



# Supreme Court of Wisconsin

DIRECTOR OF STATE COURTS

P.O. BOX 1688

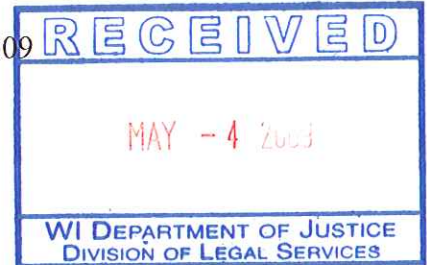
MADISON, WISCONSIN 53701-1688

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A. John Voelker  
Director of State Courts

April 28, 2009



J. B. Van Hollen  
Attorney General  
State of Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Re: Electronic transmission of arrest warrants and protective orders

Dear Attorney General Van Hollen:

I am writing to request guidance on the operation of two new criminal justice interfaces currently nearing completion. My questions relate to whether we may allow confidential information to go through an electronic interface if one of the participating agencies does not have any statutory basis for access to that information. If not, we will continue to send the confidential information via paper copies.

The new interfaces transmit electronic information between the clerks of circuit court, the sheriffs of each county, and the Wisconsin Department of Justice TIME system, in an effort to avoid redundant data entry, improve timeliness, and increase accuracy. One interface will send information about arrest warrants to the sheriffs as they are issued by the court using the Consolidated Court Automation Programs (CCAP). The sheriffs will add information and transmit the warrants to the TIME system to notify law enforcement statewide. Once the warrant is executed, the sheriff will transmit information about service of the warrant back to the court.

The other interface will perform the same functions for temporary restraining orders (TROs) and injunctions issued under ch. 813. The two interfaces are independent of each other, and counties will be able to start using one or both whenever they are ready.

The court has a number of interfaces with other agencies where confidential data may be transmitted, but the warrant and TRO interfaces have a unique element: rather than transmit information directly between the affected agencies, they go through a secondary data transport system operated by the Office of Justice Assistance (OJA), the state administering agency for federal justice and homeland security grant funds. The secondary data transport system picks up information from the CCAP data transport system and transmits it to the sheriff. We do not know whether the information transmitted remains on a server at OJA. OJA has no statutory role in the execution of warrants or protective orders and does not receive copies of these orders on paper.

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My questions relate to whether using OJA as a link in the chain of data transmission causes any problems or requires any special precautions when confidential information is involved. We are particularly concerned about transmission of juvenile information. May we use OJA as a conduit for confidential data if OJA is not one of the agency allowed access under the statutes? If this is permissible, should we enter into an agreement with OJA to restrict their ability to use or share that data?

#### Transmission of arrest warrants

There are three case types that could be transmitted through the warrant interface that might have arrest warrants associated with them.

- a. The entirety of a juvenile case is made confidential under §938.396(2). Although there are numerous exceptions to this statute, none appears to allow generalized access by OJA. May the courts send arrest warrants in juvenile cases through the warrant interface, given that OJA will have access to confidential case information? If so, should we have an agreement restricting how the data may be used by OJA, if at all? What issues need to be addressed by such an agreement?
- b. Arrest warrants are common of course in criminal cases. We do not see any obstacle to sending most criminal cases through the warrant interface, since criminal cases generally have no restrictions on information. Very rarely, however, a criminal case or some piece of information in a criminal case will be sealed. We reviewed all criminal cases filed in 2005, 2006, 2007 and 2008 to see how often cases are sealed either before or after the warrant is issued. From 2005-2008, 4 cases had warrants issued before the case was sealed and none had warrants issued after the case was sealed.

For cases that have already been sealed when the warrant is issued, should CCAP program the interface to withhold transmission of the warrant, requiring the clerks of circuit court to transmit those warrants to law enforcement on paper? Or may the information be transmitted pursuant to restrictions on how the information is used by OJA, if at all?

For cases that are sealed or expunged later, should our interface agreement require that the OJA seal or expunge the case on their system? What restrictions should be placed on how the information is used by OJA? With other interfaces, CCAP notifies the other interface partners if a case is later sealed or expunged, but in those cases the partners are entitled to the confidential information despite the sealing or expunction.

- c. §968.26 provides that John Doe cases may be sealed in the court's discretion. For 2005-2008 we did not find any John Doe cases that had both a warrant and an order to seal. In the event that a John Doe case has already been sealed when the warrant is issued, should we withhold transmission through the interface? What restrictions should be placed on how the information is used by OJA if a case is sealed later?

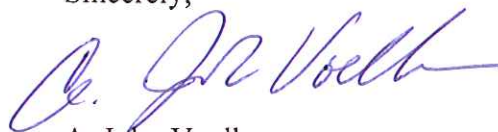
#### Transmission of TROs and injunctions

A similar interface will transmit TROs and injunctions issued under ch. 813.

- d. Orders to seal are not common in ch. 813 cases. For domestic abuse under §813.12, from 2005-2008 there was 1 case with an order to seal. For harassment under §813.125, there was 1 case. For individuals at risk under §813.123, although the statutes provide that the entire case may be sealed in the court's discretion, we found no cases with an order to seal. In the event that the case has already been sealed, do we need to withhold transmission of the protective order and transmit the order on paper? What restrictions should be placed on how the information is used by OJA if a case is sealed later?
- e. For protective orders for child abuse under §813.122, the statutes provide that the entire case may be sealed in the court's discretion, and here sealing is somewhat more common. From 2005-2008, there were 30 such child abuse cases with an order to seal (out of 2741 filed). In this situation, should we withhold electronic transmission of the order and require transmission on paper? What restrictions should be placed on how the information is used by OJA if a case is sealed later?

If you need further information about the interfaces, please contact Jean Bousquet, 267-0678. For discussion of the legal issues, please contact Marcia Vandercook, 267-7335. Thank you for your assistance with this matter.

Sincerely,



A. John Voelker  
Director of State Courts

cc: Jean Bousquet  
Sheryl Gervasi  
James Pingel, OJA