

## REPORT AND RECOMMENDATION OF THE WISCONSIN CRIME VICTIMS RIGHTS BOARD

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Wisconsin Statutes section 950.09(3) authorizes the Crime Victims Rights Board ("Board") to "issue reports and recommendations concerning the securing and provision of crime victims' rights and services." The Board has become aware of a situation that provides the Board with an opportunity to recommend to district attorneys practices for complying with the obligations set forth in Wisconsin Statutes Chapter 950.

### **Factual Background**

A man was physically assaulted to the point of unconsciousness. Law enforcement took statements from witnesses and completed an investigation quickly, referring the complaint to the district attorney's office within two weeks of the assault. The case was not charged until thirteen months later, prompting the victim to file a complaint alleging that the delay violated his right to speedy disposition, as provided by Wisconsin Stat. § 950.04 (1v)(k).

The Crime Victims Rights Board analyzes the right to a speedy disposition guaranteed by Wis. Stat. § 950.04(1v)(k) using four factors. First, the Board identifies each delay. Second, the Board determines the reason for the delay. Third, the Board determines whether the delay is reasonable. Fourth, if a delay is unreasonable, the Board determines whether the delay is attributable to the respondent. Violation of the right to a speedy disposition occurs only if each of the four elements is present.

The respondent was asked to provide the Board with an explanation for specific delays identified by the Board. The respondent did not provide information with the degree of specificity necessary for the Board to complete its analysis of the speedy disposition issue. Therefore, the Board held a fact-finding hearing and received testimony and additional evidence to ascertain the reasons for the delays in the case. At the conclusion of the hearing, the Board determined there was not a violation of the victim's right to speedy disposition. Delays in the case occurred as part of a prosecutorial strategy to obtain full restitution for the victim up front, before the defendants' criminal case commenced. The district attorney believed the defendants would be more likely and better able to pay restitution before the case went to court. The prosecutor understood restitution to be the primary concern of the victim, a fact confirmed by the testimony of the victim at the hearing. Evidence presented to the Board showed efforts early in the case by the district attorney to obtain payment for the victim's expenses related to the crime. However, these efforts were not communicated to the victim.

The victim had no knowledge of the strategy or the will of the district attorney to get restitution and believed his case was being neglected. As he waited, he occasionally encountered the persons who had assaulted him. He feared his case was not going to be charged, felt that the district attorney was giving him the 'runaround' and was frustrated by the lack of communication from the district attorney.

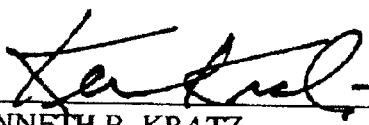
### Statutes Involved

Wisconsin Stat. § 950.04 (1v)(k) provides that victims of crime have the right to "a speedy disposition of the case in which they are involved as a victim in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter."

### Report and Recommendation

1. The intent of the right to speedy disposition is that victims will not have to unnecessarily endure the stress of prolonged engagement in the criminal justice system. Even reasonable delays can cause anxiety to victims. Prosecutors, and/or victim witness staff, should provide victims with accurate information about the case and any source(s) of delay. For example, if charging is intentionally delayed as a strategy to obtain restitution for a victim, sharing that information with the victim might alleviate the stress of the delay entirely.
2. When a complaint is submitted to the Crime Victims' Rights Board, parties are given the opportunity to provide information to the Board that will be considered when the Board determines whether there is probable cause to investigate the complaint. A respondent is well-served by putting forth his or her best effort at this stage of the complaint. If material issues of fact exist, the Board must find probable cause and it may be necessary to hold a fact-finding hearing on the matter. Formal complaints are resolved much faster when respondents cooperate with the Board by providing detailed information in the early stages of the process.

Dated this 18<sup>th</sup> day of March, 2008.

  
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KENNETH R. KRATZ  
Chairperson  
Crime Victims Rights Board

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