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**In the matter of repeal and recreation  
of SCR 70.38 – 70.39, relating to  
court security and facilities****MEMORANDUM  
IN SUPPORT OF  
PETITION**

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The Director of State Courts hereby petitions this court to repeal SCR 70.38 – 70.39 and create a rule chapter governing circuit court security and facilities, pursuant to the court's rulemaking authority under §751.12 and the court's administrative authority over all courts conferred by Article III §3 of the Wisconsin Constitution. This petition is submitted on behalf of the Planning and Policy Advisory Committee (PPAC), which is the court's advisory committee on planning initiatives, the administrative structure of the court system, and advise on the expeditious handling of judicial matters in the future.<sup>1</sup> The goal of this chapter is to promote communication among circuit courts, county officials, court planners, architects, and contractors concerning court facilities and security 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 is intended to assist counties and courts in making sound decisions about court facilities that serve citizens of their Wisconsin communities.

Overview of Court Security and Facilities in Wisconsin

Court safety and courthouse security in Wisconsin's courthouses is a top priority. In 1994, PPAC initiated a review of facility, security and staffing issues in the circuit courts. The result was Supreme Court Rule 70.39, adopted in June 1995, establishing facility, security and staffing guidelines. The rule intentionally did not require counties to implement specific security measures or facility design components due to the joint funding of circuit court operations by the state and county. Since the adoption of the rule, PPAC has collected information twice a year from each county to measure the courts' progress in complying with these guidelines, and to obtain detailed information about security incidents involving judges and other court staff. The data collected by PPAC has proven useful in maintaining voluntary compliance with SCR 70.39, in sharing information between counties as they undertake new facility construction or security initiatives, and in documenting security incidents to demonstrate to county officials the need for enhanced courthouse security systems.

The issue of court security impacts everyone who enters the courthouse. Court security was identified as a top priority in PPAC's biennial report entitled *Critical Issues: Planning Priorities for the Wisconsin Court System 2006 – 2008*<sup>2</sup>. Priorities were identified through a survey of internal and external court system stakeholders including the judiciary, court commissioners, clerks of circuit court, court system staff, and the general public. PPAC created a state level

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<sup>1</sup> Wisconsin SCR 70.14.

<sup>2</sup> PPAC's full biennial report *Critical Issues: Planning Priorities for the Wisconsin Court System 2006 – 2008* can be found at: <http://wicourts.gov/about/committees/docs/ppac0608report.pdf>.

policy subcommittee to review the standards in SCR 70.38-70.39 and determine if it needed to be updated or modified. The first phase of subcommittee work was the undertaking of a comprehensive survey of counties to gather the most up to date and comprehensive data on court security measures and procedures employed at the local level. Specifically the subcommittee inquired about the extent to which standards put forth in SCR 70.39 are being used, if the semi-annual reporting process to PPAC is useful to the local security and facility committee, how this process could be improved to meet local needs, and what needs or concerns exist at the local level that are not being addressed in SCR 70.39. Information from the “*State of Security*” in *Wisconsin Circuit Courts Report*<sup>3</sup> served at the foundation for subcommittee work especially when considering revisions or enhancements to SCR 70.39.

### Responses of other State and Federal Courts

Responses to court safety and security have varied state by state. Levels of awareness and preparedness have changed over the past decade due to an increased perception that attacks and incidents occurring in a courthouse are increasing. Courtrooms are often the setting for highly emotional, unpredictable and even hostile confrontations. The risk of danger is not limited to any particular case type or courtroom. Nor is it limited to a court proceeding. Often incidents occur in public hallways, in the lobby, or in non-court related offices that are located within the court facility.

While the subcommittee did not review rules, procedures, and practices in other states, it did rely heavily upon the U.S. Marshals Service and resources from the National Center for State Courts. The U.S. Marshals Service is responsible for coordinating security of the judiciary (both inside and outside of the courthouse), the staff, the prisoners and the public in federal courthouses as well as providing funding for training, security equipment, and security systems for the physical space the federal judiciary occupies. The federal government goes into great detail to require specific design and building requirements for federal courthouses. The U.S. General Service Administration publishes the U.S. Courts Design Guide<sup>4</sup> which provides uniform guidelines for the design, construction, and maintenance of federal courthouses.

### Proposed New Chapter on Court Security and Facilities

When the subcommittee completed its research and analysis of the *State of Security Survey*, it shifted its focus to the analysis of SCR 70.38 – 70.39. After thorough review, the subcommittee recommended the creation of a separate chapter on Court Security and Facilities to PPAC. A separate chapter will recognize the importance of security policy and procedure development, implementation and monitoring as a function of the judiciary while also recognizing the cooperative relationship between the state and counties in the construction and maintenance of Wisconsin’s courthouses. The subcommittee paid particular attention to the original intent of the rule and avoided making any changes or additions that would *require* counties to implement specific security measures or facility design features. Many of the revisions include updates of technical specifications and requirements, stress the importance of a sectoring system of public, restricted, and secure access by designated parties, and encourage perimeter screening. Many of the comments were also updated and others were shortened in the interest of brevity. Modifications are summarized by category below.

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<sup>3</sup> The full report can be found at: <http://wicourts.gov/about/committees/docs/ppacstateofsecurityrpt.pdf>.

<sup>4</sup> The U.S. Courts Design Guide can be found at: [http://www.gsa.gov/graphics/pbs/Courts\\_Design\\_Guide\\_07.pdf](http://www.gsa.gov/graphics/pbs/Courts_Design_Guide_07.pdf).

*Definitions.* The committee recognized that as a level of security developed in courthouses, the types of staffing has also changed. Many counties employ non-sworn officers in security positions. Additionally roles and responsibilities for court security and management vary based upon the type of staffing being employed.

*Security and Facilities Committee.* Adjustments have been made to the membership of the local committee to insure that the committee has all available information and viewpoints necessary to monitor facilities and security. One significant revision is the enhanced role and responsibilities of local security and facility committee. Responsibilities have been expanded to provide guidance to local policy makers charged with establishing a safe environment for the public and staff. Specific additions include the development of a system of recording and reporting threats and incidents that occur in a court facility as well as a system of reporting and responding to actual threats made to judicial officers, family, and staff. The ability to collect and analyze this data will aid the judiciary in maintaining a safe work environment, and assist in planning both locally and statewide.

*Facilities.* The proposed chapter addresses court design and emphasizes separation of populations as the starting point for a safe court structure and stresses that all persons entering the courthouse should go through weapons screening. Design requirements, specifically related to the size of the facility and its key areas, have been updated to reflect the current and anticipated future needs of the judiciary. Subcommittee members conferred with architects who have worked on both federal and Wisconsin courthouse design and construction as to current trends, feedback about SCR 70.39 and its influence upon their work. The subcommittee also referred to federal courthouse design requirements<sup>5</sup> and information gleaned from the 2009 Court Safety and Security Conference. Enhancements were made to specific areas in recognition of the complexity of litigation, the use of technology, accessibility requirements, and the need to maintain public access to the court system.

*Media Room.* Due to the changes in the way the media conducts business, the subcommittee eliminated the recommendation for counties with 6 or more branches of court to provide an area for media representatives.

*Staffing.* The subcommittee did not review this section. Per SCR 70.39, the review of staffing requirements is the responsibility of the judicial conference. Therefore no changes were made to this section.

*Centralized Data Collection.* The subcommittee calls upon the Director of State Courts to work with the counties in developing a standard process of recording and reporting incidents and threats. A centralized repository should be created for data on the frequency and type of threats made to the judiciary and their staff, problems encountered involving safe transport of in-custody defendants, techniques to prevent and quell violent outbreaks in courtrooms and similar threats. It is important to collect this data for a number of reasons. Data collected should be shared with security and facilities committees across the state to enhance each county's security and to

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<sup>5</sup> The *Whole Building Design Guide for Federal Courthouses* can be found at: [http://www.wbdg.org/design/federal\\_courthouse.php](http://www.wbdg.org/design/federal_courthouse.php).

implement innovative security measures at the state and local level. A central database is foreseen to monitor trends and assist courts and counties in being proactive.

Conclusion

Safety in Wisconsin's courthouses is a top priority. The Wisconsin Court System is known for its innovation and attention to the security needs of the circuit courts. The development of SCR 70.39 was one of the first in the nation. The repeal of 70.38 – 70.39 and the creation of a separate chapter on court security and facilities stresses the importance of court security and facilities while providing the court system with guidance and flexibility in policy development and facility construction.

Respectfully submitted this \_\_\_ day of \_\_\_\_\_, 2011.

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A. John Voelker  
Director of State Courts