

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

MINUTES

January 20, 2006
12:30 p.m.

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

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

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

MEMBERS ABSENT: Attorney Richard Dufour, Marquette County District Attorney; Carolyn Evenson, Waukesha County Clerk of Circuit Court; Representative Donald Friske; John Laabs, President Wisconsin Broadcasters Association; and Jeffrey Schmidt, Ozaukee County Clerk of Circuit Court.

1. **Approval Of Minutes**

Ms. Murphy said the second page, third paragraph, should be corrected to reflect that the retention period for cases adjudicated in municipal court is 5 years not 6 years. The committee approved the minutes with that correction.

2. **Subcommittee Reports**

a. **Content/Access**

Mr. Moore said the mission of the subcommittee is to discuss ways to present the information on WCCA in a clear manner so misunderstandings are minimized. He provided a brief overview of the subcommittee's discussions on these items:

Case summaries - Mr. Moore said the subcommittee is recommending that a case summary appear for each case in criminal case types. He said the case summary will

include the disposition of the case and, in some instances, provide further information about the disposition. He said the subcommittee discussed language for various scenarios, including dismissals, read-ins, and deferred prosecution among others. Mr. Moore said the subcommittee also will be recommending the notice to employer be included within the case summary as well as some changes to the language to reinforce the message that job discrimination is illegal.

Sealing/Expunction – Mr. Moore said the subcommittee discussed this extensively and concluded the current policy is adequate. However, the subcommittee will be recommending that the Records Management Committee create a mandatory form to formalize the procedures and criteria set in case law for sealing documents or cases. Mr. Moore added the subcommittee will also be recommending that the Supreme Court request the Legislative Council to undertake a study regarding the expunction law and potential “second chance” legislation.

Petition to remove home address – Mr. Moore said the subcommittee acknowledged that in some instances there is a legitimate concern for personal safety. He said the subcommittee is recommending the Records Management Committee adopt a form to petition the court for address removal from the WCCA records. He said the subcommittee developed a draft form as well as set the criteria, including that a demonstrated threat must be present and being a member of a particular profession is not reason alone. Ms. Bousquet said she would e-mail out the draft form to the other members. Mr. Moore asked that at this point the members do not distribute the draft further.

What items should remain on WCCA - Mr. Moore said the subcommittee discussed date of birth, GAL field, race field, aliases, and the future activity field. He said the subcommittee agreed the current method of handling the date of birth was sufficient; that the GAL field should be removed; the future activity field should remain and they would defer to the CCAP Steering Committee decision on the race field. Mr. Moore said the subcommittee suggests that further clarification is needed if an alias is a result of a typographical error or mistaken identity. He said they are recommending that a code be developed so the incorrect name is not searchable on WCCA.

What items should be added to WCCA – Mr. Moore said the subcommittee discussed electronic documents, audio files and demographic information and concluded that it would be not advisable to post these items on WCCA at this time. He said the subcommittee is recommending that a glossary of terms and federal court links be added to WCCA. Mr. Moore said they also discussed if federal employment laws should be included in the notice to employer. He said after research, it was found that federal law is not applicable.

Bulk data subscriptions – Mr. Moore said the subcommittee will be recommending that the language in the agreement include that the subscriber inform clients of the notice to employer and the explanation of dismissed/pending cases.

Mistaken identity/Identity Theft – Mr. Moore said the subcommittee is recommending that the Records Management Committee adopt a form to petition the court to remove personal information from the WCCA records in cases of clear mistaken identity or identity theft. He said the subcommittee developed a draft form similar to the petition to remove address. He said an affidavit from the district attorney supporting the petition will be a prerequisite, however a person could submit the petition directly to the judge for consideration if the district attorney refuses to sign the affidavit.

Mr. Moore said specific details and debate about the issues are included in the subcommittee meeting minutes. He noted that approved minutes are posted on the court’s website.

b. Retention/Accuracy

Retention -

Ms. Murphy distributed a copy of the retention schedule that includes the subcommittee’s recommendations as of December 8, 2005. The schedule compared the retention periods in Supreme Court Rules, current WCCA retention and the subcommittee recommendations. She said the subcommittee agreed that records should not be kept on WCCA longer than the paper records are maintained in the clerk of court’s office. She said the subcommittee felt strongly that if the record was on WCCA, the paper record should exist so information can be verified or corrected. She said the subcommittee further recommends that the record not be removed from WCCA until the clerk of court notifies CCAP that the underlying circuit court record has been destroyed or transferred in accordance with Supreme Court Rule.

Ms. Murphy also noted the retention period in Supreme Court Rule 72 is the minimum amount of time and records can be kept longer as determined by the clerk of court. She said that is why the recommended change is listed as the “actual retention”. Ms. Murphy said this recommendation was a compromise among subcommittee members who wanted to maintain access to the records for as long as possible. Mr. Barrett said the practices of clerks of court vary among the counties and the retention period will vary as well. He added records also might remain on WCCA for a much longer period of time simply because of lack of resources.

Attorney Mowris asked if there was any discussion about requests for removal after the minimum retention period has passed. Ms. Murphy said the subcommittee intends to include in their report the minority opinion that recommends a shorter retention period for misdemeanor, traffic and ordinance actions. She said the issue of applying the retention schedule to the charge at conviction instead of the original charge will also be included for the March meeting. The committee needs to consider the problems this would mean for clerks of court and CCAP in addition to the advantages. Ms. Murphy said the discussion progressed to whether there should be a WCCA for the public with a shorter retention period and another level of WCCA for judges and justice partners. She said the subcommittee concluded that would not be practical at this point but future consideration should be given. Mr. Fox said the subcommittee focused on improving the current website but acknowledges there are issues that need further future consideration.

Ms. Murphy said the subcommittee will recommend to the Records Management Committee (RMC) that SCR 72 be amended to retain Chapter 980 cases as long as Class A felonies and to increase the retention of criminal traffic – operating while intoxicated cases. She said they also identified exceptions to the retention schedule that should remain beyond the minimum. These exceptions are cases where money is due to the court, where there is an active warrant, or an active appeal. Ms. Murphy said they received a request from Rep. Petrowski to consider a shorter retention period, from 20 years to 5 years, for satisfied tax warrants. She said the subcommittee declined to include that request in their recommendations. Judge Ramirez said the subcommittee carefully considered the request but wanted to remain consistent with Supreme Court rule and other retention recommendations. Ms. Murphy said the information would also be available from other sources such as the Department of Revenue and credit reports so to remove the record from WCCA would not solve the problem.

Mr. Lueders verified the retention period is applied on the original charge and that a recommendation will be considered that the Supreme Court rule be reviewed, and possibly changed to base it on the charge at conviction. Ms. Murphy said that was correct. Mr. Barrett said that case identifiers, such as CF, CM and CTCM, label the case from its inception and it is not changed if the case is amended to another case type. He thought maybe a single identifier of CR could be used so it would still be correct if the charges change as the case progresses. Ms. Murphy said this would create problems in other areas because the case identifier is used for a variety of reasons, including case management statistical reports. She offered to provide some background information on case identifiers to the members prior to the next meeting.

Accuracy –

Ms. Murphy said a large number of complaints sent to CCAP regarding WCCA involve inaccurate addresses. She said the court only updates the address as needed. The subcommittee will be recommending that the address label be changed to LKA (last known address) and also provide an FAQ to make it clearer that the address listed is the last one known, not necessarily the current address.

Ms. Murphy said the subcommittee is recommending that the instructions on what to do if a person feels data is inaccurate, be moved to outside of the disclaimer box on the introduction page. She said they plan to recommend a link to an FAQ about error corrections and examples of what can and can't be corrected. Ms. Murphy said the subcommittee is recommending that requests for corrections be done in writing and they are working on a form. She said having a form will foster consistency from county to county and will be helpful to the clerks in handling the requests. Mr. Fox asked if it was possible to have the form online and submit it electronically. Ms. Murphy thought the form could be filled out online but it will need to be printed out and mailed or faxed to the appropriate clerk of court. Judge Carlson said it is advisable to have an original signature of the requestor. Mr. Lueders said at earlier meetings Ms. Murphy said that difference of opinion is not an error and thought providing a definition of an error might be helpful. Ms. Murphy said any suggestions for this language should be e-mailed to her.

Ms. Murphy said the subcommittee concluded that the first paragraph on the introduction page is outdated and unclear. Mr. Fox will be drafting a more descriptive summary.

Ms. Murphy said they will be doing more research on the domestic abuse designation. She said the district attorney makes a domestic abuse indication but it is not always removed if the judge doesn't determine it was domestic abuse.

3. **Future Meetings**

Mr. Voelker said the next meeting will be on March 3. He said it is not planned to have subcommittee meetings and all of the meeting time will be dedicated to the full committee discussing the final report. He said the draft report will include the recommendations as well as debate about the issues. Mr. Voelker said a draft report will be sent out to members about two weeks prior to the next meeting.

With all matters being discussed, the meeting was adjourned.