

➤ Hearing Records ... HR

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WISCONSIN STATE  
LEGISLATURE ...  
PUBLIC HEARING  
COMMITTEE RECORDS

**2007-08**

(session year)

**Senate**

(Assembly, Senate or Joint)

Committee on  
Public Health, Senior  
Issues, Long Term  
Care and Privacy

(SC-PHSILTCP)

(FORM UPDATED: 07/02/2010)

**COMMITTEE NOTICES ...**

➤ Committee Reports ... CR  
\*\*

➤ Executive Sessions ... ES  
\*\*

➤ Public Hearings ... PH  
\*\*

➤ Record of Comm. Proceedings ... RCP  
\*\*

**INFORMATION COLLECTED BY  
COMMITTEE FOR AND AGAINST  
PROPOSAL ...**

➤ Appointments ... Appt  
\*\*

Name:

➤ Clearinghouse Rules ... CRule  
\*\*

➤ Hearing Records ... HR (bills and resolutions)  
\*\*

➤ Miscellaneous ... Misc  
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PETER D. FOX

February 20, 2008

State Senator Tim Carpenter  
Chair, Senate Committee on Public Health, Senior Issues, Long-Term Care  
and Privacy  
Room 306 South, State Capitol  
PO Box 7882  
Madison, WI 53707-7882

Dear Senator Carpenter and Members of the Committee:

On behalf of the Board of Directors of the Wisconsin Newspaper Association (WNA) and its 241 daily and weekly member newspapers, we appreciate the opportunity to express our concerns regarding 2008 Senate Bill 458. Our association strongly opposes this bill because of the damage it would do to the integrity of Wisconsin's court records. Essentially, it would create a "second set of books" thereby the state Circuit Court Assess Program – known popularly as C-CAP – ineffective.

Wisconsin provides greater access to its citizens through the public records portion of the Consolidate Court Automation Programs, popularly known as CCAP, than any other state in the union. This is in keeping with our state's proud tradition of open government and open records as enhanced by Legislative action over Wisconsin's history. We shouldn't take this commitment lightly.

Court records are public records and should be accessed in their entirety in whatever format – in manila folders in courthouse file cabinets or via the Web-based CCAP structure. In fact, delving a bit deeper into the matter, we would find computer-based record keeping is now normal procedure in our county courthouses. How much better it is to have a complete, historical record that shows a charge has been dismissed or found not guilty rather than have a charge appear on the CCAP Website and then suddenly disappear without explanation?

There is valid reason for the public to be aware of patterns of behavior even if a charge is dismissed, or reduced or if a party is found not guilty. A pattern may indicate a tendency to be involved in a particular behavior – multiple drunken driving charges come to mind.

SB 458 also invites a dangerous precedent – what is the next portion of court history that is too sensitive to be available to the public via CCAP?

State Senator Tim Carpenter  
Chair, Senate Committee on Public Health, Senior Issues, Long-Term Care and Privacy  
February 20, 2008  
Page 2

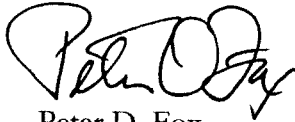
SB 458 and its Assembly companion would create confusion and uncertainty among those citizens accessing the CCAP site because one would never know whether the information being viewed is complete or incomplete. Public confidence in completeness and accuracy of state court records would be damaged.

The CCAP oversight committee that met from mid-2005 to early 2006 to review the 10-year history of the program spent much time on this subject. The committee was comprised of judges, attorneys, law enforcement officials, citizens, news media representatives and legislators. The subject of what material should be placed on the site was closely examined. At the end of the committee's work over nine months there was consensus that accuracy and integrity were essential to public confidence in the service CCAP provides citizens.

The legislative "fix" as proposed via SB 458 will create its own set of problems. Representing WNA, I served on the accuracy and retention subcommittee of the oversight committee. Many who support SB 458 and Assembly Bill 754 complain that information displayed about dismissed charges or not guilty dispositions is incomplete or imprecise. If so, then let's improve the situation through a mechanism already in place that is able to appropriately address the many finer details of such issues. For example, it may be that an individual who is unquestionably shown to be wrongly charged with a crime as a result of identify theft ought not to have his or her name displayed in connection with that error.

In summary, we believe that SB 458 is flawed and would be a disservice to Wisconsin citizens. We strongly urge this committee to reject it. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter D. Fox". The signature is stylized and cursive, with a large initial "P" and "D".

Peter D. Fox  
Executive Director



February 20, 2008

Sandee Stadler  
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**Assembly Bill 754**  
**Public Hearing**  
**Committee on Corrections and Courts**  
Wednesday, February 13, 2008  
9:00 a.m.  
415 Northwest  
State Capitol

**Senate Bill 458**  
**Public Hearing**  
**Committee on Public Health, Senior**  
**Issues, Long Term Care and Privacy**  
Wednesday, February 20, 2008  
11:00 a.m.  
330 Southwest  
State Capitol

Please allow this correspondence to serve as a written testimony in lieu of my personal appearance at this morning's hearing regarding Assembly Bill 754 and its companion bill SB 458.

I, hereby, with this written testimony, support the above-referenced Assembly Bill 754 and companion bill SB458. A great majority of us acknowledge the flaws and inconsistencies of our current Consolidated Court Automated Program (CCAP) and how CCAP, in its magnitude, can be used as a legal weapon and how it can damage a person's (oftentimes an innocent person's) reputation and employability. AB 754 and SB 458 would help to rectify and offer some justice, legal and personal relief to those whose reputations and employability have been adversely affected by the existence of an entry so easily accessible to all – an entry oftentimes unsubstantiated and dismissed.

I have been affected adversely by the CCAP system which obviously has little oversight in what is entered and which all too often contains several errors. As an example of its destructive power, CCAP was used as a legal and personal weapon against me as a retaliatory action.

I had filed complaints against my former employer including a complaint with the ERD. As a retaliatory action, I was discharged by my employer. On the scheduled day to retrieve my belongings, I was given some of my work-product. In discovery with the ERD, my former employer submitted to me and the ERD, several documents, including unredacted and partially redacted documents, which I also attempted to submit.

To keep me from further using my documentation/work-product/evidence, my former employer filed a temporary restraining order and a civil suit for violation of a trade secret.

Although no trade secret was violated and there was no substantiation, no imminent threat, the judge, nonetheless, granted the TRO. Everything was eventually dismissed yet this CCAP entry which contains, as acknowledged by many, a highly unusual amount of information including damaging accusations including allegations of theft. This CCAP entry still exists in its entirety today. I have tried to a certain extent to have the entry modified, but there doesn't really exist any easy way to make changes, even simple ones like the fact that I am listed as an attorney in CCAP (which I am not). I know this CCAP entry has greatly adversely affected my employability.

AB754 and SB458 would help individuals in similar situations. We all know anyone can file just about anything against anyone and it will show up in CCAP. Whether this person is innocent or guilty, anyone who reads a derogatory entry, despite the "disclaimer", will oftentimes have a lingering, negative, suspicious first impression – unjustly.

Anyone who has committed a crime should be held accountable. The public should know about any threat to public safety. I have a great respect for open records laws however, as we all know, CCAP encompasses a whole different dimension than just going to the court house to review an open record. I have, however, even a greater respect for justice. It is simply unjust that that innocent individuals should be punished by such a flawed program. It is unjust because if an atty. knows a judge well, just about anything can be entered in CCAP. It is unjust that if a case has been dismissed, unsubstantiated, overturned that it remains in the CCAP for the entire world to see and judge and discriminate. In CCAP, is one innocent until proven guilty?? Guilty until proven innocent?? In CCAP, an individual is not quite either at the moment, esp. with allegations and charges that linger on long after a dismissal, etc.

With the aforementioned flaws of our CCAP program, at least after a designated time period, preferably less than the proposed 90 or 120 days maximum, AB754 and SB458 will offer some justice and legal and / or personal relief. It is a great bill. I encourage legislators to support this bill and constituents to contact their legislators to support it.

Lastly, I want to thank Ms. Connie Schulze of Sen. Alberta Darling's office for all her assistance and support.

Thank you.

Yours truly,

Sandee Stadler







# Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS  
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A. John Voelker  
Director of State Courts

Testimony  
Of  
A. John Voelker  
Director of State Courts

in Opposition to

**Senate Bill 458**  
Restricting Internet Access to Certain Court Records

Senate Committee on Public Health, Senior Issues, Long Term Care and Privacy  
Senator Tim Carpenter, Chair  
February 20, 2008

Thank you, Chairman Carpenter and members of the Committee. I am John Voelker, the Director of State Courts. I am appearing on behalf of the Legislative Committee of the Wisconsin Judicial Conference to express its opposition to Senate Bill 458, which would direct my office to restrict Internet access to certain court records. The Wisconsin Judicial Conference is composed of all appellate and circuit court judges in Wisconsin. The Legislative Committee urges your committee to reject this bill.

There are a number of practical concerns I want to raise about SB 458 but first I would like the committee to understand the policy that underlies our commitment to maintaining an open and accessible court system. Nearly 30 years ago, the Wisconsin Supreme Court addressed whether dismissed cases should remain open records. In the case of *Newspapers, Inc. v. Breier*, 89 Wis.2d 417, 436-37 (1979), the Court said:

The power to arrest is one of the most awesome weapons in the arsenal of the state. It is an awesome weapon for the protection of the people, but it is also a power that may be abused. In every case, the fact of an arrest and the charge upon which the arrest is made is a matter of legitimate public interest. The power of arrest may be abused by taking persons into custody on trivial charges when charges of greater magnitude would be appropriate. The power of arrest may be abused by overcharging for the purpose of harassing individuals and with the expectation and intent that the initial charge will be dismissed or substantially reduced. In any event, curbing abuse of the arrest power is only possible if the public can learn how that power is exercised.

SB 458 would require my office to remove from the Wisconsin Circuit Court Access (WCCA) Internet website records from cases involving a civil forfeiture, misdemeanor or felony in which one of the following applies:

- (a) "cases or charges" have been dismissed;
- (b) a person was found not guilty "of all of the charges;" or
- (c) a "case or charge has been overturned on appeal and dismissed."

As I mentioned, we have several practical concerns about how SB 458 would be implemented.

First, I do not believe SB 458 will achieve the results desired by the authors. Proponents of changing the WCCA Internet website most often cite problems defendants have with potential employers and landlords. Yet, this information will be available for up to 90 or 120 days before being removed from public access. During that time, the information would be available for all, including those who are willing to procure, archive and later make those records available. Before the WCCA website was available, companies created databases of relevant court record information, if there was a profit to be made by their retention and sale. I believe information will still be available, but it will be under the control of private companies rather than the court system.

The WCCA Oversight Committee I created assessed the availability of data on the Internet. It discussed this issue at length and recommended not to remove dismissed cases but rather to examine the expunction statute. One of the recommendations of the WCCA Oversight Committee was to suggest a Legislative Council study of the current expunction statute, s. 973.015, Wis. Stats. There was a study committee in 2006, but that committee was unable to agree on suggested changes to the statute.

Second, all court records would continue to be maintained by our case management system, the Consolidated Court Automation Programs (CCAP). The CCAP case management system is the lifeblood of the work of the circuit courts. The data will still be on our central repository, as we need all the data for statistics, for data requests, etc.

SB 458 would require us to re-program CCAP to hide the information from the WCCA Internet website. As we continue to hide more information from Internet access, the searches are going to take longer and longer. Each query will need to parse through all of the data it should hide from a search before it can display the results. As these cases will be around for 20 to 75 years there will undoubtedly be a lot of cases or charges that need to be kept but hidden.

Third, the language of the bill that refers to "cases or charges" is very problematic. Charging practices are not uniform throughout the state. A case filed against a defendant sometimes involves multiple counts or charges. Or multiple counts or charges can be filed as more than one case.

Very often in plea bargains, some charges are dismissed and read-in at sentencing. That means the charges are dismissed but the judge can take them into account for purposes of sentencing. The bill does not differentiate dismissed from dismissed and read-in. Hiding these cases or charges will make other sentences seem too severe in the associated case or charge in comparison to other similar cases that do not include dismissed and read-in cases or charges as part of their sentence.

Fourth, the public will be able to determine when a charge is missing. Each charge is numbered. So, if count 1 was guilty, count 2 was dismissed and count 3 was guilty, the counts that displayed would be 1 and 3. It would be obvious there was more charges.

Fifth, the sentencing screen or court record screen on a case where the defendant was found guilty or pled guilty could very easily display information that refers to a count that is no longer viewable. Sometimes a dismissed case or read-in charge is referred to right in the text on the court record. Even if we did hide the charge, someone can still discover that the defendant had 2 charges against him or her at one point. This will be the case for most counties as the clerks use in-court processing to take their on-line minutes. Milwaukee County has been doing this since 1998.

To try to remove all references to dismissed charges within a case will be impossible to do electronically from CCAP. It would require manual review and modifying of the official court record by the clerks of court for literally hundreds of thousands of cases.

Finally, we are greatly concerned about the cost to CCAP of changing the website. SB 458 does not provide any resources for the court system to perform the computer reprogramming that will be necessary, nor does it provide any lead time for us to perform this work. Our preliminary estimate of the reprogramming costs is approximately \$20,000. If enacted, SB 458 will require us to defer other work presently being done.

For these reasons, we urge you to reject SB 458. I would be happy to answer any questions you may have. Thank you.





# JULIE LASSA

## STATE SENATOR

Date?

Senate Bill 458 Testimony  
Senate Committee on Public Health, Senior Issues, Long Term Care, and Privacy  
Room 330 SW  
11:00 a.m.

Chairman Carpenter and Committee Members,

Thank you for the opportunity to provide testimony today on Senate Bill 458. I also want to thank Representative Vos, who authored the Assembly companion bill, for his work on this legislation with me.

I was prompted to pursue this legislation after hearing from my constituent, Rex Oelhoff, who is here today. He'll tell you about his experiences in detail a moment or two, but I would like to summarize the ordeal that he went through and that he continues to go through.

Several years ago, Rex was falsely accused of sexual abuse of a child, a very serious crime. After a thorough investigation by the District Attorney's office, however, it was concluded that the allegations had no basis and the charges were dismissed without prejudice. Unfortunately, he has faced discrimination and hardship ever since then because of his CCAP entry. Rex went through the necessary steps to get his federal record expunged and was successful. His county record still remains though. He doesn't have the financial means to file a civil suit for restitution, so he continues on every day, unable to change his situation.

For Rex and others who have gone through similar circumstances, who face distrust and discrimination on a daily basis, a presumption of innocence is far from reality.

As all of us in this room know, CCAP is technically a record of court proceedings. We generally assume that these records will not be used in illegal ways. What we hear in these stories, though, is that a presumption of innocence for these individual is simply not the case. Even with a disclaimer included on the front page of the CCAP website, these individuals face distrust and even discrimination in employment, in loan applications, even in relationships. They face this despite being innocent.

Since Representative Vos and I introduced this legislation last month, we have received many calls and emails from Wisconsin citizens who are in the same boat as my constituent. Their reasons for having CCAP entries are varied – some have been falsely

accused of crimes, others have gone to trial to clear their name and been found not guilty. Their experiences because of having a CCAP entry, though, are largely the same.

I want to be clear that the aim of this bill is not, as some have argued, to protect the guilty. In fact, it is quite the opposite. The goal behind this legislation is to protect people like my constituent Rex Oelhoff, people who have been proven not guilty and who should not face illegal discrimination.

Thank you for your time and consideration of this legislation. I'd be happy to answer any questions that you might have.



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**WISCONSIN CIRCUIT COURT  
ACCESS OVERSIGHT  
COMMITTEE**

**FINAL REPORT**

**MARCH 2006**

SB 458?

**Committee Members**

Content/Access Subcommittee

Mr. John Barrett  
Ms. Jean Bousquet  
Attorney Mary Burke  
Hon. Gary Carlson  
Ms. Carole Doeppers  
Hon. Charles (Chuck) Kahn, Jr.  
Mr. Bill Lueders  
Mr. Gregg Moore  
Attorney Gerald Mowris  
Sheriff Randy Roderick  
Mr. Jeff Schmidt  
Representative Marlin Schneider

Retention/Accuracy Subcommittee

Attorney Larry Bensky  
District Attorney Richard DuFour  
Ms. Carolyn Evenson  
Mr. Peter Fox  
Representative Donald Friske  
Ms. Sheryl Gervasi  
Mr. John Laabs  
Ms. Kathleen Murphy  
Police Chief Rick Myers  
Hon. Dale Pasell  
Hon. Ralph Ramirez  
Attorney Kelli Thompson

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## TABLE OF CONTENTS

Introduction.....	1
Committee Structure.....	1
Recommendations.....	2
Appendix 1 – Current WCCA Policy.....	9
Appendix 2 – Examples of Case Summaries.....	11
Appendix 3 – Form to Remove Address.....	37
Appendix 4 – Form to Remove Case Record.....	39
Appendix 5 – Error Correction FAQ.....	41
Appendix 6 – Form to Correct Error.....	42

**Wisconsin Circuit Court Access Oversight Committee**  
**Final Report**  
**March 2006**

Introduction

The Wisconsin Circuit Court Access (WCCA) program was created in response to an increasing number of requests for court records from district attorneys, sheriffs' departments, and other court business partners. Title companies, abstractors, members of the media and the general public have also benefited from WCCA. Many have come to rely on WCCA as their primary means of accessing circuit court data.

Since WCCA was first implemented in April 1999, it has steadily grown into a site receiving considerable traffic. Currently the site averages about a million data requests a day. As a result, the site also continues to generate privacy concerns.

The original WCCA Oversight Committee was convened in 2000. This committee was instrumental in the development of a comprehensive policy that addresses electronic access to circuit court records. See Appendix I for the current policy. The committee was reconvened to review and possibly modify this policy based on feedback received in the intervening years about the information available on the WCCA Web site. Recommendations from the committee will be presented to the Director of State Courts for consideration.

WCCA is available as a byproduct of recordkeeping in the circuit courts. Maintaining public court records on the internet provides advantages to the public, to justice system agencies and to the courts. However, it should be recognized that while WCCA assists with access and accountability, it is one of many responsibilities of trial courts. Further, committee recommendations may end up in competition for the limited resources available to the court system. Most of the recommendations do not require a substantial investment of resources. Those recommendations that may require substantial resources or dramatically affect other court business functions should be reviewed and prioritized with this in mind.

Committee Structure

Using the same approach as the original WCCA committee, this committee was split into two working subgroups, Content and Access, and Retention and Accuracy. As in the original committee, Mr. Moore and Ms. Murphy were again asked to facilitate the subcommittees, the Content and Access, and Retention and Accuracy, respectively.

The subcommittees reviewed the issues and offered their recommendations to the full WCCA Oversight Committee for consideration on March 3, 2006. The following recommendations are a result of that meeting.

## **Recommendations of the Wisconsin Circuit Court Access Oversight Committee**

Following are the recommendations of the WCCA Oversight Committee, along with a brief summary of key policy considerations. Some recommendations are the result of motions and votes and others are the result of consensus agreement.

### **Recommendation 1: Electronic court records should be accessible to the public on the Internet through WCCA**

Citing Wisconsin's open records law, the compelling public interest in having access to this information, and the fact that much of this information would be available online anyway through other sources, the committee supports the continuation of WCCA.

### **Recommendation 2: The following premises of the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) Guidelines for Public Access to Court Records should be adopted as general principles to guide policy development**

- a. Retain the traditional policy that court records are presumptively open to public access.
- b. As a general rule access should not change depending upon whether the court record is in paper or electronic form. Whether there should be access should be the same regardless of the form of the record, although the manner of access may vary. The CCJ/COSCA Guidelines apply to all court records.
- c. The nature of certain information in some court records, however, is such that remote public access to the information in electronic form may be inappropriate, even though public access at the courthouse is maintained.
- d. The nature of the information in some records is such that all public access to the information should be precluded, unless authorized by a judge.
- e. Access policies should be clear, consistently applied, and not subject to interpretation by individual court or clerk personnel.

The guidelines were developed by the National Center for State Courts and the Justice Management Institute, on behalf of CCJ and COSCA, to assist states in developing record access policies. The committee discussed the five premises on which the guidelines are based and agreed with the premises. The committee did interpret Premise d. to mean that the precluded records referred to are legally confidential records. The committee also understands that Premise c. envisions that some electronic records need not be made available on the Internet, notwithstanding Premise b.

### **Recommendation 3: Improvements should be made to WCCA to increase clarity and reduce the potential for misuse**

The committee agreed that additional efforts should be made to present information as clearly as possible. See Recommendation 4.

### **Recommendation 4: Executive Case Summaries should be the first screen displayed in all criminal cases. Final criminal dispositions should be prominently displayed in the summary, with more clarification on the page to better reflect the outcome; also, charge history should remain but be located further into the record**

The Content/Access Subcommittee devoted a considerable amount of time discussing and working with CCAP staff on the layout and content of the Executive Case Summaries. The subcommittee agreed that the summaries, which would display prior to accessing the more-detailed case record, would vary depending on the status and/or disposition of the criminal case. It is expected that these summaries would increase clarity and reduce the potential for misuse, as suggested in Recommendation 3. For example, the executive case summaries for pending and dismissed criminal cases would note the presumption of innocence, cases with convictions would list only those charges on which a person was convicted, and read-in charges would include an appropriate explanation. All summaries would include a notice to employers concerning employment discrimination. Examples of the executive case summaries are shown in Appendix 2.

**Recommendation 5: A statewide form and procedures should be developed to petition the court to remove home addresses for safety reasons**

The committee agreed to the following principles:

- a. Available only in non-felony cases.
- b. Family and household members can be included in petitions.
- c. A demonstrated harm or threat to the person or person's family or household members is required criteria.
- d. A judge will make the determination. If the petition is successful, a message will be displayed indicating that the address has been removed by order of a judge. The responsible judge's name will be included in the message.
- e. Both the street and city will be removed.
- f. The petition will apply to an individual case only. Separate petitions are necessary for each case. The petition will be filed in the originating county.
- g. Information about the process should be put in the FAQ section.

Judge Gary Carlson prepared a draft form that the committee discussed, revised and approved. See Appendix 3 for draft form. The committee recommends that his draft form be forwarded to the Wisconsin Court Records Management Committee for consideration and adoption, along with appropriate procedures.

**Recommendation 6: A statewide form and procedures should be developed to petition the court to remove personal information from WCCA specifically in criminal, traffic or ordinance violation cases where the prosecutor certifies or the judge makes a finding of fact that the complaint or citation was issued in error due to mistaken identity or identity theft. A request must be made to the prosecutor prior to submitting the petition to the judge**

The committee acknowledged that situations exist in which a defendant is actually a victim of mistaken identity or identity theft. The committee envisions a process, similar to the one noted above in Recommendation 5, in which the defendant, prosecutor or law enforcement officer could petition the court to remove identifying information from WCCA in cases where the complaint or citation was issued in error due to mistaken identity or identity theft. Although the petition would normally require approval from the prosecutor, instructions should be included on the form that if the prosecutor will not support the petition, it can be submitted to the judge for consideration. Judge Gary Carlson agreed to draft a form that could be forwarded to the Wisconsin Court Records Management Committee for consideration and adoption. See Appendix 4 for draft form.

**Recommendation 7: The current approach to handling Date of Birth should be maintained**

The full date of birth (DOB) is currently included for criminal cases, but only the month and year are displayed in other case types. Although DOB is routinely protected information, it is a good identifier because it does not change. Also, in order to minimize identity theft risks, the committee supports the current policy of excluding “day” from the DOB field in non-criminal cases.

**Recommendation 8: GAL field should be removed from criminal cases**

The Guardian ad Litem (GAL) field is not applicable in criminal cases.

**Recommendation 9: Defer to the CCAP Steering Committee regarding the Race field**

The court receives race information from the district attorney, who usually receives it from law enforcement. Noting that the CCAP Steering Committee has discussed this issue at length and decided to leave the race field on WCCA, with the disclaimer that race determination can be subjective, the committee agreed to defer to the decision made by the CCAP Steering Committee.

**Recommendation 10: Aliases should be changed to AKA (also known as) and some type of clarification should be made if it is a result of a typographical correction**

An alias can cause some confusion with WCCA users because the same record displays twice. An alias is created anytime a name is changed for any reason, including when a typographical error is being corrected. Recommendation 6 deals specifically with situations involving mistaken identity or identity theft. If the alias is because of mistaken identity, identity theft, or a typographical error, a code should be created so that field should not be searchable on WCCA.

**Recommendation 11: Future scheduled activity should remain on WCCA**

The committee agreed that this information is useful and should be retained.

**Recommendation 12: No changes should be made concerning the display of family cases**

The committee discussed whether access to family cases should be limited, in an effort to strike a reasonable balance between convenience and usefulness on the one hand and potential for harm on the other. After consideration, the committee decided that family case types should display on WCCA as they currently are.

**Recommendation 13: The Director of State Courts should request the Legislative Council to study the issues of expunction and “second chance” legislation, and note that committee members would offer their services**

The committee recognizes that there are problems with the current expunction law and that people’s lives are being affected. It was noted that the legislature, by enacting the misdemeanor expunction law, has recognized that some people deserve a second chance. It was also noted that the issues are complex and need more study.

**Recommendation 14: Concerning expungement and sealing of records, the current WCCA policy is acceptable, although if the expunction laws are changed or new case law is promulgated, this issue should be revisited at that time. Also, the Records Management Committee should be asked to create a mandatory form to formalize the procedures and criteria set in case law for sealing documents or cases**

Expunction is regulated by Wisconsin statutes and is available as an option in limited situations. If a record is expunged, it is deleted from WCCA except for very basic skeletal information. The power of a judge to seal a single case or document is within the circuit court's inherent powers, but the judge needs to determine that the reason for closure outweighs the right for the public to know. Given the strong state policy favoring openness, documents or cases are only rarely sealed. Following a detailed explanation of how CCAP software handles the sealing of records, the committee agreed that no changes are necessary. For purposes of public accountability, WCCA will display the name of the judge who ordered the case or document to be sealed. The committee agreed that it would be helpful to have a standardized, statewide procedure for petitioning to have a record sealed.

**Recommendation 15: Electronic documents should not be posted on WCCA at this time**

Some court documents are stored electronically, such as criminal complaints, e-filing documents, and scanned documents. Because of concerns with personal information on some documents, such as social security number and driver's license number; the practical difficulties with redacting information from documents; and the sensitive nature of the content of certain documents, such as criminal complaints, the committee concluded that it would not be advisable to post electronic documents on WCCA at this time.

**Recommendation 16: Audio files should not be made available on WCCA at this time**

Two judges are currently participating in a pilot project to record court proceedings using digital audio recording technology. CDs can be purchased for \$10 or written transcripts can be ordered. It was noted that circuit courts tend to deal more personally with individuals whereas the Supreme Court, which does broadcast its hearings on the court's website, reviews matters that are more an issue of law. It was also noted that once a transmission would be broadcast, it is impossible to redact information.

**Recommendation 17: Continue the current practice of not posting physical description information on WCCA**

Identifying physical information such as height, weight, scars and hair color is often captured in criminal cases. It was noted that law enforcement does not need access to such information on WCCA because it is available to law enforcement agencies in the National Crime Information Center database and other law enforcement systems. While it was noted that more identifying information would lessen the risk of misidentification, it was also noted that some of these characteristics can change rapidly and may not be helpful.

**Recommendation 18: A general glossary of court terms and links to federal court websites should be posted on WCCA**

It was agreed that a general glossary of court terms, as well as links to federal court websites, could be useful to WCCA users. It was also suggested that it would be helpful to have a standard glossary of acronyms if there was consistent use of such acronyms throughout the state.

**Recommendation 19: For bulk data subscribers, language should be added to the subscriber agreement outlining the Notice to Employer concerning employment discrimination as well as including the language used in the Executive Case Summaries for pending and dismissed criminal cases where there is no conviction**

Bulk data subscriptions allow for computer-to-computer data extraction, for which an annual fee of \$5,000 is charged. This process has resulted in fewer disruptions to WCCA for general public use compared to the earlier, uncontrolled situation in which data miners would “scrape” data off of the WCCA system. It was noted that the open records law was enacted many years ago when the concept of having this information on computers was not contemplated. It was also noted that if the WCCA website would be dismantled, the records within the CCAP system would still have to be released to requestors based on the Wisconsin open records law. The current subscriber agreement indicates that the subscriber is responsible for the currency and accuracy of the data, as well as notifying customers of the limitations of the data.

**Recommendation 20: Change the disclaimer regarding accuracy on the WCCA entry page.**

To improve clarity for the average user the committee recommends changing this language to:

*ACCURACY: If you believe any of the information displayed here is inaccurate and wish to request an error correction please [click here](#).*

**Recommendation 21: Move that language in Recommendation 20 from in the disclaimer window to under it**

The committee believes that users rarely read the lower paragraphs in the disclaimer window.

**Recommendation 22: Provide a link from the WCCA entry page to an FAQ (frequently asked questions) explaining the error correction procedure**

A link at the end of the ACCURACY information in Recommendation 20 should link to the error correction procedure shown in Appendix 5.

**Recommendation 23: Provide a link from the FAQ explaining the error correction procedure to a form.**

WCCA should provide a form with instructions for error corrections. Appendix 6.

**Recommendation 24: Add FAQ regarding last known address**

The committee noted that many of the e-mails to CCAP regarding WCCA involved addresses displayed there. Further, there are varying practices among clerks of court regarding requests for address changes by other than the addressee. An FAQ entry should be added explaining that:

- court records are required to display the last known address
- addresses are rarely updated on closed cases unless there is continuing court activity
- the addressee is generally the one who should provide change of address information, and
- provide a link to error correction procedure and form

**Recommendation 25: Clerks of circuit court should be consulted and involved in finalizing and implementing the error correction procedure**

Clerks of court are the custodians of circuit court records. It is essential to work closely with the clerks of circuit court to implement committee recommendations regarding error corrections.

**Recommendation 26: Change the language in the introductory paragraph on the WCCA entry page**

New language is needed to more clearly describe to the average user what WCCA is. It is recommended the language be changed to:

*The Wisconsin Circuit Court Access (WCCA) Web site is the statewide source for public circuit court case information. It is an archived summary of cases filed at the county level. Under Wisconsin Statutes, certain circuit court case records are confidential and available only to the judiciary and certain legally authorized officers of the court. Court records summaries viewed here are public records under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.*

**Recommendation 27: Retention of case records on WCCA should not be longer than the existence of the underlying physical record in the Circuit Court**

Records should not be displayed on WCCA unless the underlying physical record is available in the Circuit Court so information can be verified or corrected.

**Recommendation 28: The maximum amount of time that case records should remain on WCCA is the minimum amount of time set in Supreme Court Rule 72. The committee further recommends that the Supreme Court should comprehensively review SCR 72**

The committee considered several different recommendations for changes to the WCCA case retention schedule. This recommendation was ultimately adopted to provide a retention policy for WCCA case records that is clear, consistent, predictable and easily understood by users of WCCA, and to incorporate Recommendation 27.

NOTE: The committee spent considerable time discussing the WCCA case retention schedule, the minimum retention periods set in SCR 72, and changes to either or both. The committee ultimately limited its specific recommendations to the WCCA retention policy and made the general recommendation for a comprehensive review of SCR 72.

**Recommendation 29: Ask the Director of State Courts Records Management Committee to consider the following changes to SCR 72:**

- Retain Ch. 980 cases (Sexually Violent Persons Commitment) for 75 years. It was the consensus of the committee that retention should be extended from 50 to 75 years to match the retention of Class A Felonies.



- Retain Criminal OWI case records longer than 20 years. The District Attorney on the committee strongly believed that a longer retention of these records is necessary to defend collateral attacks raised in the context of subsequent OWI offenses.

**Recommendation 30: Three exceptions to the WCCA Retention Schedule are recommended**

Records should be displayed on WCCA past any maximum retention time if there is money due and owing the court. The same exception should be made in the rare event that a warrant is outstanding or a case is on appeal.

**Recommendation 31: Remove the domestic violence checkbox from the WCCA case record and request CCAP to further investigate the reason for its existence**

At present, counties that choose to use this feature show the checkbox when the district attorney makes this designation at case filing. Even if the defendant is acquitted, or the offense is found not to include domestic abuse, the check box continues to show on the case record.

**Director of State Courts  
Policy on Disclosure of Public Information Over the Internet**

**Wisconsin Circuit Court Access**

1. Definitions:

- a. The definitions contained in the Open Records Law, Wis. Stats. §§ 19.21-.39, shall apply to this policy.
- b. *Consolidated Court Automation Programs (CCAP)*. The case management system created by the Wisconsin Director of State Courts consisting of a database of case information from Wisconsin circuit courts. References in this policy to actions to be taken by CCAP refer to the CCAP Steering Committee or the Director of State Courts.
- c. *Circuit court*. All offices and branches of a circuit court, including but not limited to judges, the clerk of circuit court, the clerk's deputy, or deputies; probate court; juvenile court; or other specialized court or court office that uses CCAP as a case management system.
- d. *Open records*. Those records that are by law accessible to an individual making a records request in the circuit court.
- e. *Closed records*. Those records that are not by law accessible to an individual making a records request in the circuit court.
- f. *Wisconsin Circuit Court Access (WCCA)*. A public-access Internet website containing open record information compiled by CCAP. References in this policy to actions to be taken by WCCA refer to the WCCA Oversight Committee.

2. Information on WCCA available to the general public:

- a. WCCA shall contain information from only those portions of the case files generated by the Consolidated Court Automation Programs (CCAP) that are open records and otherwise accessible by law to an individual.
- b. WCCA shall not contain information from closed records that would not otherwise be accessible by law to an individual because of specific statutory exceptions, such as juvenile court records, guardianship proceedings, and other such case types or records.
- c. CCAP shall not be required to make available on WCCA all information in a case file that may be public record, nor is CCAP required to generate new records or create new programs for extracting or compiling information contained on WCCA.
- d. The Open Records Law does not allow record custodians to demand either the identity of a requester or the use to which a requester intends to put the information gathered [Wis. Stats. § 19.35(1)(i)]. Accordingly, WCCA shall not require identification or an intended purpose before allowing public access to the WCCA website.
- e. WCCA shall not charge for accessing information through the website. However, WCCA may impose a service charge or assess user fees for requests for bulk distribution or for data in a specialized format.
- f. WCCA may limit the number of records searched on any single request.
- g. WCCA contains information as it exists at a specific point in time in the CCAP database. Because information in the CCAP database changes constantly, WCCA is not responsible for subsequent entries that update, modify, correct or delete data. WCCA is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained previously from WCCA is still accurate, current and complete.
- h. WCCA shall not contain:
  - a. the record of any criminal conviction expunged by the circuit court  
(Note: When a court orders expunction of a record, the underlying CCAP database is modified to remove the record. When database updates are transferred to WCCA, the previous record will no longer appear. WCCA makes no reference to records that have been expunged (or otherwise altered). Requests for such records report only that no record has been found, in the same manner that WCCA would otherwise report "null" searches. WCCA is not responsible for the fact that requests made before the expunction will show the conviction, while requests made after the expunction will not show the conviction.)
  - b. the "day" from the date of birth field for non-criminal cases
  - c. the driver's license number in traffic cases
  - d. "additional text" fields for data entered before July 1, 2001, in all cases.
- i. WCCA contains only information from the CCAP database from those counties using all or part of the CCAP system. Because extraneous actions are not normally reflected in the CCAP database or the circuit court files, WCCA does not include information on them. Examples of extraneous actions are gubernatorial pardons, appellate decisions, and administrative agency determinations.

3. Correcting information on WCCA:

- a. Neither CCAP nor WCCA creates the data on WCCA. Circuit court employees in counties using CCAP create the data. Neither CCAP nor WCCA is responsible for any errors or omissions in the data found on WCCA.
  - b. An individual who believes that information on WCCA is inaccurate may contact the office of the clerk of circuit court in the county in which the original case file is located to request correction.
  - c. The clerk of circuit court in the county in which the original case file is located shall review requests for corrections and make any appropriate corrections so that records on WCCA reflect the original case records.
  - d. Corrections shall be entered on CCAP and will be made available on WCCA in the same manner in which information is otherwise transmitted to WCCA.
4. Privacy for victims, witnesses and jurors:
- a. The data fields that contain the names of victims, witnesses and jurors are not available on WCCA.
  - b. Various documents completed by court personnel using CCAP occasionally require the insertion of names of victims, witnesses or jurors. Examples include:
    - 1. court minutes that provide the names of witnesses called to testify or jurors who have been considered for jury duty;
    - 2. judgments of conviction that may provide "no-contact" provisions concerning victims;
    - 3. restitution orders that may contain the name of a victim;
    - 4. restraining orders/injunctions that may provide victim identities.

These data elements are normally inserted into "additional text" fields by circuit court personnel based on the individual county's policies and procedures on the amount, detail, or type of data inserted. CCAP and WCCA recommend that court personnel entering information concerning crime victims into court documents use initials and dates of birth rather than full names whenever doing so would not defeat the purpose of the court document.

- c. Because the "additional text" fields contain information critical to the understanding of many of the court record entries, denying access to those fields because of the occasional inclusion of the name of a victim, witness or juror would be contrary to the public interest in providing meaningful access to open court records.
5. Public access to electronically filed documents, scanned documents or imaged documents contained in circuit court files:
- a. WCCA shall evaluate whether to provide access to documents that have been filed electronically, scanned or otherwise imaged by the circuit court so long as those documents would otherwise be fully accessible under this policy.
  - b. The electronic filing, scanning or imaging of some documents in a court file does not require that all other documents in that file be scanned or imaged.
  - c. The electronic filing, scanning or imaging of some documents in files in a case type does not require that all documents in all other files in the same case type must be scanned or imaged.
6. Non-public access to closed records available on CCAP:
- a. CCAP may maintain a non-public website that contains information that would otherwise be a closed record.
  - b. CCAP may authorize an appropriate law enforcement agency, prosecutor's office or other individual or agency electronic access to those closed records to which they would otherwise be entitled to access.
  - c. CCAP may require an appropriate security screening mechanism that limits the accessibility to closed records to those who are lawfully entitled to such access.
  - d. Authorization to access closed records for legitimate purposes is not authorization for redisclosure beyond that which is lawfully allowed. The individual or agency to which disclosure has been allowed is solely responsible to ensure that no further unauthorized redisclosure of closed records occurs.
7. Retention of records on WCCA:
- a. WCCA shall retain records for a minimum of 10 years, or the minimum Supreme Court Rule Chapter 72 date, whichever is longer.