

MEETING MINUTES

Commission on Technology

March 21, 2024

MEMBERS PRESENT

Justice Shea, Chair (appeared remotely)
Peg Allison, Flathead Clerk of District Court
Judge Audrey Barger, COLJ Automation Chair (Hill County Justice Court Judge)
Judge Stacey Nerison, Dawson County Justice Court Judge (appeared remotely)
Judge Randal Spaulding, 14th JD District Court Judge (appeared remotely)
Mars Scott, Public Member
Representative Fiona Nave, Member of Legislature
Beth McLaughlin, Supreme Court Administrator
Bowen Greenwood, Clerk of the Supreme Court (absent)
Franklin Runge, State Law Librarian
John Mudd, Executive Director State Bar of Montana (joins meeting at 1:45 p.m)

Lisa Mader, IT Division Director

The meeting was called to order. The Commission reviewed the October 26, 2023 meeting minutes.

Motion

Peg Allison made a motion to approve the October 26, 2023 meeting minutes. Representative Nave seconded the motion. Motion passed unanimously.

PROJECT UPDATES

Lisa walked through FullCourt Enterprise, E-Filing, and HB10 Courtroom Technology updates, as well as a couple of miscellaneous items.

Mars Scott asked about the September 2016 start of electronic filing, that we're approaching 10 years and the 31% of courts installed. He stated that he remembers Montana being the first state to be e-filing in all courts in the entire state. He asked if we're on schedule and what the plan is to get to 100%. Lisa responded that we have implemented every district and limited court that is interested in electronic filing and explained that Ryan and staff are now soliciting interest of the remaining courts. Lisa mentioned that the subject was discussed at the last e-filing automation committee meeting but

there did not seem to be an interest in making e-filing mandatory yet since courts are responding to staff outreach.

Lisa further provided a review of the Montana e-filing implementation process. The Supreme Court was the first implementation in 2014. The trial court major case category groups were gathered to document business workflows which were then developed and tested during 2014 through September 2016. She explained that during this time, e-filing was being implemented in both FCE and v5 courts. E-Filing in the v5 courts eventually became unsustainable and was discontinued, making the implementation of e-filing dependent on a court's migration to FullCourt Enterprise. This also meant that when a court with v5 e-filing transitioned to FCE, the e-filing business analyst staff had to circle back to implement FCE E-Filing and retrain court personnel. The major case workflow documentation, development, testing, v5 implementation, FCE implementation, and retraining all slowed the initial implementation schedule.

Representative Nave asked if the courts that do not have FCE installed are all on the legacy system. Lisa explained that the courts in white on the PowerPoint map are still on the legacy FullCourt v5 system. She explained that a tentative schedule is in place to get them migrated to FCE. We know approximately when the legacy courts will be done, barring any staff losses or court scheduling conflicts. Beth added that we're one of the few states in the country that has an end-to-end system for all trial courts. Lisa explained there are a total of 192 courts that had to be converted and the implementation was slowed because of staffing challenges.

Lisa provided an update on the current progress with HB10 funding for expanded courtroom video configurations. Mars asked if this project is for Zoom appearances. Lisa responded that the intent is for zoom appearances to feel more like an in-courtroom experience. Judge Spaulding asked about the setup of the desktop units. Lisa explained that the system is a single desktop unit with the Polycom software installed, it will act as a control center to manage the cameras and audio. Representative Nave asked if the counties pay for the equipment or just the infrastructure work. Lisa explained that the funding is for the equipment and the county covers the cost of the infrastructure work. Mars asked how much funding was appropriated. Lisa responded the project funding was \$765,000 general fund. Beth added that it will be very effective for criminal cases because public defenders appear from all over the state, as well as for situations where the defendant is in the courtroom, but their attorney is on zoom, and they are unable to see each other. There ends up being these situations where the defendant is having a discussion with the judge but can't see their attorney who is trying to advise them not to say anything. This will alleviate those scenarios because they'll be able to have contact with each other. Franklin asked if these zoom hearings are being recorded and where the data is stored. Lisa explained that Zoom recordings are held in the state of Montana's Zoom Cloud which is a fedramp certified government tenant. She further explained that For the Record (FTR) recordings are retained on a central storage location managed by the IT Division.

Lisa went on to explain the October 2023 discussion regarding an infrastructure expansion proposal to provide a test environment for cybersecurity remediation testing of our main systems. She let the Commission know that she would be withdrawing the request because the windows licensing needed for the environment is covered within current license expenditures and the hardware needed would come out of carry forward funds.

She further explained that during the October 2023 meeting she mentioned credit agency data requests that go to each of the courts monthly. Knowing the Spring agenda would be full, she would put the topic on the fall agenda.

[October 26, 2023 Meeting Minutes]

Lisa wanted to find out if the Commission would be interested in a discussion regarding credit agency requests that the courts receive monthly. The requests are for reports such as such as the Judgment Book Report, new case filings, satisfactions and more.

As we realize that businesses are using court data for business reasons and public portal doesn't provide the ability to run reports, these requests are creating an additional workload on the courts. There is the possibility that the IT Division *may* be able to develop queries and provide the information for these requests. Lisa commented that she didn't think the Commission would want the Division to be undertaking this type of work without requiring payment for the data, which would require legislative changes. She asked the Commission if this topic was something that should be considered.

Justice Shea commented that he felt it would be a good conversation but felt there was probably a lot to keep in mind. He felt we should put it down as a future discussion topic when we can talk about legal issues and constitutional implications under right to know. The topic would need full vetting with consideration given to fiscal impact, legislative changes and potential legal implications.

Beth stated that we may be able to go through the National Center to query what other states are doing. She explained that she's a little troubled spending a lot of time producing systems that are being monetized. Lisa and Beth will bring an update on any topic activities to the spring meeting.

VENDOR CHANGES

Lisa explained that JSI has again been purchased, by a company called Avenu Insights and Analytics. We are being told that it will be a great transition, the company is very interested in moving quickly to make significant improvements to FCE. She explained that the company has an extremely robust jury system but had a need for a case management system. While they do currently own a case management system, it is very immature. While at a conference, it was suggested to Avenu that they consider reaching out to Finvi/JSI because FCE is a robust case management system. The buyout occurred in January 2024.

The second change is the e-filing system vendor. Thomson Reuters informed the OCA that they're looking at getting out of the business of electronic filing and asked us to look at a different product. Beth explained that the original company that bid on the e-filing system is the company that built C-Track, a small startup software company that specialized in case management systems. They were successful in the RFP process for Montana's e-filing system. During the contract negotiations they were bought out by Thomson Reuters. TR believed they would be making money on every filing that came through the system but that's not how the Montana system is setup. TR is saying they can't sustain the relationship and want out. We have negotiated a commitment to continue maintenance through FY27. She explained that we are going to be forced to go into the 2025 legislature with an e-filing system proposal. Beth explained that the first step is figuring out what it would look like from a cost perspective, then to bring a proposal to the Governor's Office to see if we can even be considered for funding to look at a different system, then bringing a proposal forward to the 2025 legislature.

JSI also has a partnership with a vendor called File & ServeXpress which is an e-filing system and already has a proven integration to FullCourt Enterprise. They are working with and transitioning some current TR e-filing customers, so they've got experience with a TR migration. Mars asked how we set the budget. Beth explained we're working with FSX to get an estimate and cost proposal to transition. We may have to go out for a request for information to determine if other vendors would be interested and to identify a valid project estimate to bring forward to the legislature. Then if the legislature approves the funding, we'd have to go through the full RFP process again. Mars asked if we anticipate any problems with Governor's Office. Beth explained the process.

Representative Nave asked if there were other states using the current TR e-filing system. Lisa responded that there are other states using the TR system. She also explained that the FSX company is working with some of the TR customers already so there are several that are in the same boat as Montana.

Justice Shea asked about the end of the current contract with TR. Beth explained that we have a commitment from Manoj Jain through June 2027, but we have to sign a new agreement. We have a proposal increase so we can't enter into new agreement until that proposal is funded.

CYBER SECURITY UPDATE

Beth introduced Brandon Conroy and explained that courts have really become a target as it relates to cyber-attacks. Brandon provided an update of security activities since he took the position in Novembre 2022, including the difference in his approach to the position and the significant progress that's been made. He explained each area of cybersecurity work he's been focused on.

Mars commented that the e-filing system started as a system for convenience but has quickly become a system that is vital to the operation of the judicial system in a very small state. He wanted stated on the record, that he feels testing of the backup system needs to take a high priority.

Representative Nave commented that there are vulnerabilities that don't necessarily bring systems down but that can compromise data, and we might not even know. She wanted to know what kind of a risk assessment is being done and whether we're operating from a formal risk assessment to counter vulnerabilities. Brandon responded that the branch uses the Risk Management Framework, and that he has started business impact analysis work with each division of the branch. He's documenting all of the information but there is definitely work to be done. He also explained that we're the first customer of SITSD's Offensive Security Department. We're implementing offensive security testing for e-filing and FullCourt Enterprise to determine, through ethical hacking, how vulnerable our systems are. Additionally, he's setting up an incident response tabletop exercise so he's making progress in vulnerability management, firewall ruling, and passing Department of Homeland security scanning every couple of weeks with flying colors.

WATER COURT EXCEPTION REQUEST

Beth explained that we would like the Commission to help us address a user access request from the Montana Water Court. She described the process developed to address access requests; if a FullCourt Enterprise access exception request is received by a District Court, it goes to the DC Automation Committee, if an FCE access exception request is received by a limited court, it goes to the COLJ Automation Committee. She explained that we do not have a Water Court Automation Committee because the Water Court is a standalone entity. She explained that the IT Division got the Water Court setup on FCE and e-filing and fully automated in a quick manner. Now we have a request from the Water Court to provide access to private attorneys that work in the Water Court. Our response is that we understand it would be efficient but simply cannot approve logons to these outside entities because we are not allowing that level of access in the general and limited jurisdictions, not because it's a risk to the data because the data is public, but because of risk it presents to the systems/network. Water Court FCE runs on the same network and is interconnect with the same systems, such as e-filing. She explained that we wanted to bring the request before the Commission as a matter of governance. She stated that we're not asking the Commission to do anything other than affirm that the decision we've made is correct.

Peg stated that she approves of the decision to refrain from granting more remote access in continuing to restrict and/or withdraw previous remote access to FCE. Justice Shea stated that we should probably have a motion as an official response to the Water Court.

Motion

Peg made a motion to affirm the decision to refrain from granting more access. Mars Scott seconded the motion.

Justice Shea called for discussion.

Representative Nave stated that she felt this access seems like the sort of thing that we have the software for and indicated that she's not comfortable just saying no, but more comfortable with a not yet approach, given security considerations, risk evaluations, and potential resolutions that need to be put in place.

Lisa explained that there is a public portal for the water court. Beth agreed that it's probably fair to say no. Justice Shea agreed and stated that it's important to clarify that the aspiration is to allow the access but because of security concern and potential implications, we cannot grant the request at this time but will work toward the request, whether it's through 2 factor authentication or some other secure mechanism.

Motion

Mars made a motion to respond to the Water Court stating that the Commission on Technology considered the request but couldn't grant it at this time because of system security concerns and would readdress the request in 12 months. Peg seconded the motion. Motion passed unanimously.

Lisa provided an overview of Judicial Branch IT Division staff, services provided, help desk support tickets processed, as well as biennial accomplishments and future projects. She then reviewed the 2023 Technology Survey results and common survey themes.

Representative Nave, asked regarding aging courtroom technology equipment, if we have considered building a maintenance and replacement schedule so instead of coming to the legislature with such a big ask, the Branch would come in with a moderate ongoing proposal. Beth stated that she suspects that something of the like would have to be built into the 2027 session, after the equipment from the 2023 HB10 appropriation was deployed. Because the need was so significant, it was more in line with a long-range proposal, but a regular replacement is something the Branch should consider.

Lisa recapped the strategic plan cycle change the Commission approved in 2021. The change allows strategic planning to occur in line with the legislative budgeting cycle, where in the past the planning cycle was behind so any IT proposals would have to wait 2 additional years to be submitted to the legislature.

She then discussed the HB2 and HB10 proposals. The HB2 proposals are for maintenance increases for FullCourt Enterprise, the FCE Data Warehouse, the C-Track Case Management System, the C-Track Electronic Filing System, and a new maintenance cost for the Avenu Jury System.

Lisa stepped through the Avenu Jury proposal. Peg stated that the alternative to this is to go out for RFP, spending hundreds of thousands of dollars to purchase something else, potentially smaller maintenance fees but a potentially far less product. Mars asked if the OCA is asking the Commission to approve purchasing this system based upon the internal review and stated that he thinks we should see what other products might be available. Representative Nave asked if we're getting the low cost because of the credit and how much the credit was. Lisa explained that we're getting a \$65,000 credit. Purchasing the Avenu product would require a sole source approval by State Procurement. Lisa further explained the \$45,000 one-time cost includes migration from the current system to the new system, an entire migration team, and a training team (onsite train the trainer type training). Representative Nave asked what happens if the Commission approves the purchase, but the legislature doesn't approve the maintenance costs. Beth responded that is precisely the quandary, we'd either have to cancel the contract or find the \$240,000 within the branch budget which does not exist. She explained that we don't want to walk away from this because there are significant problems in jury that are being perpetuated by technology. Mars stated that it sounds good but that he feels there is the matter of due diligence, what do we do as a Commission to make sure we're doing the right thing. Mars further asked if there's a way to compare this system with other systems to make a judgment. Beth agreed and stated that with this proposal, we're asking for a placeholder. The budget proposals go to the Supreme Court, but in terms of purchasing, we're asking this Commission says yes, in theory we agree. If we really move forward, we'd want both Automation Committees to see the product. Beth stated that we're asking for the authority within the stated amount of money to move a budget proposal forward to the Supreme Court and to the Governor's Office.

Motion

John Mudd made a motion that the Commission provide the OCA the authority to request from the court a \$50,000 initial outlay, \$500,000 over the biennium to purchase a statewide jury management system and annual maintenance. Judge Barger seconded. Motion passes unanimously.

Lisa goes on to explain the next potential HB10 proposal, the aforementioned electronic filing system replacement, FSX File & ServeXpress. Beth explained that if we got funding in HB10, we would not just go buy the FSX system. The procedure may require us to go through the full RFP process, it might require sole source justification and approval and will definitely involve procurement. Today, we're asking for a motion that would allow us to move forward with a HB10 proposal to the Supreme Court.

Motion

Judge Spaulding made a motion to approve the HB10 e-filing proposal to the Supreme Court. Franklin Runge seconded the motion. Motion passes unanimously.

Lisa reviewed the Strategic Plan changes, including the satisfaction and performance responses, and emerging technology priority responses. She then reviewed in more detail the changes made to the Goals and Objectives and asked for discussion.

APPROVAL 2025 STRATEGIC PLAN

Mars requested additional time to review the 2025 IT Strategic Plan and requested an approval vote be done at a later time via email.

Motion

Mars made a motion to postpone official approval of the 2025 IT Strategic Plan until March 29, 2024 when an email vote request could be gathered. John Mudd seconded the motion. Motion passed unanimously.

Official Motion

On Wednesday, March 27, 2024 Lisa sent out a vote request via email. By April 2, 2024 Lisa had received a quorum majority YAY vote approving the plan. She prepared the final plan and posted it to the court's website.

NEXT MEETING

Having no further discussion topics, Bowen moved to adjourn the meeting. Mars seconded the motion. The meeting adjourned 2:20 p.m.