

IN THE MATTER OF COMPLAINT
AGAINST THE KEWAUNEE COUNTY
SHERIFF'S DEPARTMENT,

Case No. 23-015

Respondents.

FINAL DECISION

1. The Crime Victims Rights Board (“the Board”) finds the following:
 - a) The complainant, D.T.,¹ has shown by clear and convincing evidence that the respondent, the KCSD, violated D.T.’s rights as a crime victim when it failed to provide D.T. or her mother with written crime victim rights information.

BOARD PROCEDURE

2. On October 18, 2023, Lotus Legal Clinic, on behalf of D.T., filed a complaint with the Board.
3. Upon receipt of this complaint, the Board contacted the Department of Justice’s Office of Crime Victim Services’ Victim Resource Center (VRC), which verified that the substance of the complaint had been presented to the VRC and that the VRC had completed its action under Wis. Stat. § 950.08(3). *See* Wis. Admin. Code CVRB § 1.05(1), (4).

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

4. On January 11, 2024, the Board provided a copy of the complaint to the KCSD and invited them to respond. *See* Wis. Admin. Code CVRB § 1.05(5).

5. On April 17, 2024, the Board found probable cause (PC) that:

a) D.T.'s right to dignity, respect, courtesy, sensitivity, fairness, and respect for privacy under 950.04(1v)(ag) and Privacy under Wis. Const. art. I, § 9m(2)(a) and (b) may have been violated when a member of the KCSD had a conversation with D.T.'s mother at her place of employment. (Final PC Determination ¶ 58.)

b) The KCSD failed to provide written victim rights information in violation of Wis. Stat. § 950.08(2g) and Wis. Const. art. I, § 9m(2)(p). *See* Wis. Admin. Code CVRB § 1.05(6). (Final PC Determination ¶ 64.)

6. In making this probable cause determination, the Board considered all relevant information, the complaint, response, and the letter documenting the VRC's action. *See* Wis. Admin. Code CVRB § 1.05(7)(a)–(c).

INVESTIGATION

7. The Board requested additional information from D.T. regarding the conversation with D.T.'s mother. However, D.T. did not provide any additional information. *See* Wis. Admin. Code CVRB § 1.06.

HEARING REQUEST

8. D.T. requested a hearing. However, as articulated in the Final Probable Cause Determination Order, D.T. did not identify any disputed material facts or specifically identify the fact(s) or factual inference(s) the party disputes or believes is erroneous and the factual basis for the party's belief.

9. The Board declines the request for an evidentiary hearing. (*See* Final PC Determination at 14); Wis. Admin. Code CVRB § 1.07.

10. The Board finds the following facts:

I. Right to be treated with Dignity, Respect, Courtesy, Sensitivity, Fairness, and a Right to Privacy.

11. That a lieutenant with the KCSD disclosed D.T.'s complaint with the Office of Crime Victim Services against KCSD to D.T.'s mother at her place of employment.

12. That although D.T. does not have a victim's right to confidentiality under the complaint process (that right belongs to the respondent Wis. Stat. § 950.095), DT does have a right to dignity, respect, courtesy, sensitivity, fairness and respect for privacy under 950.04(1v)(ag) and Privacy under Wis. Const. art. I, § 9m(2)(a) and (b).

13. That in its probable cause decision the Board asked Lotus Legal Clinic to provide any documentation, information, or witness information regarding the content, context, and circumstances surrounding the conversation between the lieutenant and D.T.'s mother and any other information that may be relevant to this issue pursuant to Wis. Admin. Code CVRB § 1.06(1).

14. That Lotus Legal Clinic did not provide any additional information.

II. KCSD Failed to Provide Written Information to D.T. about her Rights as a Crime Victim.

15. In November 2021, D.T. disclosed an assault to her counselor. The counselor, a mandatory reporter, reported that D.T. was a victim of sexual assault.

16. The original complaint was investigated by another police agency.

17. On or around November 11, 2021, the KCSD began investigating D.T.'s report of sexual assault.

18. That each investigating agency that interacts with a victim must provide statutorily required information to that victim.

19. That it is not in dispute that the KCSD did not provide any written victim's rights documentation to D.T. or D.T.'s mother as required in Wis. Stat. § 950.08(2g).

ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS

20. **Right to be treated with dignity, respect, courtesy, sensitivity, fairness, and right to privacy.** Under the Wisconsin Constitution, a crime victim has a right “[t]o be treated with dignity, respect, courtesy, sensitivity, and fairness;” and a right “to privacy.” Wis. Const. art. I, § 9m(2)(a) and (b). The parallel statutory provision provides that a crime victim has a right to “be treated with fairness, dignity, and respect for his or her privacy by public officials, employees, or agencies.” This right “does not impair the right or duty of a public official or employee to conduct his or her official duties reasonably and in good faith.” Wis. Stat. § 950.04(1v)(ag).

21. **Requirement that law enforcement provide a victim with written information.** Wisconsin Statutes require that a law enforcement agency “No later than 24 hours after a law enforcement agency has initial contact with a victim of a crime that the law enforcement agency is responsible for investigating, the law enforcement agency shall make a reasonable attempt to provide to the victim written information...” Wis. Stat. § 950.08(2g).

CONCLUSIONS OF LAW

22. The Board's evidentiary standard for resolving disputed factual questions is "[c]lear and convincing evidence." "Clear and convincing evidence' means evidence which satisfies and convinces the Board, because of its greater weight, that a violation occurred." Wis. Admin. Code CVRB § 1.07(7).

23. The burden of proof is on the complainant. This burden of proof is very important and can be the deciding factor in the Board's resolution of factual disputes. Where the evidence on a particular factual question is equally believable or plausible, the effect of the burden of proof is that the Board must find that the complainant failed to prove the point by clear and convincing evidence.

24. The Board concludes that D.T. is a crime victim, as defined in Wis. Const. art. I, § 9m(1)(a)(1) and Wis. Stat. § 950.02(4)(a)(1), because of her reported sexual assault in violation of the provisions of Wis. Stat. § 940.225.

25. The Board concludes that D.T. was a minor at the time of the incident and that D.T.'s parent, guardian or legal custodian was also a victim as defined in Wis. Const. art. I, § 9m(1)(a)(2) and Wis. Stat. § 950.02(4)(a)(2).

26. The Board concludes that the members of the KCSD are public officials or employees subject to the authority of the Board. *See* Wis. Stat. § 950.09(2)(a).

27. The Board concludes that D.T.'s November of 2021 allegation of sexual assault falls within the three-year limitations period. *See* Wis. Admin. Code CVRB § 1.04(5).

I. Right to be treated with Dignity, Respect, Courtesy, Sensitivity, Fairness, and a Right to Privacy.

28. The Board concludes that there is not clear and convincing evidence that the KCPD failed to treat D.T. with dignity, respect, courtesy, sensitivity, and fairness and right to privacy.²

II. Requirement that Law Enforcement Provide a Victim with Written Information.

29. The Board concludes that D.T. was entitled to receive written notice of her rights as a crime victim no later than 24 hours after she spoke with law enforcement. Wis. Stat. § 950.08(2g); Wis. Stat. § 950.04(1v)(t). It is undisputed that D.T. was not provided written notice of her rights at any time during the KCSD investigation. Further, had KCSD given D.T. the written notice of crime victim rights form which KCSD provided to the board, their form would not have met the statutory obligations required in Wis. Stat. § 950.08(2g). Therefore, the Board concludes that the KCSD violated D.T.'s rights as provided in Wis. Stat. § 950.08(2g) and Wis. Stat. § 950.04(1v)(t).³

² The Board is concerned about the actions of the KCSD Lieutenant. The context and scope of the conversation was inappropriate, but it cannot be determined that it rises to the level of a violation.

³ The Board reviewed the KCSD's policy and materials regarding written information provided to crime victims. The Board would refer KCSD to the Wisconsin Department of Justice-Office of Crime Victim Services website for updated information. ([Office of Crime Victim Services | Wisconsin Department of Justice](#))

ORDER

Based on the forgoing, it is hereby ORDERED:

1. That the complainant has shown by clear and convincing evidence that the respondent violated her rights as a crime victim.
2. That the Board declines to issue a sanction. See Wis. Stat. § 950.09(2).
3. That this is a final, appealable order of the Board, and as such makes final and appealable any previous non-final orders of the Board.
4. That judicial review of this final decision is governed by Wis. Stat. §§ 227.52–.59. See Wis. Admin. Code CVRB § 1.10.
5. That a copy of this final decision shall 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 3rd day of December, 2024.



Chairperson Jennifer Dunn
Crime Victims Rights Board