



Board Members:

Tania Bonnett
 Jennifer Dunn
 Nela Kalpic
 Amy Severt
 Paul Susienka

REPORT OF THE WISCONSIN CRIME VICTIMS RIGHTS BOARD

The Right to Receive Notice of Rights

Introduction

The Crime Victims Rights Board (the “Board”) has authority to “issue reports and recommendations concerning the securing and provision of crime victims rights and services.” Wis. Stat. § 950.09(3). This report is issued after a final decision on a complaint before the Board,¹ concluding that a law enforcement agency violated a victim’s right to receive written information about victim rights within 24 hours of contact, as required by Wis. Stat. § 950.08(2g).

Factual Background

The complainant was a victim of criminal damage to property and battery. The responding law enforcement agency had contact with the victim at the time of the incident and after the case was referred to the district attorney’s office. The responding officer incorrectly assumed that the district attorney’s office would be coordinating all victim services, including notice. At no time did the law enforcement agency provide the victim with notice of his rights. This failure may have contributed to the victim’s confusion about the criminal process, including whether restitution was available and how to seek it.

After the victim filed a complaint with the Board, the law enforcement agency instituted a policy on victim rights notification and adopted the Wisconsin Department of Justice model victim information form.²

¹ The Board has statutory authority to review complaints filed against public officials, employees, and agencies by crime victims alleging violations of crime victims rights. *See* Wis. Stat. § 950.09.

² The Wisconsin Department of Justice Sample Victim Rights Notification Form is available in English, Spanish, and Hmong at <https://www.doj.state.wi.us/ocvs/law-enforcement>.

Relevant Laws

Wis. Const. art. I, § 9m(2)(p):

[V]ictims shall be entitled

. . . .

(p) To timely notice about all rights under this section and all other rights, privileges, or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

Wis. Stat. § 950.04(1v)(t):

Victims of crimes have the . . . right[]:

. . . .

(t) To receive information from law enforcement agencies, as provided under s. 950.08(2g).

Wis. Stat. § 950.08(2g):

INFORMATION TO BE PROVIDED BY LAW ENFORCEMENT AGENCIES. No later than 24 hours after a law enforcement agency has initial contact with a victim of a crime that the law enforcement agency is responsible for investigating, the law enforcement agency shall make a reasonable attempt to provide to the victim written information on all of the following:

(a) A list of the rights of victims under s. 950.04(1v).

(b) The availability of compensation under subch. I of ch. 949 and the address and telephone number at which to contact the department for information concerning compensation under subch. I of ch. 949.

(c) The address and telephone number of the intake worker, corporation counsel or district attorney whom the victim may contact to obtain information concerning the rights of victims and to request notice of court proceedings under ss. 938.27(4m) and (6), 938.273(2), 938.299(1)(am) and 938.335(3m)(b) or ss. 971.095(3) and 972.14(3)(b), whichever is applicable, and to request the opportunity to confer under ss. 938.245(1m), 938.265 or 938.32(1)(am) or s. 971.095(2), whichever is applicable.

(d) The address and telephone number of the custodial agency that the victim may contact to obtain information concerning the taking into custody or arrest of a suspect in connection with the crime of which he or she is a victim.

(e) The address and telephone number of the custodial agency that the victim may contact for information concerning release under s. 938.20 or 938.21 or ch. 969, whichever is appropriate, of a person arrested or taken into custody for the crime of which he or she is a victim.

(f) Suggested procedures for the victim to follow if he or she is subject to threats or intimidation arising out of his or her cooperation with law enforcement and prosecution efforts relating to a crime of which he or she is a victim.

(g) The address and telephone number at which the victim may contact the department or any local agency that provides victim assistance in order to obtain further information about services available for victims, including medical services.

(h) If the victim is a victim of an officer-involved death, as defined in s. 175.47(1)(c), information about the process by which he or she may file a complaint under s. 968.02 or 968.26(2) and about the process of an inquest under s. 979.05.

Recommendations

1. Public officials, employees, and agencies should be familiar with Wisconsin's constitutional and statutory victim rights.

The Wisconsin Constitution and statutes impose specific victim rights duties on public officials, employees, and agencies. Many of these duties have been required for decades. Through the years, the Legislature has amended and passed new laws affecting victim rights. For example, in 2020, Wisconsin voters ratified Marsy's Law, a constitutional amendment that altered the existing constitutional language to include new victim rights and strengthen existing ones.

Victim rights apply throughout the juvenile and criminal justice systems, and it is incumbent upon public officials, employees, and agencies to know their victim rights obligations and have a plan in place for discharging those duties.

2. The Board recommends that public officials and agencies set a schedule to review and update internal policies to ensure compliance with Wisconsin's constitutional and statutory victim rights.


The Wisconsin Department of Justice Office of Crime Victim Services is an excellent resource for training and information about victim rights. More information is available at www.doj.state.wi.us/ocvs.

3. Law enforcement agencies should not rely on other agencies to meet their victim rights obligations.

The written information law enforcement agencies must give victims is distinct from the written information district attorneys are obligated to provide victims. One notice cannot substitute for another. There is critical, time-sensitive information in the law enforcement materials to help a victim navigate the criminal process before the case is referred to the district attorney's office.

In the present case, if law enforcement had provided the required information, the victim may have had an opportunity to contact victim services for assistance in understanding his rights and the restitution process, which may have assisted him during his conversations with the district attorney's office on those matters.

Dated this 26th day of July, 2021.

A handwritten signature in cursive script that reads "Jennifer Dunn".

Chairperson Jennifer Dunn
Crime Victims Rights Board