

Justice Sullivan's testimony before Oct. 15, 2009 meeting of the Indiana Commission on Courts

J. Sullivan: We respectfully request that you endorse the Court's and JTAC's request that the so-called automated recordkeeping fee that is authorized by IC 33-37-5-21 be increased from the current level of \$7 per case to \$10. This is not a new request; indeed this Commission unanimously endorsed an identical request one-year ago. While both the Indiana House as a whole and the Senate Judiciary Committee passed bills during the 2009 session of the General Assembly containing the increase, it did not become law.

Here is a one-page update of JTAC's work [*the ILB did not obtain a copy*] – permit me to list briefly the purposes for which we would put any increase in fee revenue.

First, as you know we are engaged in an aggressive schedule for installing the Odyssey case management system in Indiana courts. At the time the regular session of the General Assembly adjourned in April 2009, 23 courts in 7 counties, representing 16% of the state's caseload, were using Odyssey. Now 40 courts in 13 counties, representing 20% of the state's caseload, is up and running.

We've had an extensive waiting list of courts that would like to have Odyssey installed, and additional resources will permit us to address that more rapidly.

Second, one of the principle lessons we have learned from installing Odyssey so far is the importance of timely and accurate conversion of the legacy data from courts' prior case management systems (CMS). When we met three years ago and assembled our budget for the CMS at the start of the last biennium, our business plan was to ask individual courts to bear their cost of converting to the new system. As I told the Commission when I appeared before you last year, JTAC now believes, and this is the way we've been operating, that the proper operation of the new system and the implementation of its database requires that JTAC assume the responsibility for the cost of conversion.

Third, you all know that JTAC has undertaken a substantial new initiative to transfer and receive information to and from courts, law enforcement, and state agencies. We met the deadline set by the General Assembly to have the domestic violence protection agency registry up and running in all 92 counties by June 30, 2009.

During this past session of the General Assembly the legislature passed SEA 345 that directed JTAC to undertake substantial additional projects of this nature, but did not provide any funding. There was also an additional mandate to us in another bill having to do with transmission of mental health commitments to the national crime information center. Our ability of comply with these directives will require resources of some sort.

Before I conclude, I want to emphasize that the fee would sunset to a lesser amount in the future when the case management objectives have been accomplished.

Senator Bray asked whether money going into JTAC had decreased via another bill?

J. Sullivan: There was a provision that was added to the budget bill that had the effect of diverting some of the amount from the fund to the homeowners' protection unit in the AG's office. LSA has estimated the amount of that transfer to be a \$700,000 (10%) reduction in our funding.

I want to emphasize that the reason for this [requested \$7 per case to \$10] increase is to permit us to deploy Odyssey faster, not because the cost of the project continues to rise. That is to say, if there were no change in fees, we would continue to install Odyssey as aggressively as resources would permit us, and at some point in time we would complete the project. If that were not the case, we would not support the idea of [??? – unclear]

There has been some analysis, which I think is incorrect, that the reason for the increase is that the cost of the project keeps going up and at some point there will be some "tipping point" at which the cost of the project will just need more money. I think that analysis is incorrect for the following reason—it is based on

the old way in which courts operated and financed CMS in the past, where you would go to a new county and build a data center with a bunch of servers in that county and then license and pay maintenance fees for the software for that county and for each county you went to – the marginal cost of adding the additional county is essentially the same as the county before.

But our model is completely different – we already have our data center, which is built in a way that will support all the courts in the state, so when we go to an additional county there is no additional cost for the data center.

Second, we already have a software license for the Odyssey CMS, so when we go to a new county, there is no additional cost of licensing the software and we have a fixed rate maintenance and support contract with the vendor, which has an annual M & S fee which does not increase when we add additional counties to the system, so the additional money simply permits us to add additional deployment teams, so that we are in a position to meet our waiting list as expeditiously as possible.

A question from the Commission: Of the current \$7, how is that distributed?

J. Sullivan: Well, the \$7 is currently distributed to the JTAC project fund and the overwhelming % of that is then used to pay the cost of installing and maintaining the Odyssey CMS with the exception that as of July 1, 2009 that portion of the \$7 attributable to diversion and referral cases does not go to JTAC, but to the AG's homeowner protection unit.

Senator Bray asked how long to make Odyssey available to all counties. J. Sullivan: I think if we had the \$10 we could be done in 5 years. We've got at least 2 years of work ahead of us of those counties that have affirmatively come to us and asked for Odyssey.

And then there are a lot of counties out there, some of them represented in this room, who are perfectly satisfied with their existing CMS, and neither the Supreme Court nor JTAC has ever said to any county – you must take Odyssey today.

Now at some point in the future we're going to face up to the question, if there are counties that want to stay with their existing CMS, and as I say, it is going to be at least two years before we face that question, then a decision will have to be made. My own very strongly held view is that we would be in the best position as a state court system to have all the Indiana courts using the same uniform 21st century technology so that court information could be shared across county lines and with law enforcement, state organizations, and others that need it.

There is a substantial point of view that not all courts need to be on the same CMS and it would be my view that before the Indiana Supreme Court ever undertook to mandate any county or court to adopt a particular CMS we would want to consult very closely with members of the executive branch and the legislative branch to see whether that represents the consensus of those responsible for implementing policy decisions.

[At the conclusion of his testimony, Justice Sullivan, and Chief Justice Shepard excused themselves to attend to Court business.]

[Peggy Mayfield, Morgan County Clerk, and Beverly Elliot, LaGrange County Clerk testified next]

Ms. Mayfield testified about the actual dollars that the counties receive – currently they receive none of the automated recordkeeping fee – the entire \$7 goes to the State, principally for the funding of Odyssey. The counties get \$2 per case to maintain the files and data currently on their systems. While we are not participants in the Odyssey project, we still must continue to pay for our existing systems, which already provides all of the data the state requires (plus forward \$7/case to the State).

If the counties could receive the additional funds [the Court's requested \$3 increase, over the current \$7], or any part of the amount already going to the State, we could do a more effective and efficient job of maintaining the records.

Ms. Mayfield described four counties:

- Allen County – has contributed \$2.4 million to the Odyssey project, and they are not on Odyssey
- Morgan County -- \$257,000
- LaGrange -- \$275,000
- Hendricks -- \$500,000

None of these counties take part in the Odyssey project. Monroe, of the counties I've talked to, is the only one that is now part of the Odyssey project. Monroe has contributed over \$1 million since the inception of the state project – I can't imagine any county spending over \$1 million for a CMS.

Since I took office in 2007 I've been unable to upgrade or make improvements on my system "because Odyssey is right around the corner." Our hands are tied, we can't do an efficient job of what we have to do right now.

So if any consideration is given to reviewing or increased the fee, I would like you to consider diverting some of that money to the counties.

Ms. Elliot – Since 2000 I have been scanning all of our current case. After the 2005 election I was in the situation where I had to install a new system. After 2005, with the approval of state court administration, I began scanning all of our current cases.

In April of 2008 I sent a request to state court administration to have my scanned images posted on the internet and made available to the public. That request is still pending.

My point is this. A switch to the Odyssey system would be a step backward for us in technology. So I really encourage you to direct some of the JTAC fee to the counties.

Storage is a huge problem for all the counties. We can't get approval for either \$30,000 for storage, or to upgrade the current system.

Re a Q about transmitting information from court to court: Answer. JTAC was originally intended to set standards, so that various systems could be certified. The same thing was recently done with auditors. The technology is already out there to link up the various court CMSs.

Re a Q about the economies of scale for having every county on the same system: Answer. I believe every county is already on a system. So if you did that, many of us would have to change.

Re a Q – if you did go to JTAC, how much would it cost you? Answer. We would need specific hardware. Plus it would cost \$50,000/county. Right now we spend less than \$20,000/year.

We currently are paying for the Odyssey system whether or not we choose to use it or use what we have. We are not saying we don't want to go on it. But JTAC was set up for counties that didn't have anything, not for counties that already had systems.

Re a Q – can I find out today about a charge against a person in Morgan County? Answer. Yes, through Doxpop, our systems are linked.

Rep. Cathy Richardson. As a former Hamilton County Clerk I see both sides of this. I do sympathize with the fact that these counties are struggling. They can't go forward. I'm the one that kept asking, can a county choose to not use the system?

Ms. Elliot. In Jan. 2004 we were told that JTAC was coming in a few months. But it didn't, and we had to improve our current system. It seems that many of the things JTAC is working on are not "the rolling out of the court system." A marriage license database and tax forms are not a court system and not what we are really looking for. So we use Doxpop [for outreach], and the attorneys love not having to come down to the court to get information.

Candy Myers – Noble County Clerk. I have been in office over 20 years. My ultimate concern here with the county and with JTAC is accountability. This fee has increased from \$2 to \$7 in 8 years – where has the money gone? I have never seen any kind of financial statement.

Noble County has already contributed over \$350,000 to JTAC. We too are very happy with our current CMS, which is CSI. We provide to the State everything that is requested with our system. The bottom line on behalf of our taxpayers is, we need accountability.

Having seen Odyssey, we would be going backward with Odyssey. For example, my system can already take on 100 cases a day and the chronological case summary will be on all 100 cases, while with Odyssey you have to type all this in for each one! We can't afford to hire more people; we need to be more productive with what we have.

Prepared by M. Oddi
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