

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 11-03

In the matter of the repeal and recreation of
SCR 70.38-70.39, relating to court security and
facilities.

FILED

MAR 15, 2012

Diane M. Fremgen
Clerk of Supreme Court
Madison, WI

On June 30, 2011, A. John Voelker, Director of State Courts, on the recommendation of the Planning and Policy Advisory Committee (PPAC), petitioned the court to repeal Supreme Court Rules (SCR) 70.38 and SCR 70.39, regarding court security and facilities, and recreate them as a separate chapter of the Supreme Court Rules. The petition states 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 petition notes the rules would continue to be advisory.

On January 11, 2012, the court held a public hearing. At its ensuing open administrative conferences the court approved the petition and adopted the proposed rule, as revised.

IT IS ORDERED that, effective the date of this order, the Supreme Court Rules are amended as follows:

SECTION 1. SCRs 70.38 and 70.39 are repealed.

SECTION 2. SCR Chapter 68 is created to read:

SCR CHAPTER 68

COURT SECURITY, FACILITIES, AND STAFFING

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 supreme court and circuit courts in addressing their facilities and staffing 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 of 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.

(2) This chapter does not create a fixed standard. It is intended to be a statement of general purpose and procedure which establishes a flexible framework for courts' participation in decision-making regarding court facilities while recognizing the wide range of needs and circumstances which exist in counties across the state.

(3) The standards in this chapter apply to existing court facilities, to the construction, remodeling and relocation of court

facilities and to the review and approval of court facilities under SCR 68.03 (2) and (4).

COMMENT

SCR Chapter 68 is the culmination of an administrative rule petition filed by the Director of State Courts on behalf of the Planning and Policy Advisory Committee ("Petitioners") on June 30, 2011. Subsequent to the filing of the rule petition the Wisconsin Legislature enacted 2011 Wisconsin Act 35 (the "concealed carry" legislation) on July 8, 2011. The Petitioners advised this court that 2011 Wisconsin Act 35 was deemed beyond the scope of Chapter 68 and that this Chapter is not intended to address issues presented by 2011 Wisconsin Act 35 or regarding the constitutional right to bear arms.

SCR 68.02 Definitions. (1) In this chapter:

(a) "Committee" means the security and facilities committee under SCR 68.05.

(b) "Court facility" means the facilities used in the operation of the circuit court including without limitation the courtroom, court chambers, the office and storage area of any court commissioner, court reporter, clerk of circuit court, register in probate, clerk of juvenile court, family court counseling, the jury room, jury assembly areas, judicial staff areas, areas that may affect the security of a court, court staff and the public using a court, areas used for access to a court and any other facilities used in the operation of a court, where court proceedings are conducted or judicial staff is housed.

(c) "Presiding judge" means the judge appointed under SCR 70.265 or means the judge in a single branch circuit.

(d) "Should" is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.

(e) "Judicial officer" means a circuit court judge or court commissioner.

(f) "Sworn officer" means a deputy sheriff or police officer.

(g) "Court security officer" means a non-sworn officer whose principal function is to provide security in and about the courtroom and court facility.

(h) "Court aide" means a civilian who works with juries, provides routine information and directions to the public, and assists the court.

SCR 68.03 Remodeling, construction, or relocation of court facilities or personnel. (1) The circuit judges shall promptly notify the chief judge of the judicial district, in writing, of the county's intent to remodel, construct or relocate any court facility or to relocate any court personnel.

(2) The circuit judges and the chief judge, in cooperation with appropriate county officials, shall review any proposals under sub. (1) together with any drawings or plans. The circuit judges and the chief judge shall participate in the planning process to ensure that the proposals under sub. (1) are consistent with current court facility standards, including those relating to functional design, audio-visual and acoustical adequacy and security of the courts and the public, and that they conform to the requirements of the

Americans With Disabilities Act and other federal, state and local laws.

COMMENT

The technical requirements of the Americans with Disabilities Act are beyond the scope of these standards. Compliance with federal law requires certain accommodations to be included in all projects.

(3) The director of state courts shall provide technical assistance and advice on any proposals under sub. (1), within the resources available to the director's office.

(4) The chief judge shall review every new, remodeled or relocated court facility and grant or deny approval for its use, subject to review by the supreme court.

(5) No circuit judge or court staff may occupy a new, remodeled or relocated court facility until the court facility is approved under sub. (4).

SCR 68.04 Judicial Officer Authority. Day to day security decisions and case specific security are within the discretion of each individual judicial officer. The judicial officer shall consult as needed, with the chief judge, the sworn officers, or the court security officers.

COMMENT

This provision confirms the authority of a presiding judge in his or her own courtroom. See, e.g., Stevenson v. Milwaukee County, 140 Wis. 14 (1909).

SCR 68.05 Security and Facilities Committee. (1) The presiding judge for each county shall appoint a security and facilities committee composed of all of the following:

- (a) One circuit judge to serve as chairperson.
- (b) The chairperson of the county board.
- (c) The county executive, county administrator, or administrative coordinator.
- (d) The clerk of the circuit court.
- (e) The county sheriff.
- (f) The district attorney.
- (g) The Wisconsin State Public Defender.
- (h) A circuit court commissioner.
- (i) One lawyer designated by the president of the local bar association. If there is no association, the presiding judge shall appoint a lawyer residing in the county.
- (j) One representative of a victim-witness support organization.
- (k) One representative of the facilities/maintenance department.
- (l) Such other persons as the committee considers appropriate.

A person specified in sub. (b) - (g) may designate a person for appointment to the committee in his or her place.

(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

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.

(3) The committee shall meet quarterly.

(4) The committee shall coordinate and develop general court security and facilities policies and key activities including:

(a) The submission of reports to the Planning and Policy Advisory Committee on security threats and incidents and on courthouse construction, remodeling and security innovations.

(b) A policy for the secure delivery of mail, other items, and supplies to all offices in court facilities.

(c) A policy for the issuance, control, and collection of keys and electronic access devices for each court facility, governing access before, during and after business hours.

(d) A policy to control access to court facilities for third party subcontractors and vendors.

(e) An annual training program, in coordination with the county sheriff, for all employees and staff.

(f) Procedures for a sworn officer/court security officer to patrol the halls and public areas.

(g) A policy regarding possession of firearms by law enforcement officers who appear as witnesses, litigants, or who are present on personal business in the court facility.

COMMENT

There is a difference of opinion whether sworn officers or law enforcement officers who appear as witnesses, litigants, or on

personal business should be permitted to carry a firearm in court facilities.

(h) A list of prohibited items not allowed to be brought into the court facility.

(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.

(j) A procedure to calibrate screening equipment consistent with manufactures' directions.

(k) A plan for dealing with disruptions at court proceedings, including trial and pretrial, involving particularly dangerous or disruptive litigants.

(l) A policy for searching each courtroom or other vulnerable area for explosives or other dangerous instrumentalities before the commencement of court proceedings each day.

COMMENT

The need for this regular practice is greatest in those counties where courtrooms are used for non-judicial purposes on evenings and weekends.

(m) A preparedness plan for disasters impacting or affecting court operations in coordination with the local emergency management department.

(n) A procedure to review features of the buildings' exterior with security features in mind, such as an electronic surveillance system and external lighting.

COMMENT

The dangers created by external features of a court facility building may be significant. Wide variations among counties as to their local needs and the designs of their courthouses render a uniform standard impracticable. Each committee should assess risk factors and consider solutions to minimize danger.

(o) A policy for the monitoring and surveillance of all parking areas including public, employee, and other designated parking areas. The committee should consider establishing a policy governing motor vehicles in close proximity to the court facility and a policy to establish barriers preventing vehicular access to the facility.

COMMENT

The best practice is to prohibit vehicular parking close to the building but this standard may not be attainable in many counties.

(p) A juror safety policy.

COMMENT

Jurors must be safeguarded from those who would seek to intimidate or engage in reprisals. Juror safety issues may extend outside the court facility and beyond the time of trial.

(q) A system of recording, reporting, and responding to incidents occurring in court facilities.

(r) A system of recording, reporting, and responding to threats made to judicial officers and court staff and their families and others associated with the court as a local rule under SCR 70.34.

COMMENT

A systematic reporting procedure for threats to judicial officers, court staff or their families should be established in each county. This serves the beneficial purpose of allowing persons other

than the object of the threat to assess its seriousness, as there may be a tendency by the person threatened to minimize it as "part of the job." The policy should designate the person to whom threats are to be reported, establish the responsibility for investigation or other response and provide for the retention of records of all reported threats.

(s) A procedure whereby each judicial officer may complete and submit a judicial profile to local law enforcement and provides annual updates.

COMMENT

The U.S. Marshals Service Judicial Profile provides a good template for judicial officers. It is important to note that this profile may be subject to the Wisconsin public records law, Wis. Stat. 19.31-39, and it cannot be guaranteed that all of the information collected in this profile can be kept confidential.

(t) A policy for periodic security audits.

COMMENT

The U.S. Marshals Service is an excellent resource on court security and has expertise to assist counties with security planning and evaluation of existing safeguards.

(u) A policy on money collection and safeguarding of money.

COMMENT

Clerks of court collect substantial amounts of money. An enhanced protection program for these funds will not only safeguard the taxpayers' treasury but will also deter any efforts to engage in violence for financial gain.

(v) A policy for the handling and storage of firearms, other dangerous instrumentalities and contraband received as evidence during court proceedings.

COMMENT

Documents and other exhibits received during judicial proceedings must be safeguarded as part of the court record. Certain items of evidence present reasons for special attention to their handling during breaks, overnight in multi-day proceedings and following the conclusion of the proceeding in which they are introduced.

(w) Consideration of whether the committee can assist the municipal courts in its county in security matters.

COMMENT

Municipal courts generally are not located in the county courthouse but convene in various public buildings. All courts share certain basic security concerns. If the committee is considering municipal court security or facilities the committee should consider appointing a municipal judge as a committee member.

SCR 68.06 Security: Structure and design. (1) A court facility housing courtrooms should have a sectoring system that divides the building into the following 3 types of areas according to the nature of access to them:

(a) Public areas where the general public has relatively free access.

(b) Restricted access areas where generally only the following are permitted access: judicial officers, jurors and designated personnel.

(c) Secure access areas where only prisoners and law enforcement personnel are permitted.

(2) ENTRANCES. (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 be equipped with a magnetometer, x-ray for packages and carry-in items, duress alarms, and video surveillance.

(b) *Restricted Access Entrance*. All judicial officers and designated personnel should enter through a secure and separate entrance equipped with screening the same as the public entrance in sub (1).

(c) Entrances other than the public entrance should be secured and access limited.

COMMENT

Any new court facility should incorporate sectoring principles if it is to provide the most basic security that can be attained through structural design. Existing facilities present a wide range of structural variations that create obstacles to the use of sectoring principles. However, in many existing courthouses there are opportunities to achieve some sectoring that will improve security. In addition, remodeling projects undertaken for non-security purposes offer cost-efficient opportunities to enhance the overall sectoring of a courthouse.

Secure prisoner transport and holding areas eliminate any prisoner interaction with the public until they are in a courtroom and are critical to the safety of the public, court staff, and the

prisoners themselves. The need for an area where attorneys can meet with their clients should be considered in the design.

(3) COURTROOMS. A courtroom should be constructed to include all of the following:

(a) A single public entry that accommodates a security checkpoint for use as needed.

(b) Entrances for judges and court staff that are adjacent to the bench and entrances for jurors that are as close to the jury box as possible.

(c) Other access to the courtroom, such as windows or maintenance access, that inhibits unauthorized entry.

(d) A judge's bench should be of a size and height to deter physical attacks, shall have a built-in bullet-resistant barrier of the highest threat level, and should provide a direct sight line to the public entrance.

(e) Court reporter and clerk stations shall be equipped with a built-in bullet-resistant barrier of the highest threat level.

(f) Lighting panels that are located in areas where only court staff have access to them.

(g) Lighting that enhances safety and is supported by an emergency power source.

(h) A clear separation between the spectator area and the area used by the participants in court proceedings.

COMMENT

Courtrooms have often been the site of violent and tragic incidents, and their design is an important aspect in preventing such occurrences. The personnel and equipment standards in this rule are

also integral parts of the overall security strategy. In the American system of justice, most court proceedings are public and security concerns cannot unreasonably interfere with this principle. However, a design that ensures the opportunity for proper screening of those who enter the courtroom and the proper physical arrangement of those present will create a safer setting in which citizens may exercise their right to participate in or observe public judicial proceedings. A single public entrance to the courtroom makes it easier to screen those who enter, though building codes may require that there be a second means of egress from the courtroom. Construction of courtrooms without windows reduces the security threat from outside the building. When windows are included in courtroom design, care should be taken to shield courtroom participants from outside view.

Because judges are the official representatives of the judicial system, they have often been the targets of violence. Attacks on judges also endanger those working closest to them. A bullet-resistant barrier should be installed in every courtroom to provide a place of increased protection in the event a weapon is displayed. The separation between spectator area and the participants' area should be sufficient to prevent spectators' physical contact with attorneys, litigants and jurors and to ensure the privacy of conversations between attorneys and their clients. If a courtroom is used for proceedings which frequently draw an audience of hostile or contentious individuals, consideration should be given to erecting a physical barrier to the well area which permits spectators to hear

and see the proceedings but not to have physical access to the litigation well.

(4) A jury deliberation room should be located where the public cannot have contact with jurors as they move to and from the courtroom and should be designed to ensure their safety and the secrecy of their deliberations.

COMMENT

Because of the importance of their impartial deliberations, jurors must be safeguarded from those who would seek to intimidate or engage in reprisals. The secrecy of jury deliberations must be guaranteed. Each committee should consider adopting policies on protecting jurors following a trial, juror parking and other matters affecting juror safety.

(5) Any court facility used for court commissioner hearings should be designed in a manner that incorporates the security principles set forth in sub. (3).

COMMENT

The extent to which court commissioners are used varies widely from county to county. In a county where a court commissioner handles criminal and traffic, divorce, small claims or juvenile proceedings, the dangers present while doing so are similar to those facing judges in their courtrooms. All too often, court commissioners are called upon to perform their roles in small, crowded rooms where they are in close proximity to litigants, witnesses and spectators, as well as to attorneys and judicial staff. The dangers must be recognized and reflected in the design of these areas.

The design of court commissioner hearing rooms and office areas and the types of security personnel and equipment needed should be considered by each committee, using the features of courtroom security for guidance and as a measurement in assessing their adequacy.

(6) A secure room in close proximity to locations where criminal, family, juvenile or domestic violence proceedings are conducted should be provided for victim and child witnesses waiting to appear in such proceedings. Child and adult victims and witnesses shall be separated from alleged juvenile or adult offenders, their friends and family members.

COMMENT

This standard is a reflection of the statutory directives in ss. 950.04(1v)(e), 938.2965, and 967.10(2), stats.

SCR 68.07 Security: Personnel. (1) COURTROOM. There should be no fewer than two sworn officers in each courtroom and each court commissioner hearing room when court is in session. The judicial officer may expressly direct otherwise.

(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.

COMMENT

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.

(3) Some counties utilize civilian court aides in addition to or in place of sworn officers or court security officers. It is important that all staff receive proper training in courtroom security techniques and policies developed by the committee.

SCR 68.08 Security: Equipment. (1) Each courtroom and court commissioner hearing room should have a duress alarm system connected to an appropriate law enforcement office that will provide the immediate response of an armed officer. The alarms should also be located in judges' chambers and staff areas, court commissioner office areas and any location in the courthouse where money is collected or stored or where there are other security risks. All alarms should be tested regularly.

(2) Each courtroom should be equipped with a telephone.

COMMENT

Duress alarm systems mounted in an easily accessible location in a courtroom are a basic security device that should be installed in

every courtroom. The system should be connected to an office that provides constant monitoring during all regular hours of courtroom use. The alarms should be able to summon immediately armed law enforcement or court security staff to respond to the emergency prompting the alarm. It is advisable that alarms be installed in other locations having the potential for violent incidents and other breaches of security. Telephones can also be used in medical emergencies and will facilitate telephone testimony and attorney appearances. Each committee should consider the use of surveillance cameras in some or all courtrooms or other areas of the courthouse. However, a camera cannot take the place of a sworn officer in the courtroom. In considering whether to use cameras in addition to security personnel, the committee should determine whether there is adequate staffing to have camera views monitored in real time, the need for additional security officers to be nearby to respond to emergencies, and the advantage of having a recording of courthouse disturbances for evidence purposes.

(3) All officers providing security should be provided with portable metal detection devices.

(4) All officers providing security should be equipped with law enforcement communication equipment.

(5) Each building that houses a court facility should be equipped with a public address system that permits all of its occupants to be given notices and instructions during an emergency.

SCR 68.09 Court Facilities: Planning. (1) The committee should immediately establish a design subcommittee for any contemplated reconstruction or significant remodeling of court

facilities in the county. The committee shall consult with the chief judge. The subcommittee should invite participation by persons not on the committee, including the county public works director or comparable official, the district court administrator; a member of the county board and other persons the committee believes would be of assistance to the specific project.

COMMENT

Having those most intimately affected by a planned project involved from the earliest stages is the single most effective step in assuring that the project will be both functional and cost-effective. The subcommittee should be created prior to and should participate in the selection of an architect and other consultants and should remain involved until the project's completion. The subcommittee should consult with the committee during the design phase. The creation of a design subcommittee is consistent with the underlying purposes of this chapter.

(2) Each county should develop a long-range plan for its court facilities.

COMMENT

This type of plan usually can be developed through the efforts of county staff and judges working cooperatively and without the necessity of expensive outside consultants. Such a plan can reflect local conditions and practices and provide an on-going guide in considering the advisability, scope and other aspects of any contemplated project. Long-term planning is a cost-saving approach to facilities issues.

SCR 68.10 Court facilities: Courtrooms. (1) Each circuit court judge should be provided with a separate courtroom.

COMMENT

While the assignment each day of a courtroom to a judge may in some counties not require that the judge preside in the same location at all times, each judge must have available to him or her a suitable courtroom in which to conduct judicial business.

(2) The minimum ratio between jury and nonjury courtrooms should be as follows:

<u>Number of judges in county</u>	<u>Number of jury courtrooms</u>
1-3	All
4-5	3
6-7	4
8	5
9-10	6
11-12	7
13	8
14-15	9
16-17	10
18	11
19-20	12
Over 20	60-65%

COMMENT

In counties with 4 or more judges, it may not be necessary that every courtroom be designed to accommodate jury trials. However, in some larger counties, because of local practice and judicial rotation plans, each courtroom may need to be a jury courtroom. The 60-65% ratio of jury courtrooms is derived from national standards and experience as the minimum necessary if court business is to be conducted efficiently. In counties where this ratio is currently

exceeded, this standard is not intended to warrant the conversion of jury courtrooms to nonjury courtrooms.

(3) The size of a jury courtroom should be a minimum of 2,000 square feet, including the litigation well (back wall to the rail) of at least two-thirds of the total square footage, and public seating for at least 40 people at 24 inches per seat.

COMMENT

Based on expert, experienced, and professional recommendations, including from architects experienced in courtroom design, jury courtrooms should be at least 2,000 square feet in order to accommodate daily litigation, considering evolving developments in technology and ADA requirements. There should also be at least one jury courtroom of approximately 2,300 square feet available in each county to accommodate complex or multi-party litigation.

(4) Courtrooms should be designed to impress upon the public and the litigants the fairness and dignity of the judicial system.

(5) Courtrooms should include all of the following in addition to the specifications that are set forth in SCR 68.06:

(a) A bench for the judge, elevated at least 20 inches and having a spacious work surface, in a location that permits the judge to enter and exit the courtroom through a private door.

(b) A well-lighted, ventilated and temperature controlled environment, with controls accessible only to court staff.

(c) Microphones and acoustics that will eliminate noise from outside the courtroom and permit all participants to hear one another clearly.

(d) Access flooring and adequate electronic capacity to permit installation or use of evolving technology for multi-media evidence display in the courtroom and communication with parties and witnesses at remote locations. Computers will likely be in use throughout the courtroom by the judge, clerk, court reporter, and counsel and may include a printer for court documents and monitors in the jury box for jurors.

(e) One or more conference rooms at least 125 square feet in size in close proximity to each courtroom.

(f) An elevated witness stand located where the judge, jurors, attorneys and parties, and the court reporter can see and hear the witness clearly.

(g) A clerk's work place located immediately adjacent to the judge's bench to permit private communications and the transfer of documents between the judge and the clerk.

(h) A court reporter's work place located to provide an unobstructed view of all participants and to permit the reporter to clearly hear all statements of the judge, attorneys and witnesses.

(i) In a jury courtroom, a jury box with permanent seating for 14 jurors to provide an unobstructed view of judge, witnesses, parties, attorneys and evidence displays and at sufficient distance to prevent private conversations from being overheard and as far as possible from public spectator areas.

(j) For a jury courtroom, an adjacent jury deliberation room at least 400 square feet in size, exclusive of restrooms, with adjacent private restrooms and located to minimize contact between jurors and the public while jurors are in transit.

(k) An area for media personnel and equipment that will render media coverage of proceedings unobtrusive to court proceedings.

COMMENT

The judge's bench is the focal point of the courtroom and its design most directly conveys the dignity of the court. Elevation of the bench contributes to that effect and affords the judge an unobstructed view of the courtroom. The bench should be large enough to allow the judge to deal efficiently with numerous documents and books during the course of proceedings. Its location adjacent to a private entrance into the courtroom contributes to the appearance of impartiality and enhances security.

Temperature, sound and light levels should allow all participants to be comfortable and remain alert. The ability to hear clearly what is being said is of paramount importance. Security and efficiency concerns require that only court staff have access to temperature, lighting and microphone controls.

New technologies are being introduced into courtrooms and design accommodation should be made to permit their efficient and safe use. Increased use of videoconferencing with incarcerated persons may reduce costs and increase convenience, but in designing and using this technology it is important to make arrangements for private telephonic communication between parties and their counsel if they are not at the same location. This may require the addition of a dedicated phone line for this purpose. See Subchapter III of Chapter 885 of the statutes, Use of Videoconferencing in the Circuit Courts. Design subcommittees should also be mindful that traditional or evolving methods of evidence display are located so as to insure that

the judge, witnesses, jurors, attorneys, litigants and the public can clearly view it.

Conference rooms adjacent to each courtroom facilitate confidential conversations between attorneys and their clients and witnesses and negotiations between attorneys. They also provide waiting areas for witnesses, including victims. The witness stand should enhance the ability of all to see and hear the witness but it should not be as high as the judge's bench or so close to the bench as to permit sidebar discussions between attorneys and the judge to be overhead. The size and design of the space within the witness stand should take into account the need to accommodate interpreters, child witnesses, and those with special needs.

The jury box needs only 14 seats but it should be designed to permit additional temporary seats where more than 2 alternate jurors are used and accommodation should be made within the box or immediately adjacent to it for temporary seating during voir dire. Space within the jury box should be available to accommodate wheelchairs.

Jurors perform an honorable, essential role in our system of justice and it is critical that they have a private, comfortable and functional environment in which to conduct their deliberations. Round or oval tables in the deliberation room are recommended to reflect the equality of all jurors. To insure privacy, bathrooms for jurors should be separated from the jury deliberation room itself by a vestibule or hallway inaccessible to the public.

Design requirements for federal courts note that the witness box should accommodate a witness and an interpreter. The jury box should

have a clear line of sight to the judge, attorneys, witnesses and evidence presentation displays. The maximum allowable distance between a juror and a litigant sitting at a counsel table across the courtroom well is 40 feet. Jurors should be separated by at least 6 feet from attorneys, litigants and the public. The same design requirements suggest that the furniture and equipment used by the court reporter should be movable so that it can be rearranged to suit each court reporter and judge.

Under Supreme Court rule, cameras are permitted in most Wisconsin court proceedings. No uniform method of providing space for them is practical and design subcommittees should be aware of the need to provide space for them in planning new courtrooms and in the renovation of existing ones. Placement of the cameras shall be at the discretion of the court and shall not obstruct public access or interfere with security in the courtroom. Ideally, a separate media viewing room may be built adjacent to one or more courtrooms, with one-way windows for filming and photographing proceedings, at an angle that inhibits photographing of jurors, and with sound transmitted from the courtroom.

(6) Courtrooms and court commissioner hearing rooms in which juvenile or other confidential proceedings are conducted should be located and designed to ensure the confidentiality of those proceedings.

COMMENT

State law provides that juvenile and certain other cases are to be closed to all but the persons participating in them. This confidentiality cannot be achieved if persons waiting to appear in

such a case are required to wait in hallways or other areas where the nature of their business is displayed to the public.

SCR 68.11 Court facilities: Auxiliary areas. (1) An adequately-sized jury assembly area should be provided.

COMMENT

The area provided to prospective jurors for orientation and assembly before being brought to an individual courtroom keeps them apart from the public and litigants and reflects their important role in the justice system. Prospective jurors should be provided a comfortable place to await being called, which at times is a considerable period. The jury assembly room may also be designed to serve other purposes.

(2) Each judge should have a private chambers at least 500 square feet in size, with a private restroom (50 sq. ft.), and located directly adjacent to clerical support staff.

COMMENT

Because the court's business is conducted there, the judge's chambers should lend dignity to the judicial office. At times, certain court proceedings may be conducted in chambers, although this is to be discouraged where chambers are located in restricted access sectors. The chambers should be large enough to accommodate multiple parties and attorneys, as well as the judge's conferences with staff, colleagues or committee groups. Chambers should provide an adequate and readily accessible basic library, soundproofing and privacy.

(3) An area should be provided immediately adjacent to the judge's chambers for court staff such as court clerks, judicial assistants, court reporters, law clerks, and a reception area.

COMMENT

Given the variations among the counties in staffing of courts, it is not practicable to establish a uniform standard for the size and configuration of support staff areas. Location of support staff adjacent to the judge's chambers not only enhances efficiency but also allows screening of persons seeking access to the judge.

(4) Every court facility housing a courtroom should have a basic legal research library of sufficient size to be used by judges, law clerks, attorneys and others.

COMMENT

An adequate legal research facility is critical to the proper functioning of the court system. The space should be reasonably soundproof, well-lit and ventilated and should have room for expansion. In many counties, these facilities have evolved to serve unrepresented litigants. At the same time that judges and lawyers have gained access to research materials on-line, an increasing number of litigants are representing themselves in court. A pro-se service center or law library may be the setting in which resources are made available to pro-se litigants to enhance their access to the courts.

(5) Offices and hearing rooms of court commissioners should provide respect, privacy and function and be designed to impress upon the public and the litigants the fairness and dignity of the judicial system.

COMMENT

Court commissioners in Wisconsin perform a number of important roles in the judicial system and are often called upon to make key

preliminary orders in a case at a time when emotions are particularly high. The importance of those roles should be emphasized in the design, configuration and furnishings of the space in which the court commissioners perform their duties. The setting in which persons appear before a court commissioner should instill respect for the authority of the court commissioner. Given the wide variations among counties across the state in the use of part-time and full-time court commissioners and the functions they perform, a uniform standard on size or features of court commissioner offices or hearing rooms is not practicable. To the extent hearing rooms separate from the private office of the court commissioner are used, they should be designed in accordance with the standards for courtrooms, with modifications to reflect the somewhat different nature of the proceedings conducted by the court commissioner.

SCR 68.12 Staffing.¹ (1) Each branch of circuit court should be staffed by one full-time judicial assistant.

COMMENT

The trial court system faces ever increasing caseloads and cases of ever increasing complexity. The judge today must take charge and aggressively manage his or her caseload. To do so the judge needs a full-time judicial assistant. This staff position will permit each judge to devote more of his or her efforts to the primary judicial task—presiding over and judging lawsuits.

¹ The provisions pertaining to staff in SCR 68.12 were not reviewed as part of the repeal and recreation of SCR 70.38-70.39. S. Ct. Order 11-03, 2012 WI 25 (issued Mar. 15, 2012, eff. Mar. 15, 2012).

The position of judicial assistant should be in the state service. It will perform for the court the following work: type opinions, correspondence and decisions and prepare reports, dispositions, memoranda, agendas, jury instructions, verdict forms, orders and notices; assist with calendar management, including scheduling of court hearings, trials, conferences, legal appointments, meetings and activities of the judge; hold scheduling conferences; assist with file and record acquisitions; organize and maintain judge's files and records; post court calendar daily, update weekly calendar; maintain judge's law library; act as receptionist in answering telephone, handling visitors and processing mail; requisition office supplies; contact attorneys and parties concerning court dates, appointments and cancellations; such other work as required by the court. See s. 758.19(h), stats. "The director of state courts shall establish a description of the qualifications and duties of . . . a judicial assistant"

Judicial experience and expertise support the long-standing position of the Wisconsin Judicial Conference that this staff position is vital to a well-functioning court. Where judicial assistants now exist as part the court staffing, caseloads are much more current and the oldest cases are disposed of with priority consideration.

The citizens of this state have a right to communicate directly with each judge's office during normal work day hours and get immediate answers to their questions and service on their requests without waiting for return calls from the judge, court reporters, or court clerk who at the time of the call are working in the courtroom.

Scheduling of cases should take place throughout the day, not just when court is out of session and the person in charge of the calendar has time to work on case scheduling. Also, judges must be protected from ex parte communications by having their telephone calls screened by knowledgeable staff.

In some counties, court reporters are still required to do clerical tasks for judges. The creation of this position statewide would relieve those court reporters of that highly paid clerical duty and allow them to concentrate on their job—court reporting.

(2) Each branch of circuit court should be staffed by one full-time law clerk.

COMMENT

A law clerk works with and for a judge doing specific legal research of both immediate and future needs. The law clerk may report to the judge orally or in writing. If in writing, the report may be in memorandum form or in the form of a decision draft. This staff position should be in the state service and will permit each judge to devote more of his or her effort to the primary judicial task—presiding over and judging lawsuits. Judicial experience and expertise support the long-standing position of the Wisconsin Supreme Court and the State Bar of Wisconsin that this position is vital to a well-functioning court.

Clearly, a trial court with research assistance will produce higher quality legal decisions. Higher quality decisions may decrease the number of appeals. One county already has met the proposed standard and its court disposes of cases at a much higher rate than other trial courts in the state.

(3) Each circuit judge should appoint a full-time court reporter to serve in the branch to which the judge was elected or appointed.

COMMENT

Current law provides for each circuit judge to appoint a court reporter for his or her court or branch of court, s. 751.02, stats. Additionally, where "floating" court reporter positions have been created and assigned to specific judicial administrative districts, the chief judge or district court administrator assigns the reporter to fill in where needed because of illness, vacations, leaves of absence, or backlog problems.

Historically, the court reporter was the only staff directly responsible to the judge and in many cases assumed a number of clerical and administrative duties for the judge's court. It is wasteful of an important court resource to have court reporters performing tasks other than stenographic recording and transcription. When a court reporter's services are not required by the appointing judge, the court reporter shall be available to assist in other circuit court branches as assigned by the chief judge or district court administrator.

(4) Each branch of circuit court should be staffed by one full-time or part-time courtroom clerk.

COMMENT

In some counties the workload in the judge's office may require the position of courtroom clerk to be a full-time assignment to the court. In other counties the courtroom clerk may be needed only when the court is in session and may return to the clerk's office for

other duties when court is not in session. In small counties this function may be performed by the clerk of the circuit court.

(5) Each branch of circuit court should be staffed by one full-time or part-time court aide.

COMMENT

The position of court aide should not be confused with that of the court security officer. The responsibility of the court aide is to attend to the needs of juries and see that they are secure from contact with the parties, attorneys or witnesses and free from influence from any source outside the courtroom. Generally, only one aide should be required to assist and secure a jury. On occasion or when a jury is sequestered, additional aides will be needed to attend to a jury. The standard is consistent with actual practice, as the courts in most counties currently have part-time court aide.

SCR 68.13 Director of State Courts. (1) The director of state courts shall maintain a list of all projects of construction and significant remodeling of court facilities in the state. Judges in a county where a project is undertaken shall notify the director of state courts of the project.

(2) The director of state courts shall maintain court security training resources for use by counties statewide.

(3) The director of state courts shall maintain a resource library of court security and facilities literature, which shall be available to committees, design subcommittees, judges and others. The director of state courts may distribute to interested persons materials of statewide interest related to court facilities and security.

(4) The director of state courts shall maintain a list of committees and their membership.

(5) The director of state courts shall develop and maintain a secure online community or list serve where security and facilities committee members can discuss pressing issues, trends, and benefit from each other's expertise. This forum may also serve as a resource for those jurisdictions that are preparing to remodel or build a new courthouse.

(6) The director or state courts shall develop resources to facilitate committees reporting incidents occurring in court facilities, threats to judicial officers, staff and families, and remodeling, construction and relocating court facilities to the director's office and PPAC as required in SCR 68.05(4)(a).

COMMENT

Court security and facilities planning, study and implementation activities are being undertaken by a number of national organizations and state court systems. Wisconsin can benefit from written materials generated through these activities and by assessing their applicability and utility to its court system. Additionally, local activities in Wisconsin may generate information that can be used in other counties. General distribution of particularly valuable reports not only will provide useful, substantive information but also will promote a proper sense of awareness and sensitivity to security concerns, which are critical to the proactive nature of the security efforts these standards are intended to achieve.

The court facility standards that a number of states have developed are in much greater detail than these standards and may be

of assistance to county design subcommittees in general and in regard to specific design issues of a contemplated project. Having such materials available in a centralized location offers the opportunity for cost savings to counties and enhances the likelihood that projects will employ the most functional techniques available. Among the kinds of materials available are technical specifications for lighting, sound, HVAC and equipment used in court facilities. To the extent one county is contemplating a project similar to one that has been done in another county, the ability to contact that other county about its design and experiences offers a significant opportunity to enhance the quality and cost-effectiveness of the contemplated project.

SCR 68.14 Review of standards; report. (1) The planning and policy advisory committee under SCR 70.14 shall review the security and court facilities standards under SCR 68.06—SCR 68.11 annually, develop a judicial threat and incident reporting process, solicit reaction from county officials and others who have engaged in a construction or remodeling project within the preceding year and report to the supreme court its recommendations for modification of the standards.

(2) The planning and policy advisory committee shall submit an annual report to the Director of State Courts on security threats and incidents and on courthouse construction, remodeling and security innovations.

COMMENT

Ongoing review is an effective planning device to assess the adequacy of the standards in light of actual practice. It is also

consistent with the long-term mission of the planning and policy advisory committee and the need for a proactive security and facilities effort in Wisconsin.

IT IS FURTHER ORDERED that the Comments to SCR Chapter 68 are not adopted, but will be published and may be consulted for guidance in interpreting and applying the rule.

IT IS FURTHER ORDERED that notice of this amendment of the Supreme Court Rules be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 15th day of March, 2012.

BY THE COURT:

Diane M. Fremgen
Clerk of Supreme Court

