

**WISCONSIN CIRCUIT COURT ACCESS (WCCA)
OVERSIGHT COMMITTEE**

MINUTES

October 14, 2005
12:30 p.m.

G.A.R. Room
Wisconsin State Capitol
Madison, WI

MEMBERS PRESENT: A. John Voelker, Director of State Courts; John Barrett, Milwaukee County Clerk of Circuit Court; Attorney Larry Bensky; Jean Bousquet, CIO CCAP; Attorney Mary Burke, Department of Justice; Judge Gary Carlson, Taylor County; Attorney Richard Dufour, Marquette County District Attorney; Carolyn Evenson, Waukesha County Clerk of Circuit Court; Sheryl Gervasi, Deputy Director for Court Operations; Judge Charles Kahn Jr., Milwaukee County; John Laabs, President Wisconsin Broadcasters Association; Bill Lueders, President Wisconsin Freedom of Information Council; Attorney Gerald Mowris; Kathleen Murphy, District Court Administrator; Chief Rick Myers, Appleton Police Department; Judge Dale Pasell, La Crosse County; Judge Ralph Ramirez, Waukesha County; Sheriff Randy Roderick, Green County; Representative Marlin Schneider; and Attorney Kelli Thompson, State Public Defenders Office.

OTHERS PRESENT: Robbie Brooks, CCAP; and Lori Irmen, Director of State Courts Office.

MEMBERS ABSENT: Carole Doeppers, Government Privacy Consultant; Peter Fox, Executive Director Wisconsin Newspaper Association; Representative Donald Friske; and Gregg Moore, District Court Administrator.

Mr. Voelker welcomed the members to the meeting. He noted that Richard Dufour, Marquette County District Attorney, will be replacing Susan Karaskiewicz on the Committee.

1. **Approval Of Minutes**

Rep. Schneider made a motion that the minutes be approved as submitted. Judge Carlson seconded the motion. The motion carried unanimously.

2. **Subcommittee Reports**

a. **Content/Access**

Judge Carlson said he chaired the meeting in the absence of Mr. Moore. He said the subcommittee discussed what information should be removed from or added to WCCA, as well

as what information should be clarified. Judge Carlson said discussions were separated into two categories – information from within the case file and types of cases.

Judge Carlson said the subcommittee discussed the possibility of removing these items from within the case file in criminal/felony cases:

- Charge history
- Home addresses
- Date of birth (DOB)
- GAL
- Race field
- Aliases
- Additional Text
- Future Activity

Judge Carlson said the subcommittee discussed the possibility of adding these items:

- Electronic documents
- Identifying demographic information
- Digital audio files
- Glossary of terms

Judge Carlson said the subcommittee discussed providing additional clarification regarding these items:

- Employer discrimination laws
- Case Summary

Judge Carlson reported the subcommittee then discussed case types that could possibly be removed from WCCA. They discussed:

- Dismissed Cases
- Sealed Records
- Frivolous Multiple Cases
- Dismissed Restraining Orders
- Civil Cases – Family
- Case Identifiers
- Expunction

Judge Carlson said the subcommittee agreed charge history, with modifications, should remain on WCCA. He said they determined the information is important because it accurately reflects what court events occurred. However, they support the approach that the convicted charge would appear in an executive type summary and the original charges would be available further into the record, requiring a click by the user. Judge Carlson further explained the summary would provide more clarification on the outcome of the case and if the case is dismissed, further

definition of the reason for the dismissal should be displayed. Ms. Bousquet said she would develop a mock summary for the next meeting.

Judge Carlson said the subcommittee agreed to status quo on the date of birth. The full date of birth is listed for criminal cases and the month/year, minus the date, is listed for non-criminal cases, if it has been entered into the CCAP management system.

Judge Carlson said the subcommittee discussed the removal of home addresses for people that had personal safety issues. They concluded that a petition procedure should be developed and a judge should make the decision. They further agreed a statewide form should be developed but a petition would need to be done for each case and in the originating county. Judge Carlson said a key requirement would be the presence of a demonstrated threat and noted that holding a particular position, such as an elected official or law enforcement, would not be justification alone. Ms. Gervasi asked how many petitions are expected to be filed and if a hearing would be required. Judge Carlson said they do not know how many will be filed and he does not anticipate that a hearing would be necessary. Atty. Dufour asked why the address is on the website in the first place. He said he is aware the information is part of the court record but if it were not available online, inquiries would need to be made at the courthouse where some type of accountability is in place. He also thought it was unlikely that people even know their address is listed and that there might be a process to remove it. Judge Carlson said the address is listed because it is identifying information. He said it is planned to have the process outlined on the FAQ page. Judge Kahn noted the subcommittee did not specifically determine or define all of the grounds needed to remove the address so further discussion is needed.

Judge Carlson said the subcommittee discussed the future possibility of having electronic documents available on WCCA, such as citations and complaints. He said the subcommittee identified several concerns, including how certain information contained within the documents would be protected. The subcommittee discussed that there would need to be a way to segregate out certain information, such as social security number, from the documents and clerks' offices do not have the resources to redact the information. Judge Carlson said the subcommittee identified many issues with that and will be recommending that another committee be formed to address those matters. Rep. Schneider said future technology also should be anticipated, such as video availability. He asked about DNA evidence and asked if a digital record can be kept and accepted as evidence in court. Ms. Murphy said it might be possible with some documentary evidence but most of the original evidence must be stored somewhere. Judge Carlson said there is a Wisconsin statute that requires all biological evidence to be kept virtually forever. He thought in the future it might be possible to accept electronic evidence but legislative action might be required. Atty. Mowris asked what the advantages would be of having this information available online and commented it might not be the best route to take. Judge Carlson said currently records are being scanned because of physical space issues. He said if the electronic records are available, the paper records could possibly be destroyed, as storage space is a growing concern. He also said the information would be easier to find instead of searching through the paper court file. Ms. Bousquet said with the inception of e-filing, the courts are already accepting electronic documentation. She said it is possible to hide certain information if the electronic documents are properly formatted with XML data. Mr. Barrett said the clerk's office spends an enormous amount of time searching through court records and

having them available electronically would greatly improve efficiency. However, he said whether or not that information should be on the internet is another matter. Chief Myers said the WCCA website was designed for public access and it has somewhat become a tool for practitioners in the justice system. He said there are many documents that practitioners, law enforcement, and others involved in criminal justice system should have access to but the public should not. He said currently justice partners can only view data from their own county and he believes that should be expanded.

Judge Carlson said the subcommittee discussed the structure of the case number and because the case is labeled at the onset, an incorrect assumption can be made from that. He said they talked about the possibility of adjusting the case number as the case moves through the system or at final disposition, i.e. 2005CF001 to 2005CM001, if a felony case was amended to a misdemeanor. However the subcommittee agreed that process would cause significant case management issues and would be difficult to achieve.

Judge Carlson said at the next meeting, the subcommittee will likely focus discussions on the removal of particular case types.

b. Retention/Accuracy

Ms. Murphy said at the last meeting, the subcommittee spent most of the time identifying issues. At this meeting they began discussing them one by one. She said it is apparent that some issues do overlap with the content/access subcommittee. She said they discussed case types, charge history and disclaimers as well as the need to accurately reflect the information. She said they talked about the importance of maintaining technically correct data as well as projecting an accurate impression. Ms. Murphy suggested the subcommittees identify the overlapping areas and perhaps schedule a joint meeting to discuss them.

Ms. Murphy said the subcommittee debated the first issue at some length. She said the subcommittee identified several areas of concern regarding implementation but did agree in principle that information should not be on WCCA for public access if the underlying case is not available in some form at the court level. However, they did not necessarily agree vice versa, that a case should be kept on WCCA as long as the court file is available. Ms. Murphy said the subcommittee acknowledged that SCR 72 was enacted in 1989 and in light of the technology available today, it should be reviewed. Ms. Murphy said the subcommittee agreed they would not be the appropriate entity to draft a petition for SCR amendments but will be making recommendations for changes that are based on the public information aspect. She said she will be collecting comments from members and compiling them for discussion at the next subcommittee meeting.

Ms. Murphy said the subcommittee also agreed in principle that it would be beneficial to have consistent statewide standards whenever possible. However, she said that principle implies that the maximum retention schedule should be used and many concerns were expressed about that issue. She said SCR 72 was designed to address the business needs of the court and as a result, the retention time period useful to others, such as the police and district attorneys, may be different. Ms. Murphy said they discussed a potential two-tier system for providing access to

the information by justice partners versus the general public. She said the prior retention/accuracy subcommittee did discuss retention schedules but a revisit is warranted.

Ms. Murphy said the retention schedule currently is applied based on the original charge. She said the subcommittee discussed changing the retention schedule for criminal cases and basing it on the charge at disposition instead of the original charge. Mr. Voelker asked if this concept would apply to electronic records, paper records or both. Ms. Murphy said she assumes the subcommittee will discuss both. Atty. Mowris inquired what impact this would have on workload for the clerks of court. Ms. Murphy said the subcommittee discussed this and concluded that it could be done by “flagging” a field in CCAP but the disposal would be done by individual case instead of blocks. She said the challenge lies more with the paper record. Mr. Barrett asked if it might be possible to change the case number format, i.e. CF to CFM if the case was amended from a felony to a misdemeanor. Ms. Murphy said they did not discuss changing the case number or identifiers. She added that by creating a better case summary and displaying the basic disposition, the same result would likely be accomplished. Mr. Barrett said perhaps an extension to the case number for retention purposes might be an alternative. Ms. Bousquet said the case numbering format allows for only two letters after the year of the case. Ms. Gervasi said there could be some issues pertaining to how cases are counted for judicial weighted caseload statistics.

Rep. Schneider inquired about the retention of records for historical purposes. Ms. Murphy said SCR requires that before any record is destroyed it is offered to the State Historical Society and they have the choice whether or not to take them.

Mr. Lueders asked about the retention of dismissed cases and those cases where no decision is issued. Ms. Murphy said there are times when there is no joinder or prosecution is withdrawn. She said it can be debated whether these should be considered court cases. Mr. Lueders said there are situations where there is wrongful prosecution. Ms. Murphy said the subcommittee did discuss those issues but did not reach a consensus. She added they have not discussed the mistaken identity issue yet. Atty. Mowris said improvements in the expunction law could be a useful option in these instances.

Rep. Schneider asked if anyone has discussed the impact a position might have on a person. For example, he can recall that several years ago the Director of HUD was denied a loan because of the connection to numerous lawsuits because of his position. Judge Carlson said anyone looking at those records should be able to differentiate between personal cases and those filed because of their position. Mr. Barrett said normally he would include “acting in official capacity”. Judge Carlson said that would require a discretionary determination made by the clerk’s office. Ms. Murphy said the designation could be requested in the answer. Mr. Barrett suggested maybe that type of information should be included in the pleading. Judge Carlson said that might be possible but it would require a SCR rule change. The subcommittee will add this as an issue to look at.

Ms. Murphy said at the next meeting, the subcommittee intends to concentrate on the accuracy issues. She said they also plan to identify those issues that overlap and either refer their comments to the content/access subcommittee or arrange for a joint meeting to address them.

Mr. Voelker said the next meetings are scheduled for Friday, November 11 and Thursday, December 8. Rep. Schneider he would not be able to attend the meeting on November 11 due to other commitments relating to Veteran's Day. The committee thought it might be worthwhile to offer a possible alternate date for the November meeting. Mr. Voelker agreed to send out an e-mail with an alternative date for committee members to check their availability. He said it is hopeful that the committee will complete its work by the end of the year but thought it would be best to include a January meeting date, with the understanding that it can be canceled if a meeting is not necessary.

The meeting adjourned.