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PRESS STATEMENT

FOR IMMEDIATE RELEASE

Crime Victims Rights Board Statement Regarding Resignation of Kenneth R. Kratz from the Wisconsin Crime Victims Rights Board

Milwaukee, WI (September 29, 2010) 2:45 p.m.

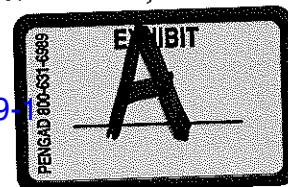
On September 15, 2010, the Associated Press reported that Calumet County District Attorney Kenneth R. Kratz (“Kratz”) admitted to sending “repeated text messages trying to spark an affair with a domestic abuse victim while he was prosecuting her ex-boyfriend.”¹ The article stated that Kratz had resigned from the Crime Victims Rights Board (“CVRB”), and that the Office of Lawyer Regulation (“OLR”) found that Kratz did not violate any rules governing attorney misconduct. On September 16, 2010, the Associated Press released excerpts from some of Kratz’s text messages.²

On September 16, 2010, the Appleton Post-Crescent reported that it had obtained a copy of Kratz’s OLR file,³ and posted copies of Kratz’s December 3, 2009, CVRB resignation and

¹Ryan J. Foley, “APNewsbreak: Wis. prosecutor ‘sexted’ abuse victim,” September 15, 2010, <http://www.google.com/hostednews/ap/article/ALeqM5j3RabQQP2C5H1Kvgh-TUM11KNPIAD9I8KI900>, last visited September 29, 2010.

²See <http://www.google.com/hostednews/ap/article/ALeqM5hxReu2uq2cydX05gfUS2LW TmGVGQD9I96MV84>, last visited September 29, 2010.

³John Lee, “Calumet County District Attorney Ken Kratz resigns from Wisconsin Crime Victims Rights Board after sexual harassment complaint,” Appleton Post-Crescent,



Kratz's December 4, 2009, letter to the OLR on its website.⁴ Kratz's December 4, 2009, letter to OLR stated: "Yesterday, December 3, 2009, I announced my resignation as Chairman of the CVRB In addressing the members of the Board, I candidly described my communication with this crime victim[.]"⁵

Media reports about the details of the text communications between Kratz and the domestic abuse victim and Kratz's December 4, 2009, claim that he "candidly described [his] communication with this crime victim" have raised questions about what Kratz told the CVRB on December 3, 2009, during the closed session at which Kratz announced his resignation, and what the CVRB did with the information that Kratz provided.⁶ On September 29, 2010, the CVRB convened a closed session telephone conference call meeting to consider whether to publicly disclose the substance of Kratz's statements to the CVRB about the events that preceded his resignation from the CVRB.

The CVRB recognizes that Kratz's assertion may erode the public trust in the CVRB and casts doubt upon the CVRB's objectivity and commitment to its statutory duties. The CVRB issues this statement to correct Kratz's assertion that he candidly described his communications

September 16, 2010, <http://www.postcrescent.com/article/20100916/APC0101/9160554-1/KRATZ/Kratz-quits-victims--rights-board-after-harassment-complaint>, last visited September 29, 2010.

⁴Copies of the December 3 and December 4, 2009, communications are at: <http://www.postcrescent.com/assets/pdf/U0164055915.PDF>, last visited September 29, 2010.

⁵*Id.* at 5-6 of 8. Kratz's December 4, 2009, letter represents that he enclosed the full content of the text messages from October 20 to October 23, 2009, as an exhibit submitted with his letter. *Id.* at 2 of 8. Only the letter is posted on the Appleton Post-Crescent's website.

⁶*See, e.g.,* Jim Collar, "Fallout with Calumet County District Attorney Ken Kratz takes on political tinge," Appleton Post-Crescent, September 21, 2010, <http://www.postcrescent.com/article/20100921/APC0101/9210477/DA-fallout-takes-on-political-tinge>, last visited September 29, 2010.

with the domestic abuse victim and to correct public misinformation about the nature and extent of the CVRB's jurisdiction and authority.

1. Kratz's communications to the CVRB on December 3, 2009.

During the closed session portion of a meeting of the Crime Victims Rights Board on December 3, 2009, Calumet County District Attorney Kenneth Kratz announced his resignation from the CVRB. Mr. Kratz read a resignation memo to CVRB members. A brief discussion followed. Mr. Kratz disclosed that he had engaged in communications of a personal nature with a victim of domestic abuse he met in his capacity as the prosecutor of a case against her abuser. He did not provide a detailed description of the communications. He indicated there were approximately as many texts sent to him by the victim of crime as he sent to her and he characterized the content of those communications as being of a mutually friendly nature. He indicated he was inquiring of her about the possibility of a future friendship after the conclusion of the criminal case. Kratz informed the Board that he would not be the one to prosecute the criminal case in which the victim was involved.

Mr. Kratz informed CVRB members that his communication with the victim of crime was reported to local law enforcement and investigated by the Wisconsin Department of Justice (DOJ). He relayed that the DOJ investigation concluded that no criminal conduct had occurred. Mr. Kratz told CVRB members that he was being pressured by DOJ to resign from the Board. He expressed offense and surprise that the DOJ would not be including him in future training activities sponsored by the Department. Mr. Kratz also indicated that he was very confident that any investigation by the Office of Lawyer Regulation would result in a finding that his conduct did not violate any of the rules of professional conduct.

In light of what is now known about the conduct that ultimately led to Mr. Kratz's resignation from the CVRB, it is clear Mr. Kratz was not candid with members concerning the circumstances surrounding his resignation. Mr. Kratz's December 3, 2009, statements are the only communications the Board has received about his messages to the domestic violence victim or the actions taken by the law enforcement and regulatory agencies he noted.

2. The authority of the CVRB to consider crime victims' complaints that a district attorney failed to treat the victim with fairness, dignity, sensitivity, and respect for the victim's privacy.

The CVRB was created in 1998 by 1997 Wisconsin Act 181, to implement the victims' rights amendment to Wis. Const. art. I, § 9m, adopted by Wisconsin voters in April 1993.⁷ The constitutional amendment directed the Wisconsin Legislature to establish no fewer than the nine crime victim rights enumerated in the second sentence of the amendment, and directed the Legislature to provide remedies for the violation of those rights. 1997 Wisconsin Act 181 created 33 enumerated victim rights, and placed them in Wis. Stat. § 950.04(1v)(a) through (zx) (1997-98). 1997 Wisconsin Act 181 also created the Crime Victims Rights Board,⁸ authorized it

⁷Wisconsin Const. art. I, § 9m provides (bracketed references added):

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: [1] timely disposition of the case; [2] the opportunity to attend court proceedings unless the trial court finds sequestration is necessary to a fair trial for the defendant; [3] reasonable protection from the accused throughout the criminal justice process; [4] notification of court proceedings; [5] the opportunity to confer with the prosecution; [6] the opportunity to make a statement to the court at disposition; [7] restitution; [8] compensation; and [9] 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.

⁸The CVRB is a five-member board attached to the Department of Justice for administrative purposes, which exercises its programmatic responsibilities independent of the

to make quasi-judicial determinations as to whether a crime victim's rights were violated by a public official, agency, or employee,⁹ gave the CVRB limited remedial authority,¹⁰ and restricted the ability of crime victims to seek money damages for violations of their crime victims' rights.¹¹

The members of the CVRB recognized soon after the agency began operations that crime victims' greatest concerns frequently related to conduct by local law enforcement, district attorneys, and judges that did not violate any of the specific victim rights identified in the constitutional amendment or Wis. Stat. § 950.04(1v), but fell far short of the Legislature's intent that victims of crime be "treated with dignity, respect, courtesy and sensitivity." Wis. Stat. § 950.01. The CVRB began to hear complaints from victims who alleged that the first sentence of Wis. Const. art. I, § 9m gave them a constitutional victim right, enforceable by the CVRB, to be treated "with fairness, dignity and respect for their privacy." The CVRB zealously advocated this broad interpretation of its jurisdiction through the lower courts to the Wisconsin Supreme Court. In *Schilling v. Crime Victims Rights Bd.*, 2005 WI 17, 278 Wis. 2d 216, 692 N.W.2d 623, however, the supreme court rejected the CVRB's interpretation, and held that the first

Department of Justice and the Attorney General. Wis. Stat. §§ 15.255(2) and 950.09(4). One member is a district attorney appointed by the Wisconsin District Attorneys Association. One member is a representative of local law enforcement appointed by the Attorney General. One member is a provider of crime victim services appointed by the Attorney General. One member is a citizen appointed by the Crime Victims Council. One member is a citizen appointed by the Governor. In December 2009, the members of the CVRB were from Calumet, Grant, Jefferson, Sheboygan, and Wood counties. Currently, the members are from Grant, Jefferson, La Crosse, and Wood counties.

⁹Before the CVRB can address the merits of a complaint, a crime victim must first present his or her complaint to the Department of Justice to attempt to informally resolve it, and the CVRB must determine that there is probable cause to believe that the victim's crime victims' rights have been violated. Wis. Stat. §§ 950.08(3) and 950.09(2).

¹⁰Wisconsin Stat. § 950.09(2) authorizes the CVRB to publicly or privately reprimand public officials that violate the rights of crime victims, to seek equitable relief on behalf of crime victims whose rights are in imminent danger of being violated, and to seek civil forfeitures for intentional violations of a crime victims' rights.

sentence of Wis. Const. art. I, § 9m did not provide crime victims with a separate right, enforceable by the CVRB, to be treated with fairness, dignity, and respect for their privacy. *Schilling*, 278 Wis. 2d 216, ¶¶ 25-26. Although the supreme court “encourage[d] officials within the criminal justice system, including prosecuting attorneys and their staffs, to establish effective lines of communication and good rapport with crime victims to the furthest extent possible,” *id.*, ¶ 26, the decision has left crime victims whose privacy has been disrespected or whose dignity has been compromised or who have been treated unfairly by prosecutors or other participants in the criminal justice system without an administrative forum for hearing their complaints and imposing remedies.

3. The authority of the CVRB to consider crime victims’ complaints alleging gender discrimination or sexual harassment by a public official or employee.

Although the CVRB has never received a complaint from a crime victim who alleged that he or she was sexually harassed or subjected to gender discrimination by a public official or employee, current law does not allow the CVRB to consider such complaints on their merits, because the right of a crime victim to be free from such harassment or discrimination is not one of the rights enumerated in Wis. Stat. § 950.04(1v), and the CVRB’s jurisdiction is limited to complaints that allege violations of rights contained in Wis. Stat. § 950.04(1v).

It should be noted, however, that when the CVRB has contact with a victim alleging mistreatment that does not fall within the jurisdiction of the CVRB, every effort is made to provide appropriate referrals and assistance in seeking the proper venue to address such issues. A common referral is to the Department of Justice Victim Resource Center which victims and witnesses can call toll-free (1-800-446-6564). The Department of Justice Victim Resource

¹¹Wisconsin Stat. § 950.10(1).

Center has the statutory authority to receive complaints and mediate complaints regarding not only statutory crime victims' rights but also the general treatment of crime victims and witnesses by public officials, employees, or agencies.

4. The duty of all criminal justice officials to vigorously defend and enforce the rights of crime victims.

The CVRB assures crime victims that it will continue to treat crime victims who come before it with dignity, respect, courtesy, and sensitivity. The CVRB assures the citizens of Wisconsin that it will continue to ensure that the rights extended to crime victims in Wis. Stat. ch. 950 are vigorously honored and protected by public officials and agencies including Wisconsin law enforcement agencies, prosecutors, and judges.