

MEETING MINUTES

Commission on Technology

October 26,2023

MEMBERS PRESENT

Justice Shea, Chair

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

Judge Randal Spaulding, 14th JD District Court Judge

Mars Scott, Public Member

Representative Fiona Nave, Member of Legislature

Beth McLaughlin, Supreme Court Administrator

Bowen Greenwood, Clerk of the Supreme Court

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

Justice Shea called the meeting to order. The committee reviewed the March 24, 2022 and July 28, 2022 meeting minutes.

Motion

Mars Scott made a motion to approve the March 24, 2022 meeting minutes. Judge Nerison seconded the motion. Motion passed unanimously.

Franklin Runge made a motion to approve the July 28, 2022 meeting minutes. Representative Nave seconded the motion. Motion passed unanimously.

PROJECT UPDATES

Lisa provided updates of the FullCourt Enterprise (FCE) and E-Filing (EF) projects through October 2023. Mars asked if any courts had rejected electronic filing. Lisa responded that no courts had rejected the implementation of E-Filing and further described the future FCE implementations and the process for bringing those courts onto EF post FCE go-live. She explained that the EF team had completed installs in all District Courts and Courts of Limited Jurisdiction that had requested EF, so the team has begun soliciting interest and setting up multiple court implementation sessions.

SECURITY INCIDENT

Lisa noted that in mid-October the branch experienced a Public Access Portal outage. She explained that the vendor discovered a data exposure vulnerability. The vendor was passing plain text in the portal URL which could potentially allow an experienced, tech savvy person to identify a case sequence number and defendant number. If that person was technical enough, they could potentially manipulate the URL and see some sealed case. The vendor notified the OCA on October 12 @ 5:08 p.m. IT had the portals shutdown by 6:00 p.m. Lisa clarified that the notice from the vendor went to all customers as a precaution, not only and specifically to Montana.

Over the following weekend, the OCA asked JSI if they could identify a Montana specific exploit. JSI notified Lisa that it was not Montana specific, it was a situation realized by another customer and brought to their attention. JSI asked the OCA to provide logs from each of the portals so they could analyze them for suspicious activity. JSI contacted Lisa over the weekend and confirmed that there was no active exploit to Montana's portals and found zero suspicious activity. Lisa clarified that through the portal user interface the security was functioning correctly, and sealed cases could not be seen or searched. This issue was very specific to the plain text in the URL which again, would require some technical knowledge and expertise to manipulate and exploit.

By October 15th, JSI had developed and tested a remediation patch. The OCA received the patch the Monday following the outage. IT applied the patch to dev and went through every testing scenario possible. Lisa, Mike, and Brandon confirmed that the patch provided the necessary security and improvements to stop the exploit possibility. The patch was applied Monday evening, and the portal was back online by Tuesday, October 17th at 9:00 a.m. Lisa noted that because of some of the help desk tickets received during the portal outage, it was realized that businesses are relying heavily on the portals to operate. A disclaimer was added to the public portal landing pages.

This public access site is being provided as a courtesy, it is not a required statutory service.

Beth added that it's concerning that private businesses are building businesses off of a service that is being provided as courtesy. There is nothing we can necessarily do except make it very clear that there is no statutory obligation to provide the information. She noted that there are court systems throughout the country that provide data but charge for it. The OCA is not setup to do something like that, but we are also not setup to have the public portal reliable enough that people could actually build a business around them.

Mars stated that there is this concept of detrimental reliance and feels it is something that should be discussed, and strong disclaimers developed.

Justice Shea asked if Montana was compromised. Lisa explained that a full incident report had not been provided but that all analysis of Montana's logs showed no suspicious activity and no breach of our systems. Lisa explained that another JSI customer brought it to their attention. She is not aware of the full extent or implication on other customers and would not likely be provided that information. She did express how impressed she was with how quickly JSI notified their customers and turned around a remediation patch, not to mention their willingness to analyze our logs in the midst of the remediation efforts they were undertaking.

Lisa then provided some details on recent court security incidents:

- April 2023, hackers forced officials to shut down Alaska’s Courtview System for several weeks.
- October 2023, Kansas Judicial Branch experienced a security incident which completely brought down clerk offices in the Appellate and District Courts. Systems were still offline at the time of this report.
- October 2023, a ransomware gang claimed an attack that affected the 1st Judicial Circuit across northwest Florida. ALPHV alleged they had acquired personal details such as SSNs and detailed employment history of employees, including judges, as well as a comprehensive network map of court system.

STANDING ORDER, 10TH JUDICIAL DISTRICT COURT

Lisa showed the committee an order that had been provided to her. The Standing Order was from the 10th Judicial District essentially ordering the Clerk of Court to seal cases upon jury confirmation so they cannot be accessed via the public portal. Judge Barger explained that it came to her attention that some district court judges were concerned about jurors finding out through the public portal what trial they may or may not be on because of the calendar functionality in the portal. They would be able to see the case parties and charges that would be heard at trial. The standing order is what one judge has done to make sure that, once the jury confirmation is done and jury panel is sent out, the case is not accessible on the public portal. Lisa explained that we’re not asking the committee to do anything but wanted to make sure that the committee was informed.

FORMAL GOVERNANCE COMMITTEES

Beth explained that we feel it’s necessary to make sure there are governance structures in place that are explainable to people outside the branch. We want to have governance in place to make it clear how changes are processed to various IT systems. She explained that we currently have structures in place but that they’ve never formally been approved by the COT. The goal is to get the COT’s stamp of approval on record.

Beth explained that there are two trial court automation committees that serve as governance for assessing and approving changes. The District Court Clerks Automation Committee is chaired by Peg Allison in the Flathead and is made up exclusively of clerks of court. When modifications to FCE are requested, they go through the DC Clerks Automation Committee. The committee helps IT prioritize, turn down and make decisions about where to modify or spend money on the District Court FullCourt Enterprise system. Beth explained that traditionally the only time the COT would hear from the DC Clerks Automation Committee would be if there was some disagreement between IT and the committee. Any disagreement would come to the COT for decision. She stated that in her 20+ years there has never been a situation where this next level governance was necessary. She simply wanted to make it clear that disagreements would be resolved by the COT.

She further explained that the same governance structure exists in the Courts of Limited Jurisdiction Automation Committee for which Judge Barger is the chair. These two chairs sit automatically on the COT.

Beth again stated that she wants to make it clear that any disagreements between IT and these two automation committees would be resolved by the COT.

She went on to note that it seems the Commission has already put its stamp of approval on the E-filing Automation Committee and has seen a few times where policy documents have come before the Commission for approval before going to the Supreme Court. So, the governance structure for e-filing flows from the Automation Committee to the COT through Ryan Davies who provides staff support.

The last item which is still a work in progress is security governance. Security is interesting because often what the Security Office wants to do to protect the system is not what works well for users. We're trying to balance the business which needs quick access to systems for a great number of people with what security wants/needs so Montana doesn't end up like Kansas, with a full system shutdown.

Right now, JUD security governance is with Beth, Lisa, Brandon Conroy (Security Officer), and System Operations. This group would work with the Commission if issues could not be resolved within the internal governance structure. Beth explained that Brandon is currently in the process of identifying who is responsible for making what kinds of decisions. If a breach were to occur, who would be responsible for deciding to shut things down? How would that flow with elected officials? It's all a little "squishy" but we'll bring a progress report to the committee for a more detailed discussion as necessary.

PRIORITIES AND DEMANDS

Beth noted that the teams are making strides in finishing FCE and rolling out EF. We're making progress because we've been very clear in the last year that we will not work on any ancillary or outside projects. This has resulted in saying no to requests when we would normally have tried to be accommodating. In the past when we've accommodated outside of the strategic plan it has resulted in staff becoming very overwhelmed. Beth wants the focus over the next year to be on deploying systems, getting cybersecurity infrastructure in place, and running the day-to-day business of the branch.

This results in saying no to other government agencies, however, the Department of Justice, unbeknownst to the OCA, started a project to replace the Motor Vehicle System. We couldn't opt out of the project because the driver license processes are so connected. We were forced to add their work product into our work plan but that is the only outside project we've said yes to. We have turned down other requests from DOJ, Public Health and others. She noted that we are constantly getting requests from outside entities for interfaces to FullCourt. When the implementations are complete, we can then strategically look at interagency projects and other partner projects.

Beth further explained that there are two other major projects. SB11 was passed by the legislature in 2023. The bill creates a large data set from the Public Defender, prosecution services, law enforcement, courts, and

the Department of Corrections. The bill gave all the funding to the Board of Crime Control and projects 5 pilot counties to share data. Beth stated that there is no such thing as a pilot county in our world, if we figure out one interaction, that's how we'll do it in all 192 courts statewide. SB11 was passed by the legislature so we will do our best to comply and work in partnership with the other agencies. We're waiting to have a meeting with the state data division to understand how much effort will be required of IT, but she believes they will have their hands full with the local governments, the sheriff departments and the jails.

The other project is funding that was received to retro fit all the district courtrooms with updated cameras and televisions for more appropriate zoom use. It's a 4-year project for 72 courtrooms. The first prototype is in place. There were some technical audio issues, so staff has been working with SITSD but has also gotten feedback that the new configuration is much better than the systems in place prior. Lisa will bring an update to the spring meeting.

Lisa added that IT gets many requests for data and in the past had tried to be accommodating. But what seems like a minor, straight forward project turns into a significant resource drain when we start getting questions about the data. The time it takes to research and answer many questions about the data can be overwhelming. She also stated that she is not sure she (or IT) should be answering some of the data questions. Beth added that she also feels like we sometimes need to say no because we don't have the authority. Some of the data that is being requested should come from the court of record instead of IT as we may not be able to explain. This of course increases the workload at the local level. The real question is, does IT have the authority to provide the data because there may be something we don't understand or are misinterpreting. Judge Barger agreed that the OCA or IT should not be in that position because it would be very easy to provide inaccurate information which could have detrimental consequences to a person or a case.

STRATEGIC PLANNING UPDATES

Lisa provided a strategic plan update and reminded the committee that in 2021 the COT approved a change to planning cycle. Lisa requested the change so she could go through the planning process and get the plan in front of the COT before the legislative budgeting cycle. Prior plans were presented in November before a legislative session which did not allow for technology initiatives to be brought forth in the upcoming session as we were reviewing and approving our plan 6 months after the budgeting cycle.

She reminded the committee that in 2023, the branch didn't go through the full strategic planning cycle, we did a simple plan refresh of the 2021 plan to allow IT to continue to focus on FCE and the E-filing rollout. In addition, the COT approved bringing the courtroom remote appearance proposal to the 2023 session. The requested funding was allocated during the 2023 session and became available in July 2023. Lisa will provide a project update at the spring meeting.

Justice Shea asked about IT initiatives. Lisa responded that IT may need to bring forward a proposal to the Commission for some additional infrastructure. We need a test environment for JCATS, C-Track, FCE, and E-filing to vet disaster recovery and cybersecurity activities so we are not applying critical remediation patches to

production systems without knowing the consequences of the remediations. Right now, we are doing those activities in production which could be catastrophic, and we want to avoid any catastrophic event. Lisa will bring an update on this topic to the spring meeting.

Beth talked a bit about the future of Artificial Intelligence. Franklin commented on the potential need for AI policies.

FUTURE MEETING TOPICS

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 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.

NEXT MEETING

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