

**WISCONSIN CIRCUIT COURT ACCESS  
OVERSIGHT COMMITTEE  
RETENTION AND ACCURACY SUBCOMMITTEE**

MINUTES

Friday, January 20, 2006  
Room 415 N.W. – State Capitol  
9:35 a.m. – 12:02 p.m.

PRESENT: Kathleen Murphy, District 8 Court Administrator, Chair; Attorney Larry Bensky; Robbie Brooks, CCAP; Peter Fox, Wisconsin Newspaper Association; Sheryl Gervasi, Deputy Director of State Courts; Stacy James, CCAP; John Laabs, Wisconsin Broadcasters Association; Chief Rick Myers, Appleton Police Department; Hon. Dale Pasell, La Crosse County; Hon. Ralph Ramirez, Waukesha County; Attorney Kelli Thompson

1. **Introductions**

Ms. Murphy welcomed the members of the Subcommittee and informed the group that District Attorney Richard Dufour and Ms. Carolyn Evenson were not able to attend the meeting. The minutes from the December 8, 2005 meeting were approved.

2. **Workgroup Report**

Mr. Laabs reported to the group the proposal from the workgroup that had met earlier in the morning. Their proposal is as follows:

In recognition of the fact that information technology and electronic data management advances have created new possibilities for greater and more accurate record retention, and their evolution promises even greater advances, we recommend the Supreme Court review and change SCR 72 based upon the principle of the Wisconsin Open Records Law for “complete public access consistent with the conduct of government business.”

- (1) to provide for the retention of all original court records in perpetuity insofar as electronic record-keeping at a given time will allow;
- (2) and to provide for a continuing court-records oversight committee to review from time to time progress toward that goal and to make recommendations to the Supreme Court.

Ms. Murphy commented that the Wisconsin court system’s Records Management Committee (RMC) recommends changes to the Supreme Court Rules on retention of court records (SCR 72) and recordkeeping procedures. Mr. Laabs suggested that the responsibility to review progress should be assigned to that committee. Ms. Murphy observed that (1) does not require the courts to keep the records, which allows exploration of alternatives. She also noted that access to records that are kept in perpetuity would be a major issue.

Attorney Bensky disagreed with the workgroup’s proposal, stating that the principle of the open records law is to make as much information available to the public as possible. Keeping court records in perpetuity could create a greater risk of misused information and potential for violations of an individual’s privacy. Judge Pasell noted that there is a conflict between keeping the records “in perpetuity” and retaining them “consistent with the conduct of government business”. He stated that there is nothing in government business that goes on in perpetuity. There are limits. He would like

justification for keeping the records in perpetuity, possibly because of the historical value. Ms. Gervasi pointed out that not even the historical society keeps records in perpetuity.

Ms. Murphy asked why the workgroup believes that court records should be kept in perpetuity. Mr. Fox stated that this is where technology is going. The ability exists to keep them forever. Attorney Bensky inquired as to the cost of keeping the records forever. Chief Myers answered that the cost is constantly changing, but in general is declining. Mr. Fox referred to a study he read about the explosion of the variety of data storage options and how they are constantly changing. People are trying to get their hands around this issue and the concept of perpetuity is out there.

Permanent retention of court records will create a large volume of stored records that will require periodic transfer to new storage media. Attorney Thompson mentioned that right now the State is involved in a large storage project. She is not sure if they are planning to keep state records in perpetuity, however they are looking at issues and switching to a new system. Basic cost projections for the next 5-10 years are available. Ms. Murphy said that her understanding is that over the next 5-10 years there will be very little cost for records storage on CCAP and WCCA.

Mr. Fox reported that he had recently looked online and noticed that it has become the policy of the military to keep records in perpetuity. Ms. Murphy commented that to get her vote for this proposal the workgroup will need a reason why to keep the records. Mr. Fox disagreed stating that when you set limits, you put up obstacles. Ms. Murphy stated that a rationale is needed even if it was as basic as that court records have intrinsic value. Mr. Laabs countered that the reason for keeping the records isn't because we can; it is because we should, for historical reasons.

Chief Myers stated that the records are for the people, and there are certain benchmarks along the way where you have to say, "Okay, what's the value?" For instance, once someone dies, what is the value of keeping their records? Judge Pasell suggested that it might help with genealogy. Chief Myers suggested that he is talking in terms of the court's purpose of keeping the record. Mr. Laabs stated that he doesn't care if the court system keeps the record. He wants someone to keep it. Judge Pasell stated that if SCR72 is changed to keep records in perpetuity, it will become the courts responsibility. He also suggested that a possible resolution to this problem would be to amend the proposal to encourage that records be kept in perpetuity for their historical value, but not to recommend changes to SCR72. Ms. Murphy stated that no matter who takes the responsibility, permanent retention of court records will require resources. In order for a government entity to obtain resources, a persuasive reason to undertake and fund the project will be required.

Chief Myers suggested the following changes to the proposal: "...we recommend the Supreme Court review and change *if necessary* SCR 72..." and under (1), "to provide for the *transfer and* retention..." He stated that this may not be the courts burden, but with these changes it gives the court the option of passing the project on to someone else. Attorney Thompson suggested adding a separate statement recommending that the records be kept for historical reasons. Ms. Gervasi stated that "consistent with government business" does not belong in the proposal because government business has a finite need for the records. Chief Myers stated that government shouldn't make it impossible to keep the records forever, the proposal says that maybe there isn't a government use to keep the records forever, but don't automatically throw it away, make sure it is available for people.

Ms. Murphy suggested that the proposal should be revised by the workgroup and circulated to the subcommittee by e-mail for a vote before the March 3<sup>rd</sup> meeting. She will be sure the proposal is on the agenda for the final plenary session.

3. **Referrals to Content and Access Subcommittee**

In regard to the Content and Access Subcommittee Ms. Murphy reported that:

- On Ms. Evenson's behalf, she referred the Milwaukee additional text issue raised at the last meeting. Because this issue affects only Milwaukee's court records, instead of working through the content subcommittee, the issue will be referred directly to John Barrett, the Clerk of Circuit Court for Milwaukee County who is currently considering changes in this area.
- They are working on headers and summaries for acquittals and dismissals.
- They will also be working today on the requirements and potential redacting of personally identifying information in cases of mistaken identity and identity theft.

The Accuracy and Retention Subcommittee agreed to remove these issues from today's agenda.

4. **Updates – Retention Issues**

Ms. Murphy went over the recommendations that the subcommittee has agreed on for retention of records on WCCA. She also directed the subcommittee's attention to errors in the retention table presented at previous meetings, which have now been corrected (copy attached). She then explained that the Records Management Committee (RMC) will consider recommending some changes to SCR 72. These are noted on the attached retention table. The two recommendations by the subcommittee are a longer retention for criminal traffic OWI and a longer retention for the 980 cases. These issues are not time critical (2009 for criminal traffic OWI and 2030 for 980 cases) and will be referred to RMC to be considered in the next year or two.

5. **Review and Complete Retention Recommendations**

Ms. Murphy reviewed the updated retention table with the subcommittee. On the issue of a shorter WCCA retention schedule for dismissed Divorce cases, Ms. Murphy reported that in 2004, 17% of the disposed divorce cases were dismissals. She directed the subcommittee's attention to the section of the minutes from December 8, 2005 that states "Three proposals came from the subcommittee – set a shorter retention time on WCCA for all dismissed divorce cases; set a shorter retention time on WCCA for divorce cases dismissed less than 90 days after filing; or keep WCCA retention as it is." It was noted that the correct number is 120, not 90 days.

Ms. Murphy recommended that the subcommittee stay consistent with recommendations for other case types, that the WCCA retention matches that of SCR72. The subcommittee members agreed with Ms. Murphy. Judge Pasell, Mr. Fox and Chief Myers felt however that SCR 72 may be in need of change on this matter. Ms. Murphy stated that the subcommittee can make a recommendation that RMC consider a

shorter SCR retention requirement for dismissed divorce cases. It was agreed to make this recommendation.

Mr. Bensky distributed an alternate WCCA retention table for the subcommittee's consideration. He recommends that all criminal traffic and ordinance cases be displayed on WCCA no longer than 5 years and possibly a shorter time if a case is dismissed. Mr. Bensky described the problem the WCCA records cause for people who may have been in trouble in the past but are trying hard to get their lives back on

track. The subcommittee discussed the pros and cons of this recommendation. It was determined that, although the subcommittee would not endorse the recommendation it should be brought to the plenary session.

Two other exceptions that have not yet been dealt with by the subcommittee are for active appeals and open warrants. Ms. Murphy reported that these are rare instances that do not occur frequently, but they should be taken into consideration. It was agreed by the subcommittee that these exceptions to keep the files on WCCA longer than the retention schedule should be made.

Ms. Murphy brought to the attention of the subcommittee a letter from State Representative Jerry Petrowski in which a constituent of his was concerned about the effect of WCCA. He states he was denied a loan due to the WCCA record of a past tax warrant against him. Rep. Petrowski recommends criteria be established to remove these cases from WCCA some period of time (such as 5 years) after the judgment has been satisfied.

Judge Ramirez stated that this instance should be the same as previously discussed. All cases should be SCR 72 compliant, and he would recommend the oversight committee respectfully decline this request. Ms. Murphy stated that a change to SCR 72 on this issue would be staunchly opposed by lenders and land title companies. These groups have been vigorous proponents of long-term availability of money judgment information. The subcommittee noted that "satisfaction" of the judgment is prominently displayed. Attorney Thompson pointed out that the Department of Revenue has a website with the same information on it as WCCA. The subcommittee agreed not to recommend a special exception for retention of tax warrants on WCCA.

## 6. Review and Complete Accuracy Recommendations

Ms. Murphy requested again that the group review the recommendations and discuss any changes or concerns that the subcommittee members have. Chief Myers discussed that in their files they have a note as to what date the address was last updated or changed. It was pointed out that this information does show up in the "court record events". The subcommittee agreed to remove the statement ". . . showing the history of addresses on the WCCA site is not necessary." from the recommendation. The subcommittee also agreed that there should be a link between the "Last Known Address" language on the case screen and an FAQ. Ms. Murphy will draft that wording and circulate it via e-mail to subcommittee members for review before the next meeting.

The subcommittee reviewed the recommendations for error correction. Judge Pasell suggested that the wording be "You or your attorney should request the correction." Ms. Murphy stated that it is best to state that the attorney should request the correction. Judge Pasell then suggested that in front of that sentence it should say "You may request that the record be corrected." This would help to clear up any confusion that a user may have and it makes it clear that they have an option to correct the information that is wrong. Mr. Fox brought up the issue of mistakes in the law enforcement records. Ms. Murphy suggested that it could be a procedure for the clerks to make a copy of the error correction request and forward it on to law enforcement.

Mr. Brooks stated that the disclaimer window may not be very clear by using the terms "data" and "database". It is very technical and not user friendly. The suggested change by Judge Pasell was that it read, "ACCURACY: If you believe any of the information displayed here is inaccurate. . . ." There will then be a link from that disclaimer to the FAQ section giving information on error correction. The user

will then be able to follow the link to the Error Correction Request Form that they can print out and submit. People can then use this form rather than calling or e-mailing the clerk's office.

At the last meeting Ms. Murphy and Ms. Evenson were assigned to bring a recommendation to the subcommittee regarding error correction in the financial area. Ms. Murphy reported that she and Ms. Evenson agreed that people who believe their payments have not been posted on CCAP and WCCA are aware that they can contact the clerk's office by phone and do so. Rather than use the more formal error correction procedure, they concluded that the status quo is working. Ms. Gervasi suggested that this language be put on the website under error correction so that the users know their options. Ms. Murphy reported that in Ms. Evenson's opinion people do not hesitate to contact the clerk's office with regards to these problems. It was then agreed by the subcommittee to take off the "financial transaction" bullet from the wording in the error correction FAQ.

Ms. Murphy asked the subcommittee to determine if the elements of the error correction request form are correct and in order. Assistance regarding at the design of the form can be provided at a later date. Mr. Fox suggested that the form be tested by users to make sure that it will work as they intend it to. Ms. Murphy agreed the subcommittee should include testing of the form as part of the recommendation. Attorney Bensky suggested that after "Relationship to Case" it give examples such as (defendant, plaintiff, etc...). Judge Pasell suggested taking out the checkboxes for Error Report/Error Correction Request. This information is stated at the top of the page and it may be confusing for users, therefore is unnecessary. He also suggested that under copies, a disclaimer should read, "You must send copies to other parties in this case or, if represented, to their attorney." The subcommittee agreed to these revisions to the form. Ms. Murphy stated that the RMC forms committee can review the form for plain language and make any additional changes necessary.

The subcommittee agreed that the error correction procedure should be developed with the clerks of circuit court. They also agreed that circuit judges' current method of handling error correction requests is sufficient. Ms. Murphy will have a conference call with the Judge Ramirez to further discuss the necessity for uniformity on this issue. Ms. Murphy will also have a conference call with Attorney Bensky in regard to the domestic violence checkbox once she receives more information on how CCAP and WCCA receive and display this information.

The meeting was adjourned at 12:00 p.m. The next meeting will be held on March 3, 2006. This meeting will be a plenary session without any subcommittee meetings.

**Data Accuracy and Retention Subcommittee**  
**WCCA Retention Schedule Recommendations\* as of January 20, 2006**

<b>Record Type</b>	<b>Minimum Retention from Disp. - SCR 72</b>	<b>WCCA Retention (from final disposition)</b>	<b>Recommended Change</b>
Small Claims - Dismissed	1 Year	10 Years	Same as Actual Retention <b>NOTE:</b> change in SCR to 2 years will be requested, due to a change in the statutes regarding reopening.
Construction Liens – if no action	2 Years	10 Years	Same as Actual Retention
Conservation Ordinances	6 5 Years	10 Years	Same as Actual Retention
Traffic Ordinances	6 5 Years	10 Years	Same as Actual Retention <b>NOTE:</b> change in SCR to 10 years will be requested, due to increased time OWI records have legal value.
Other Ordinance Violations	6 5 Years	10 Years	Same as Actual Retention
Docketed Tax Warrants	20 Years	Same as SCR	Same as Actual Retention
Docketed Money Judgments	20 Years	Same as SCR	Same as Actual Retention
Civil Case Records	20 Years	Same as SCR	Same as Actual Retention
Misdemeanor Traffic	20 Years	Same as SCR	Same as Actual Retention
Misdemeanor Case Records	20 Years	Same as SCR	Same as Actual Retention
Small Claims Case Records	20 Years	Same as SCR	Same as Actual Retention
Docketed Unemployment Comp. Warrants	20 Years	Same as SCR	Same as Actual Retention

<b>Record Type</b>	<b>Minimum Retention from Disp. - SCR 72</b>	<b>WCCA Retention (from final disposition)</b>	<b>Recommended Change</b>
Family Case Records	30 Years	Same as SCR	Same as Actual Retention.
Family Cases with Ongoing Payments	30 Years or 7 Years after last payment, whichever is longer	Same as SCR	Same as Actual Retention
Ch. 980 Case Records (Sexually Violent Person Commitment)	50 Years	75 Years	Same as Actual Retention Recommend SCR Change to same as Class A Felony
Felony Records Class B – I	50 Years	Same as SCR	Same as Actual Retention
Class A Felony Records	75 Years	Same as SCR	Same as Actual Retention
Estate Case Records	75 Years	Same as SCR	Same as Actual Retention

Exceptions on WCCA – Active appeals, open warrants, financial penalties due and owing the court.

**\* The subcommittee recommends that the WCCA retention not be longer than the existence of the physical record in the Clerk of Circuit Court’s office and that the record not be removed from WCCA until the clerk notifies CCAP that the underlying circuit court record has**