

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

Case No. 24-002

Respondents.

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### **PROBABLE CAUSE DETERMINATION**

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1. The Crime Victims' Rights Board ("the Board") reviewed a complaint filed by K.G.<sup>1</sup> against the Walworth County District Attorney's Office (WCDA). The Board evaluated the complaint and other relevant information to determine whether there is probable cause that the WCDA violated K.G.'s rights as a crime victim. *See Wis. Stat. § 950.04(1v)*. **The Board finds no probable cause.**

### **BOARD PROCEDURE**

2. In July 2024, K.G. 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)*.

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

4. On September 27, 2024, the Board provided a copy of the complaint to the WCDA and invited them to answer the complaint. *See Wis. Admin. Code CVRB § 1.05(5).*

5. On October 1, 2024, the WCDA filed their answer to the complaint.

6. The Board made this probable cause determination at a meeting held on October 16, 2024 and December 18, 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

### K.G.'S COMPLAINT<sup>2</sup>

**Claim I: Respondent failed to treat K.G. with dignity, respect, courtesy, sensitivity, and fairness.**

9. In May 2019, K.G.'s son died of a fentanyl overdose. (CVRB 24-002 Compl. 7.)

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<sup>2</sup> 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.

10. Two people were with K.G.'s son at the time of his death, and one may have supplied K.G.'s son with the fentanyl that killed him. Neither individual was charged in relation to K.G.'s son's death. (*Id.*)

11. On May 26, 2022, K.G. and others met with the Walworth District Attorney and an Assistant District Attorney. The WCDA declined to issue charges. K.G. was told that they could meet again if additional evidence was discovered. (*Id.* at 4.)

12. K.G. began collecting additional evidence and hired an attorney for assistance. (*Id.*)

13. K.G. met with her attorney 33 times over two years and no meetings were ever held with the District Attorney despite attempts by KG or her associates to have a meeting set. (*Id.*)

14. K.G. claims that she was not informed that she should turn over any additional evidence discovered to the City of Lake Geneva Police Department (LGPD). (*Id.* at 5.)

15. K.G. claims that evidence that she acquired was never reviewed by the WCDA.

16. K.G. and her associates believe that one of the individuals with K.G.'s son was responsible for providing the drugs that caused K.G.'s son's death and that person should be held criminally responsible for the overdose death of K.G.'s son. (*See generally Id.*)

**WALWORTH COUNTY DISTRICT ATTORNEY’S OFFICE RESPONSE<sup>3</sup>**

17. The WCDA provided a response to the complaint. (Resp’t Letter Resp. to Def.’s Compl., October 1, 2024.)

**Claim I: Respondent failed to treat K.G. with dignity, respect, courtesy, sensitivity, and fairness.**

18. K.G.’s son died of an apparent drug overdose around May 29, 2019. The death was investigated by the LGPD. (*Id.* at 1.)

19. Two other individuals occupied the residence at which the death occurred. Drug paraphernalia and marijuana were found at the location. The LGPD referred charges for Possession with Intent to Deliver Marijuana against one of the individuals. However, the LGPD determined that there was not sufficient evidence to refer charges against anyone for the death of K.G.’s son. (*Id.*)

20. The WCDA received a complaint that no charges were issued from a friend of K.G. (*Id.*)

21. On May 26, 2022, despite receiving no criminal referral, the WCDA met with K.G., K.G.’s attorney, and other individuals at K.G.’s request. (*Id.*)

22. K.G.’s associate provided information that one of the individuals, (Witness 1) who was at the residence at the time of K.G.’s son’s death, said that the other individual (Witness 2) delivered the drugs. K.G. also explained that her other son had also passed away from drug use. (*Id.* at 2.)

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<sup>3</sup> 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.

23. The parties discussed Witness 1's history of drug use and other credibility issues. The District Attorney explained that he did not believe that there was enough evidence to prove charges beyond a reasonable doubt at trial. (*Id.*)

24. The District Attorney explained that he would not issue charges at that time, but that he would re-review the police reports. The District Attorney also explained that if any new information was obtained in the future, the LGPD could investigate further. (*Id.*)

25. On June 30, 2022, one of K.G.'s associates provided LGPD with recorded conversations between K.G. and Witness 1 obtained during a meeting. On the recording Witness 1 states that Witness 2 delivered the drugs to K.G.'s son. This was consistent with what was discussed at the May 26th meeting and did not result in any further investigation. (*Id.*)

26. In December 2022, WCDA was contacted by K.G.'s attorney (Attorney 1). Attorney 1 requested a second meeting because K.G. had additional information. The assistant district attorney that spoke with Attorney 1 stated that if there was additional information, it would have to be provided to the LGPD. A determination would then be made as to the necessity of another meeting. Attorney 1 was not able to provide any of the information to the WCDA. (*Id.*)

27. At the time the WCDA's response was written, no information was provided by K.G. to the LGPD. (*Id.*)

28. In November 2023, the WCDA was contacted by a State Senator wishing to meet stating that he has been contacted by K.G. and wanted to discuss the matter.

*Id.* The WCDA met with the State Senator and discussed the matter in December 2023. The State Senator proposed a public round table with K.G., the WCDA and others to raise awareness regarding drug overdose deaths. WCDA agreed to participate. In early 2024, the WCDA was contacted by the State Senator and was told that they would no longer be hosting the round table based on a conversation with K.G.'s group. (*Id.*)

29. In February 2024, the WCDA was contacted by another attorney (Attorney 2) and an associate of K.G. They indicated that they wanted to set up a meeting to discuss new information about this matter. The WCDA responded that the associate was not a party to this case and that they would have to communicate through K.G.'s attorney. (*Id.* at 3.)

30. The WCDA reached out to Attorney 2 and informed her that any new evidence would have to be provided to the LGPD. Attorney 2 responded she had been communicated with by K.G.'s associate, but had not been retained by K.G. (*Id.*)

31. The WCDA stated in their response that they have responded to attorneys and friends of K.G. but does not believe that they have been contacted directly by K.G. (*Id.*)

32. The WCDA expressed sympathy for what K.G. has experienced losing her sons to drug overdoses. WCDA also indicated that any new evidence should be provided to the LGPD to investigate further and if the information warranted, they would set up another meeting. (*Id.*)

## ALLEGATIONS OF VICTIM RIGHTS VIOLATIONS

33. **Right to be treated with dignity, respect, courtesy, sensitivity, and fairness.** Under the Wisconsin Constitution, a crime victim has a right “[t]o be treated with dignity, respect, courtesy, sensitivity, and fairness.” Wis. Const. art. I, § 9m(2)(a). 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.” Wis. Stat. § 950.04(1v)(ag). 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).

## DETERMINATIONS OF FACT

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

## INTERPRETATIONS OF LAW

35. 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.

36. 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. If a person is deceased, a family member is considered a victim. Wis. Stat. § 950.02(4)(a)(4)(a); *see also* Wis. Const. art. I, § 9m(1)(a)2. 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”).

37. 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).

38. 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).

39. 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).

40. 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:**

41. The Board finds **no probable cause** of a crime victims' rights violation.

42. That K.G.'s son was the victim of a criminal act resulting in his death.

K.G. is a victim pursuant to Wis. Stat. § 950.02(4)(a)(4)(a).<sup>4</sup>

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

44. That K.G.'s allegation of a victims' rights violation falls within the three-year limitations period. *See Wis. Admin. Code CVRB § 1.04(5)*.

45. That the Board finds no probable cause that the WCDA violated the victim's right to fairness, dignity, courtesy, sensitivity, and fairness by exercising

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<sup>4</sup> K.G.'s son was alleged to be the victim of a Reckless Homicide in violation of Wis. Stat. § 940.02(2)(a) but law enforcement and the district attorney's office determined that they did not have probable cause to determine who was the perpetrator of the crime.

their discretion related to charging the case; indeed, the WCDA was responsive to requests to meet, discuss the matter, and provided information about how the complainant could submit further evidence to law enforcement.

46. That the decision to issue charges or not is within the discretion of the WCDA, and the Board has no authority over that decision. 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 11th day of February 2025.



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Chairperson Jennifer Dunn  
Crime Victims Rights Board