



REPORT AND RECOMMENDATION OF THE WISCONSIN CRIME VICTIMS RIGHTS BOARD

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 make recommendations concerning the timely disposition of sensitive cases and intergovernmental cooperation.

Factual Background

The mother of a minor victim of sexual assault brought forward a complaint alleging that the district attorney’s office violated her right to a speedy disposition. The case involved sexual assaults allegedly perpetrated in multiple locations within two counties. There was initially a question about which county would bring the case forward.

The original investigating agency referred the case to another county believing it had primary jurisdiction of the case. That county’s investigation uncovered additional information indicating that the proper jurisdiction was indeed with the original investigating agency. They sent their report, with the new information, to the original detective on the case. The detective faxed the report to the district attorney’s office; however, the district attorney reported later that the fax was not received. There is no evidence to conclude with certainty what happened to the fax. What is known is that a great deal of time elapsed during which no one was working on the case. The detective assumed the prosecutor had decided not to charge the case. The prosecutor assumed the case was being prosecuted in another county.

Ultimately, because of the diligence of the victim’s mother, the communication error was discovered. The necessary investigative reports were re-faxed to the prosecutor who filed charges shortly thereafter.

Statutes Involved

Wisconsin Stat. § 950.02(4)(a)2. “Victim” includes a “parent, guardian or legal custodian” of a child against whom a crime has been committed if the person specified in Wis. Stat. § 950.02(4)(a)1. is a child.

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.”

Recommendations:

The current case presents the opportunity to highlight the importance of case referral follow-up systems in law enforcement agencies. Agencies should develop a method for reviewing cases referred to the district attorney’s office to prevent or respond to gaps in communication between the two agencies. Many law enforcement agencies schedule a regular review of all referred cases to document the subsequent action taken by the district attorney’s office. During this review, items requiring follow-up are identified for further discussion with the district attorney’s office.

Prosecutors with knowledge of a case in their county that is also under the jurisdiction of another county should communicate directly with the other jurisdiction(s). Simple, direct communication would prevent what happened in this case. Especially in crimes against children, or any other sensitive crime, a prosecutor should make an effort to be certain the case is receiving timely and proper attention. To fail to do so invites the current scenario in which victims were unnecessarily distressed and justice delayed because of a faulty assumption that someone else was attending to the case. It is not hard to imagine in this situation that the case might have been neglected entirely, had the victim not followed up with the agencies involved.

When the victims’ rights law was written, the legislature contemplated that the meaningful provision of rights would require cooperation and communication across multiple systems and agencies. Agencies are encouraged to approach cases in this spirit, cognizant of the following statute:

950.07 Intergovernmental cooperation. The county board, district attorney, local law enforcement agencies, local social service agencies, victim and witness offices and courts shall all cooperate with each other to ensure that victims and witnesses of crimes receive the rights and services to which they are entitled under this chapter.

Dated this 30th day of September, 2009



KENNETH R. KRATZ
Chairperson
Crime Victims Rights Board