

## WCCA OVERSIGHT COMMITTEE MEETING MINUTES

TUESDAY, MAY 2, 2017, 9:30 AM

CONFERENCE ROOM 150A

RISSER JUSTICE CENTER, MADISON

MEMBERS PRESENT: J. Denis Moran, Sara Ward-Cassady, Jean Bousquet, Judge James Babler, Judge Thomas Gritton, Judge Everett Mitchell, Judge Richard Sankovitz, Judge Jean DiMotto, Judge Derek Mosley, John Barrett, Pat Brummond, Raymond Dall'osto, Bill Lueders, Taavi McMahon, Gregg Moore, Sheriff Brent Oleson, Theresa Owens, Adam Plotkin, Kate Spitz, Michelle Vetterkind, and Kimberly Walker

MEMBERS ABSENT: Representative Robin Vos, Senator Van Wanggaard, Judge John Storck, Beth Bennett, and Theresa Russell

OTHER GUESTS: Lynn Davis (State Bar of Wisconsin), Valirie Maxim (Senator Wanggaard's office), Carla Robinson, Marcia Vandercook, Peggy Hurley, and Melissa Lamb

### 1. INTRODUCTIONS

Mr. Moran led introductions of the committee members and guests.

### 2. APPROVAL OF MINUTES

Mr. Brummond motioned to approve the minutes from the March meeting and Mr. Plotkin seconded the motion, all members approved.

### 3. SEALING COURT RECORDS

Ms. Ward-Cassady said one of the issues identified by this committee was to recommend the Director of State Courts have more education opportunities available for judges on the topic of sealing court records. Marcia Vandercook from the Office of Court Operations attended the meeting to discuss the subject of sealing court records and the past educational programs on the topic. Ms. Vandercook noted sealing of court records is primarily governed by case law, and judges are bound by existing case law when faced with a decision about sealing court records. In Wisconsin, court records are presumptively open records unless there is a court case or statute allowing confidentiality or sealing. Ms. Vandercook said the court has the inherent power to protect court records, and judges must consider the balancing test of the public's right to know versus the private right for protection of the information. In 2016, Wis. Stat. §801.21 was added to set a procedure for motions to seal or redact information. Ms. Vandercook said a motion to seal is not necessary for information that is confidential by statute, and the burden is on the party to request sealing. Ms. Vandercook provided the list of many educational programs regarding the new sealing and redacting statute, twelve presentations occurred from 2016 to June 2017. Forms were created for parties to submit to judges to request sealing or redacting of information in court records or transcripts. Ms. Ward-Cassady asked the committee in light of all the previous educational opportunities on sealing of court records if a recommendation for more education on this topic should be given to the Director of State Courts. Mr. Barrett said clerks of court need more information or training about how to handle these requests for sealing when they receive them. Mr. Brummond said he has not heard of any instances of requests for sealing

court records being denied or handled improperly by judges, and asked if the committee is more concerned with not enough sealing rather than too much. Judge Gritton said some judges allow information to be sealed to unnecessarily protect the privacy of certain individuals. Judge Sankovitz said education and training helps judges understand the proper procedures, but the recommendations of this committee to remove dismissed cases from WCCA addressed many of the concerns about sealing information. Judge Sankovitz added that only the two parties in a case have standing to request for sealing a record or the case. Mr. Lueders asked what affect sealing a record has on WCCA, and if it shows in the court record events that a sealing ruling was made. Ms. Bousquet said yes, an order to seal would show in the court record events on a case. Judge Babler said sealing is a very small portion of court system business and what appears on WCCA. Judge Sankovitz made a motion to make no recommendation for changes to the Director. Mr. Brummond made a friendly amendment to continue to educate judges on sealing, and Mr. McMahon seconded. All voted in favor.

#### 4. WCCA LABELS/DISPLAY

Ms. Bousquet collected comments and complaints from members of the public regarding how and what information is displayed on WCCA, and the topics with the most feedback are: party searches, WCCA labels/display, advanced search data fields, and requests for delay in posting cases. Ms. Bousquet said if a person has aliases, a case can be listed multiple times, so she asked the committee if CCAP should devise a way to remove duplicate cases. Ms. Robinson said she believed just as many people would complain if the aliases do not come up in the search. Ms. Ward-Cassady asked how often complaints are received about aliases and duplicate case listings and Ms. Bousquet said monthly. Mr. Barrett said a person with the same case listed three times could be judged unfairly. Mr. Lueders and Mr. Moore suggested adding a disclaimer to the top of the search results page about aliases and cases appearing multiple times under different names. Mr. McMahon said if it is technologically possible to have a case appear only once under a search for a person it would be preferable. Ms. Ward-Cassady and Ms. Bousquet said the committee can recommend no changes to the alias search results, recommend adding a disclaimer to search results, or recommend limiting the return to one listing of a case per person. Mr. Dall'osto motioned not to change the search results but to add a disclaimer about multiple hits for the same case. Mr. Barrett seconded the motion, and all approved.

Ms. Bousquet said the most frequent complaint from the public is addresses listed on WCCA, and this complaint comes in daily. Harassment restraining orders do not show the name or address of petitioners on WCCA, and there is a way for people to petition for their address to be removed from WCCA in other cases but it is subject to judge approval. Ms. Bousquet said officers of law enforcement, corrections, parole, and probation do not want their home addresses listed on a traffic case on WCCA. Ms. Ward-Cassady said statutes protect certain addresses, and law enforcement officers and victims' rights advocates have been encouraged to try to get laws passed to protect their addresses across the board. Ms. Bousquet said the more information is removed from a case the more difficult it is to determine if it is the correct person. Judge Sankovitz said the petition to remove address form provides the opportunity for a party to request removal and make a case for the need to do so. Mr. Dall'osto agreed that the current system is sufficient. Judge Babler made a motion to leave this process as is, and Mr. Dall'osto seconded. One voter abstained, all others approved.

Ms. Bousquet explained how charge modifiers are only seen on WCCA if a person searching

clicks into the history and detail of the charges on a case (three subsequent clicks into a search). Ms. Ward-Cassady said this issue is one the Office of Court Operations receives the most WCCA-related complaints about. Mr. Dall’osto said there are many charge modifiers, but “attempt” is an important distinction. Ms. Ward-Cassady and Ms. Bousquet suggested adding language about charge modifiers to the first page on a case search and the executive summary, and Mr. Brummond made a motion to recommend these changes, seconded by Judge DiMotto. Mr. Lueders asked for an explanation of what would change from the way cases are currently listed on WCCA if this recommendation is approved and implemented. Ms. Ward-Cassady said pending cases would list the charge modifier(s) in the disclaimer on the case, and once a case concludes the modifier would be listed in the charges on the case (e.g. *attempted* first-degree homicide). All present voted in favor of the motion to recommend adding charge modifiers to executive summaries and charges.

CCAP receives comments from the public regarding confusion over some court terminology used on WCCA, such as case status and different disposition codes and severity codes. Ms. Ward-Cassady said more information and/or definitions can be added to the frequently asked questions (FAQ) section of WCCA. Mr. Moore suggested adding a hyperlink to the FAQ section for certain terms, and Ms. Bousquet recommended an informational balloon that appears when a mouse is hovering over a term. [Judge Sankovitz left the meeting.] Judge Babler said a large watermark on the screen for dismissed cases would be beneficial. Mr. Brummond motioned to make case status and disposition consistent and add hover-over definitions for categories, and Ms. Walker seconded. All voted in favor of the motion. Ms. Spitz suggested adding a summary of severity in the FAQ section, because just a statute listing is not helpful. Mr. Dall’osto motioned to add a section to the FAQ about severity statutes with hyperlinks to the statute cites, and Ms. Spitz seconded. All voted in favor of the motion. Judge Babler motioned to add a watermark over the screen for dismissed and acquitted cases. Ms. Ward-Cassady asked if CCAP could look into if and how a watermark could appear on a search screen and Judge Babler agreed.

Ms. Bousquet said only civil class codes are currently listed on WCCA for searches, and asked if the criminal class codes should also be listed. Mr. Dall’osto said private companies already offer these searches, and Mr. Barrett said the public should be able to perform the same search for free. Mr. Lueders said the criminal class codes would provide a good tool for research and the media. Ms. Ward-Cassady said the previous iterations of this committee did not decide to exclude the criminal class codes from WCCA, they were just never included during the development of the site. Ms. Walker said the criminal class codes should be provided if the civil class codes are, and made a motion to list criminal class codes on WCCA. Mr. Moore seconded the motion; yes – 16, no – 1.

Ms. Bousquet asked the committee if temporary restraining order and family cases should have delayed posting on WCCA until service on the parties is completed. Ms. Ward-Cassady said there are safety issues to be considered in these circumstances. Mr. Barrett asked how the risk is decreased by delaying posting on WCCA, and Mr. Moore said waiting until after service can mitigate the danger before service has occurred. Sheriff Oleson said this delay would assist sheriffs with service of individuals as well as give victims additional time to make arrangements for protection or housing. Ms. Spitz said this delay would need to be limited to particular case codes because some civil cases allow 90 days for service. Mr. Dall’osto said these delays can also be used to move finances, and Mr. Lueders asked if someone could elude service to keep a

case from appearing on WCCA. Ms. Ward-Cassady said the protection of a TRO begins once a judge grants it, not upon service. Mr. Brummond motioned for no changes or delays in displaying family or TRO cases on WCCA. Mr. Dall'osto seconded the motion and all approved.

Ms. Ward-Cassady said any complaints or suggestions about the way case information is displayed on WCCA can be forwarded to Court Operations or CCAP anytime, as periodic changes are reviewed and made administratively and not just by recommendation of this committee.

## 5. COURT MINUTES

- a. Should the court record on WCCA be more limited as it relates to court minutes?
- b. Should minutes be hidden from WCCA completely?
- c. If only limited portions of minutes are shown, how should those be defined and enforced?

Ms. Ward-Cassady said there was a lot of county-to-county variation in the amount of information included in court minutes, and the Office of Court Operations worked with a committee to develop minute-taking standards for circuit courts. Clerks of court and their staff are trained to adhere to the standards when possible, but Ms. Robinson said some judges want more or less information than is recommended in the standards. Ms. Ward-Cassady said many pro se parties and even attorneys and judges reference the court minutes and court record events to review things that happened in a case. Ms. Ward-Cassady asked if the committee wanted to recommend changes to the minute-taking standards, or for the Director to encourage stricter compliance to the existing standards. Ms. Robinson requested no changes be recommended, and said her office takes fewer calls from law enforcement, media, and the public because the information is available on WCCA. Judge Gritton explained that judges have the ability to take their own notes on a case and this tool can be used instead of adding more information to the court minutes. Mr. Brummond said the consistency across and even within counties could be better, but he still recommends no changes to the existing standards. Mr. Plotkin asked if there is a mechanism for parties to request changes to court minutes, and Ms. Ward-Cassady said there is no formal process for requesting changes but anyone can make a motion to the court. Mr. Barrett said his staff does not remove items from minutes once posted, but they do make correcting entries and label them as such. Judge Babler said he relies on court minutes frequently and thinks the variations from clerk to clerk is a training issue. Ms. Ward-Cassady said the conversion to paperless court files resulted in more detailed in-court processing minutes. Ms. Robinson said the clerks of court could offer training for clerks struggling with in-court processing in heavy volume caseloads. Mr. Moran asked if the consensus of the committee was to leave the minute-taking process as is. Judge Gritton motioned to add language to the minute-taking standards on the proper procedure for correcting an entry in court minutes. Mr. Plotkin seconded the motion, and all approved.

## 6. FUTURE MEETING DATES

Ms. Ward-Cassady said the June meeting will likely be the last for this committee. Ms. Hurley is working on the draft of the report, which will be distributed to the committee. CCAP will look

into creating watermarks for dismissed and acquitted cases and Ms. Bousquet will provide those findings in June.

June 6, 2017 – State Bar Center  
July 11, 2017 – State Bar Center  
August 16, 2017 – Location TBD

With all agenda items discussed, the meeting was adjourned.