

COCLJ AUTOMATION ADVISORY COMMITTEE
MEETING – May 14th – 15th, 2009
Helena, Montana

MEMBERS PRESENT:

Karen Nelson, Supreme Court Administrator's Office
Chairperson, Judge Larry Carver
Judge David Ortley
Judge Gregory P. Mohr
Judge Johnny Seiffert
Sharon Skaggs, Yellowstone County Justice Court

MEMBERS PRESENT BY VISION NET:

Sheri Bishop, Gallatin County Justice Court
Barb Pepos, Richland County Justice Court (not present on May 15th, 2009)

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

APPROVAL OF MARCH 19TH, 2009 MINUTES:

Minutes were approved as written.

PUBLIC COMMENT:

None.

UPDATE – KAREN NELSON:

Karen Nelson spoke about their operating plan for the next 2 years, and the \$2 Million less each year that is in the funds for the entire Judicial Branch. First, there was a 2% vacancy savings put in the bill, which tends to affect the non-elected portion of the Judicial Branch. Secondly, the 2% across the Board state budget cuts; although, she felt they could meet this goal by leaving some positions unfilled and reducing costs as much as possible, without cutting the needs of the courts.

She also stated that it is their goal to use the approved stimulus funds to put Vision Net in at least 8 more counties. There are currently about 20 counties that do not have this technology.

Cascade County District Court was the last District Court to be installed and now that project is behind them. Her staff is now working with the District Courts on their jury modules. Also, the various e-filing work groups have submitted their proposals and she needs to compile this information. Plus, the IT staff has received scrambled Flathead county data which is being used to create the base for the conversion of data to Enterprise.

Judge Ortley inquired about the 13 new computers they will be receiving in their court and if their 4 year replacement schedule may be somewhat aggressive in these tight budget times. Karen said they may look at their schedule and possibly change it to

upgrade every 5 years. However, they do need to have a replacement schedule, as they would like the court computers up and running on Office 2007 and the new Vista operating system soon. Judge Seiffert inquired if the Enterprise program will require the replacement of older court computers, which Karen responded by stating that computers would need more space to allow for document management and imaging.

Judge Carver wondered about the possibility of using the old computers from the Kalispell court as public access computers in some of the courts. Judge Ortlely wanted to keep their public access computer and have Word installed on it. Karen Nelson said they could certainly talk about these issues, but those computers must be tracked by her staff. Sharon Skaggs asked if the IT personnel in Flathead County support those computers. Karen said Flathead County, Missoula, Yellowstone County and Ravalli county are examples of counties in which they do have a contract with the local IT personnel.

Karen said her staff will be working on the RFP from the e-filing work groups. This will probably be done in June. After some discussion on the budget cuts, Judge Carver asked if this will affect the roll-out of Enterprise. Karen said she would make the case that the roll-out needs to take place.

As far as the status of the TOP and OOP electronic forms, the Attorney General's office had contacted her that the only addition they were going to make was to add a Sheriff service certificate on the Temporary Order of Protection. It was agreed that this would be needed. Karen added that in 1 or 2 weeks, she should be able to contact us with the link for these new forms. Judge Carver commented that CJIN people need to be instructed on the use of these forms as well. Montana Legal Services did agree to assist with training. In addition Kevin Cook is working to get the forms on the montanacourts.org site.

It was decided at this time to allow Greg Noose, Director of the Driver Improvement Bureau to give his proposals to the committee.

DRIVER IMPROVEMENT BUREAU – GREG NOOSE:

Greg Noose wanted to attend the meeting in regards to updates that his Department needed to do with the new laws that were in effect, or would be taking effect shortly. He talked about the **law which only allows deferral on non-commercial DL holders, the suspension of DL on non-pay issues and the 2nd offense DUI provision, which allows a Judge to recommend a provisional DL after 45 days, with the stipulation that the interlock device is installed in the vehicle driven.** Greg explained that as of June 2nd they must be in compliance with the CDL/CMV rules. He understands that Officers must be trained on this issue as well, because if they do not check the appropriate boxes, the clerks have no way of knowing it is a CDL or CMV.

Greg went on to advise that his office has contacted the 78 or so law enforcement agencies and in fact handed out 500,000 new citations. However, some of the agencies are not using the new tickets until they have depleted their own inventory of tickets. He also said without proper information, a request for suspension of a DL will remain in

their “Q”. **He asked the committee if the clerks could be required to check a box yes or no in regards to the CDL.**

Judge Carver asked if a prompt to fill in this information may be needed, since at the present time, the CDL/CMV boxes have been defaulting to no, when they are not checked. Also, Greg Noose wondered if the prompt could also state that since the CDL or CMV were checked, a deferral is not allowed. Judge Ortley stated that he believed the Montana Highway Patrol officers do know to check those boxes. Greg Noose stated that his department prepared pamphlets to advise everyone of the need for the CDL or CMV information. Unfortunately, he said most problems occur with the out of state drivers. Even if the person stopped is in a pickup, he may be driving a placarded vehicle and this brings in the CDL requirement. Just because someone is driving a truck/trailer combination does not mean that they have a CDL as required. Mr. Noose estimated approximately 300 trucks driving through the State of Montana every day in which their drivers may be in violation of the rule. He felt a prompt to the clerks would make this easier for everyone.

Karen Nelson spoke about the issue with courts that now receive their citations electronically and there may be a problem in dealing with the prompt check boxes. Every citation imported would have to be checked as far as CDL/CMV/HAZ. Judge Carver asked if only the citations marked as non-CDL could be programmed to prompt the clerk? Greg Noose felt that approximately 9% of the citations filed involve someone with a CDL license. He also stated that his office would have the funding available to make these changes to the Full Court program. He was asking if the committee could make the recommendation to have the “race “ field and the “CMV/CDL/HAZ” fields on the entry screen, which would certainly help the clerks to remember to look for this information on the citation.

Greg Noose stated that they receive approximately 700 citations a year on out of state drivers that they cannot process, due to incorrect or incomplete information. He stated that because of the new law it will not be necessary to report deferred at all on non-CDL drivers. The old way of doing this was to send it in and then have to send in the final disposition at the end of the deferral period. He further stated that these changes need to be implemented, as the State of Montana Highway funds are at risk. The anti-masking rule for drivers started around 2005.

Judge Carver explained that now a clerk must close the entry screen and remember to go to another screen to enter the information on CDL/CMV and the race information. He certainly felt that having this information on the entry screen would make a big difference. Karen Nelson wondered then if the citation included information on a CMV or CDL, should it bring up a warning that “not eligible for deferred”. Judge Carver stated that Judges will sentence as they see fit, and therefore, he did not want to see clerks having problems with advising their judges that they should not have deferred that citation. Judge Seiffert felt with proper training, most Judges would do as the law permits.

Judge Ortley asked if there is an easy way for the Judge to check on a driver's driving record in this state and other states. Greg Noose said the best route is through CJIN, and explained there is still access through the mt.gov site. Sharon Skaggs has a certified CJIN person in her office who has access to these. Greg Noose explained that on the mt.gov site, you get your e-pass after paying the \$25 per year access fee. You must enter the proper DOB and DL #, and then you would receive the driving record.

Judge Ortley wondered what happens when the court does not know the defendant has a CDL and sentences him improperly. Judge Seiffert said at some point the courts will be audited to make sure they are doing this properly.

Judge Carver and Greg Noose would look at the DL suspension form and see what changes needed to be done on it, with the new law that allows for suspension on all Failure to Pay and failure to comply issues. Driver Improvement deals with approximately 22,000 DL suspensions each year. It was noted that a requirement of the DL suspension option, is that the defendant receives his 1st notice of a possible DL suspension in **person, or by certified mail**. Sharon Skaggs said her overdue notices have the warning on DL suspensions on them as well.

Karen Nelson said due to problems early on, the electronic reporting of DL suspensions and DL reinstatements was suspended. However, she now felt that they could reactivate that feature again. Greg Noose said he had no problem with that, but wanted the courts to know that his department only needs to receive **one copy**, in other words, don't mail, after you have just faxed them a copy.

Sheri Bishop wanted to see a new tab in Full Court that would allow you to find the charge that carried the DL suspension; the same way that you can identify which case has a warrant issued on now. Karen Nelson said there is a new law regarding Fish, Wildlife & Parks violations, where the defendant cannot receive a license to hunt, fish, or trap, until he has met all requirements of his court sentence. Some discussion was held on how the courts were to report a completion of a sentence.

Next, discussion was held regarding the new law that allows a probationary license on a 2nd offense DUI, after 45 days, with the requirement of an interlock device on the vehicle. Judge Mohr inquired of how the remote courts can order an interlock device, when they are not accessible in their areas. Greg Noose said that once the judge allows for a probationary license after 45 days on a 2nd DUI, the defendant must prove to the Motor Vehicle Department that his vehicle has had the interlock device installed. Judge Mohr asked if there is a box to check in Full Court when the Judge is recommending the probationary DL.

Judge Mohr further stated that he would put this on his sentencing order when he got back to the office in Sidney. He further stated that he does not know why the interlock device provider sends his court a record of pass and fails. Greg Noose said he could ask them to send that information to the Department of Motor Vehicles instead, if he was not

using that report. Greg Noose said at his department they are only concerned that the device is working properly and keeping people from driving when it detects alcohol. Further, he stated that it is not a violation of probation for a defendant to have a fail on his interlock device record, but it is a violation if he tampers with the device. The Department of Justice Website has a list of providers for interlock devices.

LEGISLATIVE-FORMS-PROCEDURES:

Judge Carver asked the committee if a form is needed to comply with HB 222, in regards to the completion of a sentence on a Fish, Wildlife & Parks violation, or how would this work. It was decided that more work needed to be done before the committee could decide this issue and someone should meet with the Department of Fish, Wildlife & Parks personnel. New laws can be found on the mt.gov site.

HB 223 – Karen Nelson felt this was more of a bond book issue. Criminal Mischief to property, section 45-6-101, has been changed. If one of those offenses is listed, the defendant would lose his hunting, fishing and trapping license for 24 months.

Right now the license suspension form for Fish, Wildlife & Parks needs to be revised and this may help to clear up this issue. Judge Carver felt the intent of the law was to make sure the defendant was in compliance with the court sentence.

Financial changes were then discussed by the committee. There is some question as to whether or not the law passed requiring **\$150.00 be charged if a public defender** represented the defendant and this **is non-discretionary**. This would be verified before further discussion, as the law was somehow attached to the passage of HB 2.

Effective 7-1-2009, SB341 is a new law which **requires \$50.00 or actual costs** incurred by the prosecutor in the prosecution of a Misd. The court is also to order the reimbursement for costs of jury and any other reimbursement owed other agencies in the prosecution of the case. It does state the financial ability of the defendant is to be considered. It is not known the intent of the law, as far as where to distribute these funds and in what order this cost will be – coming before surcharges, or after surcharges, or to be calculated as restitution.

Judge Mohr stated he will likely see these costs when a plea bargain is entered in his court. It may be a situation where the costs must be paid, but the fine will be suspended. Judge Ortley agreed that it will certainly be a factor in plea bargain agreements.

On another note, Judge Mohr advised the committee that when a defendant is denied a public defender, he can appeal that decision; therefore, Judge Mohr has made a new form dealing with the defendant's waiver of his right to appeal. Karen Nelson said that Full Court is set up to pay restitution to the victim first.

Karen Nelson brought up HB 308, which deals with a donation to the food bank and giving credit to the defendant on a fine. The law does state this can be done for **all or part** of the fine. It is a little vague if it is a dollar to dollar credit.

HB 108 deals with the Crime Victim Compensation account which is administered by the Department of Justice.

HB 149 revises restitution and supervision fees, even if under the supervision of a Misd. Probation Officer. It is not known if this is treated as restitution to the Department that has hired the Misd. Probation Officer, or exactly who should get the money.

Judge Carver said he believed he needs to meet with the supervisor of Local Government Services and try to work through these new laws. The person to contact is Norm Kline. Judge Carver further stated many of these new laws take effect July 1st, 2009, so it is important that the Full Court program is set up properly to comply with them. Karen Nelson gave an update on HB 149, which increased to \$1500.00 certain crimes which are now considered Misd. She said her office would be updating some statute tables to comply as well.

Karen said the legislature also passed a resolution which funds an interim study on DUIs. Judge Mohr said that our courts will be contacted to report statistical information in this regard.

Judge Carver then tentatively set the **next IT Meeting in Helena for:**

June 18th and June 19th, 2009. He would e-mail all members in this regard. This meeting would be to discuss the changes that need to be done, due to the new laws.

Karen Nelson updated the committee after lunch that she had received e-mail advising that HB 2 was signed by the governor. She said HB 645 was signed, with a few items being removed by the Governor's power to line item veto. However, she said the Self Help project did receive their funding.

Judge Carver asked about the availability of scanners to the Limited Jurisdiction Courts. Lisa from the Supreme Court Administrator's Office joined the meeting at this point. Karen discussed the e-mail received by Judge Jewell from the Lewis & Clark Justice Court. Judge Jewell felt the Court Administrator's Office should provide the Limited Jurisdiction courts with scanners, as all District Courts were provided with them. Karen said that District Courts have specific ROA codes set up that require a document to be scanned. Karen said that without a protocol in the Ltd. Jurisdiction courts, her office cannot implement a plan to get scanners in all our courts. She further stated that the Yellowstone County Justice Court and Gallatin County Justice Court are test sites for scanners in our Courts. She and her staff have not had time to evaluate their use, or talk about further strategy in our courts. It was noted that Enterprise will have the Imaging module included.

Also, Karen wanted everyone to know that because of the implementation of Full Court in the District Court, as well as having already been installed in the Ltd. Jurisdiction courts, her office was able to negotiate with JSI one license, instead of each court having to have a separate license. This was a huge cost saving item. But, without a solid plan in place, it is unknown what the value of scanners is in the Ltd. Jurisdiction courts.

Sharon Skaggs commented that they are scanning everything, have come up with their own protocol, and after a case has been closed, the appeal time has run, and all the paperwork has been scanned into the case, the paper is then shredded. This will have a huge impact on storage space. Sharon said they will have 19 scanners after this Budget Year.

Lisa stated that Billings Municipal court just recently ran out of space on their server, due to the large volume of scanning they are doing. She said another server had to be installed. Karen said it does make a difference on what needs to be scanned, versus scanning the entire file. The licenses are already purchased from JSI, but **each scanner would cost approximately \$950.00.**

Sharon Skaggs said it is very important that all the clerks in the office have a scanner. That way, the scanning takes place along with the handling of the file, rather than having someone else scan the documents later on. Her protocol calls for a date stamp and an automatic ROA. All the ROA codes are available to them and they pick which code they need at the time of scanning. As of March of this year, after scanning for approximately one year, they still have 80% capacity in their server for storage space.

Judge Ortley asked how Sharon's court uses the imaging module when there is a lawyer on one side and the other party is pro se. Sharon said that most of the attorneys have signed on to receiving paperwork from the court by e-mail and the pro se defendant would still receive their paper in the mail.

Judge Carver asked if the State was going to supply the scanners to the Limited Jurisdiction Court. Karen Nelson said **to supply the entire state with scanners would run approximately \$250,000.** Their state automation plan is to install Enterprise, but not the scanners at this time. However, for the court to function when electronic filing is set up, scanners would need to be installed. Right now, any court buying their own scanner will be given basic instruction on how to use them. Judge Ortley said the courts could certainly approach their County Commissioners as to why they may need a scanner. Lisa said the replacement cycle on hardware may need to be every 5 years.

Right now, Sharon Skaggs and Sheri Bishop stated that their courts are scanning everything from the file, except for the judge's notes. Sheri Bishop said she believed they scan too much, but they have not worked through this yet. Sharon stated that because all the financial information is already in Full Court, they are not scanning receipts. It is believed that a regular Civil case may include up to 10 pages of paper. Karen said protocol would tell their office what documents need to be scanned, what are

the ROAs necessary and in what format. She said her staff would have no trouble teaching someone how to scan a document into Full Court.

Karen Nelson stated that criminal complaints filed by the prosecuting attorney could certainly be electronically filed. Already, some courts are receiving their citations through the Import module in Full Court. Karen asked Sharon Skaggs and Sheri Bishop if they felt scanners meant they were saving time in their courts. Both believed they were as Sheri and Sharon both said they e-mail documents as much as possible now. Lisa pointed out; however, for courts on the state e-mail format, there is a limitation in how big a document can be. In other words in the District Court if a document is 40 pages long, they must mail it.

Judge Carver asked if the document could be sent out of the Word program instead. Karen said it can, but the disadvantage is the Word document can always be modified, whereas the scanned document is like a picture of the actual document. Karen said her office probably needs to do an analysis to see how the test sites are operating, before she can answer specific questions regarding scanning advantages in our Courts.

Judge Mohr asked about a time frame, so courts could request the scanners in this year's budget. Lisa said training the clerks to scan is probably about 1 to 1 ½ hours, but what needs to be established is the codes and protocol. Right now, the codes are all enabled, so the clerks in Gallatin County and Yellowstone County pick which one they want. At that time it was noted that Sharon Skaggs provided the protocol from their Court to all clerks who had attended the Central and Eastern District Meeting in Billings on May 12th, 2009. Sheri Bishop said she would submit their protocol as well. Judge Carver stated that this committee would adopt a protocol for scanning, to enable the courts that have scanners to begin their work.

Judge Mohr suggested speaking with Tracy in the Billings Municipal court, as she had experience in the Bankruptcy courts, which are entirely paperless. He also wanted to meet with the courts that are presently scanning their documents. Karen Nelson explained the cost of servers and the fact that 40 courts use one server through Citrix.

Sharon Skaggs said a company named Paper Vision was chosen for the archiving of all the court records prior to the date they began scanning. Also, they are using their electronic record as the official court record. Sharon said it was nice to attend the training on scanning at the Gallatin Co. Justice Court, as that gave her a heads-up.

Karen Nelson stated 12 courts are reporting their dispositions electronically and that amounts to approximately 90,000 cases, which is 75% of the total cases. She said one of their goals is to get all the courts reporting their dispositions electronically, as well as getting the DL suspension and reinstatement back on electronic reporting.

Lisa commented that they had 3 different releases of the jury module. She also found out that not all the courts want a jury module. Her staff is working on web training, which

may involve 3 days of training on the jury module, etc. Lisa Mader stated the final module for Jury should be done by the end of July.

Karen Nelson said they would have to test Enterprise out before a full roll-out, but it is her hope that later this year Enterprise will be installed in all the Ltd. Jurisdiction Courts. The imaging module and jury module are a part of that program. Karen said their staff would be working on the Full Court upgrade, CCR Reporting, coupled with the imaging and jury module. Not every court would turn on the imaging and jury module, but Karen said at least they would have a standard ready to go.

Sharon had some concerns with Overdue Processing and the CCR Reporting; due to the fact her court does not always have an opportunity to receipt a payment the day it is received. Therefore, they do a manual list of Overdue Processing, to make sure it is accurate.

Sharon explained that Paper Vision which is done through Data Imaging of Billings costs \$2500.00 in the beginning and then \$500.00 per year after that for 2 licenses. Data Imaging is scanning all their old cases and then importing that information into the Billings system. If the Plaintiff or Defendant name matches up, then the archived file becomes part of the Full Court program. Jury questionnaires are scanned into their jury module and it has been working well for them.

SMALL CLAIMS FORMS:

Karen Nelson demonstrated interactive Small Claims forms from the State of Idaho. Sheri Bishop stated that standard forms would be very helpful to everyone in the State. Discussion was held to decide if a “movie” should be put on the Web to show the public how a small claims case could start and end up being filed. The committee then looked at forms which are used in all the courts in the State of Idaho. The forms are interactive and do a good job of assisting the public.

Judge Carver then asked the committee if this small claims project may be premature, as the State has several projects going on at the present time. Motions were made to end the meeting and reconvene at 9AM on May 15th. Motion passed and Judge Carver closed this meeting.

The meeting of May 15th was not recorded, as it was considered a working meeting in going through all the forms.

MINUTES submitted by member, Barbara Pepos