pepos, Richland County Justice Court & Sidney City Court

MEMBERS PRESENT BY VISION NET:

Thelma Keys-Nicol, Kalispell Municipal Court

GUESTS PRESENT:

Judge Michelle Snowberger

Meeting was called to Order by Chairperson Larry Carver at 10:15 A.M.

APPROVAL OF JANUARY 17TH, 2008 MINUTES:

Judge Mohr made a motion to approve the minutes, which was seconded by Judge Wyckman. Minutes were approved by the committee.

PUBLIC COMMENT:

Laurel, employee of the Department of Transportation and State Highway Traffic Safety was present. Laurel was there to request data from our courts. She explained that the State has received a federal grant of over a million dollars which is being used to fund impaired driving prevention programs. Each year the grant requirement is to increase compliance with a given set of criteria. One requirement involves prosecution and adjudication. She believes that Montana has a statewide tracking system for the adjudication of impaired driving cases. Based on the deployment from Full Court to date, it is her understanding that there are 99% cases available through the Courts of Limited Jurisdiction and 68% through the District Courts.

Laurel is looking for data which involves DUI's and MIP's. She said her department also wanted to get data regarding seat belts and child restraints. This will yield very usable data, which they have never been able to acquire. Laurel said they typically fund traffic safety overtime patrols.

Judge Carver wanted to make copies of the request for all of the members and the committee would discuss the matter during General Discussion. Judge Carver stated that information regarding “**failure to test**” or “**BAC**” levels may not always be known by the court staff.

Thelma Keys-Nicol stated that Full Court does have a report which would supply the information about the average “**BAC**” results. Judge Carver stated that because this information is not on the citation, it may not always be entered in the system.

Michelle Snowberger was then called for her Public Comments. Judge Snowberger stated she did not have any issues with the Rules which the committee has discussed and approved. The only question she had was regarding the labels, Type 1, Type 2, Type 3, Type 4 and Type 5. That is not her understanding of how “**overdue processing**” works. She said that the type doesn’t really apply to “*Failure to Pay*” or “*Failure to Appear*”, the type applies to the particular statute that you are working on. She suggested that the committee get more information regarding this from the Court Administrator’s Office. She stated further that on “*Failure to Comply*”; she is asking for two separate ways that those work. #1. For 45 statutes, where she believes she can suspend a defendant’s DL for failure to comply, and #2. All other cases where she doesn’t believe she can suspend a DL for their failure to comply.

Judge Snowberger went on to state that on the Collections Process, it is very helpful for her Court to have the two pieces of paper generated from Full Court. One that states it will be going to collections. She wants a copy for the court file. The next report to be printed would be the actual Collections document.

Judge Snowberger’s last request was that if the Commission is not going to take action on her last 2 requests, that they will allow her court to get rid of the present tables and use the Standard Module. This would let her court start over on the “*Failure to Appear*” and the “*Failure to Pay*”.

DISCUSSION ON TYPE 6

Sharon Skaggs stated that the Type 6 works for their Court. Karen Nelson asked a technical question about using the Collections Module and if collections are processed 45 days from the date to appear, is that a system triggered notification? She wondered if they were discussing generating a notice that it is being turned over to collections and if the system then automatically marks that record to be exported into collections. Sharon Skaggs stated that the system automatically records it to be transported.

Thelma Keys-Nicol stated that her court operates the same as what Sharon Skaggs was discussing. She stated there were no problems with it. Sharon Skaggs stated that their court does not have the automatic License Reinstatement section, as they do all this manually. Judge Carver believes that the License Suspensions and License Reinstatements are done manually, due to the fact that the Judges and Driver Improvement cannot agree on what statutes allow for the suspensions. Sharon Skaggs and Thelma Keys-Nicol stated that the suspensions are done automatically, as that is part

of the “*overdue processing*”. They stated that the DL notice is generated, but it still must be sent in to Driver Improvement. Karen Nelson said that the “*Central Repository*” is not being used for DL suspensions.

Karen Nelson said that the newest version of Full Court called Enterprise will include a “*Collections Module*”, and is targeted for installation in July of this year. The “import-export module” is also included. Karen said their department would start looking at it in July and, hopefully, it will be a fairly easy transition for the courts.

Judge Snowberger stated that this feature will not work without the “*collections module*”. She believes that the courts with a “*collection module*” and those without a “*collections module*” need a different process. Judge Seiffert said his court is doing their own tracking and manually sending paperwork to collections.

Judge Carver moved on to **FAILURE TO COMPLY**. The discussion regarding Failure to Comply was that we did not know what documents could be generated here. Steppen told the committee at the last meeting that there was a possibility of making this “*List Only*”. Judge Carver asked if we wanted it to send notices, do a warrant, generate a notice for the prosecutor, or exactly what did we want it to do.

Judge Wyckman said his Court is not overly confident in the responsible parties that report the “*Failure to Comply*”. He would not be comfortable in a system that automatically generated Warrants. Sheri Bishop stated that the system should be “*List Only*”, so files could be pulled and looked at.

Judge Wyckman said he agreed with a “*Notice to Appear*” or “*Summons to Appear*”, at least eliminate the step for the Warrants. Thelma Keys-Nicol stated she would rather have the document and a list, as they run “overdue processing” daily. This would minimize the items on the list, or the number of documents a clerk must go through.

Judge Carver stated then under Failure to Comply Step 1 would be to generate a list and then a “*Warning Letter*”. Karen Nelson said that the committee could certainly make the Rules; however, behind this is the technical specifications that would need to be made to comply with these Rules. Karen stated that Judge Snowberger is absolutely right in that perhaps our use of the word “Type” is incorrect, as it would be more appropriate to call them “Rules”. Karen Nelson stated that the Rules from this committee simplify “*overdue processing*”.

Judge Wyckman then started a discussion on the **Failure to Comply** issues, which dealt with what date was to be used, which would trigger the “*overdue processing*”. He wanted to know if the date used would be the “complete by” date. Thelma Keys-Nicol stated that their Court does use “complete by” dates. She said on their system the “complete by” date actually means enroll by date. Sharon Skaggs stated that their court procedure is to take action only if they have an “*Affidavit of Non-Compliance*” and a Motion from the County Attorney’s office. Judge Ortleby said that he wanted to be careful

in what action they took, as there are courts out there that will rely on the program to do it right, without questioning the documents that are generated.

Judge Carver then reiterated to the committee that first, you have a Warning Letter, #2 would be a Summons and then #3 would be to generate a list. At what point should the system issue the “*warning letter*”? Judge Mohr stated that the courts could certainly put the responsibility on the Defendant to advise the court of enrollment. Judge Ortleby stated that possibly there should be two Rules on this issue.

Judge Snowberger believes that hers is the only court using the **Failure to Comply**. Lisa stated that the Billings Municipal court is using it as well.

Motion was made to Table the **FAILURE TO COMPLY** rules. Judge Snowberger would still like the committee to vote on her request for modification of the rule. Lisa is not sure what the current rules are now on the two courts that are using this option. The Committee all agreed to Table action on the **FAILURE TO COMPLY** rules.

Judge Carver then stated that the committee should address the change requests from Judge Snowberger.

On the **FAILURE TO PAY**, Judge Snowberger is asking for two additional steps, between the Failure to Pay and Optional Failure to Pay. Those two steps are where it generates a piece of paper which generates a Collections Notice, that they use for their file and then the 2nd step would be Step 3 and Step 4 is where the reports are generated that are actually sent to the Collections Agency. Warrants are not done on Failure to Pay in her court. Judge Snowberger now uses the time line of overdue on payment by 90 days before they are turned over to collections.

Judge Snowberger wanted this extra piece of paper for their file, as she does not always have access to the computer screen. When she is physically looking at the file, she wants the notice in there that says this case is going to collections within a certain period of time. Sharon Skaggs stated that all courts will have the option of using the **Collections Module** when Enterprise is installed.

Judge Snowberger’s request is for a collections notice that does not go to the Defendant, but only goes into the Court file. Her argument is that if she agrees to go with the current rules on the collections process, there isn’t anything on it to know that after 45 days, to do something. What this process is looking at is for the courts that have the Collections Module. If you do not have the **Collections Module**, you will have to remember to do this in 45 days.

Karen Nelson offered that if Rule 6 right now is written for those with a **Collections Module**, the committee could adopt this modification as a standard for a Non-Collections Module setup. Judge Snowberger stated that the Collections Report is printed out with information about the Defendant and amount owed. Once they get this report, then they provide the Collections Agency with supporting documents, such as sentencing order and

copy of time pay agreement. Judge Seiffert stated that because collection agencies may differ in what information they need, her report may not be suitable for all courts.

Judge Snowberger stated that she is OK with the 45 day timeframe that is in our Rule #6. Judge Carver offered to the committee that they keep Rule #6, just put in a step between Step 2 and Step 3 that would generate a collections report. Karen Nelson gave her best educated opinion as to when Enterprise would be fully installed and working in the Limited Jurisdiction Courts and this was 3 to 6 months after their office receives it. She has seen Enterprise, which has the same look and feel as what we are using now and all the data converts.

Judge Carver clarified that Judge Snowberger's request is to insert a step between our Step 2 and Step 3 **FAILURE TO PAY – COLLECTIONS PROCESS**, which on the 45th day generates a report. This would save the courts that are using the Collections Module from having this extra paper generated. Her Court does not have the Collections Module, therefore, she wants the piece of paper generated.

Karen would rather see two rules for clarity purposes, rule for Collection Module users and another rule for non-Collection Module users. She suggested Rule 6A for those with a Collections Module and Rule 6B for those without a Collections Module.

Judge Seiffert made a Motion to accept Judge Snowberger's proposal for the change. Judge Carver clarified that this would make 2 Rules, one for the Collections Process and one for the Collections Module. Judge Ortley seconded the Motion. The Motion was passed by the Committee with no opposed voice votes.

Judge Snowberger then asked for her second change, which was in her *Failure to Comply* processing. She is asking to be able to suspend DL licenses in her current process. On 45 codes, Judge Snowberger believes she can suspend the DLs. She wants to send out the notice and then suspend their DL. She is asking the Committee to allow her to continue to use Failure to Comply and to add Step 3, under the 2nd process.

Judge Seiffert made a Motion to allow this change in Judge Snowberger's Court; motion was seconded by Judge Ortley. The Motion was passed by the Committee with no opposed voice votes.

Judge Carver said the Rules were all discussed and he wanted to know if the Committee was ready to adopt the Rules. Judge Mohr made a Motion to accept the rules; they were seconded by Judge Seiffert. The Motion was passed by the Committee with no opposed voice votes.

OLNESS & ASSOCIATES LETTER

Judge Seiffert discussed the letter he received from Olness & Associates. Lisa Mader stated that her office normally receives a copy of a letter from Auditors, and she has not received any letters in quite some time. She was not aware that some courts were still getting "dinged" on this. Lisa said that she has a letter which has been approved by the

Committee and she would have sent this auditing firm that letter. Lisa stated that the information needed by the auditors is available in the system on 2 separate reports. Judge Mohr discussed that the auditing procedure recommended by Olness and Associates is the procedure for a business, of which the courts are not. He believes that the auditors want this report as a quick way for them to audit the court.

Karen Nelson believed that even if they merged everything into the Time Pay report, it is still going to exasperate the problem. There are going to be many more pages to the report. Karen Nelson did a time pay report on one of the larger courts and there was over a Million Dollars in outstanding fines. For some courts this report would be well over 100 pages. Judge Wyckman stated that they still have defendants who put cash in the mail to pay their fines. He stated that a dishonest person in the court could certainly take the cash, without doing a receipt and how would this report catch that type of theft.

Judge Mohr said that just guessing that the courts are owed somewhere around \$15 Million, and if the auditors went to the Legislature with this without a full understanding of how the courts operate, it could definitely become a political issue, instead of a judicial issue. Money is not the object, it is the byproduct. Judge Mohr and Judge Wyckman agreed that if they ended up doing a spot audit, they would still have to do the work and not just at a click of a button.

Lisa Mader stated that the Time Pay Ledger report shows you the amount owed, payments that have been received and the balance that is due. And if you go to the case ledger report, it will show you all the adjustments. Lisa further stated she ran a report yesterday that was in a 5-day time frame, in a relatively small court and it was 333 pages. That is just the time pay ledger report, so if you add in each case ledger, which lists every charge and how each adjustment was done, the report would be unmanageable.

Judge Carver stated that in addition to the discussion items, in talking with JSI, no other State was requesting this information be provided. Judge Ortley added that if the Legislature got the total amounts owed to the courts, there is a possibility that they would not be willing to fund the IT Division, thinking that the fines should be *easily collected*.

Judge Seiffert suggested that this committee write a letter to Olness & Associates; have it signed by the Chairperson, that says the committee has again discussed this matter and the information is available in these two reports. Judge Ortley commented that if this auditor is the only one and he has to do his audit according to acceptable standards, in the letter we should state that we do not believe this is the accepted accounting standards for courts and, therefore, we are not going to generate another report.

Judge Carver stated he could send a letter advising that the committee has revisited this situation and they decided to stay with its previous decision. Judge Wyckman stated in support of that position, shortly after working with Full Court in its infancy stage, the auditors that came to his office stated that this was absolutely the best program they have ever seen. Judge Mohr made a Motion to not change the position regarding the request

from Olness & Associates. Judge Wyckman seconded the motion. Motion was passed with all members voting in favor of the motion.

LETTER FROM THE DEPARTMENT OF TRANSPORTATION

The committee discussed their response to the request made early in the meeting from the Department of Transportation. Judge Mohr recommended that the committee would be glad to consider the request, but if changes are needed to Full Court, we would look to them for the funds. Karen Nelson stated that some of the information requested would be available from the Central Repository and it may require work done by a computer programmer. Sanders and Teton County are the only courts left that have not been installed with Full Court.

Judge Mohr made a motion that they enter into negotiations with the Department of Transportation. This motion was seconded by Judge Ortley. Motion was voted on and approved by the committee.

KAREN NELSON – General Discussion on Protection Orders

Karen Nelson discussed her Protective Order Discussion Paper. A Web search found a short video on how another state is dealing with the issue. She explained the various products available to assist with electronic forms and advised that the State of Montana uses FileNet. It is Karen's recommendation that this committee create interactive, electronic forms. Right now, much of the information is just duplicated.

Karen Nelson stated that this is one of the projects where there is money available to work on the Orders of Protection. Kalispell and Billings have both seen Self Help projects started. Karen Nelson said they were able to hire coordinators and self-help administrators. She further stated that getting in line with the self-help project would be beneficial.

Karen Nelson introduced Lonnie Browning who is their new Self Help Administrator. Lonnie spoke to the committee and advised that it is very important for them to address the needs of the Limited Jurisdiction Courts. Judge Mohr asked if this program addresses both criminal and civil. Karen Nelson said they only address the civil items. Sharon Skaggs said that mainly at this time they are concentrating on District Court divorce actions. They assist with forms and give no legal advice.

Judge Ortley gave information on his experience with the Self Help project. He said they have assisted with civil forms, such as answers, motions and preparing for a debtor examination. Judge Ortley said he is pushing very hard to make sure they meet the needs of the Courts of Limited Jurisdiction.

Judge Carver asked if these forms could be developed by the committee, or would the development take place at a vendor's location. Karen Nelson said that the products available have many development tools installed. Therefore, there is not much programming involved. Karen said that she believed the committee would develop the forms and specify the work flow. She would guess with the tools set, anyone on the

committee should be able to put a form together. Sharon Skaggs stated that the Orders of Protection would be a good starting point. Later on, perhaps the civil papers could be developed, so they could be filed electronically.

Karen Nelson felt there would be a need for multiple cues, a work front cue and then once it is filed, a cue to the Court. Karen said there are great options available in terms of the technology available. In the 2007 stats, over 4000 Order of Protection cases had been filed.

Judge Ortley stated that the Order of Protection forms were drafted with VAWA funds and became very victim oriented. Therefore, the courts ended up with an initial set of Orders of Protection that were drafted in a relatively biased manner. The forms did not reflect what the Judges do. One example is the 1500 ft. rule. The Deputy in the field is wondering if there is a violation and he is wondering how to get the information from the victim advocate to the Judge, and then to the clerk, plus the needs of the Sheriff. Judge Ortley believes that all the people involved in the process need to be brought together, because they all have their individual needs and interests.

Karen Nelson felt that “*No Contact Orders*” should probably be entered into NCIC, however, at this point and time they are not. Karen stated that Idaho has sample forms that work well through their entire process and she thought perhaps this committee should first set goals on how to make it work in Montana.

Judge Mohr believes that a quick Legislative change may help the process. #1, Orders of Protection are only issued for family member/partners who have shared that intimate relationship. These would have the Brady qualifications – period. #2 the other change would be called Restraining Orders - Brady does not qualify here. Judge Carver wondered if District Courts already have a statute pertaining to Restraining Orders? Judge Ortley believed their authority may fall under the Preliminary Injunctions.

Karen Nelson said to get everyone’s input; perhaps they could look at doing a “Survey Monkey”. Judge Mohr stated in the survey, they should ask if there is a need to have 2 separate types of orders, one strictly an Order of Protection and the other a Restraining Order.

Judge Mohr stated that the law states that the Attorney General’s office will provide “sample” forms to be put out to all the Courts. Those courts “shall” provide forms to the public. This is one of the reasons you may find 5 different forms being used in one small area of the State.

Further discussion centered on the type of software needed, staff needs and the “**Survey Monkey**”. Karen Nelson also discussed the features of the new Web based Enterprise program. Judge Carver commented that right now there are only about 5-6 courts which have scanners, so transferring the entire record electronically to another court is not possible for the majority of the courts.

Judge Carver wanted the committee to look at what Idaho and Washington have done in this regard. He also wanted the committee to adopt the questions for the “**Survey Monkey**” and decide what groups need to be surveyed.

It was discussed whether the “**Survey Monkey**” could have a link to the forms that are being considered for use in Montana. Karen Nelson stated that that method of asking questions about a form would certainly be easier and more direct. Judge Wyckman suggested that the committee look at the actual form that is used by Idaho on line, so they had a better idea of how it operates electronically.

Sheri Bishop asked if the committee could look at how the electronic ticket project is coming along in the Montana Highway Patrol. She described how an Officer’s poor handwriting added more work in her office.

Judge Carver stated that once an Order of Protection is entered in CJIN it remains in the system for 5 years. Even if the Order is inactive, it remains in the system. The State of Idaho has put a section on their Protection Order forms that sets the Hearing Date, gives an Expiration Date, which gives CJIN a chance to get the Order out of the system, if the Order is cancelled. If the order is not cancelled in time, it stays in the system for 5 years, showing that the Respondent had an Order of Protection against him.

Meeting was adjourned and the committee was to meet again at 9AM on March 28th.

Judge Carver called the meeting to order and introduced Ali Bovington as the 1st speaker.

ALI BOVINGTON

Ali Bovington was addressing the committee on House Bill 781, which is the “racial profiling data collection bill”. It is codified on 44-2-117 MCA. This law required law enforcement agencies to collect data on race so that they can monitor their officers and evaluate whether or not their officers are engaging in racial profiling. This is a data collection issue.

The Department of Justice worked with law enforcement agencies to develop a uniform citation that agencies around the State are going to start using. These citations now include the race field on their citations. The Highway Patrol will start using the e-citation system and they will have all this information. This is the only agency that has the software to collect all that information. The majority of the law enforcement agencies will be collecting that information manually and writing it down.

Ali Bovington was asking the committee to add the “race” field to Full Court. The second item is that all the clerks are alerted to the fact that they need to enter that information on the system. Thirdly, local law enforcement will need the information regarding the “race” field and it would be logical if they could go to the local court and ask for that particular report. She said that in 2009 they have to report back to the Legislature on how the State of Montana is in compliance with that law.

Karen Nelson advised that Full Court does have a “race” field. It is located in the “Party Record”. However, the citation entry screen does not include the “race” field.

As soon as May, Ali Bovington stated is when the Montana Highway Patrol will be able to collect their “race” information from the e-citations. The only other agencies able to do this are located in Billings and Great Falls and she was not sure about Missoula.

Lisa Mader stated that JSI would probably charge between \$2000-3000 to add the “race” field to the citation entry screen. Ali Bovington added that it is definitely up to the Law Enforcement Officer to fill in the field when he/she writes a citation.

Judge Wyckman wondered if the first process would be to work with the courts and law enforcement agencies to develop a list of race identifiers. Ali Bovington stated that basically right now the race list in Full Court is probably going to remain the same.

Discussion took place regarding what type of report would need to be created to get this information back to the law enforcement agencies. Sheri Bishop inquired why the law enforcement agencies themselves can’t collect this information, since they enter their own citations into their own computers. Ali Bovington replied that she believed the problem was their particular computer programs do not have the capability that Full Court does. She also stated that there is a possibility that the Department of Justice may pay for the field to be added to the citation entry screen.

Judge Seiffert stated that he believed the committee needs to know what the cost is for the “race” field to be added to the citation entry screen and also what it would cost to add the reports to Full Court. Ali Bovington stated that in May 2008 the Montana Highway Patrol should be printing off their citations electronically from their vehicle on a laptop computer. Judge Seiffert stated that one of the big problems with the Montana Highway Patrol citations right now is that the defendant’s address is taken from the DL and that address is not always current.

ORDERS OF PROTECTION

Judge Carver wanted to know if the committee still wanted to do a “**Survey Monkey**”, or should they follow the forms that the State of Idaho is using. Karen Nelson stated that Idaho has partnered with ProBono Net to develop on-line documents. A demonstration was held, showing how it linked to HotDocs. Lexus is noted as the host for these documents.

Judge Mohr made a motion that the Idaho forms be adopted and be made Montana specific right now. Judge Seiffert seconded that motion. Karen Nelson said that if the committee wants this, then they should start working with the Self Help people and Montana Legal Services and get the project moving. Judge Carver wanted to know if this motion passes, if a demonstration of what Idaho is doing could be presented to the Commission on Courts of Limited Jurisdiction. Karen Nelson agreed that it could be presented.

Question was then called for on the motion on the floor. The committee all voted in favor of the motion.

Judge Mohr made a motion to still use the “**Survey Monkey**” to get the feedback as far as separating these orders out. Specifically, the committee would like to know if there is interest in Legislative changes to make an Order of Protection specific to intimate relationships and child in common, which then automatically has a Brady indicator. The other ones are identified as Restraining Orders, with no Brady qualifications on them. Restraining Orders would be entered in CJIN and Orders of Protection would be in CJIN and NCIC.

Karen Nelson stated she did not believe that CJIN has a State Order of Protection file, but only has NCIC. Judge Carver wondered who would bring this change to the Legislature. Judge Mohr felt that the “**Survey Monkey**” responses would help with that issue. Judge Ortley stated that the survey could also inquire as to what other major problems they have in regards to Orders of Protection. Judge Mohr also wanted to ask the various agencies if they would be comfortable receiving an electronic Order from another jurisdiction and serving it. Judge Ortley then seconded Judge Mohr’s motion.

A voice vote was taken from the committee, with no members in dissent.

A discussion then took place on what questions would be in the “**Survey Monkey**”. Karen Nelson said that they could probably develop this survey in less than an hour. Judge Carver said the survey should go to the following: Law Enforcement, Department of Justice, Self Help people, Legal Services, Domestic Abuse coalition. Judge Ortley recommended every city and county attorney. The group decided to include the Bar Association.

Judge Carver asked that the committee e-mail him if they can think of any more questions. When the questions are compiled, he will e-mail them out to the members. Karen Nelson said they could develop the survey and then send it out to one group. This is done to test the survey. After that, they could then send it off to more groups. Judge Ortley stated they should put the Limited Jurisdiction Judges and District Court Judges on the list to receive the survey as well.

Judge Carver reiterated what his duties were: he was going to give a presentation and ask the members of the COCLJ if they agree with the format. Judge Carver and Karen then would work on the “**Survey Monkey**”. Judge Carver would give a presentation to the Commission on Technology which meets in Helena on April 24th.

Judge Carver tentatively scheduled the next meeting for Friday, May 30th, 2008 at 8:30 AM. The primary agenda item is the Orders of Protection forms. Ali Bovington will also be included on the agenda. It is anticipated the meeting will last all day.

Motion to adjourn was made, seconded and meeting was adjourned.