

January 4, 2012

Julie Rich
Supreme Court Commissioner
PO Box 1688
Madison, WI 53701-1688
VIA E-MAIL

RE: Rule Petition 11-03 – In the matter of repeal and recreation of SCR 70.38 -
70.39, relating to court security and facilities

Dear Ms. Rich:

As the petitioner, the PPAC Subcommittee on Court Security writes in a response to your letter dated December 9, 2011. After consideration of the issues and questions raised in that letter, the subcommittee wishes to submit the following changes to Rule Petition 11-03. Suggested additions are underlined and suggested deletions are noted by strikethrough.

SCR 68.01 Purpose.

(1) This chapter is promulgated by the supreme court to promote communication among circuit courts, county officials, court planners, architects and contractors concerning court facilities issues. It recognizes the constitutionally appropriate participation of the circuit courts in addressing their facilities needs and priorities within the constraints established by funding limitations and budget priorities. This chapter recognizes the court's authority to direct activities and policies of the director of state courts and the judiciary. It is intended to assist counties and courts in making sound decisions about the court facilities that serve the citizens of their Wisconsin communities.

SCR 68.05 Security and Facilities Committee:

68.05(1)(h): One representative of the criminal defense bar or a Wisconsin State Public Defender

In regards including one or more members of the public on the security and facility committee:

(2) In the absence of a presiding judge or if the presiding judge is unable to act, the chief judge of the judicial administrative district in which the county is located shall act on behalf of the presiding judge under this subsection.

COMMENT [revised]

The creation of a committee which includes all of the designated persons is essential to achieve the overall goals of these standards. The purpose of this rule is to insure that the court system is proactive, geared to prevention, not merely reactive, responding to violent, perhaps tragic, incidents. Committees are encouraged to consider if it is appropriate to include a member of the public on the committee.

In regards to carrying a concealed weapon:

68.05(1)(i) A notice to the public and employees regarding prohibited items not allowed in the facility and warning that persons entering the facility are subject to search. [new]

COMMENT

The committee considered the enactment of 2011 Wisconsin Act 35 and concludes that (i) provides authority to address carrying a concealed weapon in court facilities.

In regards to completing and submitting a judicial profile to local law enforcement:

SCR 68.05(4)(s):

(s) A procedure whereby each judge and circuit court commissioner may complete and submit ~~completes and submits~~ a judicial profile to local law enforcement and provides annual updates. [new]

COMMENT [revised]

The U.S. Marshal Service Judicial Profile provides a good template for judicial officers. It is important to note that this profile is subject to the Wisconsin public records law Wis. Stat. 19.31-19.39 and it cannot be guaranteed that all of the information collected in this profile can be kept confidential. ~~The Director of State Courts has requested an opinion from the Wisconsin Attorney General's office addressing the impact of the Wisconsin Public Records Law and the information contained in the profile.~~

SCR 68.06 Security: Structure and Design

(2) Entrances. [new]

(a) Public Entrance. A court facility should have a single entrance with appropriate screening mechanisms in place to screen persons, carry-in items and packages. Screening stations should ~~shall~~ be equipped with a magnetometer, x-ray for packages and carry-in items, duress alarms, and video surveillance. [new]

SCR 68.07 Security: Personnel.

(2) Public Entrance Staffing. The public entrance should be staffed by at least one sworn officer, armed with a triple retention holster and access to law enforcement band radio and other qualified court security officers as necessary. At least one sworn officer should be available to patrol the public areas and assist with public entrance staffing as needed. [new]

COMMENT [revised]

~~These standards, like this chapter, are advisory in nature and intended to encourage implementation of best practices.~~ The presence of sworn officers serves as a deterrent to violent outbursts and provides the ability to respond to incidents that may arise. In this respect, the open and obvious presence of uniformed officers is an example of basic court security principles designed to *deter* those intent on harm, *detect* those who have breached security and *limit* the damage caused by the breach. It is impossible to predict the type of case that might lead to a violent incident. Therefore, it is essential to provide court security for all types of cases. The National Center for State Courts *Steps to Best Practices for Court Building Security* (2010) considers the presence of sworn officers at the public entrance an extremely important area of security that provides a foundation for the implementation of additional security measures throughout the court facility.

Please do not hesitate to contact either of us should you have any questions about the recommended changes.

Sincerely,

Hon. Michael O. Bohren, Chair
PPAC Subcommittee on Court Security
Waukesha County Circuit Court

Hon. Sarah O'Brien, Chair
PPAC Subcommittee on Court Security
Dane County Circuit Court

Cc: Wisconsin Counties Association
Wisconsin State Public Defender