

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. 21-06

**In re Amendment of SCR Chapter 68
Relating to Court Security,
Facilities, and Staffing**

FILED

DEC 7, 2022

Sheila T. Reiff
Clerk of Supreme Court
Madison, WI

On October 21, 2021, the Honorable Michael Bohren, Chair, on behalf of the Planning and Policy Advisory Committee (PPAC) Court Security Subcommittee filed a rule petition asking the court to update Supreme Court Rule (SCR) Chapter 68 to reflect updated standards for courthouse construction, renovation, technology, and to better define county-level and facility committee's responsibilities. This petition also seeks to clarify the process for collecting data associated with court security threats and incidents.

Consistent with standard practice, the court voted to solicit written comments and schedule a public hearing. Letters were sent to interested persons on June 15, 2022. On June 16, 2022, a letter was sent to Honorable Michael Bohren requesting additional information. Comments in support of the petition were received from Honorable John P. Anderson, Bayfield County Circuit Court, and Cheryl Furstace Daniels,

then-President, State Bar of Wisconsin, on behalf of the Board of Governors. The petitioner filed a response on August 4, 2022.

The court conducted a public hearing on October 4, 2022. Honorable Michael Bohren presented the petition to the court on behalf of the PPAC Court Security Subcommittee.

The court discussed the petition at a closed administrative conference and voted to grant the petition with certain minor modifications. Therefore,

IT IS ORDERED that effective the date of this order:

SECTION 1. Supreme Court Rule 68.01 (1) is amended to read:

(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 and security 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.

SECTION 2. Supreme Court Rule 68.01 (2) is amended to read:

(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.

SECTION 3. Supreme Court Rule 68.01 (4) is created to read:

(4) All court facilities should be designed and maintained to support the security and safety of judicial officers, participants in court proceedings, staff, and members of the public.

SECTION 4. The Comment to Supreme Court Rule 68.01 is repealed.

SECTION 5. Supreme Court Rule 68.03 (2) is amended to read:

(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~~ with Disabilities Act and other federal, state and local laws.

SECTION 6. The Comment to Supreme Court Rule 68.03 (2) is repealed.

SECTION 7. The Comment to Supreme Court Rule 68.04 is amended to read:

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, 121 N.W. 654 (1909).

SECTION 8. The Comment to Supreme Court Rule 68.05 (2) is amended to read:

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. Committees created under this rule generally are not subject to requirements of the Wisconsin Open Meetings Law. See State ex rel. Lynch v. Dancey, 71 Wis. 2d 287, 238 N.W.2d 81 (1976). However, if public officials in attendance generate a quorum of a different public body, open meetings guidelines for that body must be followed. See, e.g., State ex rel. Badke v. Village of Greendale, 173 Wis. 2d 553, 573-74, 494 N.W.2d 408 (1993) and State ex rel. Newspapers, Inc. v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

SECTION 9. Supreme Court Rule 68.05 (4) is amended to read:

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

SECTION 10. Supreme Court Rule 68.05 (4) (a) is repealed and recreated to read:

(4) (a) A system for collecting data related to threats and incidents occurring in court facilities or against court officials or staff.

SECTION 11. A Comment to Supreme Court Rule 68.05 (4) (a) is created to read:

COMMENT

Collection of county-level security threat and incident data is useful in prioritizing the allocation and placement of security

equipment and personnel, including data regarding prohibited items identified or confiscated during security screening.

SECTION 12. Supreme Court Rule 68.05 (4) (b) is repealed and recreated to read:

(4) (b) A policy for the submission of security threat and incident reports to the director of state courts (electronically or using form CS-265, or successor form) within 10 business days following a security incident or threat.

SECTION 13. Supreme Court Rule 68.05 (4) (c) is renumbered to Supreme Court Rule 68.05 (4) (e) and Supreme Court Rule 68.05 (4) (c) is created to read:

(4) (c) A policy for the submission of annual reports to the district court administrator regarding courthouse construction, remodeling, or security improvement activities, and regarding active shooter drills or other training events that support court security operations or preparedness.

SECTION 14. A Comment to Supreme Court Rule 68.05 (4) (c) is created to read:

COMMENT

A systematic reporting procedure for threats to judicial officers, court staff, or their families should be established in each county pursuant to SCR 70.34. 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.

SECTION 15. Supreme Court Rule 68.05 (4) (d) is renumbered to Supreme Court Rule 68.05 (4) (f) and Supreme Court Rule 68.05 (4) (d) is created to read:

(4) (d) A policy for the screening and secure distribution of mail and deliveries. Such screening should take place in a dedicated, secure area.

SECTION 16. Supreme Court Rule 68.05 (4) (e) is renumbered to Supreme Court Rule 68.05 (4) (g), as renumbered, is amended to read:

(4) ~~(e)~~ (g) An annual training program, for all employees in coordination with the county sheriff, ~~for all employees and staff.~~ Training should be provided to all new employees and existing employees upon change in assignment, as appropriate.

SECTION 17. Supreme Court Rule 68.05 (4) (f) is renumbered to Supreme Court Rule 68.05 (4) (h).

SECTION 18. Supreme Court Rule 68.05 (4) (g) is renumbered to Supreme Court Rule 68.05 (4) (i).

SECTION 19. The Comment to Supreme Court Rule 68.05 (4) (g) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (i), the Comment, as renumbered, is repealed.

SECTION 20. Supreme Court Rule 68.05 (4) (h) is renumbered to Supreme Court Rule 68.05 (4) (k).

SECTION 21. Supreme Court Rule 68.05 (4) (i) is renumbered to Supreme Court Rule 68.05 (4) (L).

SECTION 22. Supreme Court Rule 68.05 (4) (j) is renumbered to Supreme Court Rule 68.05 (4) (m), as renumbered, is amended to read:

(4) ~~(j)~~ (m) A procedure to calibrate screening equipment consistent with ~~manufactures'~~ manufacturers' directions.

SECTION 23. Supreme Court Rule 68.05 (4) (j) is created to read:

(4) (j) A procedure for allowing the possession of firearms by those who are statutorily authorized to do so.

SECTION 24. Supreme Court Rule 68.05 (4) (k) is renumbered to Supreme Court Rule 68.05 (4) (n), as renumbered, is amended to read:

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

SECTION 25. Supreme Court Rule 68.05 (4) (l) is renumbered to Supreme Court Rule 68.05 (4) (o).

SECTION 26. The Comment to Supreme Court Rule 68.05 (4) (l) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (o), the Comment, as renumbered, is amended to read:

COMMENT

The need for this regular practice is greatest in those counties where courtrooms are used for non-judicial purposes on evenings and weekends. Courtrooms should be locked when not in use.

SECTION 27. Supreme Court Rule 68.05 (4) (m) is renumbered to Supreme Court Rule 68.05 (4) (p).

SECTION 28. Supreme Court Rule 68.05 (4) (n) is renumbered to Supreme Court Rule 68.05 (4) (q), as renumbered, is amended to read:

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

SECTION 29. The Comment to Supreme Court Rule 68.05 (4) (n) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (q).

SECTION 30. Supreme Court Rule 68.05 (4) (o) is renumbered to Supreme Court Rule 68.05 (4) (r), as renumbered, is amended to read:

(4) ~~(o)~~ (r) A policy for the monitoring ~~and,~~ surveillance, and safety 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.~~

SECTION 31. The Comment to Supreme Court Rule 68.05 (4) (o) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (r), the Comment, as renumbered, is amended to read:

COMMENT

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

SECTION 32. Supreme Court Rule 68.05 (4) (p) and the Comment to Supreme Court Rule 68.05 (4) (p) are renumbered to Supreme Court Rule 68.05 (4) (s).

SECTION 33. Supreme Court Rule 68.05 (4) (q) is repealed.

SECTION 34. Supreme Court Rule 68.05 (4) (r) and the Comment to Supreme Court Rule 68.05 (4) (r) are repealed.

SECTION 35. Supreme Court Rule 68.05 (4) (s) is renumbered to Supreme Court Rule 68.05 (4) (t), as renumbered, is amended to read:

(4) ~~(s)~~ (t) A procedure whereby each judicial officer may complete and submit a judicial profile ~~to local~~ for law enforcement ~~and provides~~

purposes and a process for updating the document on an annual updates basis.

SECTION 36. The Comment to Supreme Court Rule 68.05 (4) (s) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (t), the Comment, as renumbered, is amended to read:

COMMENT

~~The U.S. Marshals Service Judicial Profile~~ judicial security profile provides a good template for judicial officers. ~~It is important to note that this profile may be subject to the~~ which addresses Wisconsin public records law, including Wis. Stat. Ch. 19.31-39 19, and ~~it cannot be guaranteed that all of the information collected in this profile can be kept confidential.~~ Use of the profile requires cooperation with each county sheriff as well as other applicable law enforcement agencies.

SECTION 37. Supreme Court Rule 68.05 (4) (t) is renumbered to Supreme Court Rule 68.05 (4) (u).

SECTION 38. The Comment to Supreme Court Rule 68.05 (4) (t) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (u), the Comment, as renumbered, is repealed.

SECTION 39. Supreme Court Rule 68.05 (4) (u) is renumbered to Supreme Court Rule 68.05 (4) (v), as renumbered, is amended to read:

(4) ~~(u)~~ (v) A policy on money collection and the safeguarding of money.

SECTION 40. The Comment to Supreme Court Rule 68.05 (4) (u) is renumbered to the Comment for Supreme Court Rule 68.05 (4) (v), the Comment, as renumbered, is amended to read:

COMMENT

~~Clerks of court~~ Offices in courthouse facilities 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.

SECTION 41. Supreme Court Rule 68.05 (4) (v) and the Comment to Supreme Court Rule 68.05 (4) (v) are renumbered to Supreme Court Rule 68.05 (4) (w).

SECTION 42. Supreme Court Rule 68.05 (4) (w) and the Comment to Supreme Court Rule 68.05 (4) (w) are renumbered to Supreme Court Rule 68.05 (4) (x).

SECTION 43. Supreme Court Rule 68.06 (2) is amended to read:

(2) ~~ENTRANCES~~ PERIMETER DESIGN CONSIDERATIONS.

SECTION 44. Supreme Court Rule 68.06 (2) (a) is amended to read:

(2) (a) *Public Entrance and Exit.* A court facility should have a single entrance with appropriate screening mechanisms in place to screen all persons, carry-in items, and packages. Screening stations should have a bullet-resistant barrier and should be equipped with a magnetometer, x-ray for packages and carry-in items, duress alarms, and video surveillance. Exits should be physically or spatially separated from entry areas.

SECTION 45. Supreme Court Rule 68.06 (2) (b) is amended to read:

(2) (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)~~ (2) (a).

SECTION 46. Supreme Court Rule 68.06 (2) (c) is amended to read:

(2) (c) ~~Entrances~~ Building entrances and exits other than the public entrance and exit should be alarmed and secured ~~and~~ with controlled access limited.

SECTION 47. Supreme Court Rule 68.06 (2) (d) is created to read:

(2) (d) *Windows*. Any court facility design shall take into account security considerations in the placement and type of windows and window coverings.

SECTION 48. A Comment to Supreme Court Rule 68.06 (2) (d) is created to read:

COMMENT

While providing natural light and aesthetic benefits to a building's design, windows can compromise security and confidentiality. Windows are of particular concern due to the risk of attack on building occupants, particularly when located on lower-level floors.

SECTION 49. Supreme Court Rule 68.06 (2) (e) is created to read:

(2) (e) *Ductwork systems*. Ductwork openings and other components of heating, ventilation, and air conditioning systems should be located so that they are not easily accessible from grade level.

SECTION 50. Supreme Court Rule 68.06 (2) (f) is created to read:

(2) (f) *Parking*. Judicial officer parking areas should be separate from public parking areas and offer controlled, secured access. Public parking areas should be separated from court facilities in order to create a buffer zone that minimizes proximity to building structures. All building parking areas should be adequately lit and monitored.

SECTION 51. The Comment to Supreme Court Rule 68.06 (2) is amended to read:

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~~ barriers to the effective 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 designated 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~~ as well.

SECTION 52. Supreme Court Rule 68.06 (3) (d) is amended to read:

(3) (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.

SECTION 53. Supreme Court Rule 68.06 (3) (e) is amended to read:

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

SECTION 54. Supreme Court Rule 68.06 (3) (f) is amended to read:

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

SECTION 55. Supreme Court Rule 68.06 (3) (g) is amended to read:

(3) (g) Lighting that enhances safety and is supported by an emergency power source that is located in a secure area.

SECTION 56. Supreme Court Rule 68.06 (3) (h) is amended to read:

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

SECTION 57. Supreme Court Rule 68.07 (2) is amended to read:

(2) PUBLIC ENTRANCE STAFFING. The public entrance should be staffed by at least one armed sworn officer, ~~armed with a triple retention holster and~~ access to law enforcement ~~and~~ communications by 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

SECTION 58. The Comment to Supreme Court Rule 68.07 (2) is amended to read:

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.

SECTION 59. Supreme Court Rule 68.07 (3) is created to read:

(3) TRAINING. All court security personnel should receive regular training on courtroom security techniques and policies developed by the committee.

SECTION 60. Supreme Court Rule 68.08 (1) is repealed and recreated to read:

(1) Duress alarms should be in each of the following locations:

(a) Courtroom (near judge, court reporter, clerk, and in other courtroom locations as appropriate).

(b) Court commissioner hearing room.

(c) Judicial chambers and court staff areas.

(d) Clerk.

(e) Locations where staff interact with members of the public.

(f) Other courthouse locations where there are security risks.

SECTION 61. Supreme Court Rule 68.08 (2) is repealed and recreated to read:

(2) Duress alarms should be connected to an appropriate law enforcement office that will provide the immediate response of armed personnel.

SECTION 62. Supreme Court Rule 68.08 (3) is renumbered to Supreme Court Rule 68.08 (5), and Supreme Court Rule 68.08 (3) is created to read:

(3) Each courtroom should be equipped with a telephone or other device to enable interactive emergency communication.

SECTION 63. Supreme Court Rule 68.08 (4) is renumbered to Supreme Court Rule 68.08 (6), and Supreme Court Rule 68.08 (4) is created to read:

(4) The use of surveillance cameras should be considered in courtrooms and other areas of the courthouse.

SECTION 64. The Comment to Supreme Court Rule 68.08 (1) and (2) is renumbered to Supreme Court Rule 68.08 (1) through (4), the Comment, as renumbered, is amended to read:

COMMENT

Duress alarm systems ~~mounted~~ should be 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 locations and should be tested regularly. Alarms should be able to ~~summon~~ immediately ~~armed~~ summon 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 that~~ have the potential for violent incidents ~~and~~ or other breaches of security. ~~Telephones can also be used in medical emergencies and will facilitate telephone testimony and attorney appearances.~~ Each ~~committee~~ Integrated technology systems, including computers or phones with emergency notification systems or public address functionalities, should ~~consider the~~ be employed where available and all staff should be trained on use of surveillance cameras in some or all courtrooms or other areas of the courthouse such systems. However, a A camera cannot should not 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~~ perform real-time monitoring and recording, and consider the expected response time for officers.

SECTION 65. Supreme Court Rule 68.08 (3) is renumbered to Supreme Court Rule 68.08 (5), as renumbered, is amended to read:

~~(3)~~ **(5)** ~~All officers~~ Officers providing security should ~~be provided with~~ have access to portable metal detection devices, if needed.

SECTION 66. Supreme Court Rule 68.08 (4) is renumbered to Supreme Court Rule 68.08 (6), as renumbered, is amended to read:

~~(4)~~ **(6)** ~~All officers~~ Officers providing security should be equipped with law enforcement communication equipment.

SECTION 67. Supreme Court Rule 68.08 (5) is renumbered to Supreme Court Rule 68.08 (7).

SECTION 68. The Comment to Supreme Court Rule 68.10 (2) is amended to read:

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.~~

SECTION 69. Supreme Court Rule 68.10 (3) is amended to read:

(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~~ 25 people at 24 inches per seat.

SECTION 70. Supreme Court Rule 68.10 (4) is renumbered to Supreme Court Rule 68.10 (5), and Supreme Court Rule 68.10 (4) is created to read:

(4) The size of a non-jury courtroom should be a minimum of 1,700 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 25 people at 24 inches per seat.

SECTION 71. Supreme Court Rule 68.10 (5) is renumbered to Supreme Court Rule 68.10 (6), as renumbered, is amended to read:

~~(5)~~ **(6)** Courtrooms should include all of the following in addition to the specifications that are set forth in SCR ~~68.06~~ 68.07:

SECTION 72. Supreme Court Rule 68.10 (5) (a) is renumbered to Supreme Court Rule 68.10 (6) (a), as renumbered, is amended to read:

~~(5)~~ **(6)** (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~~ an adjacent private door.

SECTION 73. Supreme Court Rule 68.10 (5) (b) is renumbered to Supreme Court Rule 68.10 (6) (b).

SECTION 74. Supreme Court Rule 68.10 (5) (c) is renumbered to Supreme Court Rule 68.10 (6) (c).

SECTION 75. Supreme Court Rule 68.10 (5) (d) is renumbered to Supreme Court Rule 68.10 (6) (d), as renumbered, is repealed and recreated to read:

(6) (d) Courtrooms should be equipped with adequate video, audio, and data technology to support the needs of all participants in a proceeding.

SECTION 76. Supreme Court Rule 68.10 (5) (e) is renumbered to Supreme Court Rule 68.10 (6) (e).

SECTION 77. Supreme Court Rule 68.10 (5) (f) is renumbered to Supreme Court Rule 68.10 (6) (f).

SECTION 78. Supreme Court Rule 68.10 (5) (g) is renumbered to Supreme Court Rule 68.10 (6) (g).

SECTION 79. Supreme Court Rule 68.10 (5) (h) is renumbered to Supreme Court Rule 68.10 (6) (h).

SECTION 80. Supreme Court Rule 68.10 (5) (i) is renumbered to Supreme Court Rule 68.10 (6) (i), as renumbered, is amended to read:

~~(5)~~ **(6)** (i) In a jury courtroom, a jury box with ~~permanent~~ seating capacity for a minimum of 14 jurors to provide an unobstructed view of the 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.

SECTION 81. Supreme Court Rule 68.10 (5) (j) is renumbered to Supreme Court Rule 68.10 (6) (j), as renumbered, is amended to read:

~~(5)~~ **(6)** (j) For a jury courtroom, an adjacent jury deliberation room of at least 400 square feet in size, exclusive of restrooms, ~~with~~ and have access to adjacent, private restrooms and with a vestibule. Jury rooms should be located to minimize contact between jurors and the

public while jurors are in transit. Jury rooms should include a sink, refrigerator, and adequate electrical outlets for small appliances.

SECTION 82. Supreme Court Rule 68.10 (5) (k) is repealed.

SECTION 83. The Comment to Supreme Court Rule 68.10 (5) is renumbered to Supreme Court Rule 68.10 (6), the Comment, as renumbered, is amended to read:

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 provide for secure separation between the judge and witness and to allow the judge to deal efficiently with numerous access the documents and, books, and technology used 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 and remote hearing technology 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. Jury box dimensions and chair style and size should allow for adequate legroom, ease of entry and exit, and inclusion of technology, such as display monitors and microphones, as appropriate. Minimum dimensions should include 48 inches from the back of the chair to the front of the next chair, a 21-inch minimum seat width, and adequate spacing between

chairs. If used, swivel chairs should have the ability to rotate at least 30 degrees.

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~~ 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. Any filming and photographing of remote or in-person proceedings must comply with SCR Ch. 61 Rules Governing Electronic Media and Still Photography Coverage of Judicial Proceedings. ~~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.~~

SECTION 84. Supreme Court Rule 68.10 (6) and the Comment to Supreme Court Rule 68.10 (6) are renumbered to Supreme Court Rule 68.10 (7).

SECTION 85. Supreme Court Rule 68.11 (2) is amended to read:

(2) Each judge should have a private chambers ~~at least 500~~ of 400 square feet in size, with a private restroom ~~(50 sq. ft.), and located directly adjacent to clerical support staff.~~

SECTION 86. The Comment to Supreme Court Rule 68.11 (2) is amended to read:

COMMENT

~~Because the court's business is conducted there, the judge's~~ 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~~ and staff. Chambers should provide an adequate ~~and readily accessible basic library,~~ soundproofing and privacy.

SECTION 87. Supreme Court Rule 68.11 (3) is amended to read:

(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.

SECTION 88. Supreme Court Rule 68.11 (4) is amended to read:

~~(4) Every court facility housing a courtroom should have a basic provide a location where members of the public may access legal research library of sufficient size to be used by judges, law clerks, attorneys and others.~~

SECTION 89. The Comment to Supreme Court Rule 68.11 (4) is amended to read:

COMMENT

~~An adequate Access to 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 pro se service center or law library space with dedicated computer terminals or interactive kiosks may be the setting in which resources are made available to pro-se litigants to enhance their access to the courts provide members of the public with access to legal information and self-help resources.~~

SECTION 90. The Comment to Supreme Court Rule 68.11 (5) is amended to read:

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~~ Hearing rooms 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.

SECTION 91. Supreme Court Rule 68.13 (title) is amended to read:

(title) ~~Director of State Courts~~ Responsibilities of director of state courts.

SECTION 92. Supreme Court Rule 68.13 (1) is amended to read:

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

SECTION 93. Supreme Court Rule 68.13 (2) is amended to read:

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

SECTION 94. Supreme Court Rule 68.13 (3) is amended to read:

(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~~ list of resources related to court facilities and security, facility construction, and design.

SECTION 95. Supreme Court Rule 68.13 (4) is amended to read:

(4) The director of state courts shall maintain ~~a list of committees and their membership~~ resources to enable committees to submit court security threat and incident reports to the director's office as required in SCR 68.05 (4).

SECTION 96. Supreme Court Rule 68.13 (5) is repealed and recreated to read:

(5) The director of state courts shall present to the planning and policy advisory committee an annual summary of security threats and incidents, training activities, and courthouse construction and remodeling projects that have resulted in security improvements.

SECTION 97. Supreme Court Rule 68.13 (6) and the Comment to Supreme Court Rule 68.13 (6) are repealed.

SECTION 98. Supreme Court Rule 68.14 (title), (1), (2), and the Comment to Supreme Court Rule 68.14 are repealed.

IT IS FURTHER ORDERED that the Comments to the rules created pursuant to this order 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 the above amendments be given by a single publication of a copy of this order in the official publications designated in SCR 80.01, including the official publishers' online databases, and on the Wisconsin court system's web site. The State Bar of Wisconsin shall provide notice of this order.

Dated at Madison, Wisconsin, this 7th day of December, 2022.

BY THE COURT:

Sheila T. Reiff
Clerk of Supreme Court

¶1 BRIAN HAGEDORN, J. (*dissenting in part*). In today's order, the court adopts the following amendment to the Comment to Supreme Court Rule 68.05(2):

Committees created under this rule generally are not subject to requirements of the Wisconsin Open Meetings Law. See State ex rel. Lynch v. Dancey, 71 Wis. 2d 287, 238 N.W.2d 81 (1976). However, if public officials in attendance generate a quorum of a different public body, open meetings guidelines for that body must be followed. See, e.g., State ex rel. Badke v. Village of Greendale, 173 Wis. 2d 553, 573-74, 494 N.W.2d 408 (1993) and State ex rel. Newspapers, Inc. v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

I dissent with respect to this statement because it appears to adopt propositions of law that this court has not yet addressed. Opining on these legal issues in this way and at this time is unnecessary and ill-advised, and I would not do so.

¶2 I am authorized to state that Justices ANN WALSH BRADLEY and REBECCA FRANK DALLET join this dissent.

