



## 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 following report makes recommendations to law enforcement professionals regarding the best practices for complying with the obligations set forth in Wisconsin Statutes Chapter 950 to provide specific written information within 24 hours of contact with a victim.

### **Factual Background**

A 22-month old child died as a result of neglect committed by the boyfriend of the child’s mother. The offender left the child and the child’s 5 month old sibling unattended for over an hour. During that time, the child climbed onto a stove and was suffocated when the stove fell on top of him. The offender ultimately pleaded guilty and was sentenced to four years of confinement and six years extended supervision

At the time of the child’s death, the police department with jurisdiction over the case provided the mother of the child with written information about her rights as a victim of crime. She conveyed to the law enforcement officers that she would notify the child’s biological father, who was in jail at the time, of the child’s death. Three days later, the offender was charged with one count of child neglect causing death and one count of child neglect. The district attorney’s office subsequently mailed information about crime victims’ rights to the child’s mother and biological father. However, the information did not reach the child’s father initially because it was sent to his home and not to him at jail. Eventually, the district attorney’s office made contact with him in jail.

Law enforcement did have contact with the father of the child at the jail, approximately two weeks later, to provide him with a copy of the state’s offer for the offender to plead guilty or no contest. At no time during or after that contact was the father given information about his rights as a victim of crime by the police department.

### **Statutes Involved**

**Wisconsin Stat. § 950.02(4)(a)1.** defines “victim” as “[a] person against whom a crime has been committed.”

**Wisconsin Stat. § 950.02(4)(a)2.** defines “victim” as “a parent, guardian or legal custodian of the child” if the person specified in Wis. Stat. § 950.02(4)(a)1. is a child; *i.e.*, is a person who is less than 18 years of age. Wis. Stat. § 950.02(1).

**Wisconsin Stat. § 950.04(1v)(t)** provides that victims of crime have the right “[t]o receive information from law enforcement agencies, as provided under s. 950.08 (2g).”

**Wisconsin Stat. § 950.08(2g)** provides: 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 ch. 949 and the address and telephone number at which to contact the department for information concerning compensation under 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.

### **Report and Recommendation**

1. Anytime that a law enforcement agent has contact with any victim [as defined by Wis. Stat. 950.02(4)] of a crime over which his or her agency has jurisdiction, that victim is entitled to receive the written information outlined by Wis. Stat. 950.08(2g). The agent must attempt to provide the required information no later than 24 hours after having contact with the particular victim contacted. The law does not require law enforcement agents to proactively seek out every victim of a crime for the purpose of providing the written information required by statute.
2. Notification and rights information given to victims by the district attorney’s office does not affect the obligation law enforcement has to provide the written information outlined

by Wis. Stat. 950.08(2g). The information law enforcement must provide is distinct from the information district attorneys must provide. Law enforcement must provide the address and telephone number of the agency which has (or had) custody of the suspect, so the victim can get information about the suspect's release on bail. Law enforcement must also provide information about procedures to follow if the victim is subject to threats or intimidation. District attorneys are not required to provide this information. Therefore, one notice cannot substitute for another.

3. Contact with a victim might occur in different forms, throughout the life of a case. For example, a victim's initial telephone call reporting a crime constitutes contact. Contact with a victim could also occur weeks, months or even years later when an investigator interviews someone who is by statute a victim of the crime. In both cases, the agency must make an attempt to provide the written information no later than 24 hours after having contact with the victim.
4. In homicide cases and sensitive crimes, the best practice is to make a reasonable attempt to ascertain the identity of victims, including non-custodial parents of child victims, to notify them that a crime has been committed. In the case at hand, the agency relied on the child's mother to give information to the child's incarcerated biological father. Given that the father was incarcerated for domestic violence against her and that her boyfriend was responsible for the death of the child, it would have been prudent for law enforcement to contact the father directly to ensure that he was receiving information and able to exercise his rights.
5. It is also good practice for district attorneys' offices to make an attempt in homicide cases and sensitive crimes to identify victims such as non-custodial parents, to ensure they are able to exercise their victims' rights.
6. Law enforcement's obligation to provide a victim with written information cannot be delegated to another victim. Each victim of a crime who is contacted is entitled to receive the written information from law enforcement, without regard to whether he or she may have received information previously from another victim connected to the case.
7. Law enforcement agencies should document when a victim is provided written information per Wis. Stat. 950.04 (1v)(2g) so the agency has a record of its compliance with this requirement.

Dated this 21<sup>st</sup> day of DEC., 2006.



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: Service list