

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

Case No. 23-017

Respondents.

PROBABLE CAUSE DETERMINATION

1. The Crime Victims' Rights Board ("the Board") reviewed a complaint filed by T.S.¹ against the Langlade County District Attorney's Office. The Board evaluated the complaint and other relevant information to determine whether there is probable cause that the respondents violated T.S.'s rights as a crime victim. *See Wis. Stat. § 950.04(1v)*. **The Board finds no probable cause.**

BOARD PROCEDURE

2. In November 2023, T.S. 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 probable cause determination uses the initials of the alleged victim to protect the victim's privacy.

4. On May 9, 2024, the Board provided a copy of the complaint to the Langlade County District Attorney's Office (LCDA) and invited them to answer the complaint. *See Wis. Admin. Code CVRB § 1.05(5).*

5. On May 9, 2024, the LCDA filed their answer to the complaint.

6. The Board made this probable cause determination at a meeting held on June 19, 2024. *See Wis. Admin. Code CVRB § 1.05(6).*

7. 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).*

8. 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).*

STATEMENT OF THE CASE

T.S.'S COMPLAINT²

Claim I: Respondent failed to confer with T.S. before offering a deferred prosecution.

9. On July 28, 2022, T.S. was granted an Order of Protection against L.S. (CVRB 23-017 Compl. 4)

10. On November 23, 2023, L.S. called T.S. and left a voicemail message. T.S. reported this incident to the Antigo Police Department. On March 22, 2023, T.S.

² This section is derived from the submissions of the complainant. The information contained in this section does not constitute findings of fact by the Board.

received two emails from Wyndham, a survey on a “recent sales experience” and a vacation confirmation. T.S. had reason to believe that L.S. had made these arrangements with Wyndham. *Id.*

11. The November 23, 2023, phone call was referred to the LCDA under case #2023LG000120 for charges. The March 22, 2023, emails were referred to the LCDA for informational purposes. *Id.*

12. T.S. filled out a Victim Information Request provided by the LCDA. T.S. requested, in part, that he be informed of the proceedings and that he wished to confer with the prosecutor. *Id.* at 8.

13. On April 12, 2023, T.S. was informed, during a phone call with the Langlade County District Attorney (DA) and a Langlade County Victim Witness Coordinator (VWC), that L.S. was offered a deferred prosecution agreement for case #2023LG000120. T.S. indicated that he was not informed of this decision prior to the offer being made. *Id.* at 4.

14. T.S. indicated the following: that on April 11, 2023, he called the VWC at 7:59 a.m. and asked for a call back with an update. At 9:35 a.m., the VWC returned T.S.’s call and they spoke for 35 minutes. T.S. indicated that he asked to speak with the DA and VWC stated that she would talk to the DA and get back to T.S. At 11:55 a.m., the VWC called T.S. and informed T.S. that the DA would call him first thing in the morning. On April 12, 2023, T.S. received a phone call at 8:18 a.m. and spoke with the DA and the VWC and was informed of the decision to offer L.S. a deferred prosecution agreement. *Id.*

15. T.S. provided his telephone records which show an outgoing phone call on April 11, 2023, to 715-627-6269 at 7:59 a.m. lasting three minutes. The records also show two phone calls received on April 11, 2023, from phone number 715-627-6250 at 9:25 a.m. lasting 35 minutes and 11:55 a.m. lasting 16 minutes. The records also show a phone call received on April 12, 2023, from phone number 715-627-6250 at 8:18 a.m. lasting 40 minutes. *Id.* at 30.

LANGLADE COUNTY DISTRICT ATTORNEY’S OFFICE RESPONSE³

16. The LCDA, provided a response to the complaint. (Resp’t Letter Resp. to Def.’s Compl., May 9, 2024.)

Claim I: Respondent failed to confer with T.S. before offering a deferred prosecution.

17. The LCDA received a referral for criminal charges for case #2023LG000120. (Resp’t Letter Resp. to Def.’s Compl. 1)

18. On April 11, 2023, DA and VWC called T.S. at 11:25 a.m. (CST) and spoke to him for 33 minutes. DA and VWC discussed T.S.’s frustrations with L.S. and DA discussed her intent to offer L.S. their First Time Offender Program. *Id.*

19. T.S. made it clear to DA that he was not in agreement with that option. T.S. expressed his frustration and disagreement. *Id.*

20. After the phone call with T.S., DA emailed the Diversion Coordinator requesting that the First Offender Program be offered to L.S. *Id.* at 1, 5.

³ This section is derived from the submissions of the respondent. The information contained in this section does not constitute findings of fact by the Board.

21. DA reviewed T.S.'s phone records and pointed out that the April 11, 2024 phone calls listed Las Vegas Nevada as the origination point. Las Vegas Nevada is located in Pacific Daylight Time (PDT), which is two hours behind Central Standard Time (CST). The April 11, 2024 call that occurred at 9:25 a.m. PDT would occur at 11:25 a.m. CST. This is consistent with the DA's file notes. *Id.* at 2.

22. DA indicated that 715-627-6350 is a phone number attributable to Langlade County. Other agencies, including the police department, also use this number. *Id.*

23. DA indicated that she did not call T.S. on April 12, 2023, and has no knowledge of who may have called him. *Id.*

24. VWC spoke with T.S. on April 27, 2023, and mentioned that he thought that he would be notified when a decision was made about the First Time Offender Program. VWC confirmed that the decision had already been made. VWC spoke to T.S. again on May 2, 2023, May 22, 2023, July 5, 2023, and August 1, 2023. *Id.*

ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS

25. **Right to confer with the attorney for the government.** Under the Wisconsin Constitution, a crime victim has a right “[u]pon request, to confer with the attorney for the government.” Wis. Const. art. I, § 9m(2)(h). Wisconsin statutes also state that a crime victim has the right “[t]o have, at his or her request, the opportunity to consult with the prosecution in a case brought in a court of criminal jurisdiction.” Wis. Stat. § 950.04 (1v)(j).

DETERMINATIONS OF FACT

26. The Board finds no dispute of material fact between the parties.

INTERPRETATIONS OF LAW

27. The Board employs a multi-step methodology to analyze the complaint: (1) whether the complainant was a crime victim; (2) whether the respondents are 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 respondents failed to comply with any duty imposed by a constitutional or statutory provision.

28. 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.” Wis. Stat. § 950.02(4)(a)1.; *see also* Wis. Const. art. I, § 9m(1)(a)1. A crime victim “does not include the person charged with or alleged to have committed the crime.” Wis. Stat. § 950.02(4)(b); *see also* Wis. Const. art. I, § 9m(1)(b) (victim “does not include the accused”).

29. Whether respondents are 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).

30. 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).

31. 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).

32. 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

The Board Finds the Following:

33. The Board finds **no probable cause** of a crime victims’ rights violation.

34. That T.S. is a crime victim because of his reported violation of a Harassment Restraining Order in violation of Wis. Stat. § 813.125.

35. That the members of the Langlade County District Attorney's Office are public officials or employees subject to the authority of the Board. *See* Wis. Stat. § 950.09(2)(a).

36. That T.S.'s April 2023 allegation of a victims' rights violation falls within the three-year limitations period. *See* Wis. Admin. Code CVRB § 1.04(5).

37. That the LCDA did meet its obligation under Wis. Const. art. I, § 9m(2)(h) and Wis. Stat. § 950.04 (1v)(j), to confer with T.S.

38. That the LCDA has the discretion to resolve a criminal matter in whatever way they deem appropriate. Wis. Const. art. I, § 9m(5) and Wis. Stat. § 950.01.

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 the parties and the VRC, as identified in the service list below, in accordance with Wis. Admin. Code CVRB § 1.05(8).

Dated this 15th day of November, 2024.

A handwritten signature in cursive script that reads "Jennifer Dunn".

Chairperson Jennifer Dunn
Crime Victims Rights Board