

## A Perspective: Successfully Administering the Transition to Court Electronic Information Management Systems

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### PREAMBLE

There are few challenges greater than managing a national strategic transition to electronic information management systems from a manual system based on traditional clerical support and paper. Having been directly involved in the management of national and local transitions to such systems for the last thirty years in the United States, the United Nations, Serbia, Trinidad and Tobago, Mexico, and Nigeria, among others, I sometimes imagined being in a crucible fueled by the stress of change and the hope for a better future for systems of justice. Of the nations that have experienced this crucible, some have succeeded in managing the transition, and others have failed. Ultimately, change of this nature entails great risk, but more than equally, great gains. If the arc of the moral universe is to bend towards justice, perhaps automation can help us bend that arc. For many, this goal is why we work long hours for low wages. We want to raise levels of dignity and achieve equal justice under law for the people-one generation at a time.

It is true that the public wants more from the justice system. The people have simple needs, and sometimes just want a judge to hear their complaint, decide guilt or innocence, find the truth and do it quickly. But on the other hand, they want to trust the system, they want fairness and efficiency, they want institutional transparency,

accountability, and morality. All without a tax increase... They want more for less. Also, there is a new challenge to the formal justice system- alternative justice systems that are not linked to the court. Some countries are trying to promote these alternatives rather than fix the trial based system. But at what cost? Accountability, truth, transparency and other values might be compromised by delinked, non-public, alternative justice systems.

Technology used wisely can facilitate improved systems performance because the effective utilization of electronic data for evaluating performance, improving public access and trust, transparency, judicial effectiveness, budget management and planning in general can be realized. Perhaps most importantly, the effective application of technology tools can save TIME for everyone involved if effectively designed and deployed. In other words, to improve productivity. In achieving this goal, there is a new class of managers and administrators being developed that can utilize technology to maximize national and local productivity. Whatever the title of these positions, a fundamental component of the new job description would be to productively reengineer court business processes to facilitate the improvement of court efficiency and adhere to national societal and constitutional values.

When reflecting on experience, there is one goal that must be achieved when considering strategic planning, action planning and execution of such plans: the goal of authentication of the electronic court record as the original. In other words, to completely change manual processes to electronic processes at all stages possible. If this goal is not achieved timely, it is most likely that the investment has failed to accomplish the

goals of the initiative and that manual processes remain as well as the challenges of improving efficiency and performance. Why is this goal important? Because when replacing the manual record there must be a parallel administration of both the manual process and automated process until it can be proven that the electronic process is credible as a replacement. If it takes too long to authenticate, the workload burden created by the dual process will crush a project and most likely computers will be collecting dust.

Also, before this new electronic process can be authenticated, because of new dependencies in managing this new operating environment, it must be shown that the process can be sustained at all levels. It must work as a system and each part of the system must be competent or the whole may fail. Conceptualize a court electronic information project as creating a body with several interconnected organs and that failure of an organ will be the death of the system. It might be budget reductions, failure to plan properly, human resource issues, the lack of public and judge support, cybersecurity failure or insufficient internet capacity, among other things.

### Strategic Planning

Every transition must start with a strong strategic plan and a strong core mission statement outlining the vision for the project. A vision partly based on the paragraphs herein stated thus far. A first question: Define as completely as possible where we are now and where we want to go? There might be some electronic processes and applications already in place but the most important component of an effective electronic information management system will be the case management system. It is the backbone because it houses the official

record, reports, and operating processes. It constitutes the hub of a wheel with several information spokes.

Once a preliminary goal is established, the governance body should form a strategic planning committee and invite stakeholders that will be affected by an electronic information process to the table. Members of governance committees, bar associations, registrars, court staff, finance, prosecutor and justice ministries with jurisdiction over processes, civil society, national archives employees, and others should participate. At the core of the planning process must be a leadership team supported by a strategic planning expert and experts that have been involved in other national transitions. The Strategic Planning Committee would report to the main policy making body for the Judiciary, Ministry of Justice, or both. There has never been a better time to plan as there is large body of learning based on experience and costs associated with funding core system components has declined over the last 10 years. One comment must be reinforced, it is very important to have as part of the leadership team an outside expert that has been part of a successful transition process that can help assemble all requirements and help solve transitional problems based on lessons already learned. Don't make the same mistakes others have made. Learn from the mistakes.

Once the elements of a strategic transition have been considered there must be a project feasibility phase. Whatever the project scope is, define what can be done and who will do it. Parts of the project such as software development, network administration (such as a private cloud service), mapping and other technical support might need to be outsourced, however, outsourcing can create dependencies and conflicts for court systems that must strive for independence and public trust. It is a delicate balance that must be assessed. Building as much

capacity for administering any system inhouse should enhance the ability to plan and sustain such systems.

In assessing whether a transition to an electronic record system that can be authenticated is feasible, the most important consideration will be whether a justice system can do it or not. If there is an inherent weakness that will affect sustainability, perhaps the investment of time and money should wait. Some states in the U.S. and donors in other countries have made the decision to move forward without feasibility being fully identified and had losses of millions of dollars and thousands of employee work hours. It might be more prudent to wait until all levels of competence and acceptance are in place, including public and internal institutional will.

### Addressing Cultural Change

An effective electronic information management system (or case management system), is most effective when all subcomponents are cohesively working together, in other words, the operational sum of the parts will provide the greatest environment for productivity. As mentioned before, authenticating the electronic record as the original is an outcome of the operational effectiveness of the systems design. Also, the capacity of trained staff and judges to use the system is vital, therefore, a strong training program for all users, including the Bar and public will maximize productivity. A warning, if the staff doesn't like the system, because they are not comfortable with the system, or don't understand how it will help their careers, the development of a negative attitude by staff can poison the attitude of the judges. The transition can also threaten the career of those employees unable to culturally adapt to an automated environment as they might think they will be replaced by the computer system. Managing opinions at all

levels is critical to establishing positive momentum. There are two ways to address the creation of a positive vs. a negative environment. One, the system must sell itself. One can talk about how great it will be, but it must improve the quality and efficiency of the work environment of the user. Two, the judges and staff must be reassured that the implementation plan will not affect their careers and that they are instrumental in the success of the transition. There will be some retirements due to the change, but others must be coached and included at all levels of the implementation process. Not having general project timelines and goals fosters anxiety. Symbolically, it is holding the hand of members of the court during the transition. There are also new career opportunities for the staff generated as retraining takes place as quality control of data replaces data entry, and because automation replaces manual work, employees can be introduced to case monitoring and screening for compliance, for example. Eventually, these positions might also have a higher pay grade.

### Applying Economies of Scale

Two main objectives of any electronic records transition will be building economies of scale and improving the quality of the justice system. These two objectives are mutually inclusive. Based on my experience, here are some of the quick victories that can be achieved. This list is not exhaustive.

1. All data that can be digitized should be digitized. The terms digitizing and imaging are used interchangeably by many. However, there are some subtle differences in the uses of files once they are digitized or imaged.

The main difference is that an imaged document is literally an image—something that can be accessed digitally, but not necessarily manipulated. Therefore, leaping to scanning as a form of storing records might complicate long term economies of scale for the systems. Why, digitized records save time because it is a smaller file. It can be filed, stored and retrieved more quickly. The data in a digitized record can be more effectively formatted for text searches and report generation and it consumes less storage space on servers.

2. Based on studies on the topic of finding records, it has been found that electronic file availability reduces the workload of registrar offices by 40%. The electronic system also reduces delay and improves case disposition time. There are many trials and hearings scheduled that are continued because the record cannot be found.
3. When electronically filing a document into a case management system, an event code can be established that will automatically docket the motion in the record. In addition, when a motion or complaint is filed, the software can be programmed to monitor the document for procedural compliance. The software can also be programmed to randomly assign cases, track conflicts before they become court issues, and populate statistical profiles that form the basis for performance management reports and baselines. For example, An ROI (return on investment) study in Manatee County, Florida, revealed a cost saving of almost \$1,000,000 based on e-filing their 2,321,252 documents per year (Shore, Singer, and Pettijohn, 2009).
4. As a document is filed or order electronically signed by a judge, it can be delivered to the attorney or party almost simultaneously,

saving postage and time. Also, the attorney always has access to the official record.

5. The filing deadline is extended to the actual end of the day versus when the office closes. In a way, the records management system assumes the role of a cyber office. Where information can be filed and retrieved without worrying about time as much. The cyber office is constructed around website design. The better the website, the better the function.
6. The public has more reliable access to court opinions and statistics. Thus, improving public trust and confidence.
7. Data can be more comprehensively managed to collect and profile information not only at the local level but at the national level. For example, there might be cases with the same parties and same cause of action filed in multiple courts. Identifying these cases and dismissing them can increase national disposition times.
8. The record is more portable. The judges can work from anywhere, which can also improve security by reducing the need to travel to court to work on opinions or the record.
9. Physical space savings. Hundreds if not thousands of square feet of expensive courthouse floor space are consumed by the storage of paper documents on shelves and filing cabinets. This space is heated, cooled, and staffed at great expense.
10. Having an electronic master calendar of all scheduled court activity can make courtroom utilization more effective. Particularly when identifying courtrooms needed for trial. When a trial is continued the docket entry of the continuance can be immediately reflected on the calendar.
11. Case and proceeding deadlines reports can be generated showing whether answers, responses, service and appeals have been filed



timely. Show cause hearings can then be scheduled to manage the deficiencies.

This list is not exhaustive but does begin to demonstrate the possibilities presented for managing the operating environment more productively.

### Other Important Planning Considerations

There are several related considerations, each of which have been extensively reported and researched. Since this essay is intended to support planning, a general list of other considerations is offered.

1. Budget Planning. One of the main outcomes of strategic planning is determining a funding approach that define project startup costs and a sustainable long term operating environment. There are basically four funding approaches: Issuing bonds, seeking appropriations, obtaining donor funding, and private public partnerships. The Federal Judiciary of the United States also has legislatively received supplemental appropriations called the "Judiciary Automation Fund", which is a no- year fund funded primarily by charging fees to access the court record by non-parties, or other fees as authorized. One other non-appropriated fee approach that could be used for funding electronic information systems is to charge the Bar an annual fee to support the system. They will soon learn that this system provides a value-

added functionality that will save them time and money. It must be shown that it is in their interest to have a sustainable, credible, modern system. There are of course pros and cons of each approach. See: <https://www.law.cornell.edu/uscode/text/28/612>

2. Civil Service Laws. The civil service system for classification of public service jobs will need to be reviewed to establish job descriptions that are reflective of the new human resource requirements for IT support in general, quality control and professional management that are able to administer the new automated environment.
3. Each process that will be programmed will need to be mapped. This is a good time to also review all court procedure as it generally defines a map.
4. New legislation might need to be considered that will authorize electronic filing, service, record authentication and electronic signature.
5. There will need to be enough network bandwidth to support digital functionality. For remote areas, cell phone networks are also being utilized to extend network functionality.
6. There will be a question as to what programming language can be used, such as Java. It will largely be based on what language schools teach. This also must be considered when determining whether to use Oracle or Microsoft for the operating system.
7. There must be system redundancy to assure continuing operations. A plan (Continued Operations Planning or COOP) must be implemented.
8. Long Term Preservation of the Record. Generally, a process of record replication must be added to record retention policies for archives and other long term uses of the court record. The

National Archives institutions should be jointly considering these issues.

9. Cybersecurity software must be procured and administered in conjunction with a good internal controls process for automation. Including internet access for users. IT systems administrators can regulate use by blocking searches.

10. Portable Data Format Standards must be established for filing and storage. PDF is one such application that can be considered.

## Conclusion

There are several models for administering transitions to new case management systems. Most notably, the recent successful experience in Nigeria and Trinidad and Tobago can be referenced. Few systems have been able to establish all components of a fully functional electronic records management system, the electronic signature replacing the hand-written signature being a cultural challenge, for example. The United States Federal Judicial System, is one of the longest established models and includes all productive components. One important note, if done right, an electronic information management system can reduce costs, improve performance and associated public trust and confidence. Also, international performance indicators published by the World Bank, World Justice Project, Moody's and S&P should improve, which would lower national borrowing rates.

One final thought, deadlines are hard to keep when managing IT transitions because there are so many interdependencies. Keeping expectations low are very important as well as leadership conveying the

need for patience, patience, patience, as the development context should be in terms of generations and not necessarily years.

