



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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Carrie Janto, Deputy Clerk
Wisconsin Supreme Court
P.O. Box 1688
Madison, WI 53701-1688

Dear Ms. Janto:

The Department of Justice respectfully requests that the Wisconsin Supreme Court protect crime victims from unnecessary invasions of privacy during the appellate process by adopting Supreme Court Rule Petition 14-01 and creating Wis. Stat. § 809.86.

“The State shall treat victims of crime ... with fairness, dignity, and respect for their privacy.”¹ It is beyond debate that crime victims suffer innumerable and unimaginable indignities throughout the criminal justice process. Few are as profound as the invasion of privacy.

As this Court acknowledged, “justice requires that all who are engaged in the prosecution of crimes make every effort to minimize further suffering by crime victims.”² We believe that by adopting Petition 14-01 and limiting the identification of victim names in the appellate process, the Court will help protect victim privacy and reduce the instances in which a crime victim will be exposed to potential re-traumatization. The rule, if adopted, will not adversely impact the defendant’s right to a fair trial. Nor will it impact the open nature of criminal proceedings. What it will do is provide some protection to a crime victim who did not ask to be victimized and should not have to have the experience follow him or her around long after the event and trial have passed.

The ease of Internet access and the amount of available information pose real threats to victim privacy. The Wisconsin Department of Justice Office of Crime Victim Services (OCVS) houses Wisconsin’s Victims Resource Center, which helps crime victims resolve problems with the justice system and exercise their rights. The Resource Center receives hundreds of calls every year, including calls from victims and victim advocates voicing their concerns and frustrations because all or parts of victims’ names or other identifying information appeared in appellate briefs and decisions that later became accessible on the Internet.

One victim of sexual assault, recklessly endangering, and false imprisonment called us and was very upset because a search of her name on the Internet produced a Wisconsin Supreme Court decision that identified her by name and recounted her assault in explicit detail. Of course she was distressed. We found it difficult to explain the need for these disclosures since the issue raised on appeal had nothing to do with her identity or even the assault itself.

¹ Wis. Const., Art. I, § 9m.

² *Schilling v. Crime Victim Rights Bd.*, 2005 WI 17, ¶ 26.

In another instance, a victim/witness coordinator contacted us regarding a sexual assault victim whose name along with the details of her assault appeared in an appellate decision. When the victim searched her name on the Internet, the decision popped up. The victim was distraught because she could not find work and believed the disclosure of her identity and victimization on the Internet may be contributing to her continued unemployment.

In a third example, the mother of a young sexual assault victim contacted our office because her daughter attempted suicide on multiple occasions after her identity and the details of her assault were disclosed when the contents of a post-conviction motion were published on the Internet.

The fear and humiliation that victims feel is real. These anecdotes represent only a sampling of the harm crime victims suffer when they read (and know that others are reading) accounts of the these terrible crimes. If the justice system can reduce its contribution to this trauma by adopting Petition 14-01, then it should.

Like the Court, the Department of Justice is responsible for balancing multiple interests that sometimes may appear to conflict: crime victim's rights, defendants' rights, the people's right to prosecute and interest in enforcing the law, the public's right to information. We believe there is no true conflict between adopting this rule and these other interests. The rule does not undermine the ability of lawyers and judges to do their job and does not make secret criminal prosecutions.

Finally, compliance with the proposed rule will require nothing more from appellate litigants and practitioners than simple attention to detail. Department of Justice attorneys routinely use nonspecific identifiers for crime victims in briefs and pleadings.

We respectfully request that the Court adopt the petition.

Sincerely,

Kevin St. John
Deputy Attorney General

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cc: April Southwick
Judicial Council