

**Wisconsin Circuit Court Access  
Oversight Committee  
Retention and Accuracy Subcommittee**

Minutes

Thursday, December 8, 2005  
110 E. Main Street, 4<sup>th</sup> floor conference room  
9:30 a.m. – 2:30 p.m.

PRESENT: Kathleen Murphy, District 8 Court Administrator, chair; Attorney Larry Bensky; Robbie Brooks, CCAP; Attorney Richard Dufour; Carolyn Evenson, Waukesha County Clerk of Circuit Court; Peter Fox, Wisconsin Newspaper Association; Sheryl Gervasi, Deputy Director of State Courts; John Laabs, Wisconsin Broadcasters Association; Judge Dale Pasell, La Crosse County; Judge Ralph Ramirez, Waukesha County, Attorney Kelli Thompson, SPD; A. John Voelker, Director of State Courts

**1. Introduction**

Ms. Murphy called the meeting to order at 9:35 a.m. Meeting minutes were approved from the previous meeting. The next meeting is scheduled for January 20, 2006, and dates were suggested for the meeting after that: February 23 or March 3. Mr. Voelker will request Lori Irmen follow up with members via e-mail. Ms. Murphy then suggested the subcommittee start with error correction, and move on to accuracy.

**2. Error correction**

Ms. Murphy referred to the handouts she e-mailed to members last week. She categorized the recommendations from the August 26 meeting. The other subcommittee with the use of headers has addressed many issues involving display, clarity, and public disclaimers. They have designed a “notice to employers” for appropriate cases, “innocent until proven guilty” language for pending criminal cases and “ordinance violation is not a crime” as another clarification. Ms. Murphy would like to move on without addressing the clarity issues further.

Attorney Bensky questioned why the screens say “domestic” in the corner for specific cases. Ms. Murphy suggested they refer the display of the domestic checkbox to the other subcommittee. She requested Attorney Bensky forward her an e-mail explaining why he feels the content subcommittee should consider removing this from the WCCA web site and she will forward that to the other committee.

Ms. Evenson brought up additional text at the bottom of Milwaukee criminal cases. She feels it is misleading to the reader. For example, in the additional text illustration shown here the average user would not understand that only the line with the (x) applies. Ms. Murphy stated that this is not really

14	04-19-2005	Notes
<b>Additional Text:</b>		
Case/Financial Obligation Status Change.		
DOC Notice dated: 04/07/05		
Court-Ordered Financial Obligations:		
<input type="checkbox"/> Unpaid		
<input type="checkbox"/> Paid		
Probation Status:		
Revoked: <input type="checkbox"/> Sentenced to Prison		
Revoked: <input type="checkbox"/> Sentenced to Jail/HOC		
Revoked: <input type="checkbox"/> Sentenced to Time Served		
Status Change Date: 03/14/05		
<input type="checkbox"/> Discharged Absolutely		
<input type="checkbox"/> Discharged from said Judgment		
<input checked="" type="checkbox"/> Discharged		
Effective Date:		
rgs		

*Sample of Milwaukee County “Additional Text”  
in criminal cases to be recommended for  
clarification by Content Subcommittee.*

an accuracy issue and recommended that the content subcommittee look into the issue. This subcommittee agreed to forward it to the other subcommittee.

The subcommittee turned to the statutory references handout regarding changing a court record that included Wis. Stats. 879.55 Probate and 809.15(3) Appellate Procedure. Last known address was discussed around the table:

The clerk is required to use the last known address. Ms. Evenson told the committee it costs her office \$0.70 extra per envelope for address corrections. Attorney Dufour suggested changing the WCCA label from "Address" to "Last known address" for clarity. Ms. Murphy asked what kind of procedure should be followed when an address correction is requested.

Attorney Bensky doesn't believe the address needs to be updated if the case is closed. Judge Ramirez pointed out that debt collectors might be looking for someone and having the current address would be beneficial. He said he does not necessarily advocate this, but said that is one reason to keep the address as current as possible.

Attorney Dufour directed the discussion back toward "last known address" being added to the screen. All members present agreed that would be the easiest and best solution. The subcommittee continued to discuss how to verify an address change. There is currently no standard procedure for correcting addresses. Ms. Evenson mentioned that a disgruntled divorcee not wanting personal information on the Internet, might easily write a letter trying to change to a false address.

The subcommittee unanimously decided to recommend that "Last Known Address" be put in place of "Address" to help clarify that the address shown is not necessarily current, but last known. It was also agreed that showing the history of addresses on the WCCA web site is not necessary. A request for change of address could be treated as an error correction request.

There was a consensus to add an FAQ regarding addresses to explain why they may not be correct on closed cases. A link at the address could be added that would go to the FAQ.

### **Error correction issues and recommendations from August 2005 meeting**

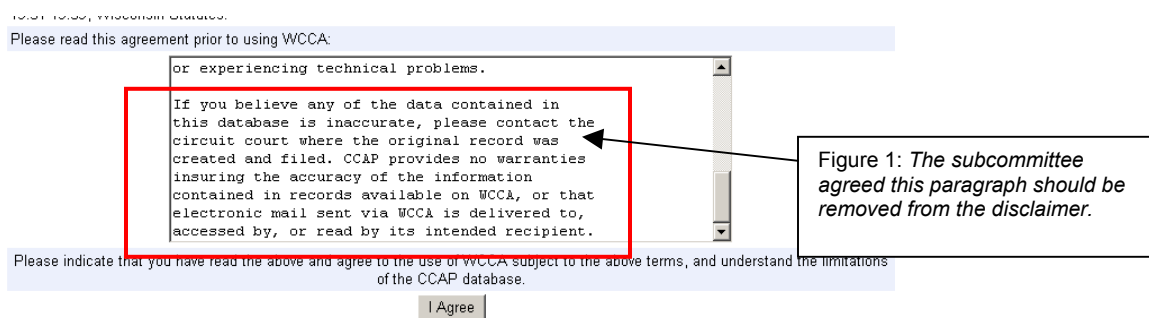
The subcommittee discussed an outline Ms. Murphy put together from the August meeting and which issues are substantive or non-substantive. The difference between mistaken identity and identity theft was discussed. After discussion it was decided that an additional header should be considered for these cases.

They moved on to letters and correspondence. Judge Ramirez talked of the many prison letters that judges receive with requests for error correction. He issues a form letter in response to these letters. However, sometimes things do need to be corrected. A correction procedure is in place for judges. Ms. Murphy suggested the subcommittee should focus on the error correction requests that can be addressed by the clerk.

Ms. Murphy directed members to the disclaimer on the front Web page of WCCA and adding an error correction form for clerical errors. The procedure should be consistent, be responsive, and appropriate. It should also be as simple and straightforward as possible to avoid creating a labor-intensive job for the clerks, yet require a response to the requestor.

### Draft Error Correction Procedure

The disclaimer on the first page of WCCA page was discussed. Subcommittee members agreed that the last paragraph in the disclaimer (see Figure 1) be removed. The text is unclear and not likely to be read. Instead, a link to an FAQ regarding error correction and to the form discussed above would be below the disclaimer.



The text for the FAQ was discussed. Ms. Murphy provided a draft of suggested text. After discussion, all members agreed to the following text for the introduction on the FAQ:

*An error on the Wisconsin Circuit Court Access (WCCA) Internet site results from an error in the underlying court record in the county responsible for the case. Errors are corrected only when the original case record is changed by the court official responsible, usually the clerk of circuit court or circuit court judge.*

*If you are currently represented by an attorney, your lawyer should request the correction.*

*The clerk of court **may** be able to correct information, such as:*

- *Typographical errors*
- *Inconsistent information*
- *Paper filed but not recorded*
- *Errors or omissions in your personal information*
- *Financial transaction (language to be drafted)*

*Changing certain information **will require** formal court action, such as:*

- *Sentencing information*
- *Court activity information*
- *Satisfaction of judgment*

Alias names were brought up. Mr. Fox asked if people understood that WCCA is an archived summary of cases and is there a way to make this clearer? Ms. Murphy requested he draft some language and e-mail to her to share with the rest of the members at the next meeting.

Ms. Evenson questioned a draft bullet regarding "payment made". She wanted more clarification if the bullet was going to be used. "Action taken but not shown on court record" may cause confusion. After discussion the bullet was changed to "Paper filed but not recorded". The bullet regarding payments was discussed further. Ms. Evenson and Ms. Murphy will work together on payment language, bringing it back to the next meeting.

Procedures for error corrections by the clerks of circuit court were discussed. Any procedure recommended for the clerks needs to take into account that there are workload issues involved and provide clear instructions. All requests should be by fax or regular mail, not by phone or e-mail.

### **3. Retention recommendations**

Ms. Murphy went over statistical reports and explained them to the subcommittee. The reports contained information on the number of cases filed and disposed, and median age at disposition for all case type categories. This information may be helpful in considering WCCA retention times for civil and family cases which were among the case types carried over from the November meeting.

She reported that very few civil cases are dismissed for failure to serve or join the other party. It does not appear that there is any reason to set a shorter retention time for these cases. The subcommittee went on to discuss whether reconciled divorce cases should have a shorter WCCA retention schedule than the 30+ years required by SCR 72. Pros and cons were discussed. Ms. Murphy reported that out of 21,000 divorce cases disposed in 2004, about 800 were completed in the first 90 days. Because the statutes require more than 90 days to complete a divorce we can assume that these cases were dismissed.

Judge Ramirez feels lowering the WCCA retention time for dismissed divorce cases shows the public the court believes it's not their business anymore. He gave examples of families that didn't end up in divorce, but their case was still on WCCA for the public to see. Mr. Fox gave reasons to keep the retention schedule the same. For example, removing them from WCCA makes it harder for newspapers to track. Also, when you begin making exceptions, where will the line be drawn?

Mr. Fox pointed out that issues do not come to a head until after the 120 days. He would like to see the cases remain on WCCA at the current retention. Attorney Bensky recommended keeping the data online, but without the names. Ms. Gervasi pointed out that family records are not confidential.

Three proposals came from the subcommittee – set a shorter retention time on WCCA for all dismissed divorce cases; set a shorter retention time on WCCA for divorce cases dismissed less than 90 days after filing; or keep WCCA retention as it is. The subcommittee agreed to defer this vote until next meeting, hoping that more members will be present. Ms. Murphy will try to bring more detailed statistics regarding dismissed divorce cases to that meeting.

### **Retention schedule**

The committee discussed dismissed small claims. Ms. Murphy said that four hundred cases in her district were sampled for: dismissed/uncontested, and dismissed on the merits. Most counties have about 20% of their cases end in dismissals, but in one county the dismissal rate is 40%. These are court records that under SCR 72 can be destroyed after one year. Ms. Evenson said they are purged regularly.

Atty. Bensky suggested that the subcommittee keep the WCCA retention schedules consistent with the SCR 72. Currently, there is a longer retention time for dismissed small claims on WCCA than the Supreme Court rules. He said that he thought it was agreed by the group that the WCCA Internet site record should not exist longer than the paper record.

There was discussion regarding case types where the WCCA retention is currently longer than the SCR minimum. The subcommittee reached a consensus that the WCCA retention should not be longer than the existence of the physical record. However, it was agreed to recommend that the record would not be removed from WCCA until the clerk notifies CCAP that the underlying circuit court record has been destroyed.

Attorneys would like to be able to tell their clients when the records are going to be removed from WCCA. The unanimous recommendation is that the record will remain on WCCA as long as the underlying court record is kept in the county, but no longer.

Ms. Evenson would like to be sure related issues are being noted, for example, clerks in different counties are keeping paper records for various lengths of time. What kind of problem does that create? Mr. Brooks stated that there is a CCAP field that can be used to report when a record is transferred to the Historical Society or destroyed. The Director's office will have to work with clerks of circuit court on this issue.

### **Other case types**

The subcommittee will recommend to the Records Management Committee that OWI and Ch. 980 case records need to be kept longer. Dismissed family cases will be revisited.

Mr. Brooks asked if financial obligations need to stay online or not after the retention time. Ms. Murphy requested a footnote saying "retention extended for cases where financial penalties are due and owing". The subcommittee agreed.

**4. Assignment of Workgroup**

Ms. Murphy requested a couple of more volunteers to work on recommendations for the strategic changes to WCCA and SCR 72. Mr. Fox, Atty. Laabs, and Chief Myers have volunteered. Atty. Thompson will be asked to serve on the workgroup.

**5. Recommended Exceptions**

The subcommittee discussed mistaken identity and identity theft issues. It has been suggested that these cases be retained on WCCA only until confirmation of the misidentification. The subcommittee has also been asked to consider the possibility of reduced retention time or prompt removal from WCCA of criminal cases where the defendant is acquitted or charges are dismissed.

Defendants acquitted of a crime become “victims” with their name on the Internet associated with a crime they were not convicted of. The subcommittee discussed some specific cases of acquittal. Subcommittee members also discussed identity theft and mistaken identity. Removing the identifying information is a possible solution.

Atty. Bensky feels having a lot of this information on WCCA causes problems for many people making it difficult to get jobs, etc. He voiced his reasons for shorter retention for those found guilty as well, distinguishing between cases dismissed or not.

The subcommittee would like to see any recommendations made by the other subcommittee regarding how to deal with identity theft and mistaken identity. The consensus was that redacting the identifying information would alleviate the damage to the defendant. Regarding acquittal and dismissal cases, most of the group agrees these should be dealt with as content issues rather than retention issues. A header such as those being recommended for other problems may be the best way to handle this.

Atty. Bensky will put together his recommendations for shorter retention to discuss at the next meeting when more members are present. All members are to review the draft error correction form in the materials to prepare for discussion at the next meeting.

The meeting was adjourned at 2:21 p.m.