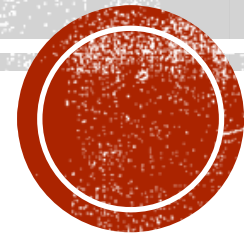
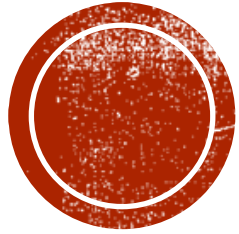


WISCONSIN CRIME VICTIMS COUNCIL MEETING JULY 17, 2020



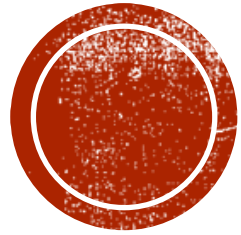
AGENDA



Establish Quorum

Introduction of Council Members

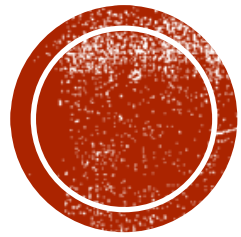
Marsy's Law Implementation Project



ML IMPLEMENTATION PROJECT

Objectives: To provide recommendations to the AG for legislative and policy issues to be addressed as a result of the new constitutional provisions.

Guiding Principles: To promote the meaningful implementation of victims' rights. To do so through engagement with our partners in the field with implementation duties under ML and Chapter 950.

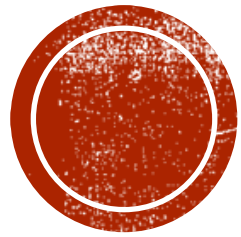


ML IMPLEMENTATION PROJECT

Systems stakeholder input (ongoing):

Where are the friction points for those with statutory and constitutional implementation duties?

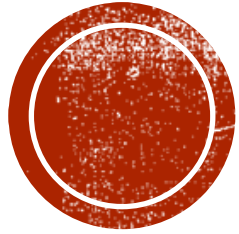
What do stakeholders see as challenges to implementation?



ML IMPLEMENTATION PROJECT

Examine how the new language relates to current statutory rights.

Make recommendations to implement policies, statutory clarifications and statutory enhancements consistent with the new constitutional language.



How does ML interact with:

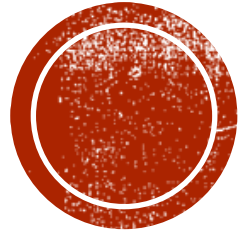
Chapter 950

Additional related statutes

Decisions by the CVRB

Case Law

ML IMPLEMENTATION PROJECT



STAKEHOLDER LISTENING SESSIONS

Due to the pandemic, stakeholder feedback is being collected through surveys and targeted outreach/conversations/webinars.

SURVEY FEEDBACK TO DATE

COUNTY VICTIM WITNESS COORDINATORS (DISTRICT ATTORNEY'S OFFICE BASED)

N=74

Experience in their field

- 58% ten or more years
- 68% more than 5 years

Familiarity with ML

97% have read the language and are either familiar or very familiar with ML



SURVEY FEEDBACK TO DATE

COUNTY VICTIM WITNESS COORDINATORS

Marsy's Law applies to my agency and will require new and/or updated policies and procedures.

98.51%

Marsy's Law applies to my agency and will not require that we do anything differently.

1.49%

Marsy's Law doesn't apply to my agency

0.00%



SURVEY FEEDBACK TO DATE

Law Enforcement/Prosecutors

N=201

Experience in their field

- 80% ten or more years
- 88% more than 5 years

Familiarity with ML

98% have read the language and are either familiar or very familiar with ML



SURVEY FEEDBACK TO DATE

Law Enforcement and Prosecutors

Responses 107 of 201

Marsy's Law applies to my agency and will require new and/or updated policies and procedures.

84%

Marsy's Law applies to my agency and will not require that we do anything differently.

16%

Marsy's Law doesn't apply to my agency

0.00%



“Marsy's Law contains many provisions that I would describe more as concepts than anything else. The right to privacy is one example...We ultimately have to come up with our own interpretations, which frequently contradict conclusions by defense attorneys and judges, and are left to argue about what the concept of privacy really means. And if we are wrong, we are subject to sanction by the Crime Victims Rights Board. That is not an ideal situation.”

-District Attorney



WORDS/PHRASES UNCLEAR IN ML

31% of victim witness respondents and 16% of law enforcement/prosecutor respondents feel there are unclear words/phrases in ML that make implementation difficult. The most cited examples are below:

MOST COMMON RESPONSES

PRIVACY

PROCEEDING

REASONABLE PROTECTION

FULL RESTITUTION

TIMELY

OTHER DISCOVERY

TO BE HEARD

ASSISTANCE (RESTITUTION)



- a) To be treated with dignity, respect, **courtesy, sensitivity** and fairness.
- b) To **privacy**
- c) To **proceedings** free from unreasonable delay.
- d) To **timely** disposition of the case, free from unreasonable delay.
- e) Upon request, **to attend** all proceedings involving the case.
- f) To **reasonable protection from the accused** throughout the criminal and juvenile justice process.
- g) Upon request, to reasonable and **timely** notification of proceedings.
- h) Upon request, to confer with the attorney for the government.
- i) Upon request, **to be heard** in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.



- j) To have information pertaining to the economic, physical, and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by that authority.
- k) Upon request, to **timely** notice of any release or escape of the accused or death of the accused if the accused is in custody or on supervision at the time of death.
- l) To refuse an interview, deposition, or **other discovery request** made by the accused or any person acting on behalf of the accused.
- m) To **full restitution** from any person who has been ordered to pay restitution to the victim and to be provided with **assistance** collecting restitution.



WORDS/PHRASES UNCLEAR

- n) To compensation as provided by law.
- o) Upon request, to **reasonable and timely** information about the status of the investigation and the outcome of the case.
- 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.

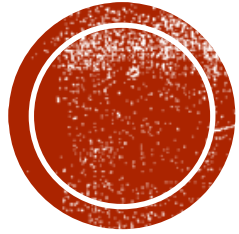


MOST COMMONLY MENTIONED PERCEIVED CONFLICTS DUE TO ML

19% of victim witness respondents and 13% of law enforcement/prosecutor respondents feel ML conflicts with other duties of their office. The most cited examples are below:

ML Concept	Perceived conflict with...
Privacy	Public Records Obligations
Privacy	Public/Individual Safety
Privacy	BWC/Squad Cam Policies
Right to Attend	Statutory Court Sequestration
“Full” Restitution	Juvenile code 938.34(5)
Refusing “Other Discovery”	Pros. Obligation to Provide It
Right to be Heard	Avoiding “Unreasonable Delay”
Release Notices to Victim	Protection of Accused






- ❖ Treatment of Victim Information
- ❖ Redaction
- ❖ Public Records Obligations
- ❖ Privacy vs. Anonymity vs. Confidentiality
- ❖ Restitution
- ❖ Treatment of Early “Proceedings”
- ❖ Timing/Responsibility
- ❖ Application to the Juvenile System
- ❖ Request for Best Practice Recommendations from DOJ
- ❖ Request for Best Practice Recommendations from CVRB
- ❖ Enforcement Questions
- ❖ Victim Status/Definition/Eligibility

RECURRING ISSUES IN RESPONSES



PROTOCOL QUESTIONS



Very specific
practice questions
from all disciplines.



LEGISLATIVE & MODEL PROTOCOL SUGGESTIONS

Confidentiality for Certain Documents

Guidance for the Judiciary about Adjournments

Model Consent Form for Sharing Victim Information

Uniform ML Pamphlet

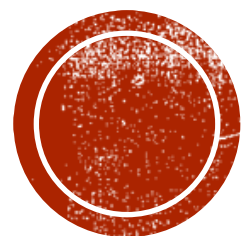
LE Model Policies & State Standards



Survey Question:

“The Crime Victims Council (CVC) is seeking input from system professionals with constitutional and statutory duties to victims of crime, in order to develop recommendations for the implementation of Marsy's Law. If you would like to be part of these conversations and are willing to share your perspective please provide your name, title and preferred contact information...”

Over 50 professionals from law enforcement, district attorney's offices, victim witness offices and the judiciary have volunteered to be part of the Council project moving forward.



DISCUSSION: NEXT STEPS

WORKGROUP STRUCTURE & STRATEGY

(As decided at 7/17/20 Meeting)

- Create workgroups aligned with the steps in the justice process in order to capture transitions and multiple discipline/agency interactions with victims.
- Key stakeholder issues (privacy, restitution, definitions, etc.) will have an elevated focus for analysis by each group.
- Workgroups will receive organized stakeholder feedback relevant to their focus.
- DOJ staff will provide communication and consistency across workgroups to foster collaboration on issues that impact all workgroups.
- Incorporate a *customer experience* model of analysis in tandem with agency-focused discussions of technical implementation issues.



Phase 1 Workgroup

*Victimization through decision on
charging/petition*

Phase 2 Workgroup

*Actual issuance of charge/petition through
sentencing/adjudication*

Phase 3 Workgroup

Post-Conviction/Post-Adjudication

MULTIDISCIPLINARY
WORKGROUPS

(As decided at 7/17/20 Meeting)



Crime Victims Council

ML Implementation Project Work Plan

(As decided at 7/17/20 Meeting)

ML Implementation Workgroups

- Meet through October
- Include non-CVC members
- Legislative recommendations to the AG mid-4th Quarter

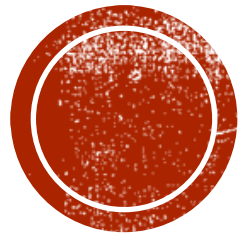
Reactivate CVC Committees on Privacy and Restitution

- Bring back these CVC committees as standing committees for ongoing work related to privacy and restitution.

Continue Coordination with DOJ

- Collaborate to contribute to victims' rights advocacy and best practice recommendations for practitioners.





NEXT STEPS

- ❖ Continue to collect and synthesize stakeholder feedback.
- ❖ Workgroup creation and offer participation to those who indicated interest.
- ❖ Workgroup meetings will initially be scheduled for every three weeks August-October.
- ❖ Next full CVC meeting likely in November.