

IN THE MATTER OF COMPLAINT  
AGAINST THE WAUKESHA COUNTY  
DISTRICT ATTORNEY'S OFFICE,

Case No. 20-291

Respondent.

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### **PROBABLE CAUSE DETERMINATION**

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1. The Crime Victims Rights Board (the "Board") reviewed a complaint filed by JV<sup>1</sup> against the Waukesha County District Attorney's Office (the "DA's Office"). The Board evaluated the complaint to determine whether it stated probable cause that the DA's Office violated JV's rights as a crime victim. *See Wis. Stat. § 950.04(1v)*. The Board finds no probable cause.

### **BOARD PROCEDURE**

2. JV filed a complaint with the Board on January 31, 2022.
3. Upon receipt of the complaint, the Board contacted the Department of Justice (DOJ) Office of Crime Victim Services, which verified that some of the issues raised in the complaint had been presented to DOJ and

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<sup>1</sup> This probable cause determination uses the victim's and defendant's initials to protect the victim's privacy.

that DOJ had completed its informal complaint process as to those issues. *See Wis. Admin. Code CVRB § 1.05(1), (4).*

4. The issues in the complaint that were not presented to DOJ have been redacted from the complaint and cannot be considered by the Board. *See Wis. Admin. Code CVRB § 1.05(3).*

5. The Board gave a copy of the redacted complaint to the DA's Office and invited it to answer the complaint. *See Wis. Admin. Code CVRB § 1.05(5).* The DA's Office filed a response on March 31, 2022.

6. The Board made this probable cause determination at a meeting on May 17, 2022. *See Wis. Admin. Code CVRB § 1.05(6).*

7. In making the probable cause determination, the Board considered all relevant information, including the complaint, response, and letter from DOJ summarizing the informal complaint process. *See Wis. Admin. Code CVRB § 1.05(7)(a)–(c).*

8. The Board notifies the parties and DOJ of its conclusions through the issuance of this probable cause determination. *See Wis. Admin. Code CVRB § 1.05(8).*

## **STATEMENT OF THE CASE**

### **I. JV's complaint.**

9. JV alleges she was the victim of domestic abuse perpetrated by RV.

10. JV summarily raises three issues in her complaint: (1) that Assistant District Attorney Jack Pitzo (“ADA Pitzo”) failed to address bail violations; (2) that ADA Pitzo did not tell the court that RV had not completed Alcohol and Other Drug Abuse (AODA) treatment; and (3) that the plea agreement should have included a certified batterer’s course.

11. JV’s complaint contains very few facts and does not indicate when the alleged violations occurred.

## **II. The DA’s Office’s response to the complaint.**

12. The DA’s Office submitted a letter in response to the complaint.

13. The DA’s Office reviewed a police report pertaining to an incident that occurred on October 4, 2018. The incident involved RV entering JV’s home when she was not present in violation of a restraining order.

14. ADA Pitzo concluded that he had insufficient evidence to charge the case. ADA Pitzo sent a letter to JV on November 13, 2018, explaining his reasons for not charging the case.

15. At the time, there was another open case against RV, where a pre-trial offer contemplated him engaging in AODA treatment in exchange for a municipal ticket as opposed to a criminal charge.

16. JV expressed concerns that the plea offer did not include domestic violence counseling. In his November 13, 2018, letter, ADA Pitzo explained

that RV had completed all the conditions necessary for the plea agreement, including AODA treatment and domestic violence counseling.

17. At a court proceeding on February 11, 2019, JV was present and provided an oral statement detailing her objection to the plea agreement. After hearing JV's statement, the court did not approve the plea agreement and, instead, continued the case to another day.

18. At the next court proceeding on February 28, 2019, JV appeared and provided another statement to the court. This time, the court approved the plea agreement, over JV's objection.

19. According to the DA's Office, its Victim Witness Unit had more than 70 contacts with JV in person, via Zoom, telephone, and email. The Victim Witness Unit also informed JV about RV's treatment on multiple occasions, gave her a copy of a treatment letter, and provided the November 13, 2018, letter from ADA Pitzo several times.

### **ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS**

20. JV does not articulate a specific victim rights violation in her complaint.

### **DETERMINATIONS OF FACT**

21. The Board finds no disagreement of material fact between the parties.

## INTERPRETATIONS OF LAW

22. The Board employs a multi-step methodology to analyze the complaint: (1) whether the complainant was a crime victim; (2) whether the respondent is subject to the authority of the Board; (3) whether the allegations are time-barred; (4) whether the allegations implicate any constitutional or statutory victim rights; and (5) whether the respondent failed to comply with any duty imposed by a constitutional or statutory provision.

23. Whether a person is a crime victim is determined by statute. “A crime is conduct which is prohibited by state law and punishable by fine or imprisonment or both.” Wis. Stat. § 939.12. A crime victim is “[a] person against whom a crime has been committed” or, if that person is deceased, a family member of that person. Wis. Stat. § 950.02(4)(a)1. and 4.

24. Whether a respondent is subject to the Board’s authority is also determined by statute. The Board has authority to review complaints about “public officials, employees or agencies that violate the rights of crime victims.” Wis. Stat. § 950.09(2)(a); *but see Gabler v. Crime Victims Rights Bd.*, 2017 WI 67, 376 Wis. 2d 147, 897 N.W.2d 384 (statute unconstitutional as applied to judges).

25. Whether the allegations are time-barred is determined by the filing requirements in the administrative code. The Board may not consider

allegations relating to “conduct that occurred prior to December 1, 1998 or more than 3 years before a complaint was filed with the board or the board was otherwise notified of the conduct,” except that the Board may consider issuing a report and recommendation concerning such conduct. Wis. Admin. Code CVRB § 1.04(5).

26. Probable cause is “a reasonable basis for belief, supported by facts, circumstances, and reasonable inferences strong enough to warrant a prudent person to believe that a violation probably has been or is being committed as alleged in the complaint.” Wis. Admin. Code CVRB § 1.02(9). Probable cause is satisfied by a believable or plausible account that the respondent probably has violated or is violating the victim’s rights. *See State v. Sorenson*, 143 Wis. 2d 226, 251, 421 N.W.2d 77 (1988).

27. At the probable cause stage, the Board evaluates the limited information available to it in the light most favorable to the complainant. The probable cause determination is not the proper time to debate and resolve credibility issues if essential facts, circumstances, and reasonable inferences are strong enough to warrant a prudent person to believe a violation probably has occurred or is occurring. *See State ex rel. Huser v. Rasmussen*, 84 Wis. 2d 600, 614, 267 N.W.2d 285 (1978).

## **PROBABLE CAUSE DETERMINATION**

28. The Board finds no probable cause that JV's rights as a crime victim were violated. The decision to resolve the case with a plea agreement was a discretionary determination. While JV did not agree with this decision, the undisputed facts do not implicate a constitutional or statutory victim right. The DA's Office conferred with JV on numerous occasions, informed her of the plea agreement, and provided evidence that RV had completed the requirements for the agreement. JV also attended two court proceedings in February 2019 and was permitted to make statements, voicing her disagreement with the plea. Based on these undisputed facts, the Board finds no probable cause that JV's victim rights were violated.

## ORDER

Based on the foregoing, it is hereby ORDERED:

1. That there is no probable cause that a victim rights violation occurred, so the complaint is dismissed. A finding of no probable cause is a final decision of the Board under Wis. Admin. Code CVRB § 1.05(8).

2. That the Board hereby provides notice to the parties of the right to seek judicial review of this final decision pursuant to Wis. Stat. § 227.52. Attached to this decision is a summary of appeal rights.

3. That judicial review of this final decision is governed by Wis. Stat. §§ 227.52–227.59. *See* Wis. Admin. Code CVRB § 1.10.

4. That a copy of this probable cause determination will be provided to all parties in this proceeding and in accordance with Wis. Admin. Code CVRB § 1.05(8), as identified in the service list below.

Dated this 10th day of August, 2022.



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Vice-Chairperson Paul Susienka<sup>2</sup>  
Crime Victims Rights Board

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<sup>2</sup> Chairperson Jennifer Dunn has recused herself from this matter.

## SERVICE LIST

JV

[street address withheld]

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Waukesha County District Attorney's Office  
515 W. Moreland Blvd, Room CG 72  
Waukesha, WI 53188

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