



## WISCONSIN CRIME VICTIMS RIGHTS BOARD

### REPORT & RECOMMENDATIONS


Pursuant to the Order issued by the Wisconsin Crime Victims Rights Board dated <sup>8/24/05</sup> the following Report and Recommendations are hereby submitted to District Attorney [REDACTED] and the staff of the [REDACTED] County District Attorney's Office:

#### ADMINISTRATION AND STANDARD OPERATING PROCEDURE

1. The district attorney should carefully examine the procedures used in the [REDACTED] County District Attorney's office to communicate victims' rights information from victim/witness staff to prosecutors. The case at hand illustrates that forms and documentation can not take the place of meaningful conversation among those who would have a role in helping crime victims understand, secure and exercise their rights. Equally important is personal contact and conversation between the victim and victim witness staff, to best ensure the provision of victims' rights.
2. Victim witness staff should effectively convey relevant information and messages they receive from a victim to the prosecutor(s) handling that victim's case. The Board saw evidence and heard testimony that showed victim witness has little, if any, expectation that prosecutors will review PROTECT entries before proceeding with a case. Yet, victim witness staff continues to put key information into PROTECT which may not be available elsewhere. In the case before the Board, the information in the PROTECT notes should have been considered by the prosecutor prior to the plea hearing. The prosecutor testified that the information would have influenced her charging decision. District Attorney [REDACTED] should either instruct prosecutors to look for information in PROTECT or instruct victim witness to find additional methods for informing prosecutors about victims' wishes.
3. The CVRB encourages the district attorney's office to more clearly explain to victims the difference between a law enforcement referral or recommended charge and the district attorney's charge. This appeared to be a source of confusion to the victim despite victim witness efforts to explain it.
4. Prosecutors have an obligation to confer with victims upon request. The right to confer can be triggered by an oral request. In this case, victim witness staff understood that the victim wanted to speak with the prosecution and instructed the victim to make that indication on their victims' rights form. Instead of waiting for the victim's paper form to be returned, an appointment to confer could have been scheduled when the desire to confer was communicated. The result of relying on the form was that the victim was not given the opportunity to confer.

5. In the case before the Board, had the prosecutor read the entire police report she would have seen that photographs of injuries to the victim were taken at the scene. The police report also had detailed information about injuries inflicted by the defendant. The prosecutor testified that when she offered a plea to the defendant, she was under the impression that the case was primarily a property case and that the victim was disinterested in the prosecution. Had she read the reports more carefully and/or checked PROTECT entries, she would have been better able to protect the rights of the victim.
6. Prosecutors should not rely solely on the word of a defendant when inquiring about restitution to victims.
7. One of the reasons that less care than necessary was taken with the case file was the rush to close the case. The Board recommends to District Attorney [REDACTED] that as a matter of policy, there be no disposition on the same day as a pre-trial conference. The office ought to allow enough time for proper review of the case and proper notice to victims.
8. If it is likely that a plea offer will be made at a pre-trial conference, the district attorney's office should be sure that a victim [who has requested it] has been given their opportunity to confer before the pre-trial.
9. The district attorney should convey to his prosecutors that compliance with the spirit and letter of Wis. Stat. Chapter 950 is dependent upon good communication with victim witness staff. Paper forms, PROTECT entries and Post-It Note® reminders were not sufficient in this case to protect the victim's rights. Prosecutors have obligations under Chapter 950 which they are more likely to meet if they engage in conversation with the victim witness staff members who may have had contact with the victim.

Dated this 24<sup>th</sup> day of August, 2005.

  
\_\_\_\_\_  
KENNETH R. KRATZ  
Chairperson  
Crime Victims Rights Board

C: Service list