

The Wisconsin Supreme Court is considering a Petition filed by the State Bar of Wisconsin to modify SCR 72 in order to clarify that circuit court judges have the inherent and equitable authority to expunge court records in cases of dismissal or acquittal. The Wisconsin Legislature has also created a committee to study access to online court records. The results of this survey will be of use to both entities.

**TOTAL SURVEYS TURNED IN -- 123**

### **Records of Dismissals and Acquittals**

1. As a circuit court judge, have you received calls or letters from former defendants whose criminal cases were dismissed or resulted in a judgment of acquittal, complaining of employment discrimination based upon their criminal court records, asking you to seal or expunge such records?

**TOTAL RESPONSES TO THIS QUESTION -- 123**    75 Yes    48 No  
61%                      39%

If your answer is "yes," did you seal/expunge the records of dismissal or acquittal on any occasion when presented with that request?    16 Yes\*         No

\*Two additional judges who answered "Yes" wrote in: "Did pursuant to statute" and "Only if def was eligible for expungement by court's earlier ruling under 973.015." These responses were not counted as "yes" since there is no statute dealing with expunging dismissals or acquittals.

If "yes," did you seal the paper record?         Yes         No (*MOST RESPONDERS LEFT THESE BLANK;  
A FEW STATED THIS WAS LEFT TO THE CLERK*)

If "yes," did you order the online court record be removed from the publicly accessible CCAP online Wisconsin Circuit Court Access (WCCA) program?         Yes         No

2. As a circuit court judge, do you believe that you have the inherent or equitable authority to control access to records of proceedings in your court by expunging/sealing records in cases of acquittal or dismissal? **TOTAL RESPONSES TO THIS QUESTION -- 121**

35 Yes 86 No  
29%      71%

- 3. If you never sealed or expunged a dismissal or acquittal record, would you have ordered expungement if Wisconsin law specifically provided that authority to you as a circuit court judge and you felt it appropriate under the circumstances of the case?

**TOTAL RESPONSES TO THIS QUESTION -- 106**    101 Yes    5 No  
95%                      5%

**TOTAL RESPONSES TO QUESTION #4 -- 121**

4. Which of the following statements most closely reflects your view? (check one)\*

28 A. All dismissed charges and cases resulting in acquittal should be removed from online access.

9 B. All dismissed charges and cases resulting in acquittal should be treated like dismissed small claims cases and be removed from online access after one (1) year.

60 C. Judges should have explicit discretionary authority on motion in individual cases to order dismissed charges and cases of acquittal removed from online access. \*

18 D. The present system is fine; leave dismissed charges and cases of acquittal on CCAP.

*\*In addition to the above, five judges checked 2 or 3 options from A, B, and C (i.e., A and B, or A and C, or A, B, and C). The total percentage choosing A, B, or C, or some combination of A, B, and C, is 85% vs. 15% for D. One judge checked none of the options but instead wrote: "Dismissed read-ins should not be removed, dismissed outright or acquitted possibly after a period of time." This response was not tabulated.*

5. If you checked A, B, or C above, do you recommend this change be accomplished by: (check one)  
(\*The responses of the six judges referred to above are included here.)

18 Supreme Court Rule  
31 Legislative enactment  
52 Either; makes no difference

#### Records of Convictions

6. As a circuit court judge, have you received calls or letters from individuals who were convicted of crime complaining about employment discrimination based on their criminal court records, asking you to seal or expunge such records? *TOTAL RESPONSES – 122* 84 Yes 38 No  
69% 31%

If your answer is "yes," did you seal/expunge the criminal records on any occasion when presented with that request? 30 Yes \_\_\_ No  
36%

If "yes," did you seal the paper record? \_\_\_ Yes \_\_\_ No (*MOST LEFT BLANK, AS WITH #1 ABOVE*)

If "yes," did you order that the online court record be removed from CCAP/WCCA? \_\_\_ Yes \_\_\_ No

- 7. If you have never sealed or expunged a criminal record, would you have ordered expungement if Wisconsin law specifically provided that authority to you, and you felt it appropriate under the circumstances of the case? *TOTAL RESPONSES TO THIS QUESTION -- 106* 91 Yes 15 No  
86% 14%
8. As a circuit judge, do you believe that you have the inherent or equitable authority to control access to records of proceedings in your court by expunging/sealing records of individuals convicted of crime? *TOTAL RESPONSES TO THIS QUESTION -- 120* 22 Yes 98 No  
18% 82%
- 9. Section 973.015 gives circuit court judges explicit discretionary authority to expunge court records of individuals convicted of misdemeanors and certain low level felonies if the offender was under age 25 at the time of commission. Should this statute be amended so that discretionary expungement is available regardless of age? *TOTAL RESPONSES TO THIS QUESTION -- 121*  
82 Yes 39 No  
68% 32%
10. Under present law, the records of individuals convicted of misdemeanors must be retained for 20 years, and the records of individuals convicted of non-class A felonies must be retained for 50 years. Do you favor reduction of these retention periods? *TOTAL RESPONSES TO THIS QUESTION -- 114*  
51 Yes 63 No  
45% 55%
- If you answered "yes", by how much should retention periods be reduced?
- 4 25% across the board  
13 50% across the board  
31 Reduce the retention period for misdemeanors to 10 years; base felony retention periods on the classification of the particular felony (e.g., 15 years for Class E; 20 years for Class D, etc.)