

PPAC Subcommittee on Court Security

Final Report and Recommendations August 2010

**Planning and Policy Advisory Committee (PPAC)
of the
Wisconsin Supreme Court**

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I. Background and Research

Safety in Wisconsin's courthouses is a top priority. Courthouses are a symbol of the rule of law in American society, and, as such, also offer a symbolic target to those who seek to attack the government. Inside the buildings, courtrooms are often the setting for highly emotional, unpredictable and even hostile confrontations. The risk of danger is not limited to any particular case type or courtroom. In criminal matters, victims may be seated together with the defendant's family members at a sentencing hearing. In family matters, the parties often have very volatile emotions about the dissolution of family life as they knew it. Juvenile courts have often been the scene of sharp disagreements when a decision is made to put a child in foster care. And even outside of the courtrooms themselves, problematic situations arise.

Separate from the courtrooms there may be danger to Clerk of Court staff members encountering a disgruntled citizen or child support staff meeting an unhappy parent. The issue of court security impacts everyone that enters the courthouse. Court security was identified as a top priority in the Planning and Policy Advisory Committee's (PPAC) biennial report entitled *Critical Issues: Planning Priorities for the Wisconsin Court System 2006-2008*. Priorities were identified by conducting a survey of internal and external stakeholders including the general public. Judges, court commissioners, Clerks of Court and their staff all named security as one of their top two priorities.

This topic was discussed at length during the November 2006 PPAC meeting and a decision was made to establish this state level policy subcommittee. The PPAC Subcommittee on Court Security was charged with the following responsibilities outlined in the *Critical Issues* report:

- Review how the standards of SCR 70.39 have been implemented;
- Determine if SCR 70.39 needs to be updated or modified;
- Review the current data collection and information gathering process;
- Make recommendations on how to improve the data collection processes and standards established by SCR 70.39.

History of Supreme Court Rule 70.39

In 1994, PPAC initiated a review of facility, security and staffing issues in the circuit courts. The result was Supreme Court Rule 70.39, adopted in June 1995, establishing facility, security and staffing guidelines. This new rule set forth security and facility measures with which each county and judge are encouraged to comply. It is worth noting that this rule intentionally did not *require* counties to implement specific security measures or facility design components due to the joint funding of circuit court operations by the state and county. These guidelines articulate the recommended minimum standards to establish functional and appropriate court facilities and standard security features.

Security and Facility Data Collection in SCR 70.39

SCR 70.39(3) requires that each county have a Security and Facilities Committee appointed by the presiding judge. The Committees are responsible for coordinating the adoption of general court security and facilities policies. Each committee is to meet quarterly, and in each January and July the committee must provide PPAC with a standard report of its progress in implementation of the standards in the SCR. Since the adoption of the rule, PPAC has collected information twice a year from each county to measure the courts' progress in complying with these guidelines, and to obtain detailed information about court security incidents. The intent of this data collection was threefold: to help maintain voluntary compliance with SCR 70.39, to provide a mechanism for sharing court security information between counties, and to provide counties with a process to document security incidents in order to demonstrate to local leaders the need for enhanced courthouse security systems. (An example of this survey instrument can be found in the Appendix)

While this data collection mechanism has been in place for many years, participation has been steadily decreasing. At the same time, the usefulness of the information collected is varied. The process has been successful in identifying those counties that are considering or completing new construction or remodeling. However, it has been difficult to obtain accurate information on threats made against the judiciary or incidents that have taken place in courthouses. There is not a mechanism in place to disseminate the information collected back to the individual counties for their use in enhancing their court facilities and the security therein.

Subcommittee Activities

Subcommittee chairpersons and subcommittee members were appointed based upon nominations Chief Justice Abrahamson received from the Chief Judges, PPAC members or the district court administrators. They represent large, medium and small Wisconsin counties, and a wide range of personal knowledge about court facilities and security. The Subcommittee began meeting in summer of 2007, and worked over the course of 32 months. The first step was to complete a significant survey of counties to gain a baseline understanding of where Wisconsin counties presently stand in regard to court security and court facilities. The survey also queried each county about improvements they would like to see in SCR. 70.39 and the collection and dissemination statewide of data on these topics. In the second year, the subcommittee consulted a number of experts in the fields of court security and court facility design, including architects, Department of Justice and police personnel and the U.S. Marshals Service, and researched federal courthouse security and facility guidelines and practices. In the final phase the subcommittee separated into two workgroups, one for security and a second for facilities, and prepared the draft rule modification. Significant time was spent reviewing the survey results and applying new knowledge to each section of the Supreme Court Rule.

Meeting minutes and a list of experts who presented at subcommittee meetings are included in the Appendix to this report.

Related Court System Activities

The Director of State Courts requested funding for statewide training on court security totaling \$159,100 in the 2007 – 2009 budget process. While this funding request was not fully approved,

\$10,000 was appropriated for the 2007 – 2008 budget year to conduct court security training. The Director of State Courts collaborated with Fox Valley Technical College Criminal Justice Center for Innovation, the National Center for State Courts, U.S. Marshals Service, Wisconsin Supreme Court, and Wisconsin Office of Justice Assistance to host the Court Security and Safety Conference held March 4 – 6, 2009. Attendees included judges, law enforcement personnel, crime victim and witness advocates and service providers, clerks of court, county facility managers, local emergency management officials, court and county administrators, tribal judges, and tribal administrators.

In a panel discussion, members of the PPAC Subcommittee on Court Security presented results from the “State of Security” survey to conference attendees. The session evaluation completed by conference attendees gave the overall session a rating of 4.96 out of 6 and an overall instructor rating a 5.44 also out of a possible 6 (See Appendix for full evaluation).

The second annual Court Safety and Security conference entitled “*Maintaining a Safe Courthouse Community*” is scheduled for August 18-20, 2010 at the Paper Valley Hotel in Appleton, WI. Subcommittee members are serving on the Conference Advisory Committee.

II. “State of Security” in Wisconsin Circuit Courts

The Court Security Subcommittee determined the most accurate way to assess the need for change was to ask the county Security & Facilities Committees directly. In 2008 the Subcommittee released the “State of Security” survey to all Wisconsin county security and facility committees. This was an intentionally lengthy and comprehensive survey aimed at providing the Subcommittee and Director of State Courts with a deeper understanding of facility and court security throughout Wisconsin. Specifically the Subcommittee wanted to know the extent to which standards put forth in SCR 70.39 are being used, if the semi-annual reporting process to the Planning and Policy Advisory Committee is useful to the local security and facility committees, how this process could be improved to meet local needs, and what needs or concerns exist at the local level that are not being addressed in SCR 70.39.

The survey included 196 detailed and specific questions about the security and facility committee, court facility physical security, lighting, buildings, screening, firearms, courtroom space, court commissioner hearing rooms, judicial chambers and other court related offices, victim/witness areas, jury deliberation rooms, prisoner movement and holding areas, libraries, parking, facility remodeling, building and grounds policies and procedures, communication systems policies and procedures, security policies and procedures related to threats to court personnel away from the courthouse, data collection, records policies and procedures, and training and prevention policies and procedures. It was important to learn as much as possible about the court facilities in Wisconsin as well as the security precautions taken to protect the public, the building, and the staff.

Sixty-six counties responded to the survey and provided information about 75 separate court facilities. These results provided the most up to date and comprehensive data on court security measures and procedures employed at the local level. Data collected served as the foundation for subcommittee work when considering and recommending enhancements to SCR 70.39.

A copy of the survey instrument and a detailed report on the “*State of Security*” in Wisconsin Circuit Courts can be found in the Appendix.

III. Recommendations and Conclusion

A number of subcommittee recommendations mirror those objectives that were identified in the *Critical Issues: Planning Priorities for the Wisconsin Court System 2006 – 2008* report. This is not meant to be duplicative in nature but rather intended to stress the importance of making significant improvements to court security. Anticipating the types of threats that could develop and adopting appropriate measures to address them is the essence of security planning.

Court security involves not only threats posed by individuals with intent to create damage or harm, but also natural disasters and other events that could impact the safety of a court facility. Courts should have preparedness plans in place to address how court operations are going to continue in the case of a flood, tornado, disease epidemic or other disaster that leaves little or no preparation time.

The PPAC Subcommittee on Court Security recommends the following actions and policy changes to improve the security of courthouses in Wisconsin. The Subcommittee defers to PPAC as to the prioritization of the tasks related to implementing these recommendations.

Revise SCR 70.38 – 70.39

The PPAC Subcommittee on Court Security recommends the revision of SCR 70.38 - 70.39 and the creation of a separate chapter on Court Security and Facilities (see Appendix). A separate chapter recognizes the importance of security planning in the functioning of the judiciary and emphasizes the importance of local participation. The subcommittee was attentive to not make any changes that would *require* counties to implement specific security measures or facility design features. The recommended revisions include updates of technical specifications and requirements, stress the importance of a sectoring system of public, restricted, and secure access by designated parties, and encourage perimeter screening. A few specific changes are described below.

Definitions. The Committee recognized that as the level of security developed in courthouses, the types of staffing changed. There are individuals involved in court security and management other than deputy sheriffs and the differing responsibilities of each are recognized and defined within the rule. Many counties employ non sworn officers in security positions, and those are defined as “Court security officer” and “Court aide”.

Security and Facilities Committee. In Section (5)(a) the membership of the Security and Facilities Committee was updated and enhanced to insure that the Committee has all available information and views necessary to monitor facilities and security. A representative of the county facilities and maintenance department was added to insure that the Committee has ready access to infrastructure information. The Committee also continues to have the flexibility to add others.

One significant revision is the enhanced role and responsibilities of local security and facility committees. Committee responsibilities are outlined in Section (5)(d) to provide guidance to counties and courts in establishing a safe environment for the public and staff. Specific additions to committee responsibilities include developing a system of recording and reporting incidents that occur in court facilities such as weapons located or arrests made, as well as a system of reporting and responding to actual threats made to judicial officers, family and staff. Thus the scope of reporting includes the judicial officer outside the courthouse. Collecting and analyzing this data will aid the judiciary in maintaining a safe work environment, and assist in planning, locally and statewide.

Facilities. In Section (6)(a) and (b) the rule addresses court design, and emphasizes separation of populations as the starting point for a safe court structure and emphasizes the need for all persons entering the courthouse to go through weapons screening.

The size of court facilities is updated to reflect the current and future needs of the judiciary (Sections (9) through (11)). The Committee met with architects involved in court design and construction, attended the 2009 Court Safety and Security Conference, reviewed standards for federal court design and availed itself of the members' collective knowledge of how courts operate and what space is necessary. Minimum size recommendations were increased in recognition of the complexity of litigation, the use of technology, the accessibility requirements, and the need to maintain public access to the court system.

Media Room. The subcommittee eliminated the recommendation for counties with 6 or more branches of court to provide an area for media representatives. Due to the changes in the way the media conducts business it is no longer necessary to provide them with a dedicated area to conduct interviews, work on notes, and call in stories.

Centralized Data Collection. The Committee saw the need to create a central location for information and resources for security and court construction, and concluded that it was optimum for the Director of State Courts' office to acquire this responsibility. Section (12) addresses this concern.

Section (12) also calls upon the Director of State Courts to assist in developing a standard process of recording and reporting incidents and threats. Rather than have each county develop and use a different system, the Director's office will have a standard program for counties to use if they choose. Coordination and simplicity will result. A central database is foreseen to monitor trends and assist courts and counties in being proactive.

The Subcommittee would also encourage PPAC to take the necessary steps to disseminate any rule changes and educate members of the judiciary and court staff.

Revise Security and Facility Data Collection Process

PPAC and the Director of State Courts must be able to provide detailed information about courthouse security to the governor, the legislature and county officials. The Director's Office should be the central location for data on the frequency and type of threats made to the judiciary

and their staff, problems encountered involving safe transport of in-custody defendants, techniques to prevent and quell violent outbreaks in courtrooms and similar threats. At this time this collection of data does not exist. It is important to collect this data for a number of reasons. Data collected should be shared with security and facilities committees across the state to enhance each county's security and to implement innovative security measures at the state and local level.

The subcommittee is recommending an overhaul and splitting of the data collection process. Instead of asking counties to respond to both security and facilities questions biannually, the subcommittee is proposing splitting them into two separate online data collection systems.

Detailed information about the *Proposed Wisconsin Court Security Threat and Incident Reporting Process* and *Proposed Wisconsin Courthouse Construction, Remodeling, and Security Innovation Reporting Process* can be found in the Appendix.

Create Judicial Profile and File with Local Law Enforcement

The committee recommends every circuit court judge and circuit court commissioner complete and submit a judicial profile to local law enforcement and provide annual updates. The committee also recommends every supreme court justice, appellate court judge, and municipal court judge to consider doing this as well. A sample judicial profile can be found in the Appendix.

Encourage Every County to Implement Minimum Standards

The committee strongly encourages every jurisdiction to implement the minimum standards included in the rule revision and encourage them to go a step further and implement perimeter screening.

Create an Online Presence for Security and Facility Committees

Create a secure online community or listserv where security and facility committee members can discuss pressing issues, trends, and benefit from each other's expertise. This forum may also serve as a resource for those jurisdictions that are preparing to remodel or build a new courthouse.

Encourage Security Audits of Every Courthouse

Encourage every courthouse to have a security audit conducted by the U.S. Marshals Service. The Marshals Service is an excellent resource on court security and has expertise to assist counties with security planning and evaluation of existing safeguards.

IV. Listing of Appendix Items

1. Wisconsin Court System Security and Facilities Survey (Current Tool)
2. PPAC Subcommittee on Court Security Meeting Minutes
3. List of External Court Security Experts Consulted by the Subcommittee
4. Court Safety and Security Conference Session Evaluation (March 2009)
5. “State of Security” in Wisconsin Circuit Courts Survey Instrument (July 2008)
6. “State of Security” in Wisconsin Circuit Courts Report (March 2010)
7. Proposed New Security and Facilities Rule to Replace SCR 70.38 – 70.39
8. Proposed Wisconsin Court Security Threat and Incident Reporting Process, Proposed Wisconsin Courthouse Construction, Remodeling, and Security Innovations Reporting Process and Proposed *Wisconsin Court Security Threat and Incident Report* form
9. Sample Judicial Profile from U.S. Marshal Service