

IN THE MATTER OF COMPLAINT
AGAINST THE HOLMEN POLICE
DEPARTMENT

Case No. 2212-019

Respondent.

PROBABLE CAUSE DETERMINATION

1. The Crime Victims Rights Board (the “Board”) reviewed a complaint filed by MM¹ against the Holmen Police Department (the “Department”). The Board evaluated the complaint to determine whether it stated probable cause that the Department violated MM’s rights as a crime victim. *See* Wis. Const. art. I, § 9m; Wis. Stat. § 950.04(1v). The Board finds no probable cause.

BOARD PROCEDURE

2. MM filed a complaint with the Board on December 15, 2022.
3. Upon receipt of the complaint, the Board contacted the Department of Justice, Office of Crime Victim Services, Victim Resource Center (VRC), which verified that the substance of the complaint had been

¹ This probable cause determination uses the initials of the victim to protect the victim’s privacy.

presented to the VRC and that the VRC had completed its action under Wis. Stat. § 950.08(3).² *See* Wis. Admin. Code CVRB § 1.05(1), (4).

4. The Board gave a copy of the complaint to the Department and invited it to answer the complaint. *See* Wis. Admin. Code CVRB § 1.05(5). The Department, through Chief of Police Shane Collins (“Chief Collins”), filed a response on February 8, 2023.

5. The Board made this probable cause determination at a meeting on April 12, 2023. *See* Wis. Admin. Code CVRB § 1.05(6).

6. In making the probable cause determination, the Board considered all relevant information supplied by the parties, including the complaint and response. *See* Wis. Admin. Code CVRB § 1.05(7)(a)–(c).

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

² As discussed more below, MM’s complaint addresses the Department’s response to three discrete incidents: (1) an alleged battery in February 2021; (2) an alleged threatening note and harassment in April 2021; and (3) an alleged illegal home entry in July 2021. However, the VRC indicated to the Board that MM only raised the first two incidents during the mediation process under Wis. Stat. § 950.08(3). Therefore, because the VRC did not mediate the third incident raised in MM’s complaint, the Board does not have authority under Wis. Stat. § 950.09(2) to determine whether any victim’s rights violations occurred in connection with that incident. That third incident will not be discussed further in this decision.

STATEMENT OF THE CASE³

I. MM's complaint.

8. MM is the victim of an alleged battery that took place on February 16, 2021, and alleged harassing and threatening behavior in and around April 2021.

9. MM alleges that on February 16, 2021, she was physically assaulted by the property manager of the apartment in which she lived at the time.

10. That same day, at 11:48 a.m., MM called the La Crosse County dispatch center to report the incident. MM alleges that she had to call four times before she received a return call.

11. When Officer Crystal Nordby ("Officer Nordby") returned MM's call, MM alleges that Officer Nordby became angry and dismissive when MM asked to file a police report about the incident, and that Officer Nordby discouraged MM from filing a report. MM alleges that she had to beg Officer Nordby to visit MM's apartment to discuss the incident further.

12. MM alleges that, when Officer Nordby visited MM's apartment a day later, Officer Nordby acted "terrified" and "kept her hand on her gun."

³ The facts described in this section summarize allegations from the complainant's complaint, the Department's response, and other relevant materials. They do not represent the Board's final factual findings.

Officer Nordby also allegedly “disregarded” MM’s physical injuries from the incident.

13. MM alleges that Officer Nordby did not properly investigate the alleged battery and disregarded inconsistencies in the statements from the other people involved in the incident.

14. Between MM’s police report about the alleged February 16, 2021, battery and April 23, 2021, MM alleges that unspecified employees of her apartment’s management company began harassing her. MM does not allege that she reported any of the incidents during this timeframe to the Department.

15. On April 23, 2021, MM alleges that a note threatening physical violence and containing other obscenities was stuck to her doorframe. She allegedly called “the police” to report this threat but an unnamed officer “refused” to take a report. This officer allegedly also told MM that the police “would not waste taxpayer’s money” trying to obtain fingerprints from the note.

16. MM alleges that she emailed Chief Collins on September 1, 2021, to complain about the Department’s response to her reports about the alleged battery and threatening note. She alleges that she then complained to the “city manager” on October 28, 2021.

17. MM received her last response from Chief Collins in February 2022; he explained that another person at the Department had spoken to two

people suspected of leaving the threatening note, and that both had denied doing so. (MM does not address other communications with Chief Collins in her complaint.)

18. MM later moved out of her apartment due to poor relations with her property manager. She alleges that if the Department had been more diligent in investigating her complaints, the conflicts with her property manager would have been better addressed and she would not have been driven to move out.

II. Chief Collins' response to the complaint.

19. The Department submitted a response to MM's complaint, through Chief Collins.

20. Chief Collins first addressed MM's complaint about the promptness of the response to her initial February 16, 2021, call. He alleges that the Department had only three available employees to respond to calls that day and that they had to prioritize the multiple calls they had received. He notes that MM initially called at 11:52 a.m. and that call notes indicate she was aware there might be a delay in receiving a follow-up response from the Department. Officer Nordby responded to MM's initial call on or around 1:56 p.m.

21. Chief Collins then responded that he could find no evidence that Officer Nordby discouraged MM from filing a police report. He went on to summarize Officer Nordby's incident reports from her investigation.

22. Officer Nordby initially contacted MM by phone on February 16, 2021, per MM's request given MM's concerns about people entering her apartment. During that conversation, MM relayed her version of the alleged battery to Officer Nordby. Officer Nordby then phoned the other two individuals involved in the alleged battery to get their statements. MM also emailed a video of the altercation to Officer Nordby, who reviewed it.

23. After considering this other material, Officer Nordby returned MM's call. She told MM that the two sides of the story didn't match—MM alleged that a physical altercation occurred, and the other individuals involved denied it—and that MM's video did not show anything that warranted criminal charges.

24. The next day, February 17, 2021, Officer Nordby had two more interactions with MM. That morning, the two spoke again over the phone, primarily about MM's injuries from the alleged battery. Officer Nordby asked for a release of medical records regarding MM's visit to the emergency room, and, in response to MM's request, Officer Nordby agreed to visit MM's apartment that afternoon to discuss the incident further.

25. Later that day, Officer Nordby visited MM's apartment. During that in-person meeting, Officer Nordby described the next steps in her investigation, including obtaining a written statement from MM and MM's medical records from her emergency room visit, and then submitting all relevant investigative materials to the District Attorney's Office for a decision about whether to file criminal charges. MM thanked Officer Nordby and did not express concerns about the nature of the investigation so far.

26. During that in-person visit, Officer Nordby photographed MM's injury from the alleged battery and obtained MM's signature on the necessary medical release forms.

27. Throughout the visit, Chief Collins alleges that Officer Nordby treated MM politely and with respect, including by paying attention to MM's requests regarding whether and when to enter MM's apartment and where to stand. He further alleges that Officer Nordby did not have her hand on her gun throughout the encounter, as MM had said in her complaint.

28. Next, Chief Collins addressed MM's allegations regarding the alleged threatening note incident on April 23, 2021. Chief Collins alleges that the Department has no record of a call from MM around April 23, 2021, regarding this incident.

29. Chief Collins later received an email from MM on September 1, 2021. He responded on September 7, 2021, explaining that the Department

had referred the February 2021 matter to the District Attorney's office for a charging decision. After further email exchanges, Chief Collins ultimately met with MM in person to discuss both the February 2021 and the April 2021 incidents. MM was not able to relate any details about the officer that supposedly told her the Department would not "waste taxpayer's money" on fingerprinting the harassing note. Chief Collins also informed MM that the Wisconsin Crime Lab will only run fingerprints on felony cases, and that this incident did not qualify.

30. An investigator further followed up on the harassing note by speaking with two possible suspects; both denied any involvement.

ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS

31. MM raises a potential violation of her right as a victim to be treated with fairness, dignity, and sensitivity.

32. Wisconsin Const. art. I, § 9m(2)(a) protects the right of victims "[t]o be treated with dignity, respect, courtesy, sensitivity, and fairness." *See also* Wis. Stat. § 950.04(1v)(ag) (protecting victims' right "[t]o be treated with fairness, dignity, and respect for [their] privacy").

DETERMINATIONS OF FACT

33. The Board finds no genuine dispute of material fact between the parties. As discussed more below, although MM's version of events differs in

some ways from the Department's, contemporaneous audio and video recordings of the relevant incidents do not support MM's factual assertions.

INTERPRETATIONS OF LAW

34. 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 occurred outside the three-year limitations period; (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.

35. Whether a person is a crime victim is determined both by the Wisconsin Constitution and 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 an act is committed that would constitute a crime if committed by a competent adult." Wis. Const. art. I, § 9m(1)(a)1.; *see also* Wis. Stat. § 950.02(4)(a)1.

36. 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).

37. Whether the allegations occurred outside the three-year limitations period 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).

38. 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).

39. 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

40. The Board finds no probable cause that MM's rights as a crime victim were violated.

41. The Board reaches this conclusion after applying its interpretations of law to the determinations of fact.

42. The first question is whether MM is a crime victim. MM qualifies as a crime victim because she alleges that she suffered a battery, conduct prohibited by state law and punishable by a fine or imprisonment or both.⁴ *See* Wis. Stat. § 940.19(1).

43. The second question is whether the respondent is subject to the authority of the Board. The Board finds that the Department is an agency subject to the authority of the Board. *See* Wis. Stat. § 950.09(2)(a).

44. The third question is whether any of the allegations in the complaint occurred outside the three-year limitations period. The Board finds that none of the allegations in the complaint occurred more than three years before the complaint was filed. *See* Wis. Admin. Code CVRB § 1.04(5).

⁴ There is some dispute over whether a battery occurred here, but it is not necessary to resolve that dispute because the Board concludes, as explained below, that no probable cause exists to find a crime victim's rights violation.

45. The fourth question is whether the allegations in the complaint implicate a constitutional or statutory victim right. The Board finds that MM's complaint implicates the right as a victim to be treated with fairness, dignity, and sensitivity. *See* Wis. Const. art. I, § 9m(2)(a); Wis. Stat. § 950.04(1v)(ag).

46. The final question is whether there is probable cause to believe the respondent violated this right.

47. In short, the Board does not find probable cause that a victim's rights violation occurred here because the contemporaneous evidence shared with the Board conflicts with MM's version of events and supports the Department's.

48. We begin with MM's allegations about how the Department handled the battery that allegedly took place on February 16, 2021.

49. MM first complains about how long it took to receive a call back after her initial call to the Department. But the Department asserts—a claim backed up by its records—that MM received a response to her initial call (which occurred just before noon) at or around 2:00 that same afternoon. The Board does not find this response time to be unreasonable.

50. Next, there is insufficient evidence to conclude that Officer Nordby, when she called MM on February 16, 2021, was “angry and dismissive” and tried to dissuade MM from filing a police report. Although the

Board did not receive an audio recording of this call, it did review recordings of two other interactions between Officer Nordby and MM: an audio recording of their call on February 17, 2021, and a video recording of Officer Nordby's visit to MM's apartment later that same afternoon.

51. In both recordings, Officer Nordby's demeanor toward MM was polite and respectful. They show that Officer Nordby listened to MM's versions of events and responded professionally. Given these two cordial interactions on February 17, 2021, the Board concludes that it is highly unlikely that Officer Nordby's demeanor toward MM was "angry and dismissive" during their initial phone call the day before. Moreover, given the investigative steps that Officer Nordby promptly undertook after this initial call, the Board also concludes that it is highly unlikely that Officer Nordby tried to dissuade MM from filing a police report about the incident.

52. Audio recordings of Officer Nordby's calls that same day (February 16, 2021) to the other two individuals involved with the alleged battery demonstrate that Officer Nordby took MM's allegations seriously and investigated them in good faith. Officer Nordby questioned both individuals about what happened that day and confronted them with MM's side of the story.

53. The audio recording of the February 17, 2021, call also undermines MM's assertion that she had to "beg" Officer Nordby to come to MM's apartment for further investigation. The recording shows that MM asked Officer Nordby to visit and that Officer Nordby politely agreed, offering to do so that same afternoon.

54. The video recording of the February 17, 2021, visit also undermines MM's assertion that Officer Nordby acted "terrified" and "kept her hand on her gun" during the visit. At no point during the recording does Officer Nordby's voice indicate any fear or discomfort, and the video shows that Officer Nordby's hands were occupied with things other than grasping her firearm. The recording also shows that Officer Nordby acted respectfully regarding MM's requests about whether, when, and how to enter the apartment given MM's concerns about cleanliness.

55. These two recordings also undermine MM's claim that Officer Nordby "disregarded" MM's injuries. During the call on February 17, 2021, Officer Nordby asked about obtaining a signed medical release form to get details from MM's doctor, and during the visit later that day Officer Nordby brought this form and obtained a signature from MM. Moreover, Officer Nordby photographed MM's injury during the visit and addressed it in a professional manner.

56. The incident reports that Officer Nordby drafted about this incident also do not support MM's complaints about unprofessional treatment. The reports detail a thorough and thoughtful investigation of MM's allegations; there is no indication in them that Officer Nordby did not take MM seriously or treated MM with disrespect. The incident reports were promptly sent to the District Attorney's office on February 19, 2021, three days after the alleged incident, for a charging decision. This prompt action again indicates the seriousness with which the Department considered MM's allegations.

57. In sum, none of the available evidence supports MM's allegations that she was treated poorly when interacting with the Department regarding the alleged February 16, 2021, battery. To the contrary, this evidence all supports the Department's position that it treated MM fairly, sensitively, and with dignity. There is therefore no probable cause to conclude that a victim's rights violation occurred in connection with this incident.

58. Turning to MM's allegations regarding the Department's response to the alleged threatening note attached to her door in April 2021, the Board similarly finds no probable cause to believe that a victim's rights violation occurred.

59. Although MM asserts that she reported this incident to the police and the individual she spoke with "refused to take a report" and disrespectfully

dismissed her request for fingerprinting, there is no record of such a call taking place. Moreover, there is no dispute that MM subsequently emailed with Chief Collins about this incident, and those emails reflect respectful treatment of MM by Chief Collins. There also is no dispute that the Department ultimately investigated MM's allegations about the note by contacting both potential suspects.

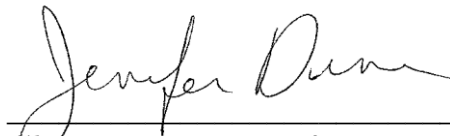
60. Given the lack of supporting evidence for MM's allegations surrounding the April 2021 incident, considered in tandem with how the available evidence does not support MM's allegations regarding the February 2021 incident, the Board does not find probable cause that a victim's rights violation occurred in connection with this incident.

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–.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 7th day of June 2023.



Chairperson Jennifer Dunn
Crime Victims Rights Board

SERVICE LIST

MM

[street address withheld]

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