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Office of the Attorney General
J.B. Van Hollen, Attorney General
Wisconsin Department of Justice
P.O. Box 7857
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April 21, 2008

RE: **Request for an Attorney General Opinion under Wis. Stat. § 165.25(3)**

Dear Attorney General Van Hollen,

This letter is a formal request for an Attorney General Opinion, pursuant to section 165.25(3) of the Wisconsin Statutes. The letter contains attachments 2007 Wisconsin Act 84 and 2007 Assembly Bill 498, which are relevant to the question presented in this letter.

My question relates to whether 2007 Wisconsin Act 84 impacts the recovery of any costs charged to or paid by a law enforcement agency for withdrawal, testing, or analysis of a person's blood following an operating while intoxicated (OWI) arrest. In Green Lake County, a defendant and a prosecutor commonly stipulated to having the judgment of conviction include the defendant reimbursing the police department for expenses associated with the blood withdrawal. This has been considered a reimbursement as opposed to a contribution.

Does 2007 Wisconsin Act 84 prohibit a prosecutor from engaging in a settlement discussion with a defendant or defendant's attorney related to a defendant reimbursing a police department for the actual expenses incurred by the department with respect to blood withdrawals following an OWI arrest?

I have included 2007 Assembly Bill 498, which would have specifically authorized the reimbursement for such expenses. The legislation did not pass during the most recent legislative session so it obviously does not provide any authority to this issue. I offer this legislation simply to provide you with some background on the issue.

Please contact me at your earliest convenience to let me know the status of my request for an Attorney General Opinion. If you need any additional information or materials from me, then please do not hesitate to contact me.

Sincerely,

Winn S. Collins,
District Attorney