

American Inns of Court  
James E. O'Doyle Chapter  
St. Patrick's Day, 2010

O'Program Materials  
for the  
McPresentation:

## Victims in the Criminal Justice System in Wisconsin

1. Report and Recommendation of the Wisconsin Crime Victims Rights Board, *The Right to a Speedy Disposition* (1/15/10).
2. Article I, §9m of the Wisconsin Constitution, *Victims of Crime* (adopted 1993).
3. Wisconsin Statutes Chapter 950, *Rights of Victims and Witnesses of Crime*.

Presented by:

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Board Members:

Christine Nolan, Chair  
Trisha Anderson  
Keith Govier  
Angela Sutkiewicz

**REPORT AND RECOMMENDATION OF THE  
WISCONSIN CRIME VICTIMS RIGHTS BOARD**

**The Right to Speedy Disposition**

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“**W**e just felt real isolated and that was hard...They never told us what was happening and an interesting thought that continued to go through our minds at this time was that [the defendant] was surely being well informed by his attorney about how things were going. He knew what was happening and we were in the dark.”

*--Parent of a child sexual assault victim describing the anxiety associated with a delayed prosecution.*

“**I**t was very hurtful that in five years the only time there was action was when it was initiated by us.”

*--Victim commenting on a delayed investigation by local law enforcement.*

**Introduction**

The Wisconsin Crime Victims Rights Board (“Board”) has reviewed numerous complaints against public officials alleging violations of a victim’s right to a speedy disposition. 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 and recommendation offers observations and recommendations related to the statutory right to a speedy disposition. It is the intent of the Board that this report will serve to share the experiences and lessons learned during the formal complaint process with public officials responsible for protecting and enabling the statutory rights of victims of crime in Wisconsin.

## **Statutes Involved**

**Wisconsin Stat. § 950.02(1m)** “Crime” means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12.

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

**Wisconsin Stat. § 950.02(4)(a)**. defines “victim” to include “[a] family member of the person who is deceased.”

**Wisconsin Stat. § 950.02(3)** defines “family member” to include a “spouse, minor child, adult child, sibling, parent, or legal guardian.”

**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.”

## **CVRB Analysis of Speedy Disposition Allegations**

Wisconsin law provides that a victim has a right to speedy disposition of the case in which he or she is involved. The Board has interpreted “case” as including all phases of the criminal justice process beginning with the initial report of a crime:

Speedy disposition is required in order to minimize the stress endured by victims and witnesses. The Legislature recognizes that victims of crime endure stress from the moment they have knowledge of the crime until the conclusion of the criminal justice process. Their stress continues during the investigation of the crime by law enforcement, continues while the matter remains under consideration by the district attorney's office and continues throughout the prosecution of the matter after the filing of a criminal complaint. A victim becomes eligible for the rights and services of Wis. Stat. ch. 950, Rights of Victims and Witnesses of Crime, when a crime has been reported to law enforcement authorities. (Final Decision and Order, CVRB Case #05-52)

The standard of review used by the Board in speedy disposition complaints is based on the reasonableness of identified delays, rather than on how long it takes for something to happen. The Board recognizes that there are many legitimate causes of delay. There are strains on resources and court calendars. There must be a prioritization of cases which sometimes means cases are delayed simply because other cases require attention. The law does not provide for exemptions, however; the right to a speedy disposition exists despite the challenges facing public officials. Therefore, the standard of review used by the Board evaluates the reasonableness of an identified delay and to whom a delay is ultimately attributable.

In analyzing allegations of violations of the right to a speedy disposition, the Board employs the following methodology. First, each delay is identified. Second, the Board determines the reason given for the delay. Third, the Board determines whether the delay is reasonable.

Fourth, if the Board determines that the delay is unreasonable, it determines whether the delay is attributable to the respondent. Violation of the right to a speedy disposition occurs only if each of the four elements is present.

It is unfortunate and counterproductive when—despite the shared goal of holding offenders accountable—victims and public officials enter into an adversarial relationship. A hallmark of speedy disposition complaints is that victims take on the burden of making repeated appeals to an agency in order to prompt movement on a case or to simply get information about the status of a case. In some cases, victims have felt it necessary to hire private attorneys because of the lack of responsiveness of a public agency.

Victims' rights were enacted in acknowledgement of the duty of victims to cooperate with law enforcement and prosecutorial agencies. Wisconsin's victims' rights laws recognize that the justice system is most effective when victims participate and public officials protect the rights of victims "in a manner no less vigorous than the protections afforded criminal defendants." (*Wis. Stat. §950.01*)

The following recommendations arise from formal complaints reviewed by the Board related to the right to speedy disposition.

### **Law Enforcement**

1. The intent of the right to a speedy disposition is to minimize the amount of time a victim is subjected to the stress of their responsibilities connected to the case. Agency workload and case prioritization may impact the length of time it takes to conclude an investigation but law enforcement can do much to minimize the associated stress by simply communicating with victims about delays. Regular communication with the victim will help set realistic expectations, create relationships of trust, avoid conflict, and lessen the negative impact caused by the delay.
2. Administrative oversight and case follow up should be standard operating procedure for a law enforcement agency, not something that victims of crime initiate. It is demoralizing to victims and erodes confidence in the criminal justice system when victims bear the burden of moving a case along through repeated appeals for action.
3. Agencies should enact an official procedure for the periodic review and oversight of pending cases to ensure that investigations are not unnecessarily or unreasonably delayed.
4. Agencies should develop an official procedure for the transfer of cases and periodic case review to ensure that cases are not inadvertently dropped because of personnel changes.

### **District Attorneys Offices**

1. The victims' right amendment and legislation represent a constitutional and legislative constraint on what would otherwise be a prosecutor's discretion to file a case at any time before the expiration of the statute of limitations.

2. Victims should never have to hire private attorneys in order to get information about their case from the public officials who represent the criminal justice system.
3. A prosecutor should be mindful that a prosecutor's responsibility to protect a victim's right to speedy disposition begins as soon as a case is referred to the district attorney's office. The right to speedy disposition attaches throughout the life of a case, not only after a charge is filed by the prosecutor.
4. Prosecutors and victim witness staff should explain the source of delays clearly and accurately. They should take care to use terminology that is not misleading. They should explain delays promptly rather than allowing the frustration and possible misunderstanding of the delay(s) to erode trust and confidence in the district attorney's office.
5. Lack of responsiveness of prosecutors and/or victim witness can exacerbate a victim's stress and trauma. When a prosecutor becomes aware that a victim is frustrated with delays and/or inadequate victim services, best practice is for the prosecutor to speak directly with the victim(s) to ensure that their concerns are evaluated and appropriately addressed.
6. District attorneys must prioritize case work and contacts with the public according to their workload. A backlog of cases may make it necessary to delay filing some cases in order to file other cases. No matter what theory of prioritization a district attorney adopts for his or her office, cases that involve the loss of a life must be given priority. Survivors and loved ones rely on prosecutors to keep them informed. If a case will not be charged, prolonging notification of that decision unreasonably and unnecessarily exacerbates their suffering.
7. 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). 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 a scenario in which victims are unnecessarily distressed and justice delayed because of a faulty assumption that someone else is attending to the case. In such a situation, a case could be neglected entirely, if a victim does not follow up with the agencies involved.

### **The Courts**

1. Any written procedure that prioritizes cases for scheduling should also note the duty of the court to expedite proceedings that involve child victims.

**Wis. Stat. § 971.105 Child victims and witnesses; duty to expedite proceedings.** In all criminal and delinquency cases, juvenile fact-finding hearings under s. 48.31 and juvenile dispositional hearings involving a child victim or witness, as defined in s. 950.02, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of the child's involvement in the

proceeding. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

2. Delays and cancellations and even some level of over scheduling are unavoidable in a busy court system. The administratively condoned judicial practice of unreasonably setting the same trial date for many separate cases under the guise of judicial economy should be replaced with the court's recognition of the **legislative mandate** to consider the emotional and practical effect of continuances on victims of crime. Victims must not be repeatedly subjected to the anxiety of cancelled or delayed proceedings.
3. The court must consider the interests of the victim before granting a continuance. *See 971.10(3)(b)3*. No continuance under this section may be granted because of general congestion of the court's calendar or the lack of diligent preparation or the failure to obtain available witnesses on the part of the state. *See 971.10(3)(c)*.
4. A continuance shall not be granted unless the court sets forth in the record its reasons for finding that the ends of justice served by granting the continuance outweigh the best interests of the public and defendant. *See 971.10(3)(a)*.
5. There is an added burden when court cancellations come only one or two days prior to the trial. Such a system is prone to produce unnecessary hardship on victims, most of whom have rearranged their schedules around a trial date. Victim witness program staff should not be required to repeatedly explain cancellations to victims. Such practices erode trust and possibly reduce the cooperation of victims and/or witnesses who are experiencing anxiety because of cancellations and delays.

#### **Delays Due to Military Deployment**

1. When a defendant is called to duty or deployment by the military, the prosecutor should at a minimum ask for verification and contact information in order to perform status checks if such involvement with the military will cause a delay in the prosecution. A prosecutor may additionally wish to ask that deployment be delayed (or that a deployed person be returned) in order to commence a criminal prosecution. As a matter of standard operating procedure, the military will cooperate with civilian authorities concerning a pending criminal matter against a member of the military.
2. Prosecutors should not rely on defense attorneys to provide information about a deployed defendant. A prosecutor can make contact with the defendant's military commander in order to know with certainty when the defendant has returned to the state.
3. If requested by a prosecutor, a commander may choose not to deploy a person who is the subject of a criminal prosecution. Likewise, National Guard reservists are held back from deployment and even pulled back from deployment if they are involved in a criminal prosecution, unless the prosecutor approves of deployment.

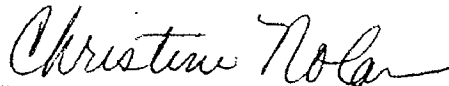
4. In order to effect this cooperation, the responsibility is with the prosecutor to obtain accurate information about the branch of service to which the defendant belongs and to contact the defendant's unit commander. Each branch of the military has staff to assist in locating a soldier and the commanding officer and also to provide information regarding deployment status. The Adjutant General serves as Wisconsin's senior military officer and commander of the Wisconsin Air and Army National Guard. The Office of the Adjutant General may be of similar assistance concerning defendants that belong to the Guard.

### Conclusion

The meaningful provision of the right to speedy disposition, as with each victim right, requires effective coordination between government agencies, as recognized in the following legislative mandate:

**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.

Signed on the 15<sup>th</sup> day of January, 2010



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CHRISTINE NOLAN  
Chairperson, Crime Victims Rights Board



## Article I, §9m of the Wisconsin Constitution

*Victims of crime.* This state shall treat crime victims, as defined by law, with fairness, dignity and respect for their privacy. This state shall ensure that crime victims have all of the following privileges and protections as provided by law: timely disposition of the case; the opportunity to attend court proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant; reasonable protection from the accused throughout the criminal justice process; notification of court proceedings; the opportunity to confer with the prosecution; the opportunity to make a statement to the court at disposition; restitution; compensation; and information about the outcome of the case and the release of the accused. The legislature shall provide remedies for the violation of this section. Nothing in this section, or in any statute enacted pursuant to this section, shall limit any right of the accused which may be provided by law.

[1993 J.R. 2, vote April 1993]



## CHAPTER 950

### RIGHTS OF VICTIMS AND WITNESSES OF CRIME

950.01	Legislative intent.
950.02	Definitions.
950.03	Eligibility of victims.
950.04	Basic bill of rights for victims and witnesses.
950.055	Child victims and witnesses; rights and services.
950.06	Reimbursement for services.

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950.08	Information and mediation services.
950.09	Crime victims rights board.
950.095	Confidentiality of complaints.
950.10	Limitation on liability; grounds for appeal.
950.11	Penalties.

**Cross Reference:** See definitions in s. 939.22.

**Cross Reference:** See also ch. Jus 12, Wis. adm. code.

**950.01 Legislative intent.** In recognition of the civic and moral duty of victims and witnesses of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy and sensitivity; and that the rights extended in this chapter to victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

**History:** 1979 c. 219.

**950.02 Definitions.** In this chapter:

(1) Except in sub. (3), “child” means a person who is less than 18 years of age.

(1m) “Crime” means an act committed in this state which, if committed by a competent adult, would constitute a crime, as defined in s. 939.12.

(1t) “Custodial agency” means any person authorized to arrest or take into actual physical custody an individual who is alleged to have committed a crime. “Custodial agency” includes a law enforcement agency, a sheriff, superintendent or other keeper of a jail and a person authorized to take custody of a juvenile under s. 938.19 or 938.20 (4).

(2) “Department” means the department of justice.

(2m) “District attorney” means any of the following:

(a) The district attorney or other person authorized to prosecute a criminal case or a delinquency proceeding under ch. 938.

(b) A person designated by a person specified in par. (a) to perform the district attorney’s duties under this chapter.

(3) “Family member” means spouse, minor child, adult child, sibling, parent, or legal guardian.

(3m) “Law enforcement agency” has the meaning given in s. 165.83 (1) (b).

(4) (a) “Victim” means any of the following:

1. A person against whom a crime has been committed.

2. If the person specified in subd. 1. is a child, a parent, guardian or legal custodian of the child.

3. If a person specified in subd. 1. is physically or emotionally unable to exercise the rights granted under s. 950.04 or article I, section 9m, of the Wisconsin constitution, a person designated by the person specified in subd. 1. or a family member of the person specified in subd. 1.

4. If a person specified in subd. 1. is deceased, any of the following:

a. A family member of the person who is deceased.

b. A person who resided with the person who is deceased.

5. If a person specified in subd. 1. has been adjudicated incompetent in this state, the guardian of the person appointed for him or her.

(b) “Victim” does not include the person charged with or alleged to have committed the crime.

(4m) “Victim and witness office” means an organization or program that provides services for which the county receives reimbursement under this chapter.

(5) “Witness” means any person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

**History:** 1979 c. 219; 1983 a. 197; 1985 a. 311; 1995 a. 77, 310; 1997 a. 35, 181; 1999 a. 32; 2005 a. 387, 419.

**950.03 Eligibility of victims.** A victim has the rights and is eligible for the services under this chapter only if the crime has been reported to law enforcement authorities.

**History:** 1979 c. 219; 1991 a. 159.

**950.04 Basic bill of rights for victims and witnesses.**

(1v) RIGHTS OF VICTIMS. Victims of crimes have the following rights:

(a) To have his or her interest considered when the court is deciding whether to grant a continuance in the case, as provided under ss. 938.315 (2) and 971.10 (3) (b) 3.

(b) To attend court proceedings in the case, subject to ss. 906.15 and 938.299 (1). The court may require the victim to exercise his or her right under this paragraph using telephone or live audiovisual means, if available, if the victim is under arrest, incarcerated, imprisoned or otherwise detained by any law enforcement agency or is admitted or committed on an inpatient basis to a treatment facility under ch. 51, 971 or 980, and the victim does not have a person specified in s. 950.02 (4) (a) 3. to exercise the victim’s right under this paragraph.

(bm) To be provided with appropriate intercession services to ensure that employers of victims will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee’s loss of pay and other benefits resulting from court appearances.

(c) To be accompanied by a service representative, as provided under s. 895.45.

(d) To request an order for, and to be given the results of, testing to determine the presence of a communicable disease, as provided under ss. 938.296 or 968.38.

(dL) To not be the subject of a law enforcement officer’s or district attorney’s order, request, or suggestion that he or she submit to a test using a lie detector, as defined in s. 111.37 (1) (b), if he or she claims to have been the victim of a sexual assault under s. 940.22 (2), 940.225, 948.02 (1) or (2), or 948.085, except as permitted under s. 968.265.

(e) To be provided a waiting area under ss. 938.2965 and 967.10.

**950.04 RIGHTS OF VICTIMS AND WITNESSES OF CRIME**

(em) To have his or her interests considered by the court in determining whether to exclude persons from a preliminary hearing, as provided under s. 970.03 (4).

(f) To have the earned release review commission make a reasonable attempt to notify the victim of applications for parole or release to extended supervision, as provided under s. 304.06 (1).

(g) To have reasonable attempts made to notify the victim of hearings or court proceedings, as provided under ss. 302.114 (6), 938.27 (4m) and (6), 938.273 (2), 971.095 (3) and 972.14 (3) (b).

(gm) To have reasonable attempts made to notify the victim of an offender who submits a petition for sentence adjustment as provided under s. 973.195 (1r) (d), an offender who applies for release to extended supervision under s. 302.113 (2) (b), 302.1135, or 304.06 (1), or an offender who applies for a reduction under s. 973.01 (4m).

(i) To have, at his or her request, the opportunity to consult with intake workers, district attorneys and corporation counsel in cases under ch. 938, as provided under ss. 938.245 (1m), 938.265 and 938.32 (1) (am).

(j) To have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction, as provided under s. 971.095 (2).

(k) 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.

(L) To have the district attorney or corporation counsel, whichever is applicable, make a reasonable attempt to contact the victim concerning the victim's right to make a statement, as provided under ss. 938.32 (1) (b) 2., 938.335 (3m) (b) and 972.14 (3) (b).

(m) To provide statements concerning sentencing, disposition, or parole, as provided under ss. 304.06 (1) (e), 938.32 (1) (b) 1g., 938.335 (3m) (ag), and 972.14 (3) (a).

(n) To have direct input in the parole decision-making process, as provided by the rules promulgated under s. 304.06 (1) (em).

(nn) To attend parole interviews or hearings and make statements as provided under s. 304.06 (1) (eg).

(nt) To attend a hearing on a petition for modification of a sentence and provide a statement concerning modification of the sentence, as provided under s. 302.1135 (4).

(o) To have information concerning the impact of a delinquent act on the victim included in a court report under s. 938.33 and to have the person preparing the court report attempt to contact the victim, as provided under s. 938.331.

(p) To have the person preparing a presentence investigation under s. 972.15 make a reasonable attempt to contact the victim, as provided in s. 972.15 (2m).

(pm) To have the court provided with information pertaining to the economic, physical and psychological effect of the crime upon the victim and have the information considered by the court.

(q) To restitution, as provided under ss. 938.245 (2) (a) 5., 938.32 (1t), 938.34 (5), 938.345, 943.212, 943.23 (6), 943.245, 943.51 and 973.20.

(qm) To recompense as provided under s. 969.13 (5) (a).

(r) To a judgment for unpaid restitution, as provided under ss. 895.035 (2m) and 973.09 (3) (b).

(rm) To compensation, as provided under subch. I of ch. 949.

(s) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence, subject to s. 968.205. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, property subject to preservation under s. 968.205, and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

(t) To receive information from law enforcement agencies, as provided under s. 950.08 (2g).

(u) To receive information from district attorneys, as provided under s. 950.08 (2r).

(um) To have district attorneys make a reasonable attempt to notify the victim under s. 971.17 (4m) regarding conditional releases under s. 971.17.

(v) To have the department of corrections make a reasonable attempt to notify the victim under s. 301.046 (4) regarding community residential confinements, under s. 301.048 (4m) regarding participation in the intensive sanctions program, under s. 301.38 regarding escapes from a Type 1 prison, under s. 301.46 (3) regarding persons registered under s. 301.45, under s. 302.105 regarding release upon expiration of certain sentences, under s. 304.063 regarding extended supervision and parole releases, and under s. 938.51 regarding release or escape of a juvenile from correctional custody.

(vm) To have the appropriate clerk of court send the victim a copy of an inmate's petition for extended supervision and notification of the hearing on that petition under s. 302.114 (6).

(w) To have the department of corrections make a reasonable attempt to notify the victim under s. 303.068 (4m) regarding leave granted to qualified inmates under s. 303.068.

(x) To have the department of health services make a reasonable attempt to notify the victim under s. 971.17 (6m) regarding termination or discharge under s. 971.17 and under s. 51.37 (10) regarding home visits under s. 51.37 (10).

(xm) To have the department of health services make a reasonable attempt to notify the victim under s. 980.11 regarding supervised release under s. 980.08 and discharge under s. 980.09 (4).

(y) To have reasonable attempts made to notify the victim concerning actions taken in a juvenile proceeding, as provided under ss. 938.24 (5m), 938.25 (2m), 938.312 and 938.346.

(yd) To have the appropriate clerk of court make a reasonable attempt to send the victim a copy of a motion made under s. 974.07 (2) for postconviction deoxyribonucleic acid testing of certain evidence and notification of any hearing on that motion, as provided under s. 974.07 (4).

(ym) To have the governor make a reasonable attempt to notify the victim of a pardon application, as provided under s. 304.09 (2) and (3).

(z) To make a written statement concerning pardon applications, as provided under s. 304.10 (2).

(zm) To request information from a district attorney concerning the disposition of a case involving a crime of which he or she was a victim, as provided under s. 971.095 (6).

(zx) To complain to the department of justice concerning the treatment of crime victims, as provided under s. 950.08 (3), and to request review by the crime victims rights board of the complaint, as provided under s. 950.09 (2).

**(2w) RIGHTS OF WITNESSES.** Witnesses of crimes have the following rights:

(a) To request information from the district attorney about the final disposition of the case.

(b) To be notified that a court proceeding to which they have been subpoenaed will not go on as scheduled, in order to save the person an unnecessary trip to court.

(c) To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available.

(d) To be informed of financial assistance and other social services available as a result of being a witness of a crime, including information on how to apply for the assistance and services.

(e) To be informed of the procedure to be followed in order to apply for and receive any witness fee to which they are entitled.

(f) To be provided a waiting area under ss. 938.2965 and 967.10.

(fm) To have any stolen or other personal property expeditiously returned by law enforcement agencies when no longer needed as evidence. If feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis and property the ownership of which is disputed, shall be returned to the person within 10 days of being taken.

(g) To be provided with appropriate intercession services to ensure that employers of witnesses will cooperate with the criminal justice process and the juvenile justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances.

(h) To be entitled to a speedy disposition of the case in which they are involved as a witness in order to minimize the length of time they must endure the stress of their responsibilities in connection with the matter.

**History:** 1979 c. 219; 1983 a. 102, 364; 1985 a. 311; 1987 a. 332 s. 64; 1989 a. 31; 1997 a. 181, 237, 283; 1999 a. 9, 32, 188; 2001 a. 16, 109; 2003 a. 224; 2005 a. 155, 277, 434, 447; 2007 a. 20 ss. 3863, 9121 (6) (a); 2007 a. 97; 2009 a. 28.

A sentencing court does not abuse its discretion by considering a victim's statements and recommendations. *State v. Johnson*, 158 Wis. 2d 458, 463 N.W.2d 352 (Ct. App. 1990).

**950.055 Child victims and witnesses; rights and services.** (1) **LEGISLATIVE INTENT.** The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually afforded to adults. The legislature intends, in this section, to provide these children with additional rights and protections during their involvement with the criminal justice or juvenile justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) **ADDITIONAL SERVICES.** In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.06 (1m), counties are encouraged to provide the following additional services on behalf of children who are involved in criminal or delinquency proceedings as victims or witnesses:

(a) Explanations, in language understood by the child, of all legal proceedings in which the child will be involved.

(b) Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of depositions by audiovisual means under s. 908.08 or 967.04 (7) and (8) and the duty to expedite proceedings under s. 971.105.

(c) Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(d) Information about and referrals to appropriate social services programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

(3) **PROGRAM RESPONSIBILITY.** In each county, the county board is responsible for the provision of services under this section. A county may seek reimbursement for services provided under this section as part of its program plan submitted to the department under s. 950.06. To the extent possible, counties shall utilize volunteers and existing public resources for the provision of these services.

**History:** 1983 a. 197; 1985 a. 262 s. 8; 1985 a. 311; 1997 a. 181; 2005 a. 42.  
**Cross Reference:** See also ch. Jus 12, Wis. adm. code.

**950.06 Reimbursement for services. (1m)** To be eligible for reimbursement under this section for the provision of services to victims and witnesses, a county shall provide all of the following services to victims and witnesses:

(a) Court appearance notification services, including cancellation of appearances.

(b) Victim compensation and social services referrals, including witness fee collection, case-by-case referrals and public information.

(c) Escort and other transportation services related to the investigation or prosecution of the case, if necessary or advisable.

(d) Case progress notification services which may be combined with services under par. (a).

(dm) Assistance in providing the court with information pertaining to the economic, physical and psychological effect of the crime upon the victim of a felony.

(e) Employer intercession services.

(f) Expedited return of property services.

(g) Protection services.

(h) Family support services, including child and other dependent care services.

(i) Waiting facilities.

(2) The costs of providing services under sub. (1m) shall be paid for by the county, but the county is eligible to receive reimbursement from the state for not more than 90% of the costs incurred in providing those services. The department shall determine the level of services for which a county may be reimbursed. The county board shall file a claim for reimbursement with the department. The department shall reimburse counties under this subsection from the appropriation under s. 20.455 (5) (k), (kk) and (kp) and, on a semiannual basis, from the appropriations under s. 20.455 (5) (c) and (g).

(3) The county board shall provide for the implementation of the county's plan under sub. (4). Two or more counties may submit a joint plan under sub. (4).

(4) If the county seeks reimbursement under sub. (2), the county board shall submit a program plan to the department for its approval. The county is eligible for reimbursement under sub. (2) only if the department has approved the plan. The program plan shall describe the level of services to victims and witnesses that the county intends to provide; the personnel or agencies responsible for related administrative programs and individual services; proposed staffing for the program; proposed education, training and experience requirements for program staff and the staff of agencies providing related administrative programs and individual services; the county's budget for implementing the program and other information the department determines to be necessary for its review. The plan shall provide that the district attorney, local law enforcement agencies and the courts shall make available to the person or agency responsible for administering the program all reports or files, except reports or files which are required by statute to be kept confidential, if the reports or files are required by the person or agency to carry out program responsibilities. Each year, the county board shall submit a report to the department on the operation of the plan, including the provision of services under sub. (1m).

(5) The department shall review and approve the implementation and operation of programs and the annual reports under this section. The department may suspend or terminate reimbursement under sub. (2) if the county fails to comply with its duties under this section. The department shall promulgate rules under ch. 227 for implementing and administering county programs approved under this section.

**History:** 1979 c. 219; 1981 c. 20; 1983 a. 27, 364; 1987 a. 244; 1991 a. 159; 1997 a. 181, 237; 1999 a. 9.

**Cross Reference:** See also ch. Jus 12, Wis. adm. code.

**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.

**History:** 1979 c. 219; 1995 a. 310.

**950.08 Information and mediation services. (1) DUTIES OF DEPARTMENT; TOLL-FREE TELEPHONE NUMBER.** The department shall maintain a toll-free telephone number to provide crime victims and witnesses with all of the following services:

**950.08 RIGHTS OF VICTIMS AND WITNESSES OF CRIME**

- (a) Information and referral to available services.
- (b) Crisis counseling and emotional support.
- (c) Assistance in securing resources and protection.

**(2) DUTIES OF DEPARTMENT; GENERAL INFORMATIONAL PROGRAM.** The department shall provide an informational program to inform crime victims, the general public, criminal justice officials and related professionals about crime victim rights and services.

**(2g) INFORMATION TO BE PROVIDED BY LAW ENFORCEMENT AGENCIES.** 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 subch. I of ch. 949 and the address and telephone number at which to contact the department for information concerning compensation under subch. I of 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.

**(2r) INFORMATION TO BE PROVIDED BY A DISTRICT ATTORNEY IN CRIMINAL CASES.** As soon as practicable, but in no event later than 10 days after the initial appearance under s. 970.01 or 24 hours before a preliminary examination under s. 970.03, whichever is earlier, of a person charged with a crime in a court of criminal jurisdiction, a district attorney shall make a reasonable attempt to provide to each victim of the crime written information on all of the following:

- (a) A brief statement of the procedure for prosecuting a crime.
- (b) A list of the rights of victims under s. 950.04 (1v) and information about how to exercise those rights.
- (c) The person or agency to notify if the victim changes his or her address and wants to continue to receive notices and services under s. 950.04 or 971.095 (3).
- (d) The availability of compensation under subch. I of ch. 949, including information concerning eligibility for compensation and the procedure for applying for compensation.
- (e) The person to contact for further information about a case involving the prosecution of a crime of which he or she is a victim.

**(2s) INFORMATION CONCERNING JUVENILE CASES.** Notification of a victim of an act committed by a juvenile concerning the rights of victims under ch. 938 shall be provided as specified in s. 938.346.

**(3) DUTIES OF DEPARTMENT; MEDIATION.** The department may receive complaints, seek to mediate complaints and, with the con-

sent of the involved parties, actually mediate complaints regarding the treatment of crime victims and witnesses by public officials, employees or agencies or under crime victim and witness assistance programs. The department may act as a liaison between crime victims or witnesses and others when seeking to mediate these complaints and may request a written response regarding the complaint from the subject of a complaint. If asked by the department to provide a written response regarding a complaint, the subject of a complaint shall respond to the department's request within a reasonable time.

**History:** 1991 a. 39; 1997 a. 181; 2007 a. 20.

**950.09 Crime victims rights board. (1)** In this section, "board" means the crime victims rights board.

**(2)** At the request of one of the involved parties, the board may review a complaint made to the department under s. 950.08 (3) regarding a violation of the rights of a crime victim. A party may not request the board to review a complaint under this subsection until the department has completed its action on the complaint under s. 950.08 (3). In reviewing a complaint under this subsection, the board may not begin any investigation or take any action specified in pars. (a) to (d) until the board first determines that there is probable cause to believe that the subject of the complaint violated the rights of a crime victim. Based on its review of a complaint under this subsection, the board may do any of the following:

(a) Issue private and public reprimands of public officials, employees or agencies that violate the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.

(b) Refer to the judicial commission a violation or alleged violation by a judge of the rights of crime victims provided under this chapter, ch. 938 and article I, section 9m, of the Wisconsin constitution.

(c) Seek appropriate equitable relief on behalf of a victim if such relief is necessary to protect the rights of the victim. The board may not seek to appeal, reverse or modify a judgment of conviction or a sentence in a criminal case.

(d) Bring civil actions to assess a forfeiture under s. 950.11. Notwithstanding s. 778.06, an action or proposed action authorized under this paragraph may be settled for such sum as may be agreed upon between the parties. In settling actions or proposed actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Forfeiture actions brought by the board shall be brought in the circuit court for the county in which the violation is alleged to have occurred.

**(3)** In addition to its powers under sub. (2), the board may issue reports and recommendations concerning the securing and provision of crime victims rights and services.

**(4)** Actions of the board are not subject to approval or review by the attorney general.

**(5)** The board shall promulgate rules establishing procedures for the exercise of its powers under this section.

**History:** 1997 a. 181.

**Cross Reference:** See also s. CVRB 1.01, Wis. adm. code.

**950.095 Confidentiality of complaints. (1)** (a) The records of the department relating to a complaint made under s. 950.08 (3) are confidential unless the subject of the complaint waives the right to confidentiality in writing to the department.

(am) Before a finding of probable cause under s. 950.09 (2), a complaint referred to the crime victims rights board under s. 950.09 (2) is confidential unless the subject of the complaint waives the right to confidentiality in writing to the crime victims rights board.

(b) If a complaint becomes known to the public before the completion of action by the department under s. 950.08 (3) or a finding of probable cause by the crime victims rights board under

s. 950.09 (2), the department or the crime victims rights board, whichever is applicable, may issue statements in order to confirm that a complaint has been made or is being reviewed, to clarify the procedural aspects of actions taken under ss. 950.08 (3) and 950.09 (2), to explain the right of the subject of the complaint to respond to the complaint, to state that the subject of the complaint denies the allegations, if applicable, to state that action under ss. 950.08 (3) and 950.09 (2) has been completed and no basis for the complaint was found or to correct public misinformation.

**(1m)** In investigating a complaint made under s. 950.08 (3) or being reviewed under s. 950.09 (2), the department or the crime victims rights board, whichever is applicable, shall do all of the following:

(a) Act to avoid unnecessary embarrassment to and publicity for the subject of the complaint.

(b) Request any person contacted for information not to disclose that an investigation is being conducted or the nature of any inquiries made by the department or the crime victims rights board.

**(2)** This section does not preclude the department or the crime victims rights board from doing any of the following:

(a) Informing the person who made the complaint of the outcome of any action by the department or review by the crime victims rights board.

(b) Referring to the judicial commission information relating to alleged misconduct by or an alleged disability of a judge or court commissioner.

(c) Referring to an appropriate law enforcement authority information relating to possible criminal conduct or otherwise cooperating with a law enforcement authority in matters of mutual interest.

(d) Referring to an attorney disciplinary agency information relating to the possible misconduct or incapacity of an attorney or otherwise cooperating with an attorney disciplinary agency in matters of mutual interest.

(e) Disclosing to the chief justice or director of state courts information relating to matters affecting the administration of the courts.

**History:** 1997 a. 181.

**Cross Reference:** See also s. CVRB 1.01, Wis. adm. code.

**950.10 Limitation on liability; grounds for appeal.**

**(1)** No cause of action for money damages may arise against the state, any political subdivision of the state or any employee or agent of the state or a political subdivision of the state for any act or omission in the performance of any power or duty under this chapter or under article I, section 9m, of the Wisconsin constitution or for any act or omission in the performance of any power or duty under ch. 938 relating to the rights of, services for or notices to victims.

**(2)** A failure to provide a right, service or notice to a victim under this chapter or ch. 938 or under article I, section 9m, of the Wisconsin constitution is not a ground for an appeal of a judgment of conviction or sentence and is not grounds for any court to reverse or modify a judgment of conviction or sentence.

**History:** 1997 a. 181.

**950.11 Penalties.** A public official, employee or agency that intentionally fails to provide a right specified under s. 950.04 (1v) to a victim of a crime may be subject to a forfeiture of not more than \$1,000.

**History:** 1997 a. 181.

