

## Court of Appeals Clarifies Standard for Requiring an In Camera Review of the Confidential Records of a Victim Advocate

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Brad A. Catlin

On July 15, 2010, we reported that the Indiana Court of Appeals had interpreted the victim-advocate privilege for the first time in *Crisis Connection, Inc. v. Ronald K. Fromme*, 930 N.E.2d 1169 (Ind. Ct. App. 2010). Today, the Court agreed to rehear the case for the sole purpose of clarifying its holding in *In re Subpoena to Crisis Connection, Inc.*, Case No. 19A05-0910-CR-602, and held that a trial court should review the documents once a criminal defendant has satisfied the three-part test in *Williams v. State*, 819 N.E.2d 381, 385 (Ind. Ct. App. 1004).

In its petition for rehearing, Crisis Connection argued that the Court should require that those seeking an *in camera* inspection of documents that were asserted to be privileged under the victim-advocate privilege should demonstrate a good-faith belief, grounded on some demonstrable fact, that there is a reasonable probability that the records are likely to contain material information necessary to the defense. The Court disagreed, holding that a defendant did not need to make a threshold showing before obtaining an *in camera* review.

This decision will, of course, be instructive to both criminal defendant and victim's advocates, because the Court refused to strengthen the burden a criminal defendant must meet in order to obtain an *in camera* review of the allegedly privileged material.

### Lessons:

1. A criminal defendant does not need to show that there is a reasonable probability that the records that are allegedly subject to the victim-advocate privilege are likely to contain material information necessary to the defense in order to obtain an *in camera* inspection of those records.